



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL  
AFFAIRS

ESTIMATES

**(Budget Estimates)**

MONDAY, 21 MAY 2007

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE STANDING COMMITTEE ON  
LEGAL AND CONSTITUTIONAL AFFAIRS**

**Monday, 21 May 2007**

**Members:** Senator Barnett (*Chair*), Senator Crossin (*Deputy Chair*), Senators Bartlett, Kirk, Ludwig, Parry, Payne and Trood

**Participating members:** Senators Allison, Bernardi, Bob Brown, George Campbell, Carr, Chapman, Conroy, Eggleston, Chris Evans, Faulkner, Ferguson, Fielding, Fierravanti-Wells, Heffernan, Hogg, Humphries, Hurley, Joyce, Kemp, Lightfoot, Lundy, Ian Macdonald, Sandy Macdonald, McGauran, McLucas, Milne, Murray, Nettle, Patterson, Robert Ray, Sherry, Siewert, Stephens, Stott Despoja, Watson and Webber

**Senators in attendance:** Senators Barnett, Bartlett, Crossin, Fifield, Hurley, Ludwig, Kirk, McLucas, Nettle, Parry, Patterson, Payne and Trood

**Committee met at 9.01 am**

**IMMIGRATION AND CITIZENSHIP PORTFOLIO**

**In Attendance**

Senator Ellison, Minister for Human Services

**Department of Immigration and Citizenship**

**Executive**

Mr Andrew Metcalfe, Secretary

Mr Bob Correll PSM, Deputy Secretary

Ms Carmel McGregor, Deputy Secretary

Mr Peter Hughes, Acting Deputy Secretary

**Internal Products: Enabling divisions that provide services and support to the delivery of all outputs**

Ms Louise Gray, First Assistant Secretary, Financial Strategy and Reporting Division

Ms Alison Larkins, First Assistant Secretary, People Services, Values and Training Division

Ms Robyn Bicket, Chief Lawyer, Legal Division

Mr Nhan Vo-Van, Assistant Secretary, Ministerial and Parliamentary Services

Mr Des Storer, First Assistant Secretary, Strategic Policy Group

Mr Sandi Logan, National Communications Manager

Ms Susie van den Heuvel, Deputy National Communications Manager

Ms Cheryl Hannah, First Assistant Secretary, Information Technology Services and Security Division

Mr Garry Fleming, Acting First Assistant Secretary, Client Services Division

**Outcome 1: Contributing to Australia's society and its economic advancement through the lawful and orderly entry and stay of people**

**Output 1.1: Migration and temporary entry**

Mr Anthony Parsons, First Assistant Secretary, Migration and Temporary Entry Division

Mr Paul Farrell, Assistant Secretary, Temporary Entry Branch

Ms Yole Daniels, Assistant Secretary, Business Branch

**Output 1.2: Refugee and humanitarian entry and stay**

Ms Arja Keski-Nummi, Acting First Assistant Secretary, Refugee, Humanitarian and International Division

Mr Robert Illingworth, Assistant Secretary, Onshore Protection Branch

Ms Judith O'Neill, Acting Assistant Secretary, Humanitarian Branch

Ms Rosemary Greaves, Assistant Secretary, International Cooperation Branch

**Output 1.3: Border security**

Mr Vince McMahon PSM, First Assistant Secretary, Detention Services Division

**Output 1.4: Compliance**

Ms Lyn O'Connell, First Assistant Secretary, Compliance Policy and Case Coordination Division

Mr Peter Richards, Assistant Secretary, Compliance Operations Branch

Ms Joanne Verikios, Assistant Secretary, Case Coordination Branch

Ms Nicole Pearson, Acting Assistant Secretary, Character Assessment and War Crimes Screening Branch

**Output 1.5: Detention**

Mr Jeff Lamond, First Assistant Secretary, Detention and Offshore Services Division

Mr Dermot Casey, Assistant Secretary, Detention Health Branch

Mr Steve Dreezer, Assistant Secretary, Detention Operations and Client Services Branch

**Output 1.6: Offshore asylum seeker management**

Mr Jeff Lamond, First Assistant Secretary, Detention and Offshore Services Division

Mr Ross Norton, Director, Offshore Processing Operations, Offshore Asylum Seeker Management Branch

**Output 1.7: Safe haven**

Ms Arja Keski-Nummi, Acting First Assistant Secretary, Refugee, Humanitarian and International Division

Ms Judith O'Neill, Acting Assistant Secretary, Humanitarian Branch

**Output 1.8: Systems for people**

Mr Peter McKeon, First Assistant Secretary, Systems Delivery Division

**Outcome 2: A society which values Australian citizenship, appreciates cultural diversity and enables migrants to participate equitably****Output 2.1: Settlement services**

Ms Kate Pope, Acting First Assistant Secretary, Citizenship, Settlement and Multicultural Affairs Division

Ms Paula Kansky, Assistant Secretary, Settlement Branch

Mr Daniel Boyer, Acting Senior Manager, Integrated Humanitarian Settlement Strategy Branch

**Output 2.2: Translating and interpreting services**

Ms Kate Pope, Acting First Assistant Secretary, Citizenship, Settlement and Multicultural Affairs Division

Mr Chris Greatorex, Director, Translating and Interpreting Service National

**Output 2.3: Australian citizenship**

Ms Kate Pope, Acting First Assistant Secretary, Citizenship, Settlement and Multicultural Affairs Division

Ms Mary-Anne Ellis, Assistant Secretary, Citizenship and Language Services Branch  
Mr Peter Vardos PSM, First Assistant Secretary, Citizenship Test and Values Statements Taskforce

Ms Renelle Forster, Assistant Secretary, Citizenship Test and Values Statements Taskforce

**Output 2.4: Promoting the benefits of a united and diverse society**

Ms Kate Pope, Acting First Assistant Secretary, Citizenship, Settlement and Multicultural Affairs Division

Dr Thu Nguyen-Hoan PSM, Assistant Secretary, Multicultural Affairs Branch

**Output 2.5: Systems for people**

Mr Peter McKeon, First Assistant Secretary, Systems Delivery Division

**Migration Review Tribunal and Refugee Review Tribunal**

Mr Steve Karas AO, Principal Member

Mr John Lynch, Registrar

Mr Rhys Jones, Deputy Registrar

Mr Gregory Parkes, Assistant Director Finance

**CHAIR (Senator Barnett)**—I declare open this public meeting of the Senate Legal and Constitutional Affairs Committee. The Senate has referred to the committee the particulars of proposed expenditure for 2007-08 for the Immigration and Citizenship portfolio. The committee may also examine the annual reports of the departments and agencies appearing before it. The committee is due to report to the Senate on 19 June 2007 and has fixed 6 July 2007 as the date for the return of answers to questions taken on notice. The committee's proceedings today will begin with the examination of the Department of Immigration and Citizenship. Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice.

I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. The Senate, by resolution in 1999, endorsed the following test of relevance of questions at estimates hearings: any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purpose of estimates hearings. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has the discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. The Senate has resolved also that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to the minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. Any claim that it would be contrary to the public interest to answer a question must be made by the minister and should be

accompanied by a statement setting out the basis for that claim. For the record, I note that there remain 12 outstanding responses to questions taken on notice for the additional estimates round of February 2007. This is my first time as chair of this particular committee, and I place on the record my sincere thanks and acknowledgement of the many years of distinguished, professional and dedicated work of the former chair, Senator Marise Payne, who is also here with us today in her capacity as a senator. On behalf of the committee and on behalf of all those in the room, I thank Senator Payne.

**Senator PAYNE**—Thank you, Chair.

**CHAIR**—I welcome Senator the Hon. Chris Ellison, representing the Minister for Immigration and Citizenship. I also welcome Andrew Metcalfe, Secretary to the Department of Immigration and Citizenship. Minister Ellison or Mr Metcalfe, do you wish to make an opening statement?

**Senator Ellison**—I do not have an opening statement but I understand that the secretary does. I would like to join with you in your remarks about Senator Payne's chairing of this committee.

**Senator PAYNE**—Thank you.

**CHAIR**—Thank you.

**Mr Metcalfe**—Firstly, I congratulate you on your recent appointment and thank you for the opportunity to deliver an opening statement. Also, on behalf of the department, I join in noting the work over many years of Senator Payne as chair of this committee. We perhaps did not always enjoy every encounter, but we certainly admired her great professionalism—

**Senator PAYNE**—It is not like I am disappointed!

**Mr Metcalfe**—We look forward to working with her in other capacities. I have provided an opening statement at the estimates hearings since my appointment as secretary almost two years ago because of the strong interest in the issues that initiated the business and cultural transformation underway in the department. For this reason I am pleased to provide an updated document for members of the committee setting out our progress in this transformation since the release of the Palmer and Comrie reports which, respectively, inquired into the cases of Cornelia Rau and Vivian Alvarez. This document, which we will make available to the committee, outlines significant achievements that have been made since I last appeared before the committee in February. These of course occurred at the same time that the department had been tasked to implement substantial new programs related to both our permanent and temporary skilled entry migration programs and to implement a citizenship test as well as many other things announced in the budget on 8 May.

Each and every day the department provides services to tens of thousands of clients all around the world. One of the areas in which we made significant progress is our business transformation incorporating IT improvements through the Systems for People program. When complete, Systems for People will provide a single view of our clients as well as improved record keeping, better quality data and improved access to policy, legislation and online training. It is a five-year \$495 million program and a key part of the government's



response to the Palmer and Comrie reports. I am very pleased to report that the program is delivering results on time and on budget.

In April we released major portals for case management, compliance and border operations. This release had also prepared much of the ground work for future releases, with a number of technical and services projects also delivered. These improvements will change the way we do our business. There will be benefits for staff in ease of working and productivity, while clients should have a simpler and more positive interaction with the department. Since the last hearing of this committee, the Commonwealth Ombudsman has reported further on the cases referred to him in 2005. Once again the government is responding to these reports and the department is working with the Ombudsman to ensure that mistakes do not recur. Each of these cases is a reminder of the importance of having fair and reasonable dealings with all of our clients and I stress this to my staff frequently. As I stated earlier, this progress on our business and cultural transformation projects has occurred while having to plan for the implementation of significant new budget initiatives.

I would also take this opportunity to advise that the minister approved changes to our outcomes and outputs structure in March. These have been amended to reflect changed government priorities and improve the transparency and alignment of our reporting to the programs being delivered. The performance information outlined in our portfolio budget statement supports the revised structure and, in line with Department of Finance and Administration guidance, has been simplified to ensure that the information is as meaningful and accessible to readers as possible.

Finally, I would like to advise the committee of some key staffing changes. Deputy Secretary Abul Rizvi PSM recently transferred to the Department of Communications, Information Technology and the Arts. Abul had been with the department since 1992 and in that time made a major contribution to the development of the migration policies and programs for which Australia is internationally recognised. I would like to take this opportunity to record my thanks for his support over the last two years in my role as secretary and for all of his years of work for the department and wish him well for new challenges. Similarly, Dr Wendy Southern PSM, the First Assistant Secretary of the Compliance Policy and Case Coordination Division, has transferred to head the Cabinet Secretariat in the Department of the Prime Minister and Cabinet. Wendy played a significant role in the establishment of the business and cultural transformation activities now underway in the department and I would also like to record my appreciation for her work. She has been replaced as head of the compliance division by Lyn O'Connell, who since September 2005 had previously headed our Detention and Offshore Services Division. Lyn, in turn, has been replaced as head of the detention division by Mr Jeff Lamond, who was previously the Merit Protection Commissioner in the Australian Public Service Commission. I am very pleased with these appointments.

I would like to record my appreciation to the Deputy Secretary, Bob Correll, for his continuing leadership of the Systems for People program and also thank the many staff and contractors who have contributed to its success so far. I would also like to record my appreciation for the efforts of the other deputy secretaries, and indeed all departmental staff, in continuing to effectively and positively respond to the many challenges that we have.

**Senator Ellison**—Mr Chairman, I congratulate you, too, on your appointment as chair of this august committee—one which does a lot of work.

**CHAIR**—Thank you, Minister.

**Senator CROSSIN**—As the deputy chair and representing the Labor Party, I also want to place publicly on record our appreciation of Marise and her chairing of this committee. We certainly hope, Senator Barnett, that you can take a leaf out of her book and chair it just as well. If she did cause you some pain, Mr Metcalfe, you certainly never showed it to us publicly—the mark of a very good public servant, I have to say.

**Mr Metcalfe**—Thank you, Senator—a very good test of our performance!

**CHAIR**—We are dealing with outcome 1, General questions. Senator Bartlett?

**Senator BARTLETT**—I will not add to the to the general positivism—I suppose it would look excessively gushing—but I will start with a positive question which I think goes to general questions. I note that the department received an award for its online annual report, of which you have the non-online version there. I think that should be acknowledged with all of the documentation that gets provided. Could you outline the sorts of things that you have put in the online version and the reasons why you have received that accolade—probably not quite the Oscars; it might be better than the Logies, but I think it is still noteworthy.

**Mr Metcalfe**—Senator, thank you very much. It might not be quite the Oscars but, in Canberra, receiving an award from the Institute of Public Administration for your annual report is quite a noteworthy thing. The award that we received was for the online version, as you indicated. Effectively, the online version is an electronically accessible version of the print version. Indeed, I think the requirements are that it be identical in all respects. I have not yet received formal feedback from the selection committee, but I understand that the use and accessibility of the particular format online was seen as very positive. I am also told—I am not too sure whether this is the case—that the fact that I gave my secretary's overview in a video message rather than simply as a text message was also seen as a useful and accessible way of providing that information to people. I am told also that the print version of the report was seen as being in the top group of annual reports in terms of ease of accessibility et cetera.

We of course are obliged to adhere to guidelines laid down by the parliament for the information that is incorporated into the annual report. But something that we have done for the last couple of years is to seek to give a small taste of the work that we are involved in through highlighting the personal stories of some migrants and refugees who have come to Australia. That is an indication of the fact that behind all of the decisions we make, all of the work we do and all of the work of thousands of people lie the lives of people coming to Australia to make it a new home. We have sought to give some indication of the very positive work that we do in that regard.

Finally, last year's version of the annual report provided a special feature on the change and improvement program within the department. We thought it would be useful, given that we are probably going through one of the largest change processes of any public institution in Australia, to quite visibly say that we wanted to improve our culture and our performance and not repeat the mistakes that we have made but, at the same time, continue to provide the very good services in many areas that have been the hallmark of the department over many years.

We thought it was worth documenting that, so that was done as a particular item. In the 2006-07 annual report, we might do a more targeted feature on Systems for People, because that is one of the top two or three IT transformation projects underway in Australia at the moment.

**Senator BARTLETT**—I want to touch on that, partly to assist me with where to direct my questioning later on. This Systems for People output that you mentioned in your opening statement—

**Mr Metcalfe**—Outputs 1.8 and 2.5 are the ones for them.

**Senator BARTLETT**—I want to ask a bit about how they are meant to work. They are more like overviews of the whole outcome, given that they are attached to both outcome 1 and outcome 2.

**Mr Metcalfe**—Yes.

**Senator BARTLETT**—Are they about systems for the whole thing, including online reporting, forms and all that sort of stuff?

**Mr Metcalfe**—Yes, that is correct. The reason we have separated them out as separate outputs is that it is a very large program—almost half a billion dollars over four years—and therefore we thought that there should be accountability in relation to expenditure under Systems for People. It is basically broken into the business transformation that is occurring in outcome 1, which is over all our economic and development of society areas—including lawful and orderly entry and stay of people—and outcome 2, which goes to settlement and citizenship issues. We thought it would be best to divide reporting on Systems for People under those two broad headings. But Systems for People is quite pervasive; it will touch basically every area of the department's operations in a staged series of releases over the next few years. There have already been some early releases in relation to our case management and detention areas. There is to be a much bigger release through the month of July, which will start touching visa services.

**Senator LUDWIG**—I had the opportunity of hearing and then reading a transcript from 11 May 2007 on radio 3AW with Neil Mitchell. I am happy to provide it to you, but you may have already picked up through Media Monitors the phrase the Prime Minister used in answer to a question. He said:

Well there's every reason to try and assimilate, and I unapologetically use that word, assimilate a section of the community, a tiny minority of whose members have caused concern and after all once somebody's become a citizen of this country the best thing we can do is to absorb them into the mainstream.

Neil Mitchell then asked:

But do we spend money though assimilating Hindus or Jews or other religions?

The Prime Minister responded:

Well we have over a period of time spent money. We're not trying to assimilate people's religious beliefs...

It then went on to a different issue. Has there been a directive, information or brief from the Prime Minister that assimilation is part of your objective as the immigration department?

**Mr Metcalfe**—No. The administrative arrangements orders indicate that the department has responsibility for a number of issues, including the entry and stay of noncitizens and the broader security in relation to people. I also indicate that the department is responsible for both ethnic affairs and multicultural affairs. Ministers use the word ‘integration’ more frequently now than they may have previously, but the department’s responsibilities in administering programs in this area have basically remained unchanged. There are some grants and various other initiatives such as Harmony Day.

The government has made it very clear that it regards Australian citizenship as a significant final step in becoming a part of the Australian community. It has placed significant emphasis on the importance and value of citizenship. Indeed, there are some proposals in the budget to introduce a citizenship test to further strengthen the understanding that potential citizens have of Australia.

The government has also freely indicated on many occasions that Australia is a diverse society. Around seven million people have migrated here since World War II. One in four of us were born overseas and another 18 per cent have a parent who was born overseas. Indeed, by definition, unless you are a full-blood Aboriginal Australian you or your ancestors have come here some time since 1788. In dealing so successfully with a diverse society, in building a modern country, the government continues to place a high value on Australian citizenship as being an ultimately unifying factor.

**Senator LUDWIG**—I am just trying to understand this: have we moved to a policy of assimilation?

**Mr Metcalfe**—That is not a word that I would use. I note what the Prime Minister has said. I do not believe that I can add to what I have said.

**Senator LUDWIG**—So there is no memo from the Prime Minister’s office seeking your department to move to a policy of assimilation?

**Mr Metcalfe**—No.

**Senator LUDWIG**—Are you aware of the comments from the Prime Minister dealing with the term ‘assimilation’?

**Mr Metcalfe**—I have not seen that particular reference. I obviously have a very keen interest on what the Prime Minister says on many things, but the Prime Minister and indeed other senior government figures have for some time now been talking about the fact that in a modern world the unity of Australians is essential. It is essential that Australians should have in common shared values that are well understood. Australian citizenship is a key unifying aspect for everyone who is an Australian citizen, whether they were born here or acquired citizenship by grant. But at the same time it should be noted that Australians come from many places and, compared to the populations of key marker countries such as Canada, the United Kingdom and the United States, a higher proportion of them were born overseas. Indeed it is probably for that reason that having a common understanding of being Australian is so important.

**Senator LUDWIG**—Is it your intention now to take up with the Prime Minister's office the term 'assimilation', or do you agree that that is a term that can be used by ministers and reflects the department's activities?

**Mr Metcalfe**—I do not think that it is appropriate for me to comment on what the Prime Minister says or does not say. I note what he said and I note that the department's role is to ensure that, in a culturally diverse society, Australian citizenship is promoted as a means of common values and common identity for all of us.

**Senator Ellison**—Mr Chairman, if there is anything that can be added I can take it on notice, but the secretary has outlined the position—the policy has not changed—on behalf of the government. I can take it up with the minister and see if there is anything that the minister wants to add.

**CHAIR**—Thank you, minister.

**Senator LUDWIG**—In terms of multiculturalism, you are pursuing an integrationist policy. Is that a fair statement to make?

**Mr Metcalfe**—I think that is a reasonable statement to make.

**Senator LUDWIG**—Is that different from assimilation? The Prime Minister has used the word 'assimilation'. You have indicated it is not something that your department is pursuing, but, as I understand it, you are pursuing integration in a multicultural context. I am just trying to understand the difference.

**Mr Metcalfe**—I do not think that I would agree with your characterisation of what I have said. You said that assimilation is something we are not doing. What I said is that I have received no memo or notification about some sort of changed set of responsibilities for the department. The government quite deliberately changed the name of the department in the Administrative Arrangements Orders in the end of January when Minister Andrews was appointed as Minister for Immigration and Citizenship. The department's name changed to the Department of Immigration and Citizenship, but we retained responsibility for both multicultural affairs and ethnic affairs as part of that administrative arrangements order. What I have said is that the department has a range of policy and program responsibilities which recognise the reality that Australians come from many different lands and, as part of that, promotes Australian citizenship as a key unifying factor. I think that words like 'multiculturalism', 'integration' and 'assimilation' can all have different meanings and it is important that, in defining a particular meaning, you actually explain what you are saying by that. I know that the Prime Minister has said on many occasions that Australians come from many different backgrounds but they have a shared future.

**Senator LUDWIG**—Is the department pursuing assimilation policies in the areas of multiculturalism and new arrivals?

**Mr Metcalfe**—I think I have described what the department is doing. We provide a range of policies and programs that recognise that Australians do come from many different countries of birth and that people are entitled to—indeed it is absolutely reasonable to expect that they will want to—continue to recognise their culture that they brought with them. That is one of the wonderful things about modern Australia. I am sure we all agree about that. Also,

the department has programs which promote and enhance the meaning of Australian citizenship as the key unifying factor for all of us. So, regardless of our background, we are people who have shared values and are moving forward together as a country.

**Senator LUDWIG**—To put that in context, are you able to say what the difference is between a settlement services policy that pursues assimilation as distinct from one that pursues an integrationist policy?

**Mr Metcalfe**—I think that is becoming quite hypothetical. I can tell you about what the department actually does.

**Senator LUDWIG**—In terms of the general product and internal resourcing, is it appropriate to ask questions at this juncture?

**Mr Metcalfe**—I would just note that we have a range of outputs in outcome 2—settlement services, Australian citizenship and promoting the benefits of a united and diverse society—which are all germane to this particular area and which might be able to be answered when we come to that part of the process.

**Senator LUDWIG**—I might take that on board and do it then.

**Senator Ellison**—If there are specific areas, perhaps we can save them, because of the way that we have the officials lined up.

**CHAIR**—Indeed, Minister. That is noted. Are there any other general questions?

**Senator NETTLE**—I have some general questions about some areas that we have covered in the past. Minister, you talked about the work that this committee has been doing, and one of those areas is the Senate inquiry into the Migration Act, which we completed in, I think, 2005 or 2006. Has there been any response from the government to that inquiry into the Migration Act?

**Senator Ellison**—I understand that response is still under consideration. I cannot tell you when that response will be delivered, but it is being considered.

**Senator NETTLE**—Perhaps you or Mr Metcalfe can remind me when it was that we completed that Senate inquiry into the Migration Act. My recollection is that it was early 2006. The hearings were in 2005.

**Mr Metcalfe**—I think you are correct. I do not have the information in my head. I do know that there were hearings in the latter part of 2005, because I recall that part of the committee's reference dealt with the circumstances of Ms Vivian Alvarez, and that was simultaneous with the Comrie inquiry occurring. From memory, I think that reported on 5 October 2005, so I think there were hearings underway in 2005. I am not too sure about the date of the report.

**CHAIR**—I am advised that the report was brought down in March 2006.

**Senator NETTLE**—Minister, you said that the government is still considering a response. Is that something we can expect to see? Are you thinking about it, or is it not actually going to happen?

**Senator Ellison**—Certainly a response can be expected—as to when it can be expected, that is a matter I am not aware of. The government responds to committee reports, and some take more time than others.

**Senator NETTLE**—Is there anything else that you are able to add, Minister?

**Senator Ellison**—Not at this point. If there is anything I can usefully add later, I will do so.

**Senator NETTLE**—Mr Metcalfe, is there anything you can add about any active work that the department is doing in actually responding to the Senate inquiry?

**Mr Metcalfe**—I cannot add anything to what the minister said.

**Senator NETTLE**—Okay. I think we have got our answer. I might move on now to the bridging visa review that the department initiated. I think that might have been in 2005 as well. Can you let us know if that is going to be completed, reported or released?

**Mr Metcalfe**—Yes, Senator, you are right; the review was undertaken. It took longer than expected for the department to do it because, as I know you are aware, bridging visas are quite a significant aspect of departmental operations in that they provide temporary stay pending the determination of some more substantive matter. There are some quite significant policy issues associated with the different elements of the many thousands of bridging visas that exist. A review was completed and provided to the former minister and it was under consideration by Senator Vanstone at the time that she ceased to be minister. It is now a matter that is with the current minister and I am sure it is being considered by him. I do not have the time when he may ultimately make decisions on those matters.

**Senator NETTLE**—In relation to that review, you talked about people on bridging visas often having ongoing 417 applications or court cases on appeal. Do you have any figures on that? What proportion of people on bridging visas, in particular bridging visa E, still have ongoing 417 applications or court appeals? Is there any way we can get that kind of data to get a sense of what it is we are talking about?

**Mr Metcalfe**—I do not have it to hand. I will see if during the hearings we can provide some information about that. I will take it on notice, but I imagine we will be able to give you a response over the next 48 hours. Bridging visas operate in many different circumstances: to provide lawful stay pending departure and to provide lawful stay whilst some other process occurs, such as you have indicated—the minister considering whether to exercise powers under sections 417 or 351 of the act; if a court hearing is underway; or while a refugee application is being processed. There are many different aspects to them. I think from your question you are particularly interested in refugee applicants who have been refused by the department and the Refugee Review Tribunal and who are then seeking the minister to exercise his powers under section 417.

**Senator NETTLE**—Yes, and some of those may have other ongoing court applications in relation to their protection visa—

**Mr Metcalfe**—I will see what figures we have available and come back to you.

**Senator NETTLE**—Thank you. I have asked questions before around the issue of climate change. I asked whether the department is looking at the impact of climate change on people movement around the world. I thought—third time lucky—I would ask whether the department had done any work on the impact that climate change might have on the migration of people around the world and whether the department had done any specific studies on that.

**Mr Hughes**—I think the position is similar to the last two occasions when you asked this question. We are certainly monitoring the literature and studies on climate change for the people movement dimensions. I think on the last occasion you mentioned the Stern report. I said at that time that that was something we had looked at. There are also a number of other documents on climate change produced within Australia and overseas. We are monitoring those.

I think I said on previous occasions that we are not currently preparing any specific contingency plans but, as in the past, we believe that the migration program would be able to respond if the government decided that a response—in the form of taking people to Australia—to the situation of people fleeing environmental disaster was necessary. The position of Australia is not really any different from other major migration countries. I have recently spoken to some officials in other major migration countries and their response at this stage is simply to monitor the literature and developments and to keep an eye on it in terms of any future planning.

**Senator NETTLE**—You indicated that the department has not prepared any contingency plans. I am wondering if the department has done any of its own work in looking at what impact climate change is going to have on migration to Australia.

**Mr Hughes**—We have not done any separate work apart from monitoring the international literature. I am sure you have read it yourself, Senator, that, generally speaking, the projections about the effect of climate change on people movement are very general; they are very macro type assessments. It is not a necessary conclusion that international migration would be the direct consequence of climate change because, for example, in many circumstances an internal movement within a country—depending on the size and nature of the country—would be a solution, as opposed to international migration.

**Senator NETTLE**—I have some questions in that area that I will come to. What part of the department is looking at this issue?

**Mr Hughes**—Different parts of the department have an interest. Our Strategic Policy Group has an interest insofar as looking ahead at major developments that form the environmental basis for Australia's migration policies—and I mean that in the broadest sense of the environment. Our Refugee, Humanitarian and International Division is monitoring the possible need for humanitarian response, and, to the extent that any movement of people fleeing an environmental disaster might be accommodated in economic migration programs, our Migration and Temporary Entry Division keeps an eye on that dimension.

**Senator NETTLE**—You mentioned that the department has looked at a range of existing international studies on the impact of climate refugees and climate change. I am wondering if you could provide us with an outline of the documents that the department has looked at. I have mentioned the Stern report and I can mention more reports that have been looked at, but I would like to know if the department is actively looking at those rather than just the ones that I have raised here.

**Mr Hughes**—I will take that on notice and will provide you with a list of the reports that we have looked at.



**Senator NETTLE**—Thank you. You spoke about the issue of internally displaced people as a result of climate change, enhanced drought or other environmental consequences. I want to ask you specifically about the situation in Darfur, Sudan, which Australia takes humanitarian entrants from. I note that the UK's special ambassador on climate change has commented that the conflict in Darfur and the people movement of internally displaced and humanitarian entrants to other countries is partly caused by climate change. Is that factored into the way in which the government looks at humanitarian entrants who might come from Darfur? Is climate change on the spectrum when looking at the humanitarian entrants who might come from Darfur?

**Mr Hughes**—The international community does not look at Darfur as being an international resettlement situation at the moment. The Sudanese who have come to Australia have largely been southern Sudanese, either from Kenya or Egypt, who have resettled as refugees with status under the refugees convention. At this stage most of the international efforts in relation to Darfur have been to stabilise the situation of the population there, to protect them as far as possible within Darfur and also to meet the assistance and protection needs of the people who have gone across the border into Chad. At this stage there is really no major international resettlement activity taking place for those people.

**Senator NETTLE**—When the special ambassador on climate change from the UK was talking about the issue, he said that it was an early sign of what we were in for, to a much larger degree, unless we get the migration side of this right. So that is the context in which I am putting to you that the international community is addressing this as an issue on which climate change has an impact on the movement of people. I am trying to understand whether that is a view shared by the Australian government in their consideration of taking humanitarian migrants from Darfur and whether we think that is a part of why people are coming to Australia on humanitarian entrance. I do not know whether you or the minister would like to comment on that.

**Mr Hughes**—I think that, to the extent that international resettlement is a solution to problems of people movement, the framework for doing that is the refugees convention rather than climate change. The situation in Darfur is a very complex one. Most of the people affected by it are still internally displaced. They are still within Darfur; they have not left their country. International resettlement efforts focus on people who have been forced to leave their country and have no prospect of ever being able to return. And that is in the context of the refugees convention, even though the reason people might become refugees in terms of the refugees convention may, way back at the beginning, have some root cause related to climate change.

**Senator NETTLE**—Of course, there are a number of Sudanese now spreading into Chad, and that is a situation where they are outside of their country rather than internally displaced people. The answer that you have given is, 'We deal with these people through the refugees convention.' We have had discussions before about the fact that there is no component of the refugees convention that is about environmental issues. We are talking about Darfur, but of course there are many other examples around the world where the primary reason somebody may need to leave their country and seek protection elsewhere may be environmental: it could be rising sea levels in the Pacific; it could be the intensity of the drought in Darfur. Are you

saying to me that the Australian government assesses these people only through the framework of the refugees convention? Can you tell me if the Australian government is looking at whether or not that is adequate to deal with the issue of climate change and the people movement that comes about as a result of climate change?

**Mr Hughes**—As I said before, the international resettlement framework is based around the refugees convention, so when the international community makes decisions that resettlement is the best solution, that is done in the context of people fleeing persecution for reasons under the refugees convention. It is, however, open to the Australian government to adjust policies to deal with any situation as it arises. Immigration policy and law is flexible and can be adjusted to meet new demands as they arise in the context of either any bilateral Australian response or any response by the international community.

**Senator NETTLE**—This is perhaps a question for the minister or for the department: is the government of a view that the refugees convention is currently expansive enough to deal with this issue of climate refugees or people for whom the primary factor impacting on their movement is an environmental reason? Does the government have a view that that is covered by the refugees convention?

**Mr Metcalfe**—I think I have said previously, and I think Mr Hughes has said today, that any plain reading of the refugees convention indicates that it ultimately goes to whether a person has a well-founded fear of persecution for reasons of religion, race, political opinion, membership of a particular social group and so on. Indeed, I think my briefing indicates that, in its most recent bulletin of 12 April, the Refugee Council of Australia talked about the fact that using the term ‘refugee’ in relation to people who may be displaced by climate change is confusing, because the word ‘refugee’ is a term of art and, as I have said, goes to the issue of whether a person is being persecuted for a particular reason.

What Mr Hughes has said is that the broader issue of people movements, which may be occasioned for a whole range of factors of which climate change is one, is something that of course we keep a watching brief on. The forecast impact of climate change in the Pacific could be of particular significance to some low-lying countries. That may not necessarily be a refugee response in terms of the existing convention, but the Australian government has shown on many occasions that it will provide a humanitarian response, whether it is aid or local assistance. Migration program policy settings into the future are quite flexible, and that is an issue that future governments could deal with as necessary. What the department is doing at the moment is very much ensuring that we understand the situation and circumstances, and keeping in close touch with marker countries on how they are progressing policy in this area as well.

**Senator NETTLE**—I am just trying to make sure that I am clear on what you are saying. I will have a go at it and you can let me know whether it is correct or not. Are you saying that our process for dealing with refugees is the refugees convention? And what I take from what you said to me is that, for people whose movement is driven by a depletion of resources or other environmental factors fuelled in whatever way by climate change, the government does not see the refugees convention as the way to deal with those people. Is that correct?

**Mr Metcalfe**—That is correct, because if you read the refugees convention, you see that in order to be a refugee you need to be outside your country and you need to have been persecuted. I do not think you or anyone else is suggesting that climate change amounts to persecution within terms of the refugees convention. What I think we have said is that, hypothetically, any response into the future by Australia would be based upon broader humanitarian principles rather than an application of the refugees convention. That is why we do not talk about climate change refugees; we talk about international people movements. Although this particular example precedes the refugees convention, the great migration from Ireland as a result of the potato famine was not in relation to persecution, it was essentially because the country was not productive enough to sustain the population. Many people left under what, at the time, were broader migrational humanitarian arrangements. That is a very old example, but it is a suitable example.

**Senator NETTLE**—Just so that my own view is clear, I think it is still open about whether the situation in Darfur, for example, is a drought enhanced by climate change that leads to displacement of people through competition for scarce resources and then leads to those people fleeing their country. Perhaps they do need protection, and that is why I am trying to work out what framework the Australian government has for ensuring that those people get the protection that they need. So am I still right in saying that the government does not think that that is through the context of the refugees convention?

**Mr Metcalfe**—No. I can see where you are coming from. You are trying to go right back to what might be the original root cause of the reason for a person's departure from their country. In the case of Darfur, you are suggesting that the inability of the country to support agriculture—which may or may not be caused by climate change or drought or whatever—is the root cause that leads to competition for scarce resources, which leads to persecution of one group or another, which causes one group to leave the country because they are being persecuted. As Mr Hughes has explained, I think that the situation in Darfur and in that part of Africa can be accommodated within broader refugee arrangements, because in some circumstances we do have people outside of their country and they have been persecuted.

You would say that the reason for that was competition for scarce resources. I would not want to go into the whole range of root causes which might lead to the ethnic conflict that has occurred there, but I think others would say that it is not just competition for scarce resources; there might be other ideological or political factors associated with that particular tragedy. But, to take your analysis, we could both be right. I could be right because we are dealing under the convention with people who are outside their country and have been the subject of persecution for membership of a particular social group. And you would say, 'That's because they were the losers in a competition for scarce resources brought on by climate change.' I am not agreeing with your proposition, but I can understand your trying to link the concepts right through to a refugee situation.

**Senator NETTLE**—A clearer example would be this. Say an island like Carteret Island off the coast of Bougainville goes under water because of rising sea levels. Is the government's position that the refugees convention is an adequate mechanism for dealing with the movement of those people?

**Mr Metcalfe**—What is happening on Carteret Island is that there has been some sustained flooding of low-lying areas which has resulted in some internal displacement. And that is a perfect example of what Mr Hughes said earlier: internal relocation of those people is occurring. Hypothetically speaking, if those people were to get on a boat and come to Australia, and say, ‘We’ve been persecuted because our land has been flooded,’ the answer, quite clearly, would be that they have not been persecuted, on the grounds set out in the refugee convention—they have not been persecuted for reasons of their membership of a particular social group. It is a tragedy if their land has been flooded by the sea, but that does not become a refugee matter. It becomes a humanitarian displacement issue and, in the case of Carteret Island, I gather that that relocation is occurring, including to Bougainville, and so it is not a migration issue at all.

**Senator NETTLE**—So do we need an expansion of the refugees convention, or a new convention to deal with the movement of people as a result of climate change?

**Mr Metcalfe**—That is a matter ultimately for governments and politicians. Our proposition is that the refugees convention, which has existed in its current form for over 50 years, has adequately responded to matters of humanitarian need where there has been displacement because of persecution. It becomes a political hypothetical issue as to whether international movement of people occasioned by a change to their economic sustainability brought on by climate change requires some form of international treaty. Our response, at this stage, would be that it is a matter of Australian sovereignty as to who should enter Australia and in what circumstances they should be permitted to do so—that has been the situation since Australia became a country in 1901—and that Australian migration policy is sufficiently flexible to allow governments to respond to different occasions as needs arise. So we are talking about a hypothetical situation. But our response today has been that of course we are interested in the issue; we are interested in all issues that might go to reasons why people might want to travel and move between countries, whether economic or social or whatever, and we continue to provide advice to government as to how it may frame programs to accommodate what is, ultimately, something that would have to be determined in Australia’s interest.

**Senator NETTLE**—Minister, can you any shed light on how the government believes we should deal with people who need to flee their country because of climate change—whether the refugees convention is the path to go on or we need another mechanism?

**Senator Ellison**—The refugees convention was founded on a totally different basis and, as the Secretary has outlined, it is based on a well-founded fear of persecution, for a number of reasons. What you are talking about is something quite different. I am not aware of any move at the United Nations for a new convention dealing with this very issue as a result of climate change. From where I stand, the refugees convention is really something quite different—it is comparing apples with pears—and you would need to look at it in a different instrument, if you like, through the United Nations.

The thing you have always to remember is that there are droughts in some countries, and those droughts may persist for some time. We have had our own droughts here. Then you have a good season and people are able to recover. You have to be careful when you say, ‘Well, that is a longstanding situation which will never change.’ We have a longstanding drought in some areas of Australia which we are earnestly hoping the rains this year will

change. When you say that people's livelihood and their way of life has changed because of something such as a drought, you have to be careful that that drought is one which has concluded. Then those people can carry on with their farming and their way of life as they previously lived.

On the question of the island that you mentioned, certainly that is more a humanitarian aspect which can be dealt with on an ad hoc basis by the international community. One would think that relocation to other areas in the vicinity might be more appropriate where there is more kinship with language, background and culture. That would be your first port of call—to look where people can move elsewhere in the region. I think that the refugee convention is not an instrument that you would rely on for this sort of thing. You would have to look at something different. They are totally different considerations. Is a drought the result of climate change or is it a drought which is five years running and then changes? They are difficult questions and would have to be looked at, I think, through a different instrument. I am not aware of what is being done at the level of the United Nations—that is a matter for the UN. I think a refugee convention is something quite different to what you are talking about.

**Senator NETTLE**—Could you indicate whether the Australian government is in any international discussions about ensuring that we expand the definition of 'refugee' in the convention?

**Senator Ellison**—There is no discussion about expanding the refugee convention. That is the short answer to that. In a wider sense, are there other discussions ongoing about this issue? I do not know. Maybe Mr Hughes can help us on that.

**Mr Hughes**—I can confirm that there is no discussion about changing the refugees convention. From time to time internationally the question does arise of whether any modifications need to be made to the refugees convention, usually related to the specific client group that the refugees convention is already dealing with and not talking about new types of people to be covered by the convention. None of those discussions to date has resulted in any broad international move to change the refugees convention. I think that would be regarded as a very difficult task and one that the international community is not really keen to take on. I am not aware that there is any discussion of any new type of instrument to deal with the client group that you are referring to, which is people escaping environmental disaster.

**Senator NETTLE**—This is why I ask questions about what work the government and the department are doing on this issue. If the government's answer is that the refugee convention is not the place to deal with these people, then what is the mechanism? For example, consider a person who lives in Tuvalu. Their island is increasingly submerging as a result of rising sea levels. What kind of visa do they apply for? Where is the process for us as a country to deal with countries in our region which are becoming uninhabitable as a result of climate change? What is the mechanism?

**Mr Metcalfe**—I think we have said that this is all hypothetical. As to what the international response should be if an entire nation state were to become uninhabitable—you have mentioned Tuvalu—that is an issue that incorporates, but goes beyond, immigration policy into foreign policy and aid policy as well. There are a number of responses that could

be taken by government in the future if a small but entire population of a country needed to be relocated. For example, the minister has already talked about local integration to the extent that there may be another country in the vicinity where natural kinship, ethnic or other ties make it the most appropriate place. An Australian government response in that situation—very hypothetically—might be development assistance or aid in the same way that Australia responded to the effects of the tsunami a couple of years ago. There are many possible responses. I do not think you should just jump to ‘everyone gets a visa’. I am not suggesting that, but I do not think anyone should say that there is only one outcome and that is to provide some special humanitarian category. What we have said is that, to the extent that a long-term movement of people to Australia might be a consideration, there is sufficient flexibility in government policy to respond to those issues if the need arises; but that is a matter for the future.

**Senator NETTLE**—When the Tuvaluan Prime Minister asked Philip Ruddock, as immigration minister, in 2001, to sit down and have a discussion about taking the entire population of Tuvalu to Australia because of rising sea levels, the answer was no—which we have talked about before. In the work that Mr Hughes indicated the department is doing on this issue, has the department looked at the model in New Zealand whereby, since 2001, they have taken 80 Tuvaluans and a number of other people from Kiribati as part of a long-term plan to deal with rising sea levels in our region? Has the department looked at that?

**Mr Metcalfe**—We are certainly aware of New Zealand immigration policy. I do not believe New Zealand immigration policy has been framed in response to climate change. New Zealand does have some particular links with Pacific island nations and has some particular easy entry arrangements that result from that. I stand to be corrected, but I do not think that immigration quotas, seasonal worker schemes and whatever else has been designed are the issue; I think it is more the fact that New Zealand has close links with a number of countries in the Pacific. For example, it has quite deliberately established a seasonal worker scheme to provide the continuing economic viability—in its view—of certain countries, through a remittance culture being developed.

On the broader issue of United Nations discussions on this point, Mr Hughes attended a meeting of the General Assembly last year, with the former minister, where migration issues were discussed. I think it is fair to say that the broad discussion is largely about people who may be working in other countries on the basis of guest worker type schemes. You would be aware that there are very large numbers of people from the Philippines and Sri Lanka, for example, working in the Middle East and parts of Asia, and that the United States has an illegal immigrant population of somewhere between 11 million and 12 million. I think that those tend to be the primary topics of discussion at international level as to the rights of itinerant or guest workers and what sort of status they should have in other countries.

**Mr Hughes**—I think that is an accurate assessment. The UN high-level dialogue on migration which was held in New York in September last year did not particularly have a focus on climate change and the effect of that on migratory movements.

**Senator NETTLE**—Going back to the issue of the New Zealand model and the program that they have in place in dealing with other countries: Minister, you mentioned before that you thought that with regard to the Carteret Islands it was a responsibility of Bougainville to,

as is happening now, evacuate that entire island and transfer the population to Bougainville because the island is going underwater. You indicated in your comment that you thought it was the responsibility of neighbouring countries. So in the Pacific, which is our region, is it the government's view that it is the responsibility of New Zealand to deal with those people who live on Pacific islands which are being submerged as a result of sea levels, or is the Australian government going to set up a process by which we ensure that we are contributing to this problem in our region?

**Senator Ellison**—For a start, I did not say that it was the responsibility of neighbouring countries at all; I said it could be more desirable for that relocation to occur to areas in the vicinity because of similar cultures and backgrounds. For instance, if you are Melanesian or Polynesian then obviously there are cultural similarities between those groups of people. You could take them to Siberia, but that would be wholly inappropriate, wouldn't it? Let us get straight what I was saying. I was talking about relocation to surrounding areas for the benefit of the people concerned. I did not say it was necessarily any particular person's or country's responsibility; what I was saying was that it is highly desirable that if there is to be a move which is necessitated by such drastic consequences of rising sea level then for the benefit of the people concerned it should be to places in the region, in the vicinity. That is what I said.

As to the New Zealand government's policy, that is a matter for the New Zealand government. At this stage we have a migration policy which is flexible and adaptable for any situation that may arise. We can apply it to the circumstances if it is necessary. You do not need a convention for that and you do not need any written agreement for that. It is a policy. It is a program which we have. I think the departmental secretary and Mr Hughes have outlined that fairly well. At this stage, as I understand it, there are no plans to act in relation to the situation that you have mentioned. That has been confirmed by Mr Metcalfe. But we do have a program which is flexible to meet the needs of the day, should that situation arise.

**Senator NETTLE**—Minister, I have two questions from your response. What is the Australian government doing in our region to ensure that we contribute to solving the growing issue of people who need to leave their country because of rising sea levels caused by climate change?

**Senator Ellison**—I think that really brings in aspects of AusAID and of foreign aid packages in the region—of which Australia has a very proud record in the Pacific region and the South Pacific region.

**Senator NETTLE**—I will ask questions there—do not worry.

**Senator Ellison**—So I think that really any questions on aid packages are best asked in that estimates committee session. From an immigration point of view, I think that question has been answered—that there has been no decision taken in relation to this. I think that is about as far as it goes.

**Mr Metcalfe**—The minister is absolutely correct. Senator, just for the record so that there is no misplaced thought, my briefing indicates that the flooding of the Carteret Islands in Papua New Guinea and the relocation of the population to Bougainville, another part of Papua New Guinea, is not occurring for any climate change reason. I understand, in terms of the sea level rise there, that the evidence indicates that the reef has been impacted on by sustained

and prolonged use of explosives and that that has possibly been exacerbated by the movement of tectonic plates. So in that particular example of flooding, which has been caused by either environmental damage or tectonic plate movement, it is being handled by the country concerned, as you would expect, as an internal relocation issue.

**Senator NETTLE**—The second question I have for the minister about his answer is: has Australia accepted any people coming to Australia because of an environmental disaster in their country, specifically due to climate change? Wave a government model that deals with this issue on a flexible or sporadic basis rather than having an actual structured program. Can you tell me if that one-off, ad hoc approach is working?

**Mr Metcalfe**—The short answer is no. As far as I know, there has been no impact of climate change which has caused a sustained, long-term movement of people. We have said many times this morning that, depending on what may happen in the future, policy is flexible and a government of the future, if it wished, could continue those issues at that time.

**Senator NETTLE**—The tsunami would be an example of an environmental disaster.

**Senator Ellison**—But not climate change.

**Senator NETTLE**—That is not what I said, Minister. I am just trying to work out whether there is a process for dealing with environmental disasters and people coming to Australia due to that. Whether it is climate change related or not, there are arguments about the way in which climate change might enhance cyclone activity and other activity that could lead to a Hurricane Katrina or a tsunami. There are arguments and scientific debate around that. I am not trying to put those arguments right now; I am just trying to see whether you can give me an example of the model you say we are using to deal with environmental disasters. That is my question.

**Mr Metcalfe**—The answer is that, for example, an environmental disaster such as the tsunami caused by an undersea earthquake deeply impacts a number of countries, particularly Indonesia but also Thailand, Sri Lanka and the Maldives. There was an extraordinary humanitarian response there which enabled people to continue living in their own countries. The point that I think we have made several times is that there is a range of policy responses to what might possibly happen in the future, of which migration or visa policy may play a part, but those are issues, frankly, for the future. In the meantime, we of course keep a close eye on monitoring the issue.

**Senator NETTLE**—I want to go to a particular report. It is a Christian Aid report called *Human tide: the real migration crisis*. That document talks about one billion people being displaced from their homes between now and 2050. It has a specific category, saying that it thinks 250 million people will be permanently displaced by climate change related phenomena such as floods, droughts, famines and hurricanes. Last time I was here at estimates I quoted to you the figures which were in the Nicholas Stern report of the number of people he thought would be displaced as a result of climate change. You have said that you will take on notice what reports you are looking at. To use this one as an example, is that figure of 250 million people permanently displaced as a result of climate change phenomena in the realm of what the Australian government thinks is a realistic or accurate figure?

**Mr Metcalfe**—That is not a question that we could answer.



**Senator NETTLE**—You indicated that the strategic policy group was looking at the issue of people movement as a result of climate change and climate change phenomena. Is that group looking at the literature for the purpose of determining what is a reasonable assessment? Is it 400 million? Is it 200 million? What is a realistic figure? Are the government and the department looking at that?

**Mr Metcalfe**—We certainly are interested in the issue, but I think it would be quite wrong to expect the Australian department of immigration to provide some sort of expert advice on the potential future impact of global climate change upon population movements. That report you referred to and the Stern report are part of the information we would receive. But we are in no position to verify or to comment on those particular reports. We would simply note that they exist. We would be interested to see what other reporting might occur on this issue. That is very much part of our overall awareness of the situation that we find ourselves in, in the same way that we are also very interested, obviously, in the development of the economy, broader social issues and that sort of thing. I think that we are simply not in a position to make a comment as to whether that report is accurate, fanciful, made up or whatever. I just do not know.

**Senator NETTLE**—Is the department involved in making any assessment of the number of people who will be forced to leave their country as a result of the climate change phenomenon? You have talked in a general sense, and I accept that you are saying this is a general issue that is being looked at, but I want to know what kind of assessment the Australian government is making on this issue. You are saying to me that the department of immigration does not know and should not know. I do not agree with that. I think the department of immigration should have some idea about the number of people who will be displaced in the long term as a result of climate change and it should be involved in that discussion. Is that something the department of immigration is going to look at? If not the department of immigration, which part of the government is going to look at the issue of how many people might move to Australia as a result of the climate change phenomenon?

**Mr Metcalfe**—You have asked me two questions. You previously asked me whether the department of immigration had a view about global displacement. I said the answer is that we will read the literature but we are not independently able to verify or comment on the various claims that might be made. We do not have experts in weather patterns and we do not have experts in the internal economies and sea levels of various countries around the world. You would not expect us to have those things, so we will read the literature. You then transformed that question into a second issue: what we think that means for Australia. What we have said is that we will obviously continue to monitor the issue carefully and provide advice to government as necessary about policy options that might be required. But that is not receiving a large amount of active work because the issue is not within the immediate time frame that is obviously part of our broad awareness of economic, social, environmental and other issues that might impact on immigration policy in the years and decades ahead. It is an issue we will continue to look at. I do not think I can say any more on the point.

**Senator CROSSIN**—I want to turn to the PBS. I will start at page 93 and the column of figures under 'Expenses for employees'. The estimate for 2006-07 was \$499 million. Why has that increased to \$522 million?

**Mr Metcalfe**—There are a number of measures in the budget, particularly the additional resources around checking 457 visas—the skilled temporary visa—and implementing the citizenship test, which requires that additional employees be taken on by the department.

**Senator CROSSIN**—How many more employees are we talking about for those two new measures?

**Ms Gray**—In the body of the document it provides an outcome by outcome breakdown of additional staffing levels that are coming through. It is on page 49. You will see that the average staffing level for outcome 1 changes from an estimated actual of 5,942 to a budget estimate of 6,032 and that is, as the secretary indicated, mainly for new policy, particularly 457 visas and the citizenship test.

**Senator CROSSIN**—Before you go on, we will have a look at those figures. Exactly how many people are we talking about here?

**Mr Metcalfe**—Do you want us to break it down further from outcome 1 into the particular measures? Is that what you are asking?

**Senator CROSSIN**—I just want to know how many people. If you are telling me that the increasing cost is because you are going to employ more people then how many more people are we talking about?

**Mr Metcalfe**—I think that page 49 indicates that our average staffing level will increase from 5,942 to 6,032 for outcome 1, so you will see that it is an increase of around 90.

**Senator CROSSIN**—You are talking about 90 people.

**Mr Metcalfe**—Yes, 90. I want to add to my earlier answer that there are pay rises that are payable to departmental staff pursuant to a collective agreement that was finalised a couple of months ago. There will be a pay rise in December this year and that will also add to the costs and therefore increase the amount of money spent on salaries.

**Senator CROSSIN**—Let us go back to page 49. That increase of 5,942 to 6,032 is roughly 90 additional staff. Is that correct?

**Mr Metcalfe**—It is exactly 90.

**Senator CROSSIN**—Have you worked out what levels they will be?

**Ms Gray**—It would depend on the way that each measure was costed. I can go through measure by measure with that information if you like.

**Senator CROSSIN**—I am not sure that is going to be necessary. You are averaging 90 there. You were going to take me to another page for another outcome.

**Mr Metcalfe**—If you turn over to page 71—

**Senator CROSSIN**—Page 49 relates to the 457 compliance, does it?

**Ms Gray**—It relates to any measures that impact on outcome 1. For example, we had some announcements in the budget about a component of a couple of free trade agreements. We also had enhanced integrity of partner visa processing and some additional positions in relation to the migration program.

**Senator CROSSIN**—Okay.

**Mr Metcalfe**—If you then turn to page 71, you see that that deals with outcome 2. You will see that the average staffing level there increases from 1,048, at the bottom of the page, to 1,217. Our calculation is that that is an additional 169 staff. That would be primarily in relation to the introduction of the citizenship test, which is one of the budget measures. Those staff not only would deal with the policy development but would be particularly associated with the administration of the test. That will be quite a significant undertaking in that we expect that around 100,000 people who would be applying for Australian citizenship would be required to sit the test beforehand. Therefore, department staff to supervise that process would be those additional 190 or so people that I have referred to.

**Senator CROSSIN**—Will they be located in different states and territories?

**Mr Metcalfe**—Yes. Turning to that particular measure, it is our intention that the arrangements for people to undertake the test will, at least initially, occur in our departmental offices, which are located in each state and territory. Over time we would hope to be able to provide additional places for the test to be sat, through cooperation with other Commonwealth agencies, but the initial places would be departmental offices. We would also, as we do presently, incorporate regional visit programs so that people who live in regional and rural Australia are not disadvantaged in being able to access the testing arrangements.

**Senator CROSSIN**—I am sure we will get to this tomorrow, but do you have an indicative idea of where those 169 staff will be placed around the country?

**Mr Metcalfe**—Tomorrow, if we are having further questions about the test, I will ask our colleagues who work on that issue to provide a breakdown of where we expect those staff to be employed. But roughly half our clients are in New South Wales, so I would imagine that roughly half those staff would live in Sydney. Roughly 30 per cent—25 per cent, 30 per cent—are in Victoria, a few less in Queensland, and it follows logically from there.

**Senator CROSSIN**—How many staff within the department are currently employed on AWAs?

**Mr Metcalfe**—We have a precise figure on that. I will ask Ms McGregor.

**Ms McGregor**—The figure is 455 at the moment.

**Senator CROSSIN**—Out of how many?

**Ms McGregor**—It is about eight per cent of the total.

**Senator CROSSIN**—How many staff all up in the department?

**Ms McGregor**—At the end of April, there were 6,763. That includes 307 non-ongoing staff.

**Mr Metcalfe**—That would also include a number of staff employed at overseas posts as well.

**Ms McGregor**—That is correct—142 overseas.

**Mr Metcalfe**—We have 142 Australian based officers overseas. In addition, we have around 900 employees at overseas posts who would be employed on local arrangements in the particular country.

**Senator CROSSIN**—Do you have a breakdown of that 455 by gender?

**Ms McGregor**—Yes. It is 52 per cent male, 48 per cent female.

**Senator CROSSIN**—In figures?

**Ms McGregor**—I will have to get someone to do the arithmetic.

**Senator CROSSIN**—All right. By classification?

**Ms McGregor**—I have got it by classification: five APS4s, six APS5s, 10 APS6s, 107 executive level officer 1s, 165 executive 2s, one senior legal officer, two principal legal officers, 17 public affairs officers, 49 graduates, 70 SES band 1s, 16 SES2s and three SES3s.

**Senator CROSSIN**—What level are your graduates employed on?

**Ms Larkins**—They are at APS3 level.

**Senator CROSSIN**—All of those who would have started this year as graduates are on AWAs?

**Ms Larkins**—No. I understand about half of the graduates accepted an AWA offer. They were all offered an AWA on commencement.

**Senator CROSSIN**—Is it the policy of the department to offer all new starters AWAs?

**Ms Larkins**—It was the policy of the department to offer all of the starting graduates an AWA. It was not a condition of service for them, but they were all offered an AWA.

**Senator CROSSIN**—No, because it would be illegal, wouldn't it, to only make them sign an AWA?

**Ms Larkins**—Not if they are not currently APS employees; it is within our capacity to make it a condition of service for people who are not currently employed in the APS. But that is not what we did in this case: we offered, but we did not make it a condition of service.

**Senator CROSSIN**—So how many graduates actually started?

**Ms Larkins**—I do not have that with me; I would have to get that for you.

**Mr Metcalfe**—It was a little under 100, I think. From memory, it was about 90. If you want a precise figure, we can get that. I think Ms Larkins has indicated that around half are on AWAs.

**Senator CROSSIN**—How many took up the offer of an AWA?

**Ms Larkins**—Around half. I will get you precise figures.

**Senator CROSSIN**—Can I take you to some answers to questions that we received following the February estimates. Question on notice 2, asked by Senator Ludwig, relates to overspend. As you can see, what we are really after is an update on the answer to that question. There was an underspend in outputs 1.5 and 2.1. Is there still an underspend in those areas?

**CHAIR**—Senator Crossin, noting the time, are you happy to make this the last question before we go to the break?

**Senator CROSSIN**—I am happy to break now and continue the questioning when we come back.

**Proceedings suspended from 10.30 am to 10.45 am**

**Senator CROSSIN**—We will continue from where we were before the suspension.

**Mr Metcalfe**—Senator, you asked a couple of questions earlier and we have some additional information that we can provide to you.

**Senator CROSSIN**—Yes.

**Ms McGregor**—On the question about the graduates, there were 93 graduates in total and 49 are on AWAs. With regard to the other question, I left four people off that breakdown of the 455 on AWAs. I omitted four medical officers, who are in addition to the breakdowns I gave you.

**Senator CROSSIN**—Thank you for that. We were looking at the underspend by outputs and I was wanting an update from the February estimates.

**Ms Gray**—Output 1.6 is the Offshore asylum seeker management component. That is a quarantine item where basically we get what we need, we hand back what we do not need and we seek more if we need more—so revenue and expenses are matched. At the moment, we are continuing to underspend against that item. The costings are done on the basis of about 100 expected unauthorised boat arrivals. Effectively, in the year to date we have not spent the entire amount that we expected to. I would need to get a bit more information on output 2.1 and on which particular areas you are interested in, because there are a number of components to that output. If you look at page 22, we have got the revised output group 2.1, Settlement services. Did you want information for that whole group or were there particular components in there?

**Senator LUDWIG**—What we might do is look across the underspends against the 2006-07 budget, including the 2006-07 additional estimates and bill No. 5 and No. 6 funding requests, to get an indication of whether they are underspends, what the amount is and whether, at the end of the financial year, they will be re-phased or re-allocated across the forward estimates. There are two and maybe a third that may be returned to consolidated revenue.

**Ms Gray**—Yes.

**Senator LUDWIG**—Which of those will happen to those amounts? There is also an underspend, then there is an overspend and there is on budget—so there are three positions. In terms of the underspend, you can identify the amount. In terms of the actual amount, we can take that as given. For those that are overspends, you can say whether they are re-phased or re-allocated against the future estimates or whether they are returned to consolidated revenue. That is across all of those. That may take a little bit of time, but we were hopeful that you would probably already have a reasonable snapshot now, and perhaps that could be provided over the couple of days here.

**Ms Gray**—I will certainly see what we can get.

**Senator LUDWIG**—If that is too difficult—if some of the amounts are small—then come back and let us know. We can then have a look at re-wording the question.

**Ms Gray**—Just to clarify on the rephasing issue: my understanding of the budget rules is that departmental funds cannot be rephased; they essentially just lapse. So a big part of our current work, in understanding our funding needs and how we relate those to Finance, will be in making sure that we are setting in place a base from which we will not have the situation of a loss recurring and recurring. So, hopefully, I will be able to include that information and that will be useful to you.

**Senator LUDWIG**—Having asked this question of a range of different departments over time, I am still at a loss as to how matters are ‘rephased’ and what that means, but any additional note as to how you regard rephasing and what happens with it would be helpful.

**Senator CROSSIN**—Ms Gray, following on from Senator Ludwig’s question, when you asked us which section of output 2.1 we were interested in, you gave us an answer that just said 2.1. So I am assuming that, when you said to us that you are showing an underspend against pro rata budget in output 2.1, that means all of 2.1. Does it not?

**Ms Gray**—If you aggregate it up it could be the result of ons and offs, I guess, of those—2.1.1, 2.1.2, and so on.

**Senator CROSSIN**—So what did you do to give us this answer?

**Ms Gray**—I would have looked at output group 2.1 as a whole.

**Senator CROSSIN**—Yes. So do we still have an underspend in output 2.1 as a whole?

**Ms Gray**—I need to confirm that.

**Senator LUDWIG**—If it is from a significant area, then perhaps you could identify that area. If there is one that might be contributing to it, that might be helpful in understanding the area. I do understand that 2.1 is broken up into a range of different areas. But that has happened, over the last four or five years, and the budget portfolio statements have then, in my words, ‘grossed up’, and the detail is not there anymore in each area.

**Mr Metcalfe**—Just to clarify: would you like us to drill down to the suboutput level, to provide more information as to where the underspend is actually occurring?

**Senator LUDWIG**—Yes. Whether you are able to do that will depend on your records, but do go down to the suboutput level. If it were below a cut-off level—for example, if it were \$10—I think we could forgo that one, but if it is a significant amount, that detail would be helpful.

**Mr Metcalfe**—We will take that on notice.

**Senator CROSSIN**—Similarly, you had suggested there were overspends in 1.1, 1.2, 1.4, 2.2, 2.3 and 2.4. Is that still the case?

**Ms Gray**—Yes. But that represents the application of the overspend across all the output groups. So we are budgeting at the moment for a loss of \$55.4 million in the year ahead and, in attributing, for example, the corporate costs, each output component bears a proportion of that.

**Senator CROSSIN**—So you will not come in on budget; you will actually be \$55.4 million in the red?

**Ms Gray**—Technically, we would be coming in on budget because we have the authority to budget for a loss. A loss is funded by cash reserves, which we will be doing. So we are spending more than our original appropriation, but we do have the finance minister's authority to spend to that loss.

**Senator CROSSIN**—To spend to what loss? To whatever amount, or do you have a limit?

**Ms Gray**—\$55.4 million, which you can see on page 93; it is in the financial statements. That single \$55.445 million is the amount that the finance minister has agreed we can spend to.

**Senator CROSSIN**—And what if your overspend is greater than that?

**Ms Gray**—We are monitoring it very closely, and there has been ongoing dialogue with Finance. We are not expecting that to happen by any means. If it did happen, we would presumably need to seek urgent advice from Finance as to how that should be managed.

**Senator CROSSIN**—But next year you are anticipating a \$4.9 million overspend?

**Ms Gray**—Yes, that is what we have budgeted for. We are, at the moment, in negotiation with the Department of Finance to make sure that our ongoing departmental funding is appropriate for the business that we do.

**Senator CROSSIN**—How are you planning to achieve that?

**Ms Gray**—We have started a discussion with Finance to review the nature of our work, the changes we have seen in the last several years. The department was subject to a review in 2004 and that led to the way in which we were funded, which was partly based on variable and activity levels—some was based on the quarantined and non-quarantined concepts that we have discussed and the remainder was largely based on core funding. So it is reviewing the breakdown between those and making sure that the department's business is being funded to a level that is expected by government and by the public.

**Senator CROSSIN**—Why has it taken since 2004 to show that difference in the 2007-08 PBS?

**Ms Gray**—In 2004 the funding was attributed to us on the basis of different assumptions to the way in which we do our work now. I think it is fair to say that, since the reports by Mr Palmer and Mr Comrie, we have reviewed a lot of our processes and we have put in place a lot of new risk based approaches to the work that we do. Those assumptions have influenced the costs that we bear and that means that the 2004 funding model is not necessarily reflective of what funding we need.

**Senator CROSSIN**—So the funding model is changing or has changed?

**Ms Gray**—It is changing; it is under review at the moment.

**Senator CROSSIN**—When is that expected to be finished?

**Ms McGregor**—We have commenced discussions with the department of finance and, keeping in mind our end of year position, that will be work that we will continue doing with

them for a couple of months. We have not scoped it adequately at this point, but we are in ongoing dialogue and are developing various views of information available to us and providing that to the department of finance. So it will be a few months yet.

**Senator CROSSIN**—That will already take you into the next financial year, so how quickly do you need to make changes and put this to bed in order to achieve only a \$4.9 million overspend in the next financial year?

**Ms Gray**—The intention would be to finalise the broad review by the end of the financial year with any changes to come through next additional estimates. So the timing is obviously dictated by that parameter.

**Senator CROSSIN**—What sorts of changes specifically will it mean?

**Ms McGregor**—Further to when this was discussed at the last hearings, we have embarked on considerable belt tightening and trying to rein in expenditure that at that point was looking problematic for us. So, working again with Finance to develop that agreement of the revised loss of \$55 million, we are monitoring that very carefully, as Ms Gray has said. Some of the measures go to recruitment and discretionary funds that we can scale back—travel and that sort of thing. It is under constant watch.

**Mr Metcalfe**—Senator, I thought your question was more about where are we looking for changes into the future in terms of the funding model.

**Senator CROSSIN**—Specifically, where you are looking for savings.

**Mr Metcalfe**—Perhaps I can answer you by making a general comment. The department has a historically high level of activity right now. We are doing more things than we have ever done. In terms of our client service applications, we are running the biggest migration program for many years, we have the biggest skilled migration program in history and there is growth in other visa categories, citizenship and so on. The department, because of funding that largely was provided to it both in the budget and in additional estimates last year, is also undertaking a very large business transformation process. I mentioned earlier in my opening statement Systems for People, for example. That is quite pervasive. It is also meaning that there are very high activity levels. There are lots of people working on a better future. We certainly expect to see significant efficiencies occurring from that investment in terms of both quicker working practices and, particularly important, better working practices where mistakes do not occur in the way that they may have in the past.

At the same time as those two things are happening, we are also having to continue to deal with issues from the past. I mentioned again in my opening statement that we continue to receive reports from the Ombudsman about some of the cases referred to him around two years ago. There is a significant level of activity associated with following up those particular matters and responding to those reports and dealing with those particular issues. That is why we, with the agreement of the Department of Finance and Administration and the Minister for Finance, are drawing upon historically accrued cash reserves to run at a loss of around \$55 million this financial year.

Turning to your question, regarding discussions that we will have with Finance, Finance will obviously do their job, and that is to look sceptically at our costs and the reasons we



believe we are not properly funded to do certain things. We will obviously work cooperatively with them on how we do things to work out whether the funding is appropriate. The way the department is funded is interesting. Ms Gray mentioned before that there is variable funding. We get paid for each activity or visa or whatever. For example, in the additional estimates this year we received an additional \$10 million for work that had occurred the year before. There is always a lag factor associated with some of these issues. But it is an area in which we are very active at the moment to contain costs while at the same time getting a proper funding basis into the future.

**Senator CROSSIN**—At this stage, have you identified where the savings will come from output by output?

**Mr Metcalfe**—No. Now that the budget has been finalised and the Department of Finance and Administration are able to focus on this issue with us, we are going to work through all of our outputs to ascertain whether or not the funding remains appropriate to the activity. That is work that is ongoing. The current estimate is that we will run at a slight loss—a \$5 million loss—next year. That will ultimately be determined by a number of factors, including the funding model that is agreed between us and Finance and levels of expenditure. That review will be quite wide and all-encompassing. It will look at not only our activities but also at the core infrastructure of the department: the personnel services, financial services and others that are required to run what is now a big multinational organisation.

**Senator CROSSIN**—Going back to questions that I asked earlier about the difference in the number of employees, we are looking at an additional \$33 million—this is from the table at page 93—between 2006-07 for employees. I know that you said to me that that will be a wage increase. What is the cost of that wage increase going to be? You must have calculated that by now.

**Mr Metcalfe**—I can come up with a figure for you. The percentage will be 4.3 per cent. A four per cent pay rise occurred at the end of March when the collective agreement came into effect. That therefore will not have a full-year effect this year but will have a full-year effect next year. There is also a 4.3 per cent pay rise in December. There is a third pay rise in the collective agreement, which occurs a year after that—in December 2008, from memory.

**Ms McGregor**—2010.

**Mr Metcalfe**—Effectively, the department will be operating next year with—just doing some simple mathematics—a pay rise with a full-year effect of around six per cent. That is the pay rise that has just occurred, together with the half-year effect of the 4.3 per cent pay rise in December.

**Senator CROSSIN**—So how much of that \$33 million will go towards funding that wage increase in the next financial year?

**Ms McGregor**—I have not got the exact amount for next year—that should be easily found—but the cost for the pay rise is \$130 million over three years. Your question is about next year, so I will have to get that.

**Mr Metcalfe**—We will come back to you on that, Senator.

**Senator CROSSIN**—You are employing 169, and another 90 there, so that is about 260 staff. At what cost will that be?

**Mr Metcalfe**—We will take that on notice. We should be able to come back through the course of today and let you know the cost of those additional staff.

**Senator CROSSIN**—I am assuming that you have done the costs somewhere, in order to ascertain what that additional \$33 million is made up of.

**Mr Metcalfe**—Yes.

**Senator CROSSIN**—Is it still the case that output 1.3 is on budget? Or is there an overspend there?

**Ms Gray**—I am not aware of any change in that.

**Senator CROSSIN**—So that should still be on budget?

**Ms Gray**—Yes.

**Senator CROSSIN**—The next question we want to follow up on is the \$40 million overspend due to the ICT and growth in staffing. Is that still the case?

**Mr Correll**—Yes. We still are expecting this financial year for the actual expenditure to come in around \$40 million over budget.

**Senator CROSSIN**—Is that what is making up the majority of that \$55 million?

**Mr Correll**—Yes, it is a major feature of the \$55 million, and it is associated with the increasing number of staff and associated computers on desktops through the department. As we commented at the last hearing, it reflects our growth in staffing over the last three to four years. The growth in staffing has seen a significant increase in our IT services and communications related costs. We are looking very closely at ways in which we can attempt to keep that constrained and also to ensure, as additional staffing are allocated to the department, that appropriate resources are available to cover information and communications technology resourcing requirements in the department.

**Senator CROSSIN**—Has your overall budget allocation for this year taken into account the additional staff and IT that is needed?

**Mr Metcalfe**—That is one of the issues we will be discussing with the Department of Finance and Administration.

**Senator CROSSIN**—In terms of this saving from the overspend from \$55 million down to \$4.9 million?

**Mr Metcalfe**—I would reverse it. In terms of seeking to ensure the department's budget is realistic, given what is expected of us at the moment, we will obviously want to have a discussion with our colleagues as to the proper resourcing of ICT, which is such a critical enabler of our work.

**Senator CROSSIN**—Could I take you to another answer that you provided to us, and that is QON30. We asked about the New South Wales office, which I understand had around \$10 million in budget overspend. I think you said to us at the time that you believed the overspend

was due to high rent. Your answer shows that only about \$1.3 million of that is rental costs. What is the difference?

**Ms McGregor**—As we indicated earlier, New South Wales and Queensland are under close scrutiny. Your first question is: what is going on with them at the moment? Since the last hearing, we have had meetings to recast some budgets to what would seem to be a more realistic level. With that, we are still anticipating that New South Wales will come in a little bit over what was forecast. I think at this point it is around three per cent.

**Senator LUDWIG**—What I want to understand is that in New South Wales there was around a \$10 million overspend. The reason that was provided to the committee was that it related to high rent levels in Parramatta and the CBD. The leasing costs appear to be about \$1.3 million. Where is the balance of the New South Wales overspend, because it is not all high rent levels—or are there other high rent levels as well?

**Mr Metcalfe**—I have just had drawn to my attention what I said in the previous hearings. On page 8 of *Hansard* for the Legal and Constitutional Affairs Committee for 12 February 2007 you asked:

Can you attribute any reasons to that overspend?

I replied:

It is associated largely with increasing activity levels. Again, not all of our state offices are the same ... our Brisbane office provides certain functions that other state offices do not have to deal with—for example, the presence in North Queensland and the Torres Strait ... Sydney has roughly 50 per cent of our overall client case-load handling and operates in two locations: Parramatta and the CBD, with very high rent levels and also other issues.

I then went on further about that. I think that we have indicated on notice that rent increases were part of that. But the general activity level increase that I talked about earlier, together with the standards of decision making and accountability that are required of the department in the post-Palmer environment, have meant that effectively we are spending more in providing services than we had earlier expected. This is precisely the point that a review of funding arrangements with the department of finance will go to.

**Senator LUDWIG**—When will that review take place?

**Mr Metcalfe**—We talked to Senator Crossin about that before. We have had some preliminary meetings at my level with my counterpart and senior colleagues. Ms Gray is now working on that matter full time, and we would expect that those discussions will occur over the next two to three months. If there are results—which I hope are positive results—then we expect that they will be reflected in the additional estimates this year.

**Senator LUDWIG**—Did the department of finance set a deadline for those discussions to conclude?

**Mr Metcalfe**—No, there are no deadlines. But we do have an expectation that, depending upon the outcome of that work, they will be reflected in the additional estimates for 2007-08.

**Senator LUDWIG**—Is there an amount that the department of finance have asked you to look for?

**Mr Metcalfe**—No. We might be talking slightly at cross-purposes here.

**Senator LUDWIG**—Yes.

**Mr Metcalfe**—It is me who is doing the asking, not the department of finance. Without wanting to go into detail about what are essentially very initial discussions, we will be contending that our operating environment has changed and therefore some of our activity based costing needs to be rebased and upwardly adjusted.

**Senator LUDWIG**—I see we were speaking at cross-purposes. I thought you might be looking for savings, but in fact you are going to look for more money.

**Mr Metcalfe**—My good friend Dr Watt may have other objectives. We will have to see.

**Senator LUDWIG**—I had expected that you were going to look for savings, but in fact you could be looking for additional money to meet the increased activity, as an alternative for both.

**Mr Metcalfe**—We will be looking for realistic funding. That is not to say that in some areas there will not be savings, but in other areas there may be additional resourcing. That is very much the nature of the discussion. One key point that both Finance and the department agree on is that the department is currently being resourced at a very high level to go through a business transformation process with systems for people. That, we are very confident, will provide more efficient, effective and less risky processes into the future. But we are not realising the benefits of that yet. We are just at the beginning of a four-year program and I think it will be at least two or three years before we really start to see results coming through in a measurable and quantifiable way. In the meantime, we have high levels of activity which we have to progress under old processes. That is very much the discussion that we will be having.

**Senator LUDWIG**—An answer to question No. 19 of February 2002 said that a cost-benefit analysis was undertaken in April 2002 to identify the savings that could be achieved with the implementation of an online recruitment model and that, as a result of this analysis, the department introduced an online e-recruitment system in May 2004. What savings eventuated from that?

**Ms McGregor**—I do not think we have that.

**Senator LUDWIG**—You might need to take it on notice. Do you still have an online e-recruitment system?

**Mr Metcalfe**—Yes, we do.

**Senator LUDWIG**—That answer to question No. 19 said the total spend on recruitment agencies by the department and agencies within the minister's portfolio was \$70,518, 816.

**Ms McGregor**—The total sum spent on recruitment agencies is estimated to be \$70 million. The issue is about contractors and those sorts of agencies as well.

**Mr Metcalfe**—Again, it is apples and oranges. That figure would include the cost of us advertising to staff and whatever. It is a very high figure because it also includes—

**Senator LUDWIG**—It is an extraordinarily high figure.

**Mr Metcalfe**—It is an extraordinarily high figure. It actually includes the cost of, effectively, the salaries of people who we recruit through contractual arrangements. Because

of our heavy reliance on IT—and, in particular, the assistance for people program is very reliant on contractors—that figure would incorporate the cost of payments to those contractors, not just their recruitment cost.

**Ms McGregor**—As the answer goes on to say, part of the difficulty for us in answering this was to try and distinguish between salary and administration costs. It is because of the way the ledger codes are set up. As Mr Metcalfe has said, it distorts the issue you are trying to get to.

**Senator LUDWIG**—You said the number recruited is around 259 people, and we have \$70 million being spent on recruitment.

**Mr Metcalfe**—They are quite different things.

**Senator LUDWIG**—If I do the maths—

**Mr Metcalfe**—There are some very well paid headhunters out there.

**Senator LUDWIG**—For the number recruited, it is extraordinary.

**Mr Metcalfe**—It is apples and pears. We can provide you a figure on how much we spend on the recruitment of staff—which is not a great deal because, at the moment, we are not recruiting many staff. We have pretty well frozen the recruitment of staff, apart from some technical specialist areas. That figure you have is not the recruitment cost of placing an ad in the paper or very occasionally going to a recruitment firm to seek the placement of someone. A lot of that figure—in fact, the vast majority of that figure—would be the actual salaries of people who were employed as a result of us working through a contractor. That is, as I said, a significant feature of the way we are able to obtain specialist staff in the IT area.

**Senator LUDWIG**—Some of them, though, are through Careers Unlimited Pty Ltd. They do not seem to me to have IT or specialist skills. Or do they come through those agencies in terms of IT and then get employed by you on IT?

**Mr Correll**—Also on the list are companies like Paxus and Candle. They are all very much major players that we engage contractors through. We engage contractors through them, but the individual contractors continue to be working for those organisations and that is why the expenditure associated with their costs is factored into the answer to this question. The individual person is not directly employed by the department. There is a service provided to the department by the contractor but they continue to be, effectively, employed through the agency.

**Senator LUDWIG**—Is there a figure which demonstrates how many providing that service do so on an ongoing basis, and the rate at which you pay each of them?

**Ms Gray**—We do not have that figure.

**Senator LUDWIG**—How do you work out whether you are getting value for money from the various services if you do not have that figure?

**Mr Correll**—In the IT contractor area that is quite a science. We are constantly monitoring the market in that area, and we provide to our decision makers within the organisation ranges within which they are able to make decisions on the engagement of contractors, based on the

currently prevailing market forces. In the ICT industry those forces are constantly shifting rates upwards and downwards, and so we have to be alert to that.

**Senator LUDWIG**—So do you know how many IT staff in total you have employed on those types of contracts?

**Mr Correll**—Yes, we do know that.

**Senator LUDWIG**—How many is that?

**Mr Correll**—If I give you an approximate number—

**Senator LUDWIG**—You could take it on notice.

**Mr Correll**—I will take it on notice and we will give you the precise figures later today.

**Senator LUDWIG**—Perhaps we can break it down a bit, because I am trying to understand how that \$70 million comes about. For recruitment, you have said it does not make sense—you are going to break those figures down for the 259 that have been recruited and at what cost. In terms of the IT, you say it is for the provision of ongoing staff in an IT environment. How many of those are ongoing? Or might ‘non-ongoing staff’ be a better, more technical description?

**Mr Metcalfe**—Again, there is a distinction between a non-ongoing staff member who was a temporary employee of the department and what we are talking about. I think the vast majority of these costs in the \$70 million were actually for contractors. So we have a contractual relationship with a company that provides people to us who provide services to us. But we do not employ them; they are supplied by a contracting company.

**Senator LUDWIG**—I will use the term ‘contractor’ then. How many people are provided to your department on a contractual arrangement? And do you take stock of whether they are full time, part time or casual? Or do they simply turn up and do the work?

**Mr Correll**—No. Each of the contracts that is entered into will stipulate the hours for which the contractor will be engaged. So it is not quite the notion of full time or part time; it is more the notion of engagement for particular hours. Many contractors would be working hours that you could say were part time in character. But, essentially, what we do is to engage staff based on hours and there are hourly rates involved.

**Senator LUDWIG**—So the contract will also provide for (a) the number of hours to be worked and (b) at what hourly rate the contractor would be paid, and then it would be multiplied out and then any ongoing costs that might be associated with that are a provision by the contractor? Is that roughly how it works?

**Mr Correll**—That is about it.

**Senator LUDWIG**—Could you also break that down, as much as you are able to, by the provision of that service, the hourly rates and, if a range of types of ICT has been required, whether it was paid at \$200 an hour or \$50 an hour or whatever.

**Mr Correll**—Breaking it down into hourly rates may take a little longer than this afternoon, but—

**Senator LUDWIG**—Yes, I understand that.

**Mr Correll**—We will pull together the information we have as quickly as we can.

**Senator LUDWIG**—And do you monitor that? Is there a contract manager?

**Mr Correll**—Yes, most definitely. There is an area that is constantly monitoring the contracts and reviewing whether we are looking to re-engage individual contractors as their contracts are due to expire. There is also close ongoing dialogue over those issues with the agencies that provide those contractors to us.

**Senator LUDWIG**—Do you specify in the contract whether you require those people that provide the hours to be on either AWAs or contracts of service?

**Mr Correll**—No, because in those cases the department is not the employer of those individuals.

**Senator LUDWIG**—I understand you are not the employer, but you can still specify the type of arrangement in the contract. You may or may not.

**Mr Correll**—To my knowledge, we do not. I will take any advice if there is any coverage of that in our contracts, but I would be very surprised if there was.

**Senator LUDWIG**—Are there consultants as well, or is that the same bunch that would otherwise provide consultancy work to the department? There are ICT contractors, who provide hours, and then there are consultants. Is that also part of that \$70 million?

**Mr Metcalfe**—We will check and make sure. The department uses consultants from time to time. We recently had a review undertaken of our governance processes, for example, and we obtained the services of someone who I would regard as a consultant on that particular aspect. We will be careful in how we respond to your question—which is quite a broad question—to ensure that we carefully define the terms that we use so that we are all quite clear as to what we are talking about when differentiating between an ongoing and a non-ongoing contractor. If we use the word ‘consultant’ we will make that clear as well and explain the differences.

**Senator LUDWIG**—Thank you. That would be helpful. It avoids that red light of \$70 million.

**Mr Metcalfe**—That is why we will put more detail in the response to try and explain that it was not just the cost of putting an ad in the paper but was actually the salaries paid by the consultancy company to the person.

**Senator LUDWIG**—You have raised the issue of putting ads in papers. Do you have an internal e-newsletter to communicate with your staff as well?

**Mr Metcalfe**—There is lots of internal communication. The department has had an internal newsletter for many years, which was called *Staff News* and which used to appear in printed form. It now appears in printed form and online on our intranet. More recently we have commenced a similar internal newsletter, called *Our People*, which uses video footage to similarly convey information.

**Senator LUDWIG**—Is that taking over from the current publication?

**Mr Metcalfe**—They are running concurrently at the moment. *DIAC People* is the name of the printed version of the newsletter and remains a text based document. *Our People*, which

has begun in recent times, and we have only had two versions of it, is a video presentation method. We are a large and dispersed department with people of many different ages and from many different backgrounds and we are constantly wanting to find the most effective way of getting messages through to staff when we are going through a great amount of change and development. At the moment we are running those two different common staff newsletters—one text based and one video based. We constantly keep that under review as to whether we need both or whether ultimately one may be preferable. That is at a national level.

At our state and territory level there would also be local newsletters about more local issues that would go out from the state directors or be provided to staff. In addition to that, I have a very frequent program of communication with staff. I send emails to staff every Monday and Friday. An email went out this morning talking about the fact that a few of us were pretty busy today at Senate estimates and providing a copy of the opening statement that I made so that the department more generally is aware of where some of us spend our time. Also on a regular basis we provide a video presentation to staff on a particular issue. After the budget we did a presentation on the budget. We will do one for Refugee Week, highlighting what the department does there. There is a whole range of internal communication processes, but I think your question focuses on those two things that I mentioned earlier.

**Senator LUDWIG**—It does. Thanks. I am curious—you have tipped me into an area that I will now ask about: the video. Is that a web based cam or do you have a special internal unit that develops—

**Mr Metcalfe**—We have a small unit in our National Communications area that has the equipment so that the all-staff addresses that I mentioned can be recorded and footage obtained. It appears to be a type of camera, a bit like the cameras you see here—probably not as big. I think there is a range of equipment that can be used to collect video footage in the department. It is used for a whole range of purposes, including training and other purposes, such as the *Our People* initiative that I mentioned before.

**Senator LUDWIG**—Is there a cost for that unit or is that part of the overall communications—

**Mr Metcalfe**—It is part of our National Communications area. As I said, it provides communication capability on a wide range of different areas.

**Senator LUDWIG**—Later on Senator Crossin might ask some questions in the general area. I will leave it at that now.

**CHAIR**—Are there any other general questions before we move to output 1?

**Senator LUDWIG**—Just to follow up on the question about the consultants and the ICT contractors, I did not ask for you to provide in your answer the length of some of those contracts and what the longest has been—whether they have been over 12 months. If a person—I use the more general phrase rather than talk about a contractor—has been working in your organisation as part of these contracts, how long have they been working? What is the longest serving contractor? If they are only short-term contracts, perhaps you can indicate that in your answer as well.

**Mr Correll**—Your prospects of getting a response today are now diminished!



**Senator LUDWIG**—I was thinking that as I was asking it.

**Senator CROSSIN**—Can you explain to me the role of the National Communications Branch?

**Mr Metcalfe**—The National Communications Branch is a reasonably small unit. It has responsibility for coordination of internal communications within the department, such as I have just described to Senator Ludwig, and also external communications, particularly in the quality and style of departmental publications and maintaining the fact sheets that are provided on the internet for use by members of the public and others about our programs. It provides that range of services.

**Senator CROSSIN**—How many positions and what kinds of positions are in that branch?

**Mr Metcalfe**—I will have to take advice as to the precise number of positions. When we were talking before about AWAs we mentioned a number of public affairs officers. Those persons would be employed in that branch. I will come back to you quickly with that figure.

**Senator CROSSIN**—Their roles are to provide information and fact sheets that are online?

**Ms McGregor**—There are a variety of roles, including advice on the preparation of material for external communication. For example, this coming year the Communications Branch will produce the annual report for the department. You will be aware that we have a range of other products and documents which are published on a regular basis. We mentioned earlier that there is a digital production unit, with people who have the equipment to make video and other material for training purposes and to enable communication within the organisation.

**Senator CROSSIN**—Is it responsible for media releases?

**Mr Metcalfe**—It will play a role at times in the preparation of media releases. The department does not often of itself issue a media release. It tends to be quite unusual for us to issue a media release. But it does provide some support to policy areas that might be working on a particular issue. Ultimately, that media release is made by the minister. They certainly provide a centre of expertise and advice on those issues. But normally if there is a media release—say on the migration program or on refugee issues—it would be the policy branch that would be involved in that work. The media kit that was put together for the budget announcements was coordinated by the National Communications Branch. They had a role in assisting with the development of that material.

**Senator CROSSIN**—Your website says that the branch is responsible for media releases, responding to journalists, TV and photo inquiries, general media related inquiries and letters to the editors in Australian newspapers.

**Mr Metcalfe**—Yes.

**Senator CROSSIN**—Would that still pretty much be the case?

**Mr Metcalfe**—Yes, it is. The minister has indicated that ordinarily he wishes to deal with approaches from the media within his office. The unit, if contacted by the media, would ordinarily advise the journalist concerned to contact the minister's media adviser. But the unit

does provide support with the fact sheets and various other pieces of information which are publicly available and which explain many of the things that we do.

**Senator CROSSIN**—How many staff were in this branch last year and the year before?

**Mr Metcalfe**—I will take that on notice. The unit grew around two years ago as a direct response to the findings of the Palmer report, which, you will recall, described the department that time as ‘inwardly focused’. A staff survey that was taken in December 2005 found that only 10 per cent of departmental staff thought that the department had a good image and regarded poor image as one of the major issues affecting morale within the organisation. Quite deliberately, we built up capability in that area, acknowledging the massive change program that is still underway in the organisation and the need to ensure that our thousands of staff, spread over 80 locations around the world, were well supported through that process.

**Senator CROSSIN**—Have the numbers diminished since 2005 in that branch?

**Mr Metcalfe**—They would have increased. I will give you the figures when I can get them.

**Senator CROSSIN**—What is the cost of running this department?

**Mr Metcalfe**—I have a figure here—and I will correct this if I am wrong—that indicates that our projected full-year operating result for the branch is \$6.3 million. But I will check that, because the branch also has responsibility for administering any external advertising that the department may do. I will have to see whether some of those costs are more appropriately associated with external advertising.

**Senator CROSSIN**—Is that the 2007-08 figure?

**Mr Metcalfe**—It is this year’s expected result.

**Senator CROSSIN**—2006-07.

**Mr Metcalfe**—That is what we expect to have spent as of 30 June this year.

**Senator CROSSIN**—Okay. What is the allocation for the next financial year, 2007-08?

**Mr Metcalfe**—That has not been settled yet.

**Senator CROSSIN**—It is not settled yet?

**Mr Metcalfe**—No. We are currently working through internal budgets now that our external budget has been set at a global level. We are now working through the figures for next year.

**Senator CROSSIN**—Can you take that on notice?

**Mr Metcalfe**—Yes. It will probably be some time before I can answer that because of—

**Senator CROSSIN**—Answers are not due back until 6 July.

**Mr Metcalfe**—We should be able to provide an answer.

**Senator CROSSIN**—By then?

**Mr Metcalfe**—We will have set internal budgets by that time.

**Senator CROSSIN**—Out of that \$6.3 million, how much is allocated towards staffing costs?

**Mr Metcalfe**—I will take that on notice.

**Senator CROSSIN**—And also a breakdown of what else that \$6.3 million includes.

**Mr Metcalfe**—Yes.

**Senator CROSSIN**—What is the current process for dealing with media inquiries?

**Mr Metcalfe**—If a journalist rings the department and is seeking advice or information on a matter, they are asked to contact the minister's media adviser.

**Senator CROSSIN**—So if the department gets a call, that call is deflected to the minister's media adviser?

**Mr Metcalfe**—That is correct.

**Senator CROSSIN**—Is that the protocol now?

**Mr Metcalfe**—That is what the minister has asked for.

**Senator CROSSIN**—When did that occur?

**Mr Metcalfe**—This minister asked for it. It was not the arrangement with Senator Vanstone, but different ministers have got different ways of doing things; the minister has asked that that occur, so it is occurring.

**Senator CROSSIN**—Is that all media inquiries or just certain types?

**Mr Metcalfe**—It is all media inquiries.

**Senator CROSSIN**—Do you somehow record how many queries you get that might be transferred to the minister's office?

**Mr Metcalfe**—I will have to check whether a record is kept, but I think it is quite simple. If the media contact the department and want a comment from the portfolio, they are advised—as the minister's office have requested—'This is the name of the minister's media adviser and here are her contact details' and that occurs. It is very smooth, as far as I am aware.

**Senator CROSSIN**—Does this decision pretty much coincide with the number of media releases the department is releasing? I notice from your website, for example, that 12 press releases were put out in January. On 31 January, Minister Andrews was appointed; and there were no press releases from the department in February, March, April or May. Has there been a direction that the department will not issue any press releases?

**Mr Metcalfe**—As I said earlier, it is the usual expectation that the department would not issue press releases.

**Senator LUDWIG**—That is a change from Senator Vanstone, isn't it? As I understand it, you have in the past issued press releases.

**Mr Metcalfe**—Different ministers do things in different ways. Senator Vanstone indicated that she wanted certain arrangements to apply, and naturally that occurred. I think that her predecessor would have had different arrangements, and I suspect that his predecessor had

different arrangements. There is nothing at all unusual about that. Ultimately, contact with the media is seen as something that a minister will have close oversight over, and the minister has indicated what arrangements he would like.

**Senator LUDWIG**—I am not suggesting there is anything unusual. I am just trying to understand what is the process now and what is now happening.

**Mr Metcalfe**—Yes, I think I have just described it. Ordinarily the department would not issue a media release, but if I had a strong view that the department, as opposed to the minister, should be saying something, then of course I would discuss that with the minister and we would see what the outcome would be.

**Senator LUDWIG**—That is what I was going to check before returning to Senator Crossin: what the protocol is that is in place. Is there a written instruction from Minister Andrews to say that all inquiries should be referred to his media adviser, the department will not make any statement and, if the department does want to make a statement, you have to ring the media adviser or—

**Mr Metcalfe**—There is no written direction. When the minister became minister, he and I had discussions around a whole range of things as to how he wished to operate and issues associated with the portfolio, and that is one of the matters that was an outcome of it. So I have let relevant officers and the head of our communications area know that that was the way things were to occur from now on.

**Senator LUDWIG**—Would that also include if media were asking for figures about 457 visas, for example? If the media were making inquiries about relevant operations of the department, would all of those inquiries be referred to the media adviser?

**Mr Metcalfe**—That is my understanding. I will let you know if that is not correct.

**Senator LUDWIG**—All right. But in the past the national media unit would have provided that information?

**Mr Metcalfe**—In the past, for matters that were regarded as factual in that sense, the previous minister and her office said that they were not interested in providing that material. They were happy for the department to do that and to keep them updated as to what was occurring, but the arrangements have changed, as I have described.

**Senator LUDWIG**—What happens subsequently? Does the media adviser or the ministerial staff make a request for information to you?

**Mr Metcalfe**—It depends. There may be some matters that are entirely within the knowledge of the media adviser or the minister's office and they may not require any support. They may well have briefing on that matter. There is no need to initiate an inquiry on some matters. Of course, they will ask the department for a briefing on that matter and use that briefing to respond to the inquiry.

**Senator CROSSIN**—Since February 2006, except for June and December, the department put out quite a number of press releases—almost one a week in some cases. Have you been ordered not to release any media releases or has there been an instruction from the minister that that is not how he wants to operate?

**Mr Metcalfe**—I think I described it earlier. The minister, his office, senior officers and I had discussions when he became minister, and he made his wishes known to us and we have responded accordingly.

**Senator CROSSIN**—Have you assisted the minister or staff with media inquiries since January?

**Mr Metcalfe**—Of course we have, yes.

**Senator CROSSIN**—Are you still playing that role?

**Mr Metcalfe**—Yes. Of course, we have an assistant minister as well; so we provide support to her as well.

**Senator CROSSIN**—What type of advice are you now providing to the minister?

**Mr Metcalfe**—That is a very broad question. We provide advice on all sorts of issues. For example, in relation to media inquiries, if the minister's office seeks information in relation to the facts of a particular situation—whether a report has been handed down or a particular member of the public has their case in their media—we provide the advice that we have in relation to the issue.

**Senator CROSSIN**—I will go to an example. On ABC radio's *PM* show on 15 March, the minister made some comments about the International Organisation for Migration. I am wondering whether the media unit advised the minister that the IOM is not a UN agency and does not conduct refugee status determinations.

**Mr Metcalfe**—I would have to take on notice as to whether the unit provided that advice.

**Senator CROSSIN**—If you could, that would be appreciated. If not, perhaps you might take on notice for us where the minister got that view from or how he came to that view.

**Mr Metcalfe**—I would have to ask the minister that. If the minister wants to provide advice, I am sure he will let you know.

**Senator CROSSIN**—Is it not something you could ask the media adviser?

**Mr Metcalfe**—You have asked a question about what the minister said and thought, and I think that is something that the minister will need to respond to.

**Senator CROSSIN**—It goes to the accuracy of the statements that are now made.

**Mr Metcalfe**—I think the minister did correct himself on that particular issue.

**Senator CROSSIN**—He may well have attempted to correct his mistake, but I understand that he made another mistake when referring to the IOM as a well-respected international NGO, when in fact that is not the case. Would that also have been advice that your department would have provided to the media adviser?

**Mr Metcalfe**—We have provided advice to the minister about what IOM is. It is a respected international organisation. It is not an NGO, but it is an organisation that works with NGOs and governments to provide migration services around the world.

**Senator CROSSIN**—So how could the minister have got that so wrong?

**Mr Metcalfe**—I think you would have to ask the minister as to what he said and why he said it. But I think that he did make some clarifying statements around those issues.

**Senator CROSSIN**—It was reported in the *Financial Review* on 15 September last year that there is a policy of a maximum 60-minute turnaround for all media inquiries, 24 hours a day every day, by the department. Is that still the case?

**Mr Metcalfe**—Certainly, if we were to receive an inquiry, we would seek to have that turnaround in place. Under the arrangements now in place, the inquiry would not now come from the media directly but might come from the minister's office. We seek to provide a high-quality, timely way of providing advice. But under the arrangements that are now in place, the contact is being made with the minister's office and it is up to them to initiate any requests for advice from the department.

**Senator CROSSIN**—That article suggested that the 60-minute target was actually reached in 90 per cent to 93 per cent of cases. Would you believe that that might still be the case if all media inquiries are directly handled by the minister's office these days?

**Mr Metcalfe**—I do not have any details at all as to the timeliness of responses from the minister's media advisor or others to the media centre. That is not something that I have any information about. What I do know is that when the previous minister asked the department to take on a role in providing some advice to the media, we set that as a standard.

**Senator CROSSIN**—Would you say your advice to the minister's media officer is done within 60 minutes or within 24 hours?

**Mr Metcalfe**—I did not say that; I said that we try and make it as timely as possible. Quite often the information may not be urgent or the information may not be readily available. As with all things, we seek to provide the most timely and accurate material that we can in response to any inquiry from the minister's office.

**Senator CROSSIN**—You are not aware of nor have any responsibility for the turnaround time of media inquiries to the minister's office; is that correct?

**Mr Metcalfe**—No, by definition I am responsible for the department.

**Senator CROSSIN**—Have you been made aware of any complaints from the media about the new arrangements or lack of turnaround time?

**Mr Metcalfe**—Not to my knowledge.

**Senator CROSSIN**—So no complaints have come to you or the communications branch?

**Mr Metcalfe**—They have not come to me. Whether they have come to the department, I am not too sure.

**Senator CROSSIN**—You could take that on notice then.

**Mr Metcalfe**—Those are ultimately issues of the relationship between the minister and his office, and the media is a matter for the minister.

**Senator LUDWIG**—In terms of your answers to questions here, is there any change of procedure from Minister Vanstone to Minister Andrews regarding the compilation of

questions? They are obviously presented to the minister for checking and then get released at that point.

**Mr Metcalfe**—Yes.

**Senator LUDWIG**—Nothing has changed there?

**Mr Metcalfe**—The process still operates in the same way, but we provide the suggested response to the minister's office and they will then consider that. In due course a response is provided to the committee.

**Senator NETTLE**—I want to ask about Cornelia Rau. I think it has been two years since she was released from detention. Is there anybody who can provide an answer about when she is going to receive compensation?

**Mr Metcalfe**—Yes, I will ask our chief lawyer to respond to that.

**Ms Bicket**—In relation to Ms Rau's compensation, we have been trying to resolve it as expeditiously as possible. A range of issues have arisen in the matter, principally around the third party involvement of various parties and the requirement for there to be a statement of claim from Ms Rau's legal practitioners in relation to possible compensation. Ms Rau's representatives made that statement of claim; I believe it was on 10 April this year that it was served on the Commonwealth. We are seeking to look at that statement of claim now with our counsel and to proceed to progress the matter as soon as we possibly can, including through arbitration and alternative dispute resolution if that is an appropriate course of action.

**Senator NETTLE**—How long did it take for the resolution of the Vivian Solon matter? I am just trying to get an idea of how much longer Cornelia Rau is going to have to wait. I thought that by comparing it with the Vivian Solon matter it might give us an idea about how long that negotiation might take.

**Ms Bicket**—It will depend very much on the individual circumstances. There are a few things that are slightly different in the Rau matter. In the Solon matter we were moving into a private mediation situation as opposed to the court supervised mediation we might be pursuing in this matter, and that will have some impacts. There are also some questions of factual contentions that were not at issue in the Solon matter but that may be at issue in the Rau matter: for example, as to the point in time when detention may or may not have become unlawful. There are those sorts of issues which are different in the two matters.

I do not recall the exact period of time that it took to resolve the Solon matter, although I know it was principally resolved by the end of last calendar year. Obviously, the Rau matter is going to take a little longer. We hope to be in a position to resolve the matter, subject to the ongoing considerations in the matter, some time early in the new financial year.

**Senator NETTLE**—How come Cornelia Rau has to go to the courts when Vivian Solon did not need to?

**Ms Bicket**—The principal issues there have been around third party involvement and also trying to have a completed statement of claim made. We advised Ms Rau's representatives in April last year that because of the third party involvements—principally the detention services provider, GSL, insisting on seeing a statement of claim—we needed a statement of claim in order to proceed. In the middle of last year, when the statement of claim had not been

received, we, in coordination with the Attorney-General's Department, the Department of the Prime Minister and Cabinet and Comcover, asked Ms Rau's representatives to commence legal proceedings in the hope that this would assist in trying to expedite the matter. I believe it was in August last year that we asked Ms Rau's representatives to commence those proceedings. Court proceedings can assist in helping to expedite things like document discovery, imposing timetables and so forth, which are not necessarily available in private arbitration.

**Senator NETTLE**—So you asked Cornelia Rau to go through the courts rather than mediate the process?

**Ms Bicket**—We did ask for a statement of claim and even a draft statement of claim. On balance, the view at that point in time, in August last year—when we had not received either a draft statement of claim or a statement of claim substantive—was that the best way to try to proceed with the matter was to have them put it into the court and put it under that supervision. Having said that, we have made it very clear that we would in all of those circumstances be willing to pursue an alternative dispute resolution.

**Senator NETTLE**—How much money has been spent so far in the process of trying to settle this issue?

**Ms Bicket**—I do not have the specific figure to hand; I would need to take that on notice.

**Senator NETTLE**—Okay. I do not even know what the components of that are—whether there have been costs associated with all the time up until the courts, and then there are another lot of costs associated. Can you give me an idea of that?

**Ms Bicket**—I do not have a figure for it with me, so I will take it on notice and try to get back to you as soon as I can.

**Senator NETTLE**—Given that the government requested that Cornelia Rau go to the courts, is the government providing any assistance to her for the legal costs that she will now have, going through the courts?

**Ms Bicket**—When the final settlement is worked out, it will be determined whether or not there will be a cost component in it. But we have not offered to pay specifically at this time.

**Senator NETTLE**—So there is no offer from the government of any assistance with costs for Cornelia Rau in this compensation claim?

**Ms Bicket**—Not at this point, no.

**Senator NETTLE**—Is there money available to her?

**Ms Bicket**—We have not taken any options off the table. We obviously want to resolve this as soon as we can. Once we have got a clear picture as to the liability and quantum in the matter, we will obviously try to resolve it so that we can pay the compensation to her as soon as possible.

**Senator NETTLE**—I want to ask now about the issue of the transfer of asylum seekers between Australia and the US. I want to start by asking: where did that one come from?



**Senator Ellison**—Mr Chairman, there might be a more specific area where officials can be available—I think it is outcome 1.2. It may be that there will be quite a deal of questioning specific to that area. Rather than dealing with it in the general section—

**CHAIR**—And we will have the officers available. Do you agree with that, Senator Nettle?

**Senator NETTLE**—We will deal with it under outcome 1.2. I have one other question to follow up, about the 202 cases that the Ombudsman was looking at in terms of wrongful detention. Is there any update in relation to those cases?

**Mr Metcalfe**—The Ombudsman has reported on a number of matters that you are aware of—a number of individuals and a number of thematic issues. A number of draft reports on other thematic issues are currently with the department and we are providing our comments in relation to those reports. It is up to the Ombudsman to advise you as to the timetable—or it may be the Acting Ombudsman, as he is probably appearing before estimates hearings. I think they are expecting to have completed their reports in relation to all of the referred cases in about the middle of this year.

**Senator NETTLE**—Has there been any compensation paid to any of those people?

**Ms Bicket**—The Ombudsman is providing us with an individual case summary for each individual who was referred to him. At this point in time there have been 84 individual case summaries referred to us, which the department is reviewing. In doing so we are looking at the remedies that might be applicable to each individual case. Those remedies may range from compensation, referral to the Reconnecting People Assistance Package, apology letters and correction of client records. One of the first things we are obviously looking at in each individual case is whether or not their detention may have been unlawful. It is important to understand that they were referred on the basis of a specific identifier that came from the system—

**Senator NETTLE**—Yes. I remember that.

**Ms Bicket**—So we have to reach conclusions as to whether or not the detention was unlawful. So we will be considering each of the cases that were referred to the Ombudsman. Two were the subject of individual published reports from the Ombudsman—Mr T and Mr G. We have been in contact with Mr T and Mr G's representatives with a view to resolving any possible claims for compensation. There has been a specific offer made in one of the cases—I would have to check whether it was Mr T or Mr G—and that is currently under consideration by the representatives.

**Senator NETTLE**—If you can get us any more detail on where that is up to, that would be great.

**Ms Bicket**—Sure.

**Senator NETTLE**—You mentioned there are 84 case summaries that have been received. Out of how many—220?

**Ms Bicket**—247.

**Senator NETTLE**—Out of 247 cases, you have received 84. Mr Metcalfe, you indicated that you thought the Ombudsman may be able to do that by the middle of the year. That is quite a lot. Are you expecting a case summary on each of the 247?

**Ms Bicket**—Yes, we are.

**Mr Metcalfe**—It has been two years since these matters were referred to the Ombudsman. We have worked very closely with the Ombudsman and the Acting Ombudsman over that two-year period of time to ensure that there is a proper flow and exchange of information. A lot of water has now passed under the bridge on the issues. I think it is for that reason that the Ombudsman is now essentially dealing with the remaining cases in a thematic way. For example, we have had a thematic report on children and we have had one on mental health. I think work is being done at the moment on data—data integrity issues and the record holdings in relation to someone—and the impact of court cases which may have had a systemic impact on certain case loads. So that work is underway. You can ask the Ombudsman's office when they expect it to be finalised, but from the most recent discussions we have had we are expecting it in the next two or three months.

**Senator NETTLE**—I was just remembering the categories that we had before. Can anyone remind me how many of those 247 related to Australian citizens.

**Mr Metcalfe**—Twenty-eight.

**Senator NETTLE**—Are those 28 in the 84 that you have already got case summaries for and are dealing with?

**Ms Bicket**—I would have to double-check whether we have each individual within the 28. I believe we have, but I will need to double-check that.

**Senator NETTLE**—You have given us already some examples—where a child has been in detention all their life and turns 10, they can become a citizen. That was one of the categories. Can you give us any more insight into the other kinds of categories amongst that Australian group we are looking at? That is the example I remember—children who had been in detention and turned 10.

**Mr Metcalfe**—So you are focusing particularly on the Australian citizen group, are you?

**Senator NETTLE**—Yes. That is what I was going to go to first.

**Mr Metcalfe**—Another one of course was Mr T. In that particular case, which was the subject of a separate report, a person who was severely mentally ill came to Australia as a refugee and became a citizen after that time. He was simply unaware of his real identity—or certainly it took a very lengthy period of time to establish that identity. The Ombudsman was highly critical of what happened in relation to Mr T, because he was not detained on only one occasion; he was detained on a couple of occasions. That is a particularly sad case and we have obviously apologised to Mr T, through his representatives, and are looking at how we can find some way of compensating him for that. Mr G was another example of a person who was regarded as an absorbed person. You would be aware of that quite unusual visa category that related to people who became absorbed citizens. I am not too sure whether or not Mr G is a citizen or whether he may have been one of those 28. It is of that nature. I think that

information is probably something we should take on notice to give you a better picture of the sorts of circumstances that apply.

**Senator NETTLE**—So have all those 247 people been contacted? You gave the example of Mr T having been contacted and an apology being provided. I am wondering whether the department has contacted those other 247 people.

**Mr Metcalfe**—We are still awaiting reports in relation to quite a few of them. As Ms Bicket said, it should not be assumed that all 247 were in fact unlawfully detained. That requires the analysis by the Ombudsman that is underway. What I can say is that where it is established that a person was improperly treated they will receive a full apology from the department. Of course, some of them will pursue measures to seek financial compensation.

**Senator NETTLE**—But at what point do you contact them? Have you contacted the 84 because you have their case summaries?

**Ms Bicket**—No, we have not at this stage. The process is that we are looking at each of the individual cases and developing a remedial action plan in relation to the cases. One of the first steps as part of that is a decision about when we would contact the individual. We obviously want to make meaningful contact with that person rather than perhaps making contact without much to say to them in some regards. There is also a range of circumstances—people who are in Australia or outside Australia—and in many instances we do not have contact details for the individuals. So one of the preliminary things in developing the remediation plan for each of the cases is to look at what inquiries we need to make in order to be able to contact the individuals.

**Senator NETTLE**—We were talking about Mr T as somebody who you have approached about compensation. Will that be done by negotiation or will it have to go through the courts?

**Mr Metcalfe**—Mr T is a particularly tragic case because of the extent of his mental illness and capacity to independently determine actions. The department were very active in ensuring that we found ways to establish appropriate guardianship arrangements for him, through the appropriate New South Wales authorities, and we have had discussions with them acting on his behalf. So they are able to stand in his shoes and reach decisions in relation to him. I am not sure whether Ms Bicket has any update on where that particular process is at. I think that is an example of where we have gone, as we need to, above and beyond the call of duty in seeking to ensure that there was proper contact made because of his particular circumstances.

**Ms Bicket**—By way of illustration, in relation to the Mr T matter—and I will need to confirm whether a specific offer has been made—I wrote to the New South Wales Protective Commissioner in order to try and seek to put in place appropriate care arrangements for Mr T so that we could pursue the issues and so that we had a person acting on his behalf and in his interests that we could negotiate with. Those are the sorts of steps that we will take if we think they are appropriate in the individual cases.

**Senator NETTLE**—How many of the 247 have you determined were unlawfully detained? We are going through that process of working out that not all of them may have been. How many have you determined were unlawfully detained?

**Ms Bicket**—I do not have a breakdown on that basis. I would need to look at the individual cases or reporting to see whether that has actually been a determination. I might add, though, that, of the 84 that we have received, the individual summaries have really only been coming through to us since the beginning of this year, and it can be quite a lengthy process to go through each of these individual cases to work out whether or not we are potentially looking at an unlawful detention situation. There are also sometimes quite complex factual circumstances that we need to further investigate. For example, in very few of these cases have individual officers of the department been interviewed by the Ombudsman and, in some of the cases, that is a step that we will need to take in order to confirm specific circumstances.

**Senator NETTLE**—How many people have been told that they were unlawfully detained?

**Ms Bicket**—I stand to be corrected on this, but certainly that happened in relation to Mr T and Mr G, which were the major individual reports that we have had. Beyond that, I would need to check to see what the current statistics are.

**Senator NETTLE**—Can you see any way that we can do this faster—that is, if people have been unlawfully detained, letting them know and enabling them to receive compensation? That is pretty important.

**Ms Bicket**—Absolutely.

**Senator NETTLE**—Do you have any suggestions or proposals about how we can ensure that someone who has been unlawfully detained gets their compensation as soon as possible?

**Ms Bicket**—That is effectively what the remediation unit, which is within my area of control, is seeking to do—to look at each of those cases, to develop a plan where we can move quickly in order to avoid, if possible, any future litigation or the like and so that we can look at the range of remedies that need to be pursued for each of the individuals.

**Senator NETTLE**—Just remind me: when were these people referred to the Ombudsman?

**Mr Metcalfe**—It was around two years ago.

**Senator NETTLE**—So, of the 247 people who have been referred to the Ombudsman in two years, so far contact has been made with two of them about compensation?

**Mr Metcalfe**—I think Ms Alvarez is also possibly included as one of those people. So that is an additional person. And, of course, Ms Rau preceded the referral of those cases. From memory, I think over 200 cases were initially referred and then an additional number were identified and referred later in 2005. As I said earlier, getting to the exact facts as to whether a person was unlawfully detained is not necessarily a straightforward thing. The Ombudsman's office has been substantially resourced—it has grown very substantially—to provide additional resources in this area. Indeed, the Ombudsman is now not just the Ombudsman; he is the Commonwealth and Immigration Ombudsman. We have sought at all times to engage constructively and promptly, and we have been heavily reliant upon the Ombudsman forming views on these issues so that we can work together on them.

As I have said, we have had responses in relation to a number of people and we are working through ways of ensuring that that contact can properly be made and can occur. As other reports become available to us, we will obviously include those. This is very much a

process that relies upon both the Ombudsman and us reaching an agreed understanding of the fact.

**Senator NETTLE**—I am only asking you questions about your department's involvement. So, of the 247, three have been contacted about compensation. How many—

**Mr Metcalfe**—I think we had undertaken to come back on notice on that point.

**Senator NETTLE**—So there are three that you can think of—Vivian Alvarez, Mr T and Mr G.?

**Ms Bicket**—There are three that I can certainly confirm, but there may be others. So I need to take that on notice to double-check.

**Senator NETTLE**—You said that there was a unit within your department that was working on this. How many people do we have working on this issue?

**Ms Bicket**—At the moment, we have a blended team of, I think, three legal officers and three or four other support staff working on those remediation action plans. They draw upon resources more widely within the department. They are, if you like, the coordinating unit for it.

**Senator NETTLE**—What is the most recent referral of a person to the Ombudsman on the view that they may have been unlawfully detained? I know there were 200 referred some time ago and then there were another 20. And you were saying that there have been another 27 since then. I am just trying to get a sense of, for instance, whether there were another six last week. That is the purpose of the question.

**Ms Bicket**—My understanding is that the arrangement with the Ombudsman's office is in the use of the descriptors under the system where the person is released as not having been unlawful. It is not an admission of an unlawful detention. It is whether or not that specific descriptor has been used by compliance officers. I do not have the statistics on relevant matters but it may be something that we can try to address in relation to output 1.4, Compliance, and I will ask my relevant colleague if we can get that information.

**Senator NETTLE**—I will give you an indication of the sort of thing that I am looking for. I want to know if there is an ongoing process for determining cases that should be referred to the Ombudsman, or is it just a matter of waiting until someone has been in detention for two years, at which point they then have an interview with the Ombudsman? That is what I want to understand.

**Mr Metcalfe**—We have to be very careful about facts here. What happened in 2005 was the referral of a historic number of cases and those cases preceded that period of time. The Ombudsman now has powers in relation to anyone who has been in detention for more than two years. I am obliged to report to the Ombudsman, and I do so from time to time as people come up to that two-year period of time. I am additionally required to report every further six months in relation to any such people. There is no suggestion whatsoever that any of those referrals go to a person being unlawfully detained; it is a completely different issue.

**Senator NETTLE**—Yes, I know.

**Mr Metcalfe**—The other aspect—and we have talked at length about this in previous estimates hearings—is that, since mid-2005, the department has had a whole range of additional checking and reassurance processes in place to seek to ensure that we know who we are dealing with and that the police know who they are dealing with. For example, there is the national identify verification area, which actively provides advice to police and departmental officers in relation to people’s identity. There is a far more significant area of training provided in relation to this and whatever. So I do not think we should believe that, because cases are referred to the Ombudsman under the two-year legislation, it in any way implies that there is an unlawful detention occurring.

**Senator NETTLE**—That is not my intention. I would love for you to be able to say—perhaps I should just ask you the straight-out question: can you guarantee that there is nobody currently in detention who is unlawfully detained?

**Mr Metcalfe**—What I can guarantee is that any person who is placed in immigration detention is the subject of the most stringent processes relating to their status and their identify. It is not just a single person who determines that; there is a more senior officer who must review that within a matter of a few hours or days. We now have established case management arrangements for every person in detention to ensure that their status is the subject of continuing focus. Would I give you a guarantee right at this moment? No, because you can never be absolutely sure whether a person has been brought in by a policeman on some remote road in the west of Australia or in northern Australia and they are being detained on suspicion of being an unlawful non-citizen. That suspicion may well be reasonable and is therefore lawful, but that suspicion may not be able to be verified and the person is then released. Because this area of law is complex, it goes to a reasonable belief, and that is precisely the area that Palmer and others have commented on in their report. It is not necessarily a black-and-white issue. It can go to the mental state and the objective factual state around the circumstances. What I can do is provide you with a reassurance that, at the individual case level and at the systemic level, we are absolutely focused on reducing the potential for this to ever happen again.

**CHAIR**—I note that detention is dealt with under output 1.5 and we can deal with that more specifically at the time.

**Senator NETTLE**—Yes, I will come back to that.

**CHAIR**—Are you happy if we pass to Senator Kirk?

**Senator NETTLE**—Yes.

**Senator KIRK**—I had some questions in relation to the immigration and citizenship college board. Can you describe for me exactly what it is that that board does?

**Mr Metcalfe**—Ms Carmel McGregor might provide some more detail. Essentially the advisory board was appointed to provide advice to me and the minister some time ago as we moved to set up and establish the College of Immigration. The college is a new initiative. It was funded in the government’s response to the Palmer report in additional estimates about 18 months ago. It currently provides training to compliance and detention staff, and that will expand over time. It was always our intention that the college would enter into a partnership with a recognised training provider, and that process is now well underway. We have yet to

decide on a successful partner. The intention of the board was to provide advice to me, and more generally to the department, as we move through the establishment phase of the college and into the alliance with a partner. As to issues that go to curriculum and associated issues, Ms McGregor has been the deputy chair of the board and so she can provide you with more detail.

At the same time it is important to let you know that another committee, which I established in 2005, is the values and standards committee. That was put in place because of the very significant criticism that Mr Palmer made of the culture operating within parts of the department. We very deliberately set out to bring a focus to proper values and proper standards of behaviour in the work of all of our staff, acknowledging that there has been no suggestion that the vast majority of staff have ever acted improperly—quite the contrary, we have very high standards of behaviour. Following the matter relating to Ms Alvarez in particular, there were some obvious concerns as to aspects of culture and values in parts of the department. That committee is also chaired by Ms McGregor but draws upon a number of external members as well. So the collective work of those two advisory processes—values and standards and the college board—is intended to provide advice to me as chief executive and to the minister in relation to those issues. Indeed, their missions intertwine to some extent because they both have a remit relating to training and curriculum issues.

**Senator KIRK**—What is the membership of the immigration and citizenship college board?

**Ms McGregor**—I am the deputy chair and at the moment the interim chair, as Mick Palmer resigned from the position in March. The other members at this point are the two deputy secretaries, Mr Correll and Mr Hughes; Mr Tony Blunn, who is a retired departmental secretary; Sue Tongue, who is an academic with the ANU; and Professor Mary O’Kane, who is from the University of Adelaide. That is it.

**Senator KIRK**—How often does the board meet?

**Ms McGregor**—About quarterly. Over the year it depends on the program of work. When it first commenced it met more regularly. It is now meeting about quarterly.

**Senator KIRK**—How long was Mr Palmer the chair of the board?

**Ms McGregor**—I think it was from August last year.

**Senator KIRK**—What was the reason for his resignation in March then?

**Ms McGregor**—He indicated private and professional reasons for his resignation—he has a number of other commitments.

**Senator KIRK**—So upon his resignation he provided reasons for that?

**Ms McGregor**—Basically it was to that effect. He wrote to Mr Metcalfe, and I believe he also wrote to the minister.

**Senator KIRK**—What were the reasons that he cited?

**Mr Metcalfe**—He cited private and personal reasons, and professional reasons. Mr Palmer is obviously a very highly respected former commissioner of the Federal Police. He is also currently, I think, the inspector general for transport security and has a very busy workload. I

certainly thanked him very much for contribution he made to the development of the college. I am sure I will continue to see him on a range of issues. We bump into each other from time to time. In the meantime, the work of the advisory board will continue.

**Senator KIRK**—How big was his commitment on this board? You said that they only meet quarterly. That is not a significant commitment. I understand that he is a very busy man. I am trying to get to the bottom of his resignation. I suppose I am concerned that there might have been some link between his resignation and the outcome, follow-up or instrumentation of his own report: the Palmer report. I would like to know whether or not he stated anything to that effect in his resignation letter to you.

**Mr Metcalfe**—You would really have to ask him as to the reasons for his resignation.

**Senator KIRK**—But you said that they were contained in his letter.

**Mr Metcalfe**—I am not proposing to table a letter from Mr Palmer. As I indicated, he remains someone who is vitally interested in the wellbeing of the department and its future, and he was never short of advice for me on those issues.

**Senator KIRK**—Does he have any ties at all with the department now?

**Mr Metcalfe**—No official ties. As I have said, I am not planning to see him immediately but I am sure that he and I will run into each other, and I would always seek his views and advice on his perceptions as to how we are going.

**Senator KIRK**—You talked about trying to establish a partnership with the training provider, and you said that is a fair way down the track. When is that likely to be concluded?

**Ms McGregor**—We have been to the market for an expression of interest and have six potential providers. We did indicate after the last hearing that we thought we would be going to full tender in March. There have been some delays to that, but our timing at this point is to release to the six organisations in May or June—in the next couple of months. The contract would be completed by about September or October.

**Senator KIRK**—Has the college been accredited as yet, or are you waiting for the finalisation of the partnership?

**Ms McGregor**—It has not been. In fact, the partnership will be quite significant in that set of arrangements. Having said that, we have made arrangements with a registered training organisation to accredit the graduates of the compliance field officer program. But as the partner comes on they would take on that role, so we would not have to have a secondary process.

**Senator KIRK**—From what I understand from what you have said, September or thereabouts will be the time that this partnership arrangement will be established. When will the college be in full swing, so to speak?

**Ms McGregor**—I consider it to be in full swing now, but the partner will help us expand our coverage and curriculum. At the moment it is primarily focused on compliance and detention, but our aim is to expand the program to cover all elements of learning and development.



**Senator KIRK**—How is it working? Are there training courses happening on a weekly basis for staff?

**Ms McGregor**—It is very busy. The primary focus was around the compliance, and that is a very extensive course over some 15 weeks, and there is also a practicum back in the graduate's place of work. We have seen two of those programs. We now also have the detention programs that are currently underway. First of all there is a pilot of 16 people and then five more of 14. To give you a sense of the sort of programs that we are running right across the department, we have: client service training, overseas training programs, some technical programs along the business lines, programs around code of conduct and ethics training, citizenship, decision making programs, financial management skills, procurement, fundamentals of supervision, and leadership programs—and we also participate in external programs as well. That just gives you a bit of a sense of it.

**Senator KIRK**—It might be helpful if you could provide us with the detail that you have been reading out.

**Ms McGregor**—Sure.

**Senator KIRK**—Thank you. Is it intended to keep this training in-house, with the department and the training provider, or has there been some consideration given to outsourcing it entirely—say, to a university or another college?

**Ms McGregor**—The partner will provide us with an additional capability. In a way it could be seen in the sense of outsourcing, but we very much want the partner working closely with us so that the department maintains control of the curriculum. That is why we have framed it that way. We will still engage other providers as necessary until the college partnership is fully in place. I guess we will assess it on a case by case basis. If there is an emerging, immediate need that it could not suffice then we may outsource other elements.

**Senator KIRK**—With the tender, what sort of period of time is being contemplated for the arrangement to continue? Is it a fixed term period or on an ongoing basis?

**Ms Larkins**—We are initially looking at three years.

**Senator KIRK**—What sort of money are we talking about here?

**Ms Larkins**—We have a base allocation that was part of the original allocation to the department for Palmer projects. That is in the order of \$9 to \$10 million a year. There is potential for additional scope into other areas of the department's training activities, but at the moment we are focused on the money that was allocated to the department under the Palmer projects.

**Senator KIRK**—Thank you; that concludes my questions.

**Senator Ellison**—Can the committee indicate the requirements for various officials? It would be good if we could say that the officials who are not concerned with a particular outcome are not required this afternoon.

**CHAIR**—Today's agenda is for outcome 1 and tomorrow's is for outcome 2.

**Proceedings suspended from 12.33 pm to 1.32 pm**

**CHAIR**—We will resume. I will pass to Senator Ludwig, who has some questions to ask on behalf of himself and Senator Crossin under outcome 1, General questions. We will complete that and then move to output 1.1.

**Senator LUDWIG**—I am just seeking to clarify some of the information in the portfolio budget statements. On page 94, with respect to the land and building assets in the forward estimates, it shows that there is a fluctuation. I am referring to table 5.2 on pages 94 and 95. Why does it fluctuate between 2005-06 and 2007-08? Does that reflect increased value of the asset? I do not want to provide you with the reason.

**Mr Metcalfe**—We might check on that, Senator. There are a range of possible explanations. For example, the estimates for 2007-08 may include a factor associated with additional leasing for staff associated with the start-up of the citizenship test. The fact that it then declines is reflecting the fact that, as I said earlier, we would be seeking other agencies to take on some of that work for us, but that is purely a speculative answer. We will check and come back to you as soon as we can.

**Senator LUDWIG**—All right. Thank you very much.

**Mr Metcalfe**—Chair, we have further answers to a couple of matters that we dealt with earlier.

**CHAIR**—Thank you, Mr Metcalfe. Let's deal with those while the senators are preparing their questions.

**Ms Bicket**—Senator Nettle had a range of questions in relation to a couple of compensation matters. I want to give an update in relation to the matters of Mr G and Mr T which we discussed this morning. An offer of compensation was made on 14 August last year to Mr T. Mr T is represented by the New South Wales Protective Commissioner. I think the last advice we received from Mr T's solicitors was on 6 February year, when they were still considering our offer. We last wrote to Mr T's solicitors on 17 April, seeking further information around whether or not they wished to proceed with the matter. An offer of settlement was made to Mr G on 6 December 2006 and we are also awaiting a response on that offer. Mr G is represented by the Western Australian Public Trustee. They have also indicated to us that they have not rejected that offer but that it is still under consideration.

**CHAIR**—Mr Metcalfe, do you have another response?

**Mr Metcalfe**—Yes, I have some more detail on some questions that I think Senator Ludwig and Senator Crossin were asking earlier. Senator Crossin was asking about the increase in employee expenses in the department and also about the particular numbers of staff associated with measures in the budget. We can probably provide this in writing, but essentially the increase in employee expenses results from a complicated formula which covers increasing costs as a result of the collective agreement—salary increases that we described before—and the fact that in negotiating the collective agreement the department had to provide certain productivity increases, and therefore that offsets the cost of the collective agreement. We are also showing some impact from earlier budget measures—from the 2004-05 budget and the 2005-06 budget—which has resulted in a decrease in staffing. But that is offset by the increase of staffing in the 2007-08 budget. I will provide you with a table that sets this out. We factored in the cost of staff on an average of \$80,000 per person, which

includes all oncosts—superannuation, leave costs and so on. That is just a working average; some staff obviously are paid less than that and others more.

In relation to the 2007-08 budget and additional estimates, the following additional ASL were budgeted for: the case management and community care pilot, which is being extended to cover Queensland, an additional eight ASL; work associated with the Australia-Japan Free Trade Agreement, one person; the Australia-China Free Trade Agreement, one person; the extension of measures to combat people smuggling, two people; additional airline liaison officers, 10 people; ongoing management of the subclass 457 visa case load, 95 people; the detention health review, part 2, five people; the migration program integrity measures, 11 people; the humanitarian settlement review, 33 people; the citizenship test, 109 people; and World Youth Day, which will be celebrated in about a year's time, 15 people. That totals 290 additional people. But the way that ultimately the budget is adjusted, as I said, takes into account a complex series of measures that relate to earlier budgets, the cost of the collective agreement, productivity measures, efficiency dividend and growth funding, which ends up in those figures that you mentioned earlier being reflected in the PBS.

**CHAIR**—Thank you.

**Senator CROSSIN**—Mr Metcalfe, are you suggesting that the enterprise agreement will be cost neutral?

**Mr Metcalfe**—No, I am not. I am saying that in 2006-07 we are expecting that the collective agreement would cost \$10.4 million and in 2007-08 about \$36.5 million—if I am correct—but that there will be productivity offsets of about \$9.5 million in 2006-07. I am having trouble following this. What I think that I will do is provide further information on notice. I will indicate that we do not expect that the entire cost of the collective agreement will be offset by savings, but there certainly are some productivity measures.

**Senator CROSSIN**—What sort of productivity measures are in the enterprise agreement?

**Ms McGregor**—The reforms we pursued in the negotiations were the removal of restrictions on service delivery hours and the expansion of flexible working hours arrangements; the introduction of an improved performance management system, including streamlined management of underperformance, with an amount of productivity pay directly tied to increased participation in the system, which at the moment is voluntary; and a simplification of the current agreement in line with Work Choices legislation and the government's policy parameters. Those were the major productivity improvements through the agreement.

**Senator CROSSIN**—So we have 95 people coming on board to help implement the changes to the 457 regime.

**Mr Metcalfe**—That is correct—the additional integrity measures that have been mentioned by the minister.

**Senator CROSSIN**—And 109 people are going to be test supervisors for the citizenship test. Is that right?

**Mr Metcalfe**—They will be associated with aspects of the citizenship test. Many of those, as I said earlier, are in state and territory offices administering the test. Finally, we will

provide, as I promised Senator Ludwig earlier, more information on the land and buildings variation. But I am told that one significant aspect of the change is the expected transfer to the department from the Department of Finance and Administration of ownership of the Christmas Island detention facility. That acquisition will affect our property costs.

**Senator LUDWIG**—Will you be able to provide a breakdown?

**Mr Metcalfe**—I promise to come back in detail.

**Senator LUDWIG**—I noticed on page 97 something about the purchase of non-financial assets as well. That is at table 5.5. That also fluctuates, from 120 to 51 to 29 to 19. Was there a reason for that?

**Mr Metcalfe**—I will check and come back to you in the course of the day.

**Senator LUDWIG**—Thank you.

[1.43 pm]

**CHAIR**—We will move to output 1.1, Migration and temporary entry.

**Senator NETTLE**—I wanted to ask about the recent statements from the Prime Minister in relation to the entry of people with HIV. I note that the Prime Minister in an interview that he was doing said that he had written to the Minister for Immigration and Citizenship and the Minister for Health and Ageing about this matter. I wanted to find out where that was up to and what was going on.

**Mr Metcalfe**—The letter has been received and the work with the Department of Health and Ageing is under way. The Prime Minister has written to both the immigration minister and the health minister asking that they jointly assess the public health risk associated with HIV-AIDS and that they report back to him. That review is under way and that advice will be provided in due course.

**Senator NETTLE**—Can you provide for the committee some idea of the scope of that review?

**Mr Metcalfe**—It will primarily involve discussions at senior level between us and the department of health. As I have said, I would expect that it will be a work internal to government. Beyond that, there is not really much I can say about the review. It is an issue that goes to policy development.

**Senator NETTLE**—As I understand it, Australia and Columbia are the only countries that have effective bans on people with HIV, and people with HIV coming to Australia need to seek a waiver. Is that a correct understanding of how it operates?

**Mr Metcalfe**—I cannot comment on international comparisons, but I do know that HIV testing was introduced for all permanent visa applicants over the age of 15 in 1989. So the testing arrangements have been in place for almost 20 years. Permanent visa applicants are tested because the average cost of treatment for HIV-AIDS usually exceeds the benchmark cost of \$21,000 over five years. That benchmark was created in consultation with the Department of Health and Ageing to determine which medical conditions might be the subject of closer scrutiny before a decision is made on a visa application.

There are two primary public policy issues here. One is whether a person's entry to Australia may result in the spread of a disease, and that is the basis for tuberculosis being prescribed as a public health risk. The second consideration is whether the cost of treatment of the individual would place an unreasonable burden on the Australian community, given universal access to Medicare. I am sure those issues will be considered as part of the review that I mentioned earlier.

**Senator NETTLE**—I will stick with HIV for a moment before I move on to TB. You talked about \$21,000 over five years as the average for treatment—

**Mr Metcalfe**—No, that is a minimum benchmark. If it is assessed that the cost of treating a particular condition—HIV might be one—will exceed that benchmark then that condition will be the subject of closer scrutiny associated with visa decision making.

**Senator NETTLE**—I am trying to make sure that I understand the process here. Is there an individual assessment done of the person's HIV status and a determination made about whether they require intensive treatment and therefore there is a cost calculation done in relation to that, or is it a general benchmark?

**Mr Metcalfe**—My colleagues will correct me if I am wrong but, as I have said, 20 or so years ago HIV testing was introduced for all permanent visa applicants over the age of 15. It is also required for temporary visa applicants if they are seeking to work as doctors, dentists or nurses or are students from sub-Saharan Africa who are staying for more than 12 months. The essential issue though is the potential cost of treatment. Because the average cost of treating that condition exceeds the benchmark that I have mentioned, it requires a case-by-case determination. The assessment is really whether or not the assessed cost of the treatment of the individual would place an unreasonable burden on the Australian community and the Australian taxpayer.

**Senator NETTLE**—Just to make sure that I understand it: so there is an assessment of the individual case and if the anticipated cost of the treatment is below the benchmark then there is another process for assessing them and, if it is above it, there is not?

**Mr Metcalfe**—No. Let me go through it again. The department of health's advice that treatment of HIV-AIDS would exceed the benchmark—\$21,000 over five years—is the policy rationale for testing all permanent visa applicants over the age of 15 and certain limited categories of temporary entry persons. If it was found that a person suffered from HIV-AIDS then individual consideration would occur as to whether they meet the health requirement under the regulations.

One of the key criteria is whether the person's entry to Australia would amount to an unreasonable cost to the Australian taxpayer because of access to free medical coverage in Australia. So there is a testing regime which is in place because of the cost of treatment for the particular condition. If as a result of that testing regime someone was identified as suffering from the condition then that person's case would be assessed individually and a key consideration would be the assessed cost of treatment of that condition. That is not an automatic refusal. Depending upon the assessed cost, the department or the minister would consider whether in the circumstances that person should come to Australia.

**Senator NETTLE**—For the purposes of my understanding, take the example of someone in a same-sex relationship, with a partner who is coming from elsewhere and may be HIV-positive. They may be at a point in their illness at which they do not need a lot of treatment. The process they would go through would be this: they would make a visa application; they would be told, ‘You need to apply for a health waiver’; and then the minister would make a decision. I am just trying to work it out, because my understanding, from the gay community, is that people are told at the first point, where they make the visa application, ‘No, you need to go through an additional process’. So then there is a period of time when they are waiting to see whether the determination will come. That is my information.

**Mr Metcalfe**—Just to take the conversation slightly more broadly, all migrants to Australia are required to undergo a health test. There are two reasons for that, as I indicated earlier. One is to find out whether they suffer from a disease prescribed as a public health risk. At the moment, tuberculosis is the only disease so prescribed. The second is to find out whether they suffer from a disease or condition which would mean that, on their entry to and stay in Australia, the medical costs associated with treatment of that condition would be such as would ultimately be an unreasonable burden on the Australian taxpayer.

So, all migrants coming to Australia, regardless of category—skilled, temporary, refugee—are medically tested. HIV testing is included as part of that broader medical testing, and has been since 1989. That is because it is assessed that, if a person did suffer from that condition, it is likely that the cost of treatment would exceed the benchmark of \$21,000, and that benchmark is simply an indication that the condition will be expensive to treat. And, with the universal medical access in Australia, it would become a burden on the Australian taxpayer.

In addition, certain temporary-entry applicants coming to Australia are required to undertake a medical check. And, as I said, if a temporary-visa applicant is seeking to work as a doctor, dentist or nurse, or is a student—or their dependant—coming from sub-Saharan Africa and staying for more than 12 months, they, as part of their medical check, also need to undergo HIV testing. If, as a result of that test, a person is found to be HIV-positive, then there is a decision on the individual case as to whether or not the person meets the health criteria, and the factor that is assessed is really the cost of treatment in Australia.

If a person is granted a visa in those circumstances, they are allowed to come into Australia on what we call a health undertaking, which means that they should report to the relevant state health clinic for follow-up treatment and monitoring. It is those arrangements which the Prime Minister has asked be reviewed by the two ministers and of which we are currently undertaking a policy review.

**Senator NETTLE**—So that includes not only HIV but also TB and a range of other conditions?

**Mr Metcalfe**—The particular policy review relates to HIV.

**Senator NETTLE**—On tuberculosis, there was a story in the *Australian* today which said that, since 2000-01, more than 100,000 people have entered with tuberculosis. Firstly, does that figure include, for example, illegal fishers who arrived and were here for a week and then disappeared? Were they counted in that figure?

**Mr Metcalfe**—That figure was derived from a report from the Australian National Audit Office. Mr Parsons or Mr Farrell might be able to provide some advice as to how that figure of 100,000 was arrived at. I would note that virtually all of those 100,000 people would not have had active tuberculosis. They would have been identified as part of the health-checking arrangements that we have just talked about and would have been cleared for travel and living in Australia on the basis that they were not contagious but that they had signed a health undertaking and therefore needed to follow up any treatment or contact with state health authorities. The audit went to issues around whether that was an effective process or whether it could be strengthened and whatever. But, in relation to your question of 100,000 and how it was derived, I will see if we have any more advice.

**Mr Parsons**—The 100,000 figure that is quoted in the ANAO report reflects all migrant categories coming to Australia, so it does include the temporaries as well as the permanents.

**Senator NETTLE**—Is it possible to get some breakdown of what proportion of them are temporary and what proportion of them are long-stay visas?

**Mr Farrell**—We do not have that breakdown. I should note it also includes Australian citizens, because that in essence is a reflection of cases that have been monitored by the particular agencies that monitor them.

**Senator NETTLE**—Would it be possible to get a breakdown of what proportions of that 100,000 are Australian citizens, people on temporary visas and people on permanent visas? That would give us a better idea of the kinds of figures that we are talking about there.

**Mr Farrell**—Yes.

**Senator NETTLE**—I have spoken to interns who have come into my office from East Timor, and I have also spoken to other East Timorese people who I know from the involvement I had, through my work, in their coming here. I know from these people that they all had to have a TB check prior to coming. Is that done on the basis that they fall into a category of people? Is it for the whole of East Timor that people need to have those TB checks?

**Mr Parsons**—Various countries around the world have different health profiles. East Timor is, I think, a high-risk territory, so all visa applicants from that country in particular would be required to have the TB screening test.

**Senator NETTLE**—If there is an assessment made that they are not contagious, do they then fall into this 100,000 figure that is in the paper today in terms of being able to come here?

**Mr Parsons**—Indeed, on the proviso that they sign a health undertaking to visit the local health clinic when they arrive to more finally ascertain the status of their condition and to undergo any treatment as necessary.

**Senator NETTLE**—In relation to illegal fishermen, who may make up a proportion of these, can you explain for us the process that is followed for illegal fishermen in assessing TB or other diseases?

**Mr Metcalfe**—This may be moving slightly away from the information of officers at the table. Probably when we come to output 1.3, or something like that, we will be able to talk

about any issues relating to illegal fishermen. I think the detailed advice may be with other officers but we can certainly come back to that.

**Senator NETTLE**—I will tell you where I was going with that and you can tell me if it is 1.1 or 1.3. It relates to illegal fishers who are picked up and what vessel they are on—the vessel that was being termed as the prison ship. It is a Customs vessel for illegal fishers. My understanding is that that was not being used because Australian officials were concerned about TB and other diseases. That is what I wanted to understand. If that is in 1.3—

**Mr Metcalfe**—My mistake, Senator; it is handled under 1.5, which is detention. We can talk about it then.

**Senator CROSSIN**—I have some questions about the audit report. Regarding the requirement that would trigger an immigrant or an international visitor having to be screened for TB prior to coming here: does that depend on what country they are coming from?

**Mr Parsons**—That, in conjunction with the reason they are coming here. As Mr Metcalfe said, if a migrant were intending to work in the health profession, they would be required to undergo health tests.

**Senator CROSSIN**—Is that the only requirement? You were saying everyone coming from East Timor would undergo a TB test even if they were not working in the health profession. Is that correct?

**Mr Parsons**—Yes. There is a whole category of countries which are in that high-risk classification. In addition to that there are four or five other categories. We talked about health care. Child care is another category, including if you are going to work in preschools or creches as either an employee or a trainee, in which case you have to have a chest X-ray at a minimum. If you are over 70 years of age and applying for a tourist sponsored visitor short stay and other classifications then you are required to undergo screening. If you are a parent within the queued migration classes then a medical and a chest X-ray are required if your stay is greater than six months. Our decision makers ultimately have the flexibility, where they deem the circumstances appropriate, to ask for a medical to be undertaken.

**Senator CROSSIN**—So does the kind of screening that is required and the TB testing methodology vary depending on what occupation you might go into or does everyone have to have a chest X-ray?

**Mr Farrell**—It is a combination of the country you are from, the length of your stay and the occupation you will be undertaking when you are in Australia. It is all laid out in a one-page matrix which is part of our form 1163i, which is available to all visa applicants when they apply. They are asked to look at that carefully to assess the sorts of medical requirements they will be required to undertake as part of their visa application process.

**Senator CROSSIN**—Is this screening process only concerned with identifying active TB or does it also look at latent TB in people?

**Mr Farrell**—Active TB is the primary thing we are looking for because, as the secretary indicated, active TB is grounds not to grant a visa. It is the only condition that is prescribed as such. But we are also looking for people who might have had TB in the past. There might be scarring of the lung tissue, for example. They are of significance. They are assessed on a case-



by-case basis to determine the risk of TB reoccurring before the granting of a visa is considered. If it is considered a manageable risk then that person, as the secretary mentioned, is given a health undertaking whereby they are asked to visit a clinic when in Australia so they can monitor their health.

**Senator CROSSIN**—I will come to that in a minute. Is a TB blood test actually one of the tests for any of those categories of work or for any of those countries where TB might be severe?

**Mr Farrell**—A full medical examination is a minimum requirement for the very high-risk countries which Mr Parsons referred to.

**Senator CROSSIN**—Would that include having what is known as the QuantiFERON gold blood test?

**Mr Metcalfe**—I think we had better check on that.

**Senator CROSSIN**—Could you?

**Mr Metcalfe**—Yes, we can check on that for you.

**Senator CROSSIN**—The reason I ask that is that if we are talking about those people who may come here as either immigrant or international visitors then I know there is also an issue with illegal fishing people in Darwin. Could you check on whether that is the case. Mr Metcalfe, you talked about the department actually looking at its arrangements to reduce health risks associated with HIV. Does that extend to TB as well?

**Mr Metcalfe**—What I talked about was a review initiated by the Prime Minister involving both my department and the Department of Health and Ageing, particularly in relation to HIV. More generally of course we have just had the Auditor-General's report on the health-checking arrangements which was handed down late last week. That makes some recommendations which we have considered, and we will seek to strengthen our checking arrangements to the extent that that appears sensible.

**Senator CROSSIN**—In the last 12 months, how many people would have been asked to go for a medical check-up, for example?

**Mr Metcalfe**—We will get you that figure. As I said earlier, all permanent visa applicants are required to undertake a medical check. We have a migration program of around 150,000 people. We have a humanitarian program of around 13,000. So by definition there are well over 160,000 people at that stage. Plus certain categories of temporary entrants coming to Australia are also required to have a check. So it will probably be approaching or in excess of 200,000 people.

**Senator CROSSIN**—That is a very general and broad answer to the question. Of those, how many do you know have active TB or HIV?

**Mr Metcalfe**—We will need to take that on notice. I suspect that the figure is probably quite low. Some of the media reporting following the release of that report seemed to imply that there are 100,000 people coming to Australia with active TB. Of course that is quite incorrect. The figure that was mentioned was that there were 100,000 people who may have

had some association with TB, and I would imagine that the vast majority may have inactive or latent TB, which is not contagious but requires ongoing monitoring.

**Senator CROSSIN**—But the issue that the audit report goes to is the fact that the immigration department has little way of knowing whether people have actually attended these follow-up medical checks. Is that correct?

**Mr Metcalfe**—That is right. That is one of the primary findings. Effectively a person is brought to Australia having signed a ‘Health Undertaking’—that is with a capital H and a capital U. It is a sort of formal document that they sign saying that they will report to the state or territory medical authorities so that they can register with them under the program.

**Senator CROSSIN**—Is this if they have HIV or TB?

**Mr Metcalfe**—This is for TB. If there is a health undertaking in place, it could be for a number of conditions. As I said before, I think it would primarily be for TB if the visa issuing officer had requested a health undertaking, but it could be for other conditions, such as a person who may have HIV but where ultimately the decision is taken to waive the objection. But that factor goes to cost of treatment grounds, as opposed to the nature of the disease. So where there is a health undertaking there is currently no follow-up as to whether or not the person in fact has abided by that undertaking. The auditor makes suggestions in relation to that and certainly will examine what processes might be put in place—acknowledging that that would result in an increased workload for the department to actively follow that up.

**Senator CROSSIN**—In the last year, how many would have needed that follow-up?

**Mr Metcalfe**—We will check on that and come back to you. We should be able to get those results through the course of the afternoon.

**Senator CROSSIN**—How many of those would the department have followed up on?

**Mr Metcalfe**—As I have just said, we would not have followed up on any of those, because we have never followed up on whether a health undertaking is in fact undertaken.

**Senator CROSSIN**—So someone can come into this country with TB, you say to them that they come in on the condition that they have a medical check-up, but you never check up on whether they have had that check-up.

**Mr Metcalfe**—That is correct, and that is exactly what the auditor has suggested should change. We have obviously said that we will look at that very carefully, noting that that has never been done—to my knowledge—by the department in the course of its history and that, if government were to decide that that was an appropriate measure to put in place, there would possibly be quite significant resource costs associated with it. Interestingly, if you look at the empirical data on page 43 of the annual report—the award-winning annual report—there is a table—

**CHAIR**—That was well noted, Mr Metcalfe!

**Mr Metcalfe**—Thank you, Mr Chairman. Table 3 provides some comparative data of the incidence of tuberculosis relative to the percentage of overseas-born in the Australian population compared to the same ratio for other major developed countries. That data indicates that Australia—with a population of just over 20 million and with 23 per cent of

people born overseas—had 1,082 reported TB cases. This indicates that our TB rate per 100,000 is five and our TB rate when compared to our overseas population is 0.023 per cent. Canada's similar TB rate—based on their overseas-born population—is not far behind us at 0.025 per cent, France's rate is 0.091 per cent, Germany's 0.063 per cent, Sweden's 0.042 per cent, the UK's 0.152 per cent—by far the highest—and the US's is 0.04 per cent. What that shows is that Australia's incidence of TB is less than that of any marker country. So the results of our screening—this is with seven million people having migrated to Australia since World War II—and prevention programs have shown that they are world's best.

**Senator CROSSIN**—But isn't that also a reason as to why you should follow up with people who come into this country—so that the incidence of TB in this country does not escalate? Once people have come through the door, they slip through your cracks.

**Mr Metcalfe**—What I am saying is that the practice that has been in place since World War II has resulted in Australia having better outcomes than any comparable country. The department, of course, wants us to improve our performance, and the Auditor has made some suggestions as to how that might occur. Governments have not sought that requirement in the past. Following up a health undertaking to see if it actually is undertaken has not been a feature of migration administration in the past. The Auditor has made recommendations, and the government will obviously consider whether it should do that in order to, as you say, improve our already, as I say, impressive performance in this area.

**Mr Parsons**—To add to Mr Metcalfe's answer: I am referring to an annual report from the Communicable Diseases Intelligence unit, which is from the Commonwealth Department of Health and Ageing. There is a graph in here which shows that Australia's incidence for rates of tuberculosis has essentially flatlined at around that five per 100,000 since roughly 1987. There has been no measurable variation from that in 20 years.

**Senator CROSSIN**—It is probably a very low record we would want to keep.

**Mr Metcalfe**—I do not think anyone is disagreeing with you, Senator. We want to keep it as low as we possibly can.

**CHAIR**—Are there any other questions on output 1.1? Senator Bartlett.

**Senator BARTLETT**—I have a few questions on different areas. Firstly, with the contributory and non-contributory parent visas, I had an answer on notice from last time about the average processing time from date of application or lodgement to finalisation. For 2005-06 it was 257 days offshore and 216 days onshore, and the year to date for this year had increased to 353 for offshore and 267 for onshore, so both of them went up a fair bit—particularly offshore, which was nearly a year. I am not sure what the benchmark time lines are for that particular category, but I am assuming that is going in a direction that is not desirable from your point of view. Is anything being done to speed that up?

**Mr Parsons**—There is one important distinction to make, and that is between contributory and non-contributory. There is a cap in place for the non-contributory category, and that cap does exacerbate processing time and queue time; whereas that is less of an issue for the contributory category.

**Senator BARTLETT**—Could I clarify the answer I got on notice. The question was in relation to the contributory parent visa category, and I wanted to know how long it takes from lodgement to determination. The answer I got was the average processing time for contributory parent visas, based on all applicants. I presume that is still all contributory parent applicants. According to the answer that I got back from you, in the current year to date the offshore determination time—for want of a better phrase—has gone up to almost a year. I am assuming that is just for the contributory category. Does it mean the non-contributory category is even longer? It is probably not such a problem, seeing that the queue is so long anyway that people are expecting a long wait. Those figures that you provided a few weeks back are just for contributory, aren't they? That was 353 days for offshore.

**Mr Parsons**—Yes, it is.

**Senator BARTLETT**—I appreciate that that is a year-to-date progress figure, but it is a nearly 100-day increase on the financial year previous. It seems a pretty big hike to me. Has that rung any alarm bells? Is anything being done to try to turn that figure around and bring it back to where it was or, ideally, a bit lower?

**Mr Parsons**—We always look at the processing time and any change such as we have highlighted in that answer. As we noted in the answer, there are factors that can exacerbate the processing time which are beyond our control—though, clearly, there are factors that are within our control. Those are things that we always keep an eye to. As we said in the answer, there are various time frames for health checks and character checks and, to some extent, for some of those components, it is out of our hands.

**Senator BARTLETT**—Is there anything being done to bring that time frame down? Has that generated any concern, or is that just something that you have looked at and thought, 'That's interesting'?

**Mr Parsons**—We certainly looked at it. We have a regular performance review committee within the department that does track these sorts of trends by exception. Where I find trends such as that, I do call for comment and explanation for the circumstances that surround it. I do not have with me here today the specific strategy that may have been discussed to address that particular visa class.

**Senator BARTLETT**—Perhaps you could respond on notice as to whether any specific action is being taken to reduce that processing time in that category—whether it is extra staff numbers, procedural changes or whatever it might be. Does the bridging visa E review come under this part or further down?

**Mr Parsons**—It is further down.

**Senator BARTLETT**—Which bit? Would that be under 1.2?

**CHAIR**—Mr Metcalfe, could you advise what output bridging visas come under?

**Mr Metcalfe**—I think it is output 1.1.4. But, as I think I said earlier, bridging visas actually provide many statuses. So it depends on the type of bridging visa. It is probably best in 1.4 but, if it is specifically related to entitlements for bridging visas and their conditions associated with refugee applications, I would say output 1.2. If there was a little more detail, that might help.

**CHAIR**—Thank you.

**Senator BARTLETT**—I am always keen to try to stick to the outputs. I am not sure why, but it is this thing I have. I note that there has been a lot of focus on the 457 visa specifically of late. I was wondering again about processing times in the whole skilled migration category, whether it is the temporary skilled or the permanent skilled. Can you give me an idea of what the processing times are there? I continually get feedback that, regardless of all the disputes people have, one of the biggest problems is how long it actually takes to get people here from when we put the bit of paper in. Is that trending in the right direction at the moment?

**Mr Parsons**—There are two figures. You are correct. The 457 average processing time is, from memory—and we will check—either 26 or 28 days. I will get clarification on that. That is still within the target benchmark for that particular visa category. For permanent skilled migration, the average processing time is within the published standards. I do not have the figure with me but, again, that is something that I can get for you on notice.

**Senator BARTLETT**—If you could, that would be helpful.

**Mr Parsons**—I can confirm that the average processing time for 457 visas is 27 days for ASCO 1 to 3 applications.

**Senator BARTLETT**—And you will get the permanent one for us?

**Mr Parsons**—Yes, I will get the permanent one for you on notice.

**Senator BARTLETT**—Can you give us a trend with that as well—whether it is going up or down?

**Mr Parsons**—Yes.

**Senator BARTLETT**—That would be good. Can you give me an idea of how many student visas we are anticipating issuing in the current financial year and how many we have got on foot in the country at the moment? I am just trying to get an idea of the percentage of those that breach visa conditions and, of those, how many end up in detention as opposed to just being removed.

**Mr Parsons**—I will have those statistics, but they are probably not at hand in all cases.

**Mr Farrell**—In terms of student applications this year, offshore applications have increased by 22.7 per cent and offshore grants have increased by 27 per cent over the same time last year.

**Senator BARTLETT**—What is the total net figure?

**Mr Farrell**—Last year, in round figures there were roughly 130,000 offshore grants and 60,000 onshore grants. So the growth of around 27 per cent in grants this year is indicative of the trends we are looking at in terms of offshore grants this year.

**Senator BARTLETT**—That is a 27 per cent increase on 130,000?

**Mr Farrell**—That was last year. There is a 27 per cent increase.

**Senator BARTLETT**—Obviously it is still going up.

**Mr Farrell**—Yes, there is excellent growth in that sector.

**Senator BARTLETT**—I appreciate that you may need to get some of the detail on notice, but how are we going with the percentage of the total in terms of breaches and people being detected?

**Mr Farrell**—I would need to provide you with a more detailed breakdown of that.

**Senator BARTLETT**—As you are doing that, maybe you could provide the percentage that get their visas cancelled or breach. I would like to know what happened to them. There are those that get detained, there are those who just get sent off and there are those that manage to find their way back to safety, as it were. I am interested in the average length of detention for students as well and maybe a country breakdown on those who do not meet the visa conditions.

**CHAIR**—Could you take that on notice?

**Mr Farrell**—Yes.

**CHAIR**—Thank you.

**Senator BARTLETT**—In this category we have 150,000 coming in a year, and in the temporary skilled category we have a sizeable and increasing number—not to mention some of the others. Many of those in both the skilled area and the student area are using those visas as a bridge across to permanent visas—that is a pretty common pathway, as I understand it. The settlement services and those types of assistance do not become available to people until they get a permanent visa. Is that correct? I know that settlement services is output 2.

**Mr Parsons**—Yes, that is correct.

**Senator BARTLETT**—This might be more an output 2 question, but what forms of other assistance or information are given to people when they first come here on either a student visa or a long-term temporary work visa?

**Mr Parsons**—They are certainly given information about who to contact—helplines and so on. Depending on the visa category—and I am reflecting most recently on 457 temporary skilled entry—they are given information on how and where to contact the department of immigration helpline, the Workplace Ombudsman and workplace relations type departments. I believe they are given information on how to contact the local health community and, certainly in the context of labour agreements, connections with schools et cetera where there are school-age children involved.

**Senator BARTLETT**—This is a crossover question with output 2 as well. I am interested in specifically how this will apply for visa applicants, which I think will come into this area. I noticed in the recent budget papers—or at least in a media statement put out by the minister—that, before a visa will be created, permanent and long-term temporary visa applicants will now be required to sign a statement to acknowledge that they will respect the Australian way of life. That seems to be going to the visa application side of things. How is that going to work? Is that going to be an automatic part of an application form?

**Mr Metcalfe**—Yes. We would expect that the so-called values statement would be part of the application form. A person would be required to read it and acknowledge their understanding of Australian values. It will not be provided in isolation, though. Although we have had for quite a long time information on our website about, for example, living in

Australia, the intention is that every visa applicant in those categories will be provided with some resource material which tells them about Australia and our way of life so that they are aware of what they are applying for in making that application.

**Senator BARTLETT**—The budget papers or the minister's press release—I cannot remember which bit I saw where—said that \$10 million has been set aside for Australian values statements.

**Mr Metcalfe**—I will have to check. But it was certainly one of the issues. It is being handled pretty much in tandem with the development of proposals around the test for citizenship. The two things are seen as being linked to each other. I will try and find the figure for you.

**Senator BARTLETT**—The main thing—in terms of this output, anyway—is trying to get a sense of how it will interface with the visa application. If it is just going to be a statement under which you sign your name, saying, 'I affirm that all the above statements are true and correct'—

**Mr Metcalfe**—That is correct. We are looking basically at a long form for migration applications and a shorter form for temporary entry applications.

**Senator BARTLETT**—I will come back to that in output 2, because that is probably where it leads towards.

**Mr Metcalfe**—Yes. The people in the department working on that are on a task force that I have established to work on both the citizenship test and the values statements. If you want to pursue that issue, I suggest that we do that under item 2.3, even though what you are asking is related to the visa application process.

**Senator BARTLETT**—That is fine; I shall do that. I have one final question on that, though. What visas will it apply to? Will it apply to student visas, working holiday visas and long-term 457 and skilled employment type visas? Is it on anything over a year or something?

**Mr Metcalfe**—My colleagues who are across the detail of this have gone back to work because we are dealing with outcome 2 tomorrow. But it will certainly apply to migrant visas and to longer stay temporary visas, with a couple of exceptions, such as diplomatic visas. We would not expect a foreign government representative to sign such a statement, for example. But we can give you more detail on that tomorrow.

**Senator BARTLETT**—Thank you. On a separate matter—and this may have been covered in general questions, but if it was it should have been under this output—I want to ask about the extra money that has been put in the budget for the temporary skilled migration program. There is \$85.3 million over four years. From the detail I have, that is aimed at better educating employers to ensure that they meet their sponsorship requirements, as well as being for some amendments to the law to bring in tougher penalties and the like. Can you give me a little bit more of a breakdown of how that \$85 million is likely to be spent? Is it purely on a variety of different employer education programs or will it also be spent on greater monitoring or even on a speeding up of the processing—those sorts of things?

**Mr Parsons**—In fact, the answer is all of the above. There will be greater employee-sponsor awareness of their obligations. Some money will go towards an education campaign

on that. There will be additional staff, both in the national office of the department and in the state and territory offices, to monitor sponsors' compliance with their undertakings. That is pretty much the majority of the expenditure.

**Senator BARTLETT**—I want to get clarification on the breakdown of the funding as well. I noted that Budget Paper No. 2 mentioned providing \$85 million over four years to identify and implement the sorts of measures that you have talked about. It also mentioned some revenue measures and almost \$8 million from fines. How did you arrive at the \$8 million of anticipated fines?

**Mr Parsons**—That was just looking, I guess, at the current sanction statistics that we are getting in terms of what current monitoring is showing by way of noncompliance with the terms of 457 and extrapolating it.

**Senator BARTLETT**—So it is based on assuming that the level of breaching, noncompliance or whatever would stay the same, or did you factor in that your education campaigns might improve things?

**Mr Parsons**—We obviously hoped that the education campaign and the pre-emptive monitoring would improve things, but my understanding is that we have assumed—for lack of anything else—that we would stay the same.

**Senator BARTLETT**—This is perhaps my last question on this output. I want to go back to where I started, with the contributory parent and non-contributory parent. I usually like to get updates of where the queues and pipelines and the like are at with those. I understand from the last time I checked that there is not any queue with the contributory one. What is the length of the wait for people in the non-contributory category?

**Mr Parsons**—I can give you some statistics on the depth of the pipeline as at the end of April. For the non-contributory parent category, there is a total of 17,210 applicants in the queue. We only planned for 1,000 such visas per year. Simple maths would therefore tell you that, all things being equal, if you are in the non-contributory parent queue, you will be in the queue for roughly 17 years. For the contributory parent category, there are currently 7,029 applications on hand. There are 2,865 grants so far this financial year. The planning level is 3,500. So we are not constrained by hitting that ceiling this financial year. There are 635 grants remaining.

**Senator BARTLETT**—I thought I heard you say earlier that the contributory parent category is not capped.

**Mr Parsons**—That is correct.

**Senator BARTLETT**—It is capped, is it?

**Mr Parsons**—It is not capped. We have a planning level, which is our indicative figure for government, where we have suggested 3,500 would be what we expect.

**Senator BARTLETT**—But you have 7,000 in the queue?

**Mr Parsons**—No, there are 7,000 on hand.

**Senator BARTLETT**—What is the difference between 'on hand' and 'in the queue'?



**Mr Mills**—That is the active pipeline of persons currently under consideration. We would anticipate meeting the planning level of 3,500 places by the end of June. At this point in time there is no queue.

**Senator PAYNE**—How does one move from the pipeline to the queue?

**Mr Mills**—Technically, a person is placed in the queue when they are fully processed.

**Senator PAYNE**—Through the pipeline?

**Mr Mills**—That is correct.

**Senator PAYNE**—How comfortable that must be!

**Mr Mills**—Indeed, Senator! When they have prima facie met all the criteria—and this only applies to the non-contributory parent visa class—they are placed in the queue. There is at the moment no queue in respect of contributory parents, although in the future it is possible of course that a queue could develop.

**Senator PAYNE**—When people have made their way through the pipeline?

**Mr Mills**—Correct.

**Mr Metcalfe**—When the numbers of fully processed cases exceed the number of available places in that program year, by definition, the person would not receive their visa that year and a queue starts to develop. The queue is a term of art, I think, in the Migration Act in that the minister can—

**Senator PAYNE**—It makes me very nervous when you say something like that, Mr Metcalfe.

**Mr Metcalfe**—The minister can, I think, determine whether there should be a queue and limit numbers, which is effectively what has occurred in the non-contributory parent case load. We are not yet at that stage but are close to it in the contributory parent category.

**Senator PAYNE**—I am sorry to have interrupted Senator Bartlett, but my final observation would be: you can understand how difficult it is for us to explain pipelines and queues to our constituents, particularly if we are dealing in a language other than English.

**Mr Metcalfe**—Noted, Senator.

**Senator BARTLETT**—I will finish off on this because I think it is actually going back to where I started. The 7,000 who are in the pipeline are the people who are in that grouping I asked about at the start—those who have lodged but have not been determined yet? That is the pipeline, is it?

**Mr Mills**—That is correct.

**Senator BARTLETT**—Is keeping people hovering in the pipeline a management technique to ensure that you do not get the queue? Is that why the length of time people are in the pipeline has gotten longer?

**Mr Mills**—Over the last 18 months we have seen a significant increase in demand. The increase has not been such that it has been necessary to queue this program year. Hypothetically, this could occur next program year.

**Senator BARTLETT**—I am very much aware of the 1,000 cap on the non-contributory category. I presume you have not heard of any consideration of that cap changing at present?

**Mr Metcalfe**—There is certainly no indication, there is no announcement of that, in the migration program for the next year.

**Senator BARTLETT**—But the 3,500 is not a cap; it is a—

**Mr Parsons**—It is a planning level.

**Senator BARTLETT**—If you had a sudden surge of finalising assessments on the 7,000 in the pipeline, then obviously you would meet that planning level—or, indeed, if they were all done within the next 300 days, which one would like to think they would be, then you would have 7,000 there. If you reach that planning level, do you need permission to go over it?

**Mr Parsons**—Yes. We would approach Minister Andrews for one of two outcomes: either we increase the planning level or we get into that queue situation.

**Senator BARTLETT**—So you would need ministerial permission to go over the planning level. How does that differentiate from going over a cap? Is a cap more solid?

**Mr Metcalfe**—A cap is a legal prohibition on visa issue, from memory. If a queue and a cap are actually established then I think by law the visa cannot be granted. So we are dealing with a number of concepts here: a pipeline of active cases that are yet to be completed—that can expand because of an increase in applications or an increase in processing time—and a planning level, which is how many places the government has indicated it would use as part of the overall migration program in visas in that particular category. If there are more applications that have reached the visa stage than there are places, then it is open to the government to put a cap and to establish a queue, as it has with the non-contributory parent category.

**Senator BARTLETT**—Or do you just leave people in the pipeline a bit longer?

**Mr Metcalfe**—Rather than moving to that formal basis, that is one possibility, but it is not sustainable particularly for long because it then results in a situation where you simply get more and more inquiries as to what is going to happen. From our point of view it would be better for people to have some certainty as to what was to occur.

**Senator BARTLETT**—Using this as an example because it is one that, as you said, could well apply in the next financial year: granting visas over and above the planning level is a decision the minister can make? It does not need to go back to cabinet or a policy change does not—

**Mr Metcalfe**—How the minister ultimately makes that decision and what consultations he might have are matters for him. You will notice that this year there was an increase in the planning level for spouse visas. There are an additional 4,000 places because the outcomes and the demand exceeded what was originally estimated would be required. That was a decision made by government.

**Senator CROSSIN**—Can I just go to the issue of work visa processing times. Can you tell me the median processing time for visa categories relating to skilled migrants for 06-07 as compared to 04-05 for onshore and offshore?

**Mr Metcalfe**—I think we have already taken that on notice.

**Senator CROSSIN**—Have you? How about labour agreements, employer nominations, regional sponsored migration, general skilled migration and 457 long stay business visas?

**Mr Metcalfe**—That is more detail than we had previously, so we will take that on notice.

**Senator CROSSIN**—Also, Senator Ludwig asked about an answer to question on notice 37. It goes right back to 25 and 27 May 2005, so you probably have not brought it with you. It goes to the average processing time for skilled migrants. Back then your answer was, 'Progressive expansion in the use of internet for visa application lodgement will lead to the above processing times coming down further.' The labour agreement, 'employer nominated regional sponsored migration', went from 'Onshore high risk 2.9 months', to 'Offshore four months'. Has that increased or decreased since 2005?

**Mr Metcalfe**—We will take that on notice.

**Senator CROSSIN**—Has there been a review into improving processing times since 2005?

**Mr Metcalfe**—We will check that. Not everyone at the table has been with the department for very long and may not have historical knowledge of that, but I think it is fair to say there is a constant review of our processing times and whether they are adequate, appropriate or need to be influenced by additional resources, if that is possible. Whether there has been what I would call a formal review is something that we will check.

**Senator CROSSIN**—In your answer at the time, you said that, to improve processing times, you were: 'Reviewing key information for clients so they that can lodge complete applications, providing applications with timely advice, introducing electronic processing and providing regular decision-making courses for processing staff.' Was any kind of formal review or overall improvement management strategy that undertaken?

**Mr Metcalfe**—We will check on that. Indeed, as I have said, we are constantly reviewing this area. As we get closer to the Systems for People changes affecting this part of our work, there is very active consideration being given to the business processes associated with visa decision making in this area and we are quite confident that we will find significant efficiencies through that process. As to whether there was a 'review' two or three years ago, we can check. If there is anything I can add, we will.

**Senator CROSSIN**—This comes out of the May estimates, so I am assuming that, if there was going to be a review, it would have been some time in 2005 or early 2006.

**Mr Metcalfe**—We will check on that.

**Mr Parsons**—What we may have been referring to there, in answer to an earlier question, is a quarterly meeting of a performance management committee that is held in the department and a monthly meeting of something which is more discrete, in terms of the visa classes in this output 1.1, where we monitor and track the processing times, amongst other things, for all visa classes. By exception, as these things are trending up, we do review the reasons for those trends. As I think I said at the February estimates, one of the biggest things that can exacerbate processing time is when an applicant does not furnish all required information when they lodge the form. When our processing officers, with the best of intentions, go to

assess the application, if crucial information is not supplied up front then by necessity there is a delay while we go back to the applicant and ask for additional information.

**Senator CROSSIN**—How many electronic visas would have been processed in the last 12 months?

**Mr Metcalfe**—The reason I am hesitating in responding is that there are electronic visas in several different forms. There is the ability to apply for a visa over the internet, but, for a visa to be a paper document stuck into your passport, I would not call that an electronic visa; I would call that an electronic application. The thing that we normally call an electronic visa is the electronic travel authority, which of course is quite an old process now but a highly successful one which allows people to apply for short-term visitor visas and similar types of visas and receive that without a visa actually being physically produced and put in a person's passport. Your question on how many electronic visas have been processed begs a number of answers depending on, particularly, what sort of visa or area of interest you want to look at.

**Senator CROSSIN**—Are you suggesting to me that I can electronically apply for two sorts of visas?

**Mr Metcalfe**—You can apply for quite a few different visas electronically.

**Senator CROSSIN**—That is right. What you have described to me is an electronic visa application, which would cover a whole range of visas, or just an electronic application. Is that correct?

**Mr Metcalfe**—No, what I am trying to describe to you is an electronic application which allows you to submit data to the department over the internet and therefore apply through that. When approval is granted, that results in the physical production of a visa that is placed in your passport, as opposed to something that we often talk about informally as an electronic visa, which is the electronic travel authority, which means that there is no physical visa produced and it is not put in your passport. The visa exists in law. It is recorded on our databases and does not require you to submit your passport to an office for a visa to be placed inside it.

**Senator CROSSIN**—How many of those in total—either part or all internet access—has your department dealt with in the past year?

**Mr Parsons**—Electronic travel authorities—

**Senator CROSSIN**—Not just those, but also visa applications. In other words, how many—

**Mr Metcalfe**—We will check and give you a figure on how many applications have been made and how many visas have been granted electronically on the basis of an application. Note that the electronic travel authority can be the subject of an application over the internet or it can be the subject of an application by a travel agent using the international system that the travel companies and airlines utilise. So it is not an application made by the individual over the internet. It is a different form of electronic application. We can provide you with some data on that if you are interested.

**Senator CROSSIN**—Do you have a handle on whether people around the globe are actually applying many more times through the internet for whatever reason than are actually

walking into an embassy or providing hard copies of applications or visa requests? Is the traffic over the internet increasing?

**Mr Metcalfe**—I think the answer is yes, but I would like to check.

**Senator CROSSIN**—How do you know that if you cannot give me the numbers?

**Mr Metcalfe**—I will give you the numbers and I think you will find the answer is yes.

**Senator CROSSIN**—All right. Then what I would like to be able to dissect is whether your processing time is actually increasing if people are using the internet, because you have got to then actually manually check, or whether in fact your processing time is being assisted and decreasing because people are applying over the internet. Do you have a grasp on that comparison?

**Mr Metcalfe**—We do have a grasp on that.

**Senator CROSSIN**—What is your view about that?

**Mr Metcalfe**—I will give you some data when I have looked at it. I do not want to be difficult, but you are trying to wrap up many concepts into the one question. For example, a working holiday maker can apply for a visa over the internet. We have centralised the processing of our working holiday visas in Hobart, which is the office where we thought that it was best able to be activated. Processing times there have meant that visas can be granted far more quickly than previously—provided, as Mr Parsons said earlier, that the person actually gives us the right data and we do not have to get into protracted email conversations about needing more information from them.

**Senator CROSSIN**—Why is that? Is it because you have centralised the application handling in one centre?

**Mr Metcalfe**—Yes. In a number of visa categories the business decision has been taken over the last five or six years to bring together the processing of that type of visa into one or two places. For example, every skilled migration application in the world is now dealt with in Adelaide, which is our biggest overseas post. The Adelaide skilled migration processing centre numbers 200 or 300 hundred staff working on the skilled migration program. The Hobart office works on working holiday maker visas. Parent categories are dealt with in Perth. Perth and Hong Kong deal with business skills categories. Those are business decisions as to the benefits of bringing some work onshore that was previously handled in embassies offshore where the growth in work that we have seen simply was not sustainable overseas. That has also led to some efficiencies in both timeliness and quality of decision making, because people are working on the same type of issue. Notwithstanding that, technology is leading us to be able to continue to look for more efficient ways of dealing with issues. Indeed, ultimately, as our systems improve, centres devoted to the one topic may be less necessary, because you can create that in a virtual sense across a number of offices. I think I get where you are coming from. If you would like some information about the major visa categories, the ability for them to be the subject of electronic applications, and whether or not that has brought about efficiencies in processing times, I am sure we can provide you with some information about that.

**Senator CROSSIN**—Today, or are you going to take that on notice?

**Mr Metcalfe**—No, I think that is something I want to research, because it will require us to gather comparative data. Comparative data will exist, but I am not sure whether it is readily available for a number of offices. Unless you have a pressing need to understand every visa category, I would prefer that we kept it at the top four or five in terms of numerical numbers, because there would be a great deal of work involved in trying to explore all of that.

**Senator CROSSIN**—If you go back to question on notice No. 37 from 25 to 27 May 2005, you will find that you had just three categories there. It would be okay if you just stuck to those three categories again. This is about processing times for low-risk and high-risk onshore and offshore visas.

**Mr Metcalfe**—I will get some people to look at what I have taken on notice this afternoon and see whether that is something that we can in fact achieve. If we believe that what I have just said is not possible, we might have a conversation with you to try and clarify exactly what we have taken on notice.

**Senator CROSSIN**—I have some questions I want to ask about the quality of performance information on 1.1 and then 457. Are we still on 1.1?

**CHAIR**—Yes, we are.

**Senator CROSSIN**—I want to have a look at table 3.2.1 on page 62 of the PBS. What percentage of temporary residents applied for protection visas?

**Mr Metcalfe**—Applied for protection visas?

**Senator CROSSIN**—Your document says, ‘The percentage of temporary entrants who apply for protection visas decreases.’

**Mr Metcalfe**—I understand.

**Mr Parsons**—By way of example, for the year to 31 March this year, 30 applications for protection visas had been lodged for 457 applicants. As a percentage, that would certainly be well less than one per cent.

**Senator CROSSIN**—What was it for the previous period?

**Mr Parsons**—For 2005-06, for the whole year, it was 30. Again, the total number of applicants for last year was less than what it is going to be by the completion of this financial year.

**Senator CROSSIN**—The figure of 30 that you have given me is from 1 July until now. Is that correct?

**Mr Parsons**—For the first three quarters—from 1 July until the end March. That 30 was from a larger base than the 30 for last year was measured against. It is looking as though it could be a decreasing percentage, because we have a larger base so far this year.

**Senator CROSSIN**—So that is 30 applicants out of how many for these three quarters?

**Mr Parsons**—The year-to-date figure is 64,459.

**Senator CROSSIN**—457 applicants?

**Mr Parsons**—Grants.

**Senator CROSSIN**—And 30 of those have applied for protection visas?

**Mr Parsons**—Correct.

**Senator CROSSIN**—For 2005-06, it is 30 out of how many?

**Mr Parsons**—71,149.

**Senator CROSSIN**—So we will not really be able to make that absolute comparison until we get to the end of the year.

**Mr Metcalfe**—I think it is roughly one in 2,000 people. It is a minuscule number. One in 2,000 is my rough calculation of the percentage. It is not one per cent, it is not a tenth of a per cent, it is a hundredth of a per cent.

**Senator CROSSIN**—So what is the projection?

**Mr Metcalfe**—We are three-quarters of the way through the year and we have chalked up 30, so by plain maths we project it to be about 40, all things being equal.

**Senator CROSSIN**—What did you do to get a decrease in the number of protection visas granted?

**Mr Parsons**—That comes down to the screening of the applicant to ascertain their intention when they come across for a 457 visa.

**Senator CROSSIN**—So you are suggesting that your screening processes have improved?

**Mr Parsons**—There is certainly greater emphasis on the scrutiny of the application process, the sponsor and the position that people come across to.

**Senator CROSSIN**—Under the temporary residents economic visa, what percentage abide by their visa conditions, which is the next output that you would measure?

**Mr Parsons**—I do not have that figure here with me. Can I come back to you on that?

**Senator CROSSIN**—Yes. Has it increased or decreased since the last financial year? What percentage of visa holders have undergone a compliance check, and has that decreased?

**Mr Parsons**—I do not have that figure with me.

**Senator CROSSIN**—Similarly, under output 1.1.8, the percentage of applicants finalised within service standard, what was the figure in 2005-06?

**Mr Parsons**—On page 95 of the annual report is a table which shows that the median processing time was one day for onshore and two days for offshore.

**Senator CROSSIN**—What is it in the three quarters of this financial year? Sorry, what were those figure again?

**Mr Parsons**—One day for onshore and two days for offshore.

**Senator CROSSIN**—The percentage of applications finalised within the service standard?

**Mr Parsons**—The onshore target was one day. I will have to come back to you with that answer.

**Senator CROSSIN**—Yes, because I do not think that answer actually—

**Mr Parsons**—No, I have given you the measure but not the target. I will have to come back to you on that.

**Senator CROSSIN**—What is the take-up rate for the e-lodged 457 visa?

**Mr Parsons**—Roughly 75 per cent, or three out of four, are coming through electronically.

**Senator CROSSIN**—Has that been an increase over the last four years—year by year?

**Mr Parsons**—Yes, it has, and there is a steady trend for that to continue.

**Senator CROSSIN**—You are going to come back to us with those figures and the analysis?

**Mr Parsons**—Yes, I will.

**Senator CROSSIN**—Thanks. Do you have the number of 457 visa holders currently in Australia?

**Mr Parsons**—Yes. As at 31 March this year there were 101,608 holders of 457 visas. That is both primaries and secondaries—and roughly half are primary and half are secondary.

**Senator CROSSIN**—Do we know how many of those in the secondary category are children?

**Mr Parsons**—Not offhand, no.

**Senator CROSSIN**—Is it possible to find that number?

**Mr Parsons**—Yes, I think we can find that for you.

**Senator CROSSIN**—You do not have a breakdown of the secondary numbers as to adults or children?

**Mr Parsons**—We do not have that with us today, no.

**Senator CROSSIN**—Has there been an increase or a reduction in the number of staff who look at and process 457s. Let me put it this way: if the number is 101,608, what was it in the last financial year?

**Mr Parsons**—Last financial year the comparable figure was 79,707.

**Senator CROSSIN**—Has there been an increase in the number of staff to deal with that increase in 457 numbers?

**Ms Daniels**—I have with me the current staffing numbers as at February this year. What I do not have are the previous numbers. However, I have the numbers for the increase in the monitoring side of the program. I do not have the numbers for the increase in the processing side of the program. But in the context of new policy moneys, there will be additional resourcing as the secretary and Ms Grey mentioned earlier.

**Senator CROSSIN**—Yes, we have been through that. What are the numbers as of February this year?

**Ms Daniels**—The total numbers are about 260 in terms of 457 full-time equivalent staffing levels in the service delivery network.

**Senator CROSSIN**—Those monitoring?



**Ms Daniels**—Those monitoring as at February were about 60 and the remainder are probably 195 or so in the processing side.

**Senator CROSSIN**—I assume that monitoring will increase by 190 according to this budget; is that right?

**Ms Daniels**—In the monitoring side, as a consequence of the new policy moneys, we would expect that there would be approximately about 30-plus on the monitoring side going to the service delivery network. In the earlier new policy moneys last year, 22 additional monitoring staff were allocated and most of those people would now be in place.

**Senator CROSSIN**—What were the new staffing allocation numbers we talked about earlier, Mr Metcalfe? You had 190. That is for the citizenship test, is it not?

**Mr Metcalfe**—Yes, I think so. I do not have that bit of paper with me any longer, but those numbers I read out I think were disaggregated across a range of budget initiatives. I think the larger number was citizenship and the 457 was the second largest number.

**Senator CROSSIN**—Do you have an age breakdown of the primary 457 visas?

**Ms Daniels**—We do not have those.

**Mr Parsons**—Not with us, no.

**Senator CROSSIN**—Can you provide that?

**Ms Daniels**—Yes.

**Senator CROSSIN**—That would be useful. How many 457 visa holders became permanent residents in 2005-06 and 2006-07?

**Mr Parsons**—Roughly 20 per cent translate from the 457 across to permanent skilled migration.

**Senator CROSSIN**—Is that pretty consistent, no matter what year it is?

**Mr Parsons**—We are projecting a slight increase of six per cent this year over last year.

**Senator CROSSIN**—Is that because the numbers have jumped from 79 to 101?

**Mr Parsons**—No. I think it is probably reflective of at least two things: First, the growth in the program and, secondly, I got a strong sense from industry consultations earlier this year that employers see an attraction in the 457 program as a try-before-you-buy exercise, so they sponsor a 457 skilled person and then, all things working out, they can move on to an employer-sponsored arrangement or permanent arrangement.

**Senator LUDWIG**—Do those percentages include both primary and secondary?

**Mr Parsons**—Yes, they do.

**Senator LUDWIG**—Can you provide a breakdown of which are primary and secondary in due course? Can you also provide details of how many are aged between 16 and 18 in the primary application, if any? I am not sure whether there is a threshold, but it struck me that you could theoretically employ people aged from 16 to 18.

**Mr Parsons**—We will check that for you.

**Senator CROSSIN**—What is the current average salary of a primary 457 visa holder?

**Mr Parsons**—Roughly \$71,000 per annum.

**Senator CROSSIN**—You will have to take this on notice, but we are after the list of visas by state, occupation and salary bracket.

**Mr Parsons**—Yes. I did not bring that with me.

**Senator CROSSIN**—No, you will not have brought that with you. Can you take that on notice, please?

**Mr Parsons**—Yes.

**Senator CROSSIN**—How many DIAC officers are seconded to the private sector—for example, to peak business groups?

**Mr Parsons**—Are you talking about our industry outreach officers?

**Senator CROSSIN**—Yes.

**Mr Parsons**—There are 15 placed, I believe, across 19 different organisations.

**Senator CROSSIN**—Do you have a list of those organisations? You can take that on notice if you do not have that with you.

**Mr Parsons**—Yes.

**Senator CROSSIN**—What is the role of those officers and what is the annual cost of this program?

**Mr Parsons**—The role of those officers is to engage with those key industry sectors to ensure that there is a two-way flow—that there is understanding by those industry sectors of what the obligations and parameters of the migration program are. In return, we get very useful and very timely insight and feedback from those industry sectors on the effectiveness of the various parameters of the visa programs.

**Senator CROSSIN**—How many officers are there?

**Mr Parsons**—I think there are 15 of those officers in 19 different organisations.

**Senator CROSSIN**—What sorts of organisations are they? Just give me an idea.

**Mr Parsons**—I am certain that there is one in ACCI, the National Farmers Federation, the Australian Industry Group and some of the state chambers of commerce and industry.

**Senator CROSSIN**—What is the cost of the program?

**Mr Parsons**—We would probably have to take that on notice. It would be 15 times whatever the average salary for those officers is.

**Senator CROSSIN**—Plus any operating costs.

**Mr Parsons**—Yes.

**Senator CROSSIN**—Can you also let me know whether that cost has increased over the previous five years or perhaps what the cost of that program has been, say, for the last three years?

**Mr Metcalfe**—From memory, the program was only introduced two years ago.

**Senator CROSSIN**—Can you give me the cost per year for the time it has been operating, then. Have there been any visas approved below the \$41,850 MSL?

**Mr Parsons**—Yes, there would have been, because there is a regional concession which has a floor of 90 per cent—

**Senator CROSSIN**—Do you have an idea of those numbers?

**Mr Parsons**—Yes, we could get those. We have those at hand, if you will bear with me.

**Senator CROSSIN**—We will keep going while you are waiting for those. I want to go to the new budget measures. There is an additional \$85.3 million, I understand, over four years.

**Mr Parsons**—That is correct.

**Senator CROSSIN**—It talks about better educating employers. What are we talking about here in terms of education measures or materials?

**Mr Parsons**—I think it is a range of things. We talked briefly about the industry outreach officer program. One of the key things that we see in moving forward is to increase our use of the ILOs and the regional outreach officers to ensure that the sponsors within industry understand fully what their undertakings are with the 457 program. In addition to that, we will be producing brochures and information on our website just to remove any ambiguity that might be there in the minds of the sponsors.

**Senator CROSSIN**—I will take you to Budget Paper No. 2. On page 273, there is a table that shows the ongoing management of the 457 visas caseload.

**Mr Metcalfe**—We are just seeing whether we can get a copy of Budget Paper No. 2. We have our PBS but we do not have Budget Paper No. 2.

**Senator CROSSIN**—I have only got this photocopied table in front of me.

**Mr Metcalfe**—I do not know whether the committee secretariat has a copy they could share with us.

**Senator CROSSIN**—It is Budget Paper No. 2.

**Mr Metcalfe**—We have it now.

**Senator CROSSIN**—If we have a look at that in comparison to the annual report, your 2006 annual report says that compliance monitoring fell from 100 per cent to 65 per cent in two years. How much of the new money is going towards compliance?

**Mr Metcalfe**—Just while we are responding to that, I think we also explained at the last estimates that we believed what we were in fact doing was better targeting compliance monitoring activity and focusing in on the cases that really deserved attention rather than simply blanketing monitoring activity with fairly low yield results. I think there was quite a discussion on that point when we last saw you.

**Mr Parsons**—The figure I have is \$32.2 million, which will go to the service delivery network. Roughly speaking, that will do two things. It will be for the processing of the 457 visas and the monitoring that you asked about.

**Senator CROSSIN**—That will go towards processing and monitoring.

**Mr Parsons**—Indeed, and I would expect the majority to go towards monitoring.

**Senator CROSSIN**—How will it be spent?

**Mr Parsons**—We will be appointing some new inspectors or monitors to play a more proactive role. As I think you mentioned, we have a risk-based approach to monitoring rather than trying to cover all bases. Where we determine there is significant risk, the new inspectors or monitors will be doing an increased program of site visits.

**Senator CROSSIN**—Do we actually know how many will be increased from the figures you have given me previously?

**Mr Parsons**—We do not have precise numbers, but we are moving from a base of having—

**Senator CROSSIN**—Sixty.

**Mr Parsons**—That is right.

**Senator CROSSIN**—To?

**Mr Parsons**—To roughly 90. So roughly speaking it will be 30.

**Senator CROSSIN**—Will they be placed in all states and territories?

**Mr Parsons**—Yes.

**Senator CROSSIN**—You do not have a breakdown of that?

**Mr Parsons**—No, we do not have it by state. As I think Mr Metcalfe said earlier, the majority of our business is conducted on the eastern seaboard. Probably our largest numbers are Sydney followed by Melbourne, Queensland and so on around the country.

**Senator CROSSIN**—What triggers a monitoring process?

**Mr Parsons**—A number of things.

**Senator CROSSIN**—Do you do it randomly or do you seek to go to most employers who have someone, or do you wait until you get a complaint?

**Mr Parsons**—No. It is informed by a risk-profiling regime, which the department has in place and which will be enhanced following the new measures. One of the prime tools is that the sponsor is required to answer a series of questions at the six-month mark and then annually through the course of their sponsorship. Allied to that, information comes from the customer service line, the dob-in line. We also have profiling of noncompliance, if you like, across industry sectors. At present we pull those three pieces of information together to target the monitoring that we do.

**Senator CROSSIN**—When you talk about profiling you are actually talking about employers answering questions every six months; is that correct?

**Mr Parsons**—No. There are two aspects to profiling. There are the employer's answers to the questions, but also certain industries, regardless of the employer, lend themselves to temptation more than others or to misunderstanding more than others.

**Senator CROSSIN**—Which ones are they?

**Mr Parsons**—It would be no surprise if I were to list hospitality industry, labour hire firms and those sorts of things.

**Senator CROSSIN**—Tell me the other sorts of things.

**Mr Parsons**—Construction, some areas of health.

**Senator CROSSIN**—You are not suggesting that there are rogue employers in the construction industry, are you?

**Mr Parsons**—There could be some misunderstanding of obligations.

**Senator CROSSIN**—What other industries are targeted?

**Mr Parsons**—Manufacturing and certain parts of the health sector, the agricultural sector.

**Senator CROSSIN**—Is every employer expected to answer those questions every six months?

**Mr Parsons**—No. The first questionnaire they get is six months after commencement.

**Senator CROSSIN**—Does everybody get that?

**Mr Parsons**—Yes. Then it is annually thereafter for the duration of the sponsorship.

**Senator CROSSIN**—Are those questions on the website or can you provide the committee with a copy of them?

**Mr Parsons**—Yes, it is readily available. It is the monitoring form. No doubt it has a number and I have no problem tabling it.

**Senator CROSSIN**—Are there plans to review that monitoring—either that form or that process—with increased compliance?

**Mr Parsons**—There could well be.

**Senator CROSSIN**—If there could well be, what could well that be?

**Mr Parsons**—As part of the increased monitoring regime it is worth our while just to have a look at the tools we use and refine or add to them as we see fit. It is still early days in our thinking, but in pursuit of continuing improvement I cannot say that we will not change it.

**Senator CROSSIN**—I brought a whole pile of answers to questions I think you gave me after the last round of estimates. If my memory serves me correctly, in the Northern Territory, for example, over a 15-month period only 16 employers had actually been visited. What triggers a visit from your monitors?

**Ms Daniels**—As Mr Parsons said, there are a number of issues that might trigger a visit. Is it a site visit in particular that you are interested in?

**Senator CROSSIN**—Yes.

**Ms Daniels**—If the monitoring form reveals some sort of discrepancy or some concerns for a monitoring officer, that might be followed up in a number of ways, including a site visit. Other ways that we might launch into—

**Senator CROSSIN**—Can I stop you there?

**Ms Daniels**—Yes.

**Senator CROSSIN**—How many of those in the last year would that have occurred with; do you know?

**Ms Daniels**—How many people have been site visited or how many monitoring forms?

**Senator CROSSIN**—No. How many would have been site visited because of some problem with the questionnaires they filled out?

**Ms Daniels**—The records we have indicate that about 1,400 employers have been site visited until the end of April this year.

**Senator CROSSIN**—Because of the way in which they have answered the questions?

**Ms Daniels**—Not necessarily, but possibly the majority would have been from the monitoring form. Other ways that we might trigger a site visit include, for example, an allegation coming from a visa holder themselves or some issue arising through a union matter or something in the media. So any of those sorts of allegations would also be very quickly investigated, scrutinised. One of the responses to that could well be that we monitor through the sending out of a monitoring form or we might site visit, depending on the nature of the allegation.

**Mr Metcalfe**—The minister has announced that he is proposing that legislation be enacted that will give the department stronger powers to conduct unannounced audits and site visits. Together we are working with increased powers with the Office of Workplace Services as well. What you are looking at is a package of resourcing plus policy changes plus legislative changes, which all go to provide a system which works as well as it possibly can.

**Senator CROSSIN**—Do you keep a breakdown of those sites that are visited based on a newspaper article or a phone call from a trade union or people who do not answer their questionnaire properly? Can you provide those statistics to me by a further analysis?

**Ms Daniels**—Our systems would record the nature of the allegation. I do not know how readily it is available, but we can certainly explore that and get back to you with whatever we can.

**Senator CROSSIN**—I understand the 457 task force has been disbanded; is that correct?

**Mr Metcalfe**—Mr Rizvi, the deputy secretary, was appointed to lead work on this issue from about last August. As I announced this morning, about a month ago he transferred to the Department of Communications, Information Technology and the Arts. Given that the substantial policy task leading up to the budget announcements had been completed, it made sense for me to fold the work of the task force back within the ordinary structure of migration temporary entry division, which is Mr Parsons's division, and the business branch, which is Ms Daniels's branch.

**Senator CROSSIN**—So the task force has not been disbanded; it has just been moved.

**Mr Metcalfe**—We no longer have a task force. The work that was effectively being done in the migration division under Mr Rizvi's leadership has now reverted to what I would regard as more usual management arrangements, with Mr Parsons, the division head, undertaking the lead responsibility.

**Senator CROSSIN**—Does the \$85.3 million that has been announced include anything mentioned in any previous announcements, such as the 27 ASL positions?

**Ms Daniels**—No. That is in addition to those 27.

**Senator CROSSIN**—Does it include the five additional investigator positions—and that is the 22 monitoring compliance positions. Is that right?

**Ms Daniels**—Sorry, Senator.

**Senator CROSSIN**—The 27 ASL positions were 22 additional monitoring compliance—

**Ms Daniels**—And five investigator positions.

**Senator CROSSIN**—So it is in addition to those?

**Ms Daniels**—That is right. Just let me check though that I have not misled you. Did you ask whether the original 27 were part of the 66.1?

**Senator CROSSIN**—No. I asked if the original 27 are part of this \$83.3 million.

**Ms Daniels**—No, they are not.

**Senator CROSSIN**—They are additional to that?

**Ms Daniels**—That is right.

**Senator CROSSIN**—You said to me that in 2006-07 there have been 1,400 site visits to date; is that correct?

**Ms Daniels**—About 1,400, yes.

**Senator CROSSIN**—Were there not targets set for site visits?

**Ms Daniels**—The targets set for site visits last year were about 1,700 and something. I do not have quite the number—1,790.

**Senator CROSSIN**—1,790 out of 10,000; would that be right?

**Ms Daniels**—That is right, and we are projecting to reach about the same number this year. But the nature of the site visit has changed quite significantly in that, as Mr Parsons said, the work is now focused on areas of high-risk and more targeted than it has been previously. So the comprehensiveness and the quality of the outcome would be significantly different now from last year.

**Senator CROSSIN**—So are you saying that you are spending longer and doing more in-depth site visits; is that the essence of what are you saying?

**Ms Daniels**—Both of those components and also in areas of higher risk within the caseload, looking at areas that Mr Parsons mentioned earlier in terms of high-risk industries. Another risk profiling factor could be focusing on areas that are closer to the MSL range rather than on larger companies, government sponsors and the like.

**Senator CROSSIN**—What is the current number of sponsors under investigation then?

**Ms Daniels**—The number of investigations or those sponsors that we have looked at more carefully or in more detail this year is currently about 490, close to 500. But, of those, about

268 have been finalised or are inactive. A number of those employers have been referred to other agencies.

**Senator CROSSIN**—Just give me those numbers again.

**Ms Daniels**—Of about 500 investigations this year, in effect, about half of those—about 250—remain under active investigation by the department and about 250 or so of those have been closed by us or are inactive because they have been referred to other agencies for their own investigation and we are waiting to hear from those other agencies.

**Senator CROSSIN**—So, if it is perhaps a DEWR related issue, you handball the investigation across to DEWR, do you?

**Ms Daniels**—Yes. For example, we might do that to the Workplace Ombudsman or to state IR agencies or other relevant agencies.

**Senator CROSSIN**—So you have 500 sponsors under investigation out of how many?

**Ms Daniels**—I think there are about 12,000 active sponsoring employers at the moment.

**Senator CROSSIN**—What is the process once someone like DEWR or the ombudsman's office completes their investigation? Do they then report back to you so you can close that file?

**Ms Daniels**—Yes. There might be a couple of outcomes. For example, the outcome in the case of, say, the Workplace Ombudsman might be that they take action under their own jurisdiction and the employer faces some sanction in that context. Then, when that employer is referred back to us, we might also impose a sanction in the context of any migration related matters that we identify within our own jurisdiction.

**Senator CROSSIN**—So how many sponsors have come under investigation, say, since our estimates last time in February?

**Ms Daniels**—I think last time when we reported we were using a figure of about 300. Now I am saying to you that we have about 500 that we have looked at and about 250 or so of those are open cases, so to speak.

**CHAIR**—We will now take a break.

#### **Proceedings suspended from 3.30 pm to 3.46 pm**

**CHAIR**—The committee shall resume its hearings. Senator Crossin has some further questions in output 1.1.

**Senator CROSSIN**—I was trying to extrapolate the numbers about sponsors that have come under investigation since the last estimates. Is that an increase of about another 300?

**Ms Daniels**—About 200.

**Senator CROSSIN**—During 2006-07 how many breaches have been found against employers?

**Ms Daniels**—Do you mean sanctions?

**Senator CROSSIN**—Are sanctions and breaches two different things?



**Ms Daniels**—If I may answer the question in terms of sanctions or the results of the investigations: of the investigations that I mentioned, of the about 250 that are closed or inactive, about 88 or 90 or so were found to not have substance, so they were unsubstantiated; 68 were sanctioned; about 50 were warned; and, as I said, 61 were referred to other agencies, and we will wait to hear back about those.

**Senator CROSSIN**—So sixty-one were referred were to other agencies. Is that since February or was it during 2006-07?

**Ms Daniels**—That is the full year to the end of April.

**Senator CROSSIN**—The previous minister referred to the establishment of a 457 compliance mobile strike team. Does such a thing exist?

**Ms Daniels**—At the time, that represented the 22 additional members of staff that you previously referred to and the five investigators. I am not sure that we call them mobile strike teams; we call them additional monitoring resources.

**Senator CROSSIN**—I see.

**Mr Parsons**—There is no reason why investigators or monitoring staff from one state cannot be applied to assist another state with their investigations. That may be where that term came from.

**Senator CROSSIN**—Let me get a firm grip on this then. In your earlier answers, you said there were about 60 monitoring staff at the moment.

**Ms Daniels**—Yes, about 60 at the moment.

**Senator CROSSIN**—Does that include those 27?

**Ms Daniels**—During this program year, we have added about 20 or so to the monitoring staff. So, yes, that is about the 22 that we were funded previously.

**Senator CROSSIN**—So that 60 includes those 20.

**Ms Daniels**—Yes, it does.

**Senator CROSSIN**—What sort of training do people in a monitoring area get provided with?

**Ms Daniels**—I will have to refer to my colleague for the level of training and the specific details to date. But in the context of the focus and the targeted monitoring that Mr Parsons and I have spoken about, we are developing as we speak a more comprehensive package to train our officers with to allow them to undertake monitoring in the way that we expect. We have already developed a program for more investigative interviewing, which we have trialled here in Canberra, and we will be rolling it out shortly. In terms of training to date, I will need to refer to my colleague.

**Senator CROSSIN**—Please do.

**Ms Daniels**—My colleague says that, to date, it is the investigative interviewing training that I referred to.

**Senator CROSSIN**—How do unannounced audits work?

**Ms Daniels**—The secretary has mentioned that the minister has made announcements in terms of increasing our activity in that sphere. But, even now, the scope exists for us to undertake monitoring visits—either announced or unannounced. In the main, however, most of our visits are announced so that the employer has an opportunity to have available the records and, if we want to interview the visa holder, the person is there for interview. As the new enhanced sanction regime develops, we will be looking at the ways that we can do more unannounced site visits and the manner in which we will do those.

**Senator CROSSIN**—Previously, I understand, the department could not demand to actually look at a company's books—for example, you could only ask. Under this new initiative, will there now be a power to demand?

**Mr Parsons**—Certainly the legislative changes that I understand we are contemplating would give us similar powers to the Workplace Ombudsman to be able to enter a—

**Senator CROSSIN**—Similar powers to whom?

**Mr Parsons**—The Workplace Ombudsman—the Office of Workplace Services—in terms of entry and access to pertinent information.

**Senator CROSSIN**—So this new initiative—this \$83 million—will be accompanied with legislation—

**Mr Parsons**—Yes.

**Senator CROSSIN**—to strengthen monitoring officers and what they can do or what they can ask for from businesses. Is that correct?

**Mr Parsons**—Indeed.

**Senator CROSSIN**—What other powers will these officers be able to be given?

**Mr Parsons**—The minister has announced an intention to look at, in extreme cases, civil penalties for sponsors who are found to be in breach of conditions. At present the sanctions regime is a prohibition from being able to sponsor for a period of time, but it stops short of financial penalties. That is a key characteristic of what is proposed for the tighter monitoring regime.

**Senator CROSSIN**—So an employer may get a monetary penalty as well under these proposed changes. Is that correct?

**Mr Parsons**—In extreme circumstances; that is my understanding.

**Senator CROSSIN**—So you will be able to have unannounced visits, increased powers and possible monetary penalties. Is that correct?

**Mr Parsons**—Following litigation. That is correct. The department would be able to litigate as part of the new regime.

**Mr Metcalfe**—That of course requires legislation to be introduced and passed by parliament to enable that to occur. The minister has flagged that the government would introduce such legislation.

**Senator CROSSIN**—When is it planned to introduce that legislation?

**Mr Parsons**—I am not certain of the time frame.

**Senator CROSSIN**—Will it be introduced into the House in these sittings?

**Mr Metcalfe**—We can check and let you know whether we can provide any detail. I think the legislation is still being drafted.

**Senator CROSSIN**—Will the unannounced visits include some of those industries you have identified earlier that have existing issues, such as the hospitality industry or the building industry?

**Mr Parsons**—The unannounced visits I think would be informed by our risk profiling. One element of that, as we flagged, was certain industries historically lead themselves to be higher risk, but that is not the only means by which we do our profiling, as I explained before.

**Senator CROSSIN**—But you may target those specific industries?

**Mr Parsons**—It would be part of the equation, so we would take on board the profiling of those specific industries and we would match that up against, as Ms Daniels said, feedback from our client service lines and feedback from the Office of Workplace Services or other government departments for that matter.

**Senator CROSSIN**—What other powers will these officers have conferred on them? What kinds of powers are we looking at?

**Ms Daniels**—Essentially, at this stage—and obviously these provisions are currently being developed—they will have tougher powers of search and entry. I think that is probably all I can say at this point.

**Senator CROSSIN**—Will they be able to look at Australian workplace agreements in the workplace and make any comparisons there? Will they be able to look at whether a 457 visa holder is being underpaid compared to workers beside them in that industry?

**Ms Daniels**—They would have the powers as they currently do to look at issues related to the minimum salary level, but issues to do with AWAs are obviously a matter for the Workplace Ombudsman.

**Senator CROSSIN**—Which that person would then refer that to?

**Ms Daniels**—Yes.

**Senator LUDWIG**—Can I give you some free advice. There was a matter we came across some time ago in this committee with another department which was also seeking expanded powers in search and the like. I encourage you to at least speak to—if you have not already—the Australian Federal Police and consult more widely with other agencies that may also have similar powers, like the ATO and others, in developing the suite that you might be developing, so that when it does get to a committee such as ours, you have already answered that question.

**Mr Metcalfe**—Thank you. If we have not, we will.

**CHAIR**—Senator Ludwig, we are sure they will take on board that advice, but we are a little more focused on questions at the moment in budget estimates.

**Senator LUDWIG**—I could have framed it in a question.

**CHAIR**—If we had more focus on the questions, that would be helpful. Senator Crossin?

**Senator CROSSIN**—Budget paper No. 2 on page 274 states that the expenditure for 457 visa management will be partially offset by revenue of \$7.9 million over four years from inclusion of fines. Is this the sort of fines that you are now talking about?

**Mr Parsons**—They were the monetary sanctions that I referred to.

**Senator CROSSIN**—Do we know what the scale of fines is?

**Mr Parsons**—No, that is still being determined.

**Senator CROSSIN**—Do we know for what breaches?

**Mr Parsons**—We are still working on that.

**Senator CROSSIN**—It is a work in progress, is it? You have estimated that you are going to bring in \$7.9 million. How was that calculated?

**Mr Parsons**—My understanding is that the sorts of fines and investigative powers that we contemplated were similar to the Workplace Ombudsman, and I think that our modelling was based on the sorts of fines that are imposed in that arena.

**Senator CROSSIN**—How did you come up with that figure?

**Mr Parsons**—As I said earlier on, we looked at the current rate of noncompliance by sponsors, we looked at the range of penalties imposed by the then Office of Workplace Services and we did the maths.

**Senator CROSSIN**—So a straight X number of employers times X amount of breaches?

**Mr Parsons**—Pretty much.

**Senator CROSSIN**—So what are X and Y then?

**Mr Parsons**—I will have to go and get them for you.

**Senator CROSSIN**—That is okay. You put a number in a PBS or in a Budget paper and we like to know how you got to it. If you could get back to us about that, that would be appreciated.

**Mr Parsons**—Okay.

**Senator LUDWIG**—If there was any modelling that developed that figure of 7.9, it would be helpful. When you talk about the 7.9, is that from employers who breach the terms of the 457 agreement or arrangement?

**Mr Parsons**—Yes.

**Senator LUDWIG**—Have you canvassed the range of breaches that you are talking about and the types of breaches? Have you factored those into your calculations of 7.9?

**Mr Parsons**—Again, without the model in front of me, my understanding was that we looked at the range of penalties that the workplace ombudsman imposes and then picked an average figure and multiplied that by the projected number of breaches.

**Senator LUDWIG**—Thank you.

**Senator CROSSIN**—Is the department proposing to move any processing points to a central location, such as Canberra?

**Mr Parsons**—Not at this point in time, no.

**Senator CROSSIN**—The budget announcement included fast-tracking applications. How will this occur?

**Mr Parsons**—Again that is a work in progress, because there are various fast-tracking arrangements in place in different offices. What we seek to do is to learn from the practices that are in place at present and try to formulate a best practice model and promulgate across all posts.

**Senator CROSSIN**—You do not know then who would be eligible for a fast-tracked application or whether some groups would have priority over others?

**Mr Parsons**—I do not know prescriptively what the criteria would be. I can say, however, that what we have contemplated to date is something which is as light-touch administratively as it can be and as transparent as it can be. For instance, it would not be a regime where you apply to the department for that privileged status; it would be one that we would probably determine from your track record or history in sponsoring 457 visas.

**Senator CROSSIN**—So if someone has got a good track record they might be fast-tracked in the future? Is that what you are suggesting?

**Mr Parsons**—That is our current thinking.

**Senator CROSSIN**—If you are fast-tracking some, will that mean longer processing for others? Is that what currently happens now and might happen more in the future?

**Mr Parsons**—My expectation is that with some of the resource supplementation that we heard about earlier this afternoon, there would be resources put aside to focus on the expedited stream. If you are not in the expedited stream, you should enjoy the current processing times that we have today.

**Senator CROSSIN**—Which is around what?

**Mr Parsons**—I think I said the mean was 27 days for ASCO 1 to 3—for the higher professions.

**Senator CROSSIN**—And for the others?

**Mr Parsons**—Around 50 days for ASCO 4 to 9.

**Senator CROSSIN**—Will visa application fees be increased?

**Mr Parsons**—We are not envisaging that at present.

**Senator CROSSIN**—Finally, could I ask you about the English language requirement. Who will be exempt from having to do the IELTS 4.5 test?

**Mr Parsons**—I do not have an answer for that at present.

**Senator CROSSIN**—Would it be maybe a Chinese chef working at a Chinese restaurant, for example?

**Mr Parsons**—To be honest, we have not got that definitive on that front. I know, as you do, that there is an issue with workplace safety and English language. Therefore, I think it is

something that we would want to look at very carefully before we agreed to exempt anybody—be it a Chinese chef in a Chinese restaurant or otherwise.

**Senator CROSSIN**—Will that be in the mix when we see the legislation?

**Mr Parsons**—I would expect so.

**Senator CROSSIN**—What percentage of primary 457 visa people will be required to sit the test?

**Mr Parsons**—My starting position is probably 100 per cent and move back from there.

**Senator CROSSIN**—That has not been determined either, whether there will be exemptions?

**Mr Parsons**—No, that would come into the Chinese chef in the Chinese kitchen, I think.

**Senator CROSSIN**—When are you hoping to have all of this increased compliance up and running?

**Mr Parsons**—I think, heeding Senator Ludwig's advice, as soon as we could determine that we have crossed all bases and got a quality package to put up.

**Senator CROSSIN**—How does this cross-reference with the work that COAG was doing?

**Mr Parsons**—There are many similarities in what I have seen in the COAG proposals and what Minister Andrews has foreshadowed.

**Senator CROSSIN**—What are some of those?

**Mr Parsons**—There is a requirement, if I recall correctly, for labour market testing in the COAG papers where we would, for certain occupations at least, expect the sponsor to have advertised the vacancy on Australian Job Search for a period of time before we are satisfied that that demand could not be met locally. That I think is part of the mix as well.

**Senator CROSSIN**—That is all I have in this area. I am going to go into different ASCO levels next. I want to follow up the COAG paper and look at the ASCO levels. I think in February we were advised that over the last two years the volume of subclass 457 applications has increased quite considerably, and I think our numbers have shown that. The percentage of applications in the lower ASCO groups though has increased faster. What do you actually classify as the lower ASCO groups? The one to three group is the higher one, isn't it?

**Mr Parsons**—That is the one to four group. One to four is the higher group—parts of four, I am informed. It is when we go into the regional concessions area that we go down further in the ASCO classification.

**Senator CROSSIN**—Is it the level lower than four?

**Mr Parsons**—This goes down to seven.

**Senator CROSSIN**—So some parts of four and down to seven?

**Mr Parsons**—For metropolitan sponsors the ASCO range is one to part way through four. If you are in regional Australia and your regional certifying authority says that the requirement cannot be met from within the local labour force then—

**Senator CROSSIN**—Then they look at one to seven, do they?

**Mr Parsons**—Yes.

**Senator CROSSIN**—So what ASCO level was Mr Jack Zhang of A-Print classified as?

**Mr Parsons**—I do not know the answer for that individual in that case. We could make some inquiries. I have other details of the A-Print case but not that particular detail.

**Senator CROSSIN**—Have you got anything that might be able to tell us approximately what level he was assessed at or approved at?

**Mr Parsons**—No, all I have is that there was an issue to do with compliance with the minimum salary level.

**Senator CROSSIN**—Can you find out what ASCO level that was, please?

**Mr Parsons**—Yes.

**Senator CROSSIN**—You would be aware of the article about welders in Brisbane. This was an article that was in the *Courier-Mail* last October. They worked for Dartbridge Welding.

**Mr Parsons**—Yes, I have got a briefing on that.

**Senator CROSSIN**—What ASCO level were those people?

**Mr Parsons**—My briefings do not list ASCO levels, unfortunately.

**Senator CROSSIN**—Perhaps someone could find them for us. I also want to know about the Chinese workers in Sydney at the ABC Tissue Products site.

**Mr Parsons**—We will have to get the ASCO details for you of those three cases.

**Senator CROSSIN**—You said that in 2005-06 the median processing time for ASCO 1 to 3 was around 14 days, is that correct? Perhaps it was 21 days?

**Mr Parsons**—For 2005-06 it was 21 days for ASCO 1 to 3.

**Senator CROSSIN**—And in the first six months of 2006-07 it increased to 26 days: is that correct?

**Mr Parsons**—It was 27 days for the first three quarters, so it was to the end of March.

**Senator CROSSIN**—So what is it now?

**Mr Parsons**—It would be very close to 27 days. I do not have any data since the end of that quarter at my fingertips.

**Senator CROSSIN**—It is not possible to get that?

**Mr Parsons**—We could get it for you for the month of April. I just do not have it with me. I am not aware of there being any significant deviation from where we had been in the first three quarters of the year.

**Senator CROSSIN**—What types of applications have you processed in 14 days?

**Mr Parsons**—Without the details, I would guess that higher ASCO classifications, where there is a much higher quality of information provided and a much clearer understanding of MSL compliance, would be ones that would be processed more expeditiously than those further down the ASCO tree, where it is a much more drawn out process to convince

ourselves that the applicant has the requisite qualifications et cetera. So my guess, without information to hand, would be that for something to be processed in 14 days it would be from a well-known, high-volume sponsor sponsoring one of the higher ASCO classifications.

**Senator CROSSIN**—So the better you perform over a longer period of time the faster your visa applications will be dealt with?

**Mr Parsons**—As I was saying earlier on, various state offices have got various models in place to expedite processing. Where they have repeat business by a known sponsor of high integrity who provides all the information up front without any missing pieces and sponsors highly paid professionals, my understanding is that some state offices are able to process those more quickly than others.

**Senator CROSSIN**—Do you actually expect to approve fewer ASCO 4 people in coming years? My understanding is that the median processing time for an ASCO 4 has increased from 29 to 46 days. What is the difference there?

**Mr Parsons**—Part of it, I think, reflects the overall tightening of not only the labour market in Australia but also the global labour market. By that I mean that if we get 457 sponsors coming from countries that are similar to Australia with similar qualifications then it is a much easier task to validate those qualifications. Where we are headed though in this tighter labour market is that we are getting, by necessity I think, more applicants coming from countries where the risk is higher and the time spent on validating the claim qualifications is longer.

**Senator CROSSIN**—Does that make the processing time increase?

**Mr Parsons**—It does when you have to refer the matter back to our offshore posts to validate the qualifications that are provided or other character related aspects.

**Senator CROSSIN**—Take the processing of ASCO 1 to 3s in comparison with processing of ASCO 4s and above. Is that done in separate departments or in the same area?

**Mr Parsons**—It is pretty much in all the same area but 457 applications do not have the focus that some of our other visa classes do; they are processed in many locations. My understanding is that within the offices it is the one cell of staff that consider the whole lot. They are in our state business centres.

**Senator CROSSIN**—A COAG paper recently suggested that perhaps ASCO 1 to 3s and most ASCO 4s be highly skilled. What is an appropriately skilled ASCO 4 occupation?

**Mr Parsons**—I happen to have my ASCO list here with me. ASCO 4 is, broadly speaking, tradespersons and related workers. If we look at the detail inside the ASCO 4 category, we have mechanical and fabrication engineers and tradespersons; automotive tradespersons; electrical and electronics tradespersons—which, I would hazard a guess, would be a higher skill; construction tradespeople, with various categories under that, including plumbers and others; food tradespeople; skilled agricultural and horticultural workers; and other tradespeople and related workers, which includes printing tradespeople, wood, textiles and miscellaneous. Off the top of my head, I think a good example out of that would be the electrical and electronics tradespeople.

**Senator CROSSIN**—So a gardener, a florist or a cook would possibly not be in ASCO 4?



**Mr Parsons**—Possibly not but possibly. Part of the clarification we hope to get on that grey area will come from the discussions that we have with the COAG group.

**Senator CROSSIN**—What do you mean by that?

**Mr Parsons**—As you would be aware, we put the COAG discussion paper out for comment. In terms of feedback on that discussion paper, we would be looking for some insight into areas of grey such as that.

**Senator CROSSIN**—So that is not definitive? So it is a work in progress still, is it, as to whether such occupations will be gazetted as eligible occupations for a 457 visa?

**Mr Parsons**—As you would be aware, comments on the discussion paper were due back in the department on, I think, 9 May. We are still in the process of going through what was a very healthy response rate to that paper.

**Senator CROSSIN**—I still have a few areas in output 1.1 that I want to deal with. Are there still no apprentices in Australia under the trade skills training visa?

**Mr Parsons**—I think we are actually up to five visa grants for that visa.

**Senator CROSSIN**—Where have they come from and what areas are they in?

**Mr Parsons**—The first of those was from the wheat belt in Western Australia, as I recall.

**Senator CROSSIN**—From the wheat belt?

**Mr Parsons**—From the wheat belt in Western Australia.

**Mr Farrell**—They are working in the wheat belt.

**Senator CROSSIN**—I wanted to know what countries they have come from and what they are doing.

**Mr Farrell**—There is one from Britain, one from Canada, one from the Netherlands, one from the People's Republic of China and one from South Africa.

**Senator CROSSIN**—What areas are we talking about?

**Mr Farrell**—The gentleman from Britain is going to be undertaking a plant mechanic or fitter apprenticeship. There is an electrician apprenticeship, a bricklayer apprenticeship, a commercial cook apprenticeship and a refrigeration and air-conditioning mechanic apprenticeship.

**Senator CROSSIN**—And they have come in since last February, since our last estimates?

**Mr Farrell**—Yes, they have. The visas were granted respectively on 13 March 2007; two on 17 April 2007, on 30 April and on 8 May.

**Senator CROSSIN**—What is the revenue projected for this visa for the 2006-07 year?

**Mr Farrell**—The revenue projection was \$238,750.

**Senator CROSSIN**—What is the likely actual revenue going to be?

**Mr Farrell**—It depends on the final number of visas granted and if we have any more sponsorships. The \$238,000 was based on 40 sponsorships, 60 first visa application charges

and 50 second visa application charges. Given that we are already in late May, obviously we will fall short of that, so we—

**Senator CROSSIN**—What is the revenue that you have from the five that have taken it up already?

**Mr Farrell**—I would need to get a breakdown of the exact revenue to date.

**Senator CROSSIN**—So the \$238,000 was based on how many visas?

**Mr Farrell**—On 40 sponsorship visas, 60 first visa application charges and 50 second visa application charges.

**Senator CROSSIN**—So what is the projection for the 2008-09 year?

**Mr Farrell**—For 2008-09, the projection is 20 sponsorship, 30 first visa application charges and 15 second visa application charges. That would make a revenue projection of \$84,750.

**Senator CROSSIN**—So it has been downgraded.

**Mr Farrell**—Yes, it has.

**Senator CROSSIN**—Why is that; it is not as popular as you thought it was going to be?

**Mr Farrell**—The take-up has not been as we anticipated, yes.

**Senator CROSSIN**—So you are highly unlikely to reach your \$238,000 target this year then?

**Mr Farrell**—It is highly unlikely we will reach it, yes.

**Senator CROSSIN**—That is right. We have had five out of 40, so I can't imagine that we are going to get up to 40 in six weeks.

**Mr Metcalfe**—It is a pretty safe bet; I don't think we will get there.

**Senator CROSSIN**—So it is perhaps not the greatest idea that has been invented.

**Mr Metcalfe**—I think we discussed it before. It was very much in response to advice from industry that they were having trouble obtaining apprentices. The visa was developed as a result. It has been very much demand driven. It is there as something that is available and the take-up has not been high.

**Senator CROSSIN**—What is the age of these apprentices?

**Mr Farrell**—I do not have that information. As you know, for the grant of a visa, they need to be between 18 and 35, but I do not have the exact age of the people that have been granted a visa.

**Senator CROSSIN**—Can I go to the visitors and the working holiday makers—the tourist visas. Can you identify what countries you would consider to be high risk? I understand that high risk is being reviewed or is proposed to be reviewed, so what countries are actually considered high risk?

**Mr Metcalfe**—For working holiday maker visas?

**Senator CROSSIN**—Yes, the visitor and working holiday makers.

**Mr Metcalfe**—Ordinarily, we do not have working holiday maker arrangements with what we would regard as high-risk countries. So, in relation to visitor visas, we do have different arrangements.

**Senator CROSSIN**—So what countries are considered high risk?

**Mr Farrell**—In terms of working holiday maker visas, if we are ever approached by a country we look at their immigration compliance broadly against global averages and determine whether it is appropriate to offer them a working holiday maker visa.

**Senator CROSSIN**—Are there currently countries under review or about to be reviewed?

**Mr Metcalfe**—I might just make a clarifying comment. In relation to working holiday maker schemes, we essentially have a network of reciprocal arrangements with other countries. I think the largest number of working holiday makers, for example, would come from the United Kingdom; but there are other countries—Canada, Japan, the Netherlands—that we have had arrangements with for some time. Traditionally, we have not had working holiday maker arrangements for countries which might be seen as high risk. By ‘high risk’, I mean that there is a higher than global average potential for a person to overstay, apply for a protection visa or to otherwise not comply with requirements.

In relation to a number of countries where there was less confidence about the arrangements and the reciprocal nature of them, we have developed a number of work and holiday schemes, which are limited to people identified by the government as being acceptable for travel to Australia and where the numbers are very limited—they might be capped at 100 a year or something like that.

In relation to visitor visas, the way that we administer our arrangements is to largely, for the last majority of tourists to Australia, make available to them the electronic travel authority, which I referred to earlier. It is available online and available for access through travel agents and airlines. That electronic travel authority is basically provided to countries where there are very low immigration overstay rates. From memory, I think around 85 per cent of all visitors to Australia come here using the electronic travel authority. That does not require any paper application to be completed, any bona fides assessment or other checking of a person.

From memory, I think around 85 per cent of all visitors to Australia come here using the electronic travel authority. That does not require any paper application to be completed, nor does it require any bona fides assessment or other checking of a person. In other countries there will be a variety of visa application processes utilised depending upon the risk environment that they are working in. For example, people from countries with a high overstay or non-return rate may be checked more carefully. This may include using a written visa application or a letter from an employer, for example, stating that the person has a job and is being given annual leave and so on. Those particular arrangements may vary from country to country, depending upon the particular risk profile and other arrangements. Finally, in relation to temporary entry, probably the area where with the most science associated with it—in a global sense—is student compliance. Where there are different gradations of countries of origin, depending upon past performance of students from those areas, the processing requirements are tailored depending upon the overstay rate or non-compliance rates associated with that person. Therefore, nationals of some countries have quite stringent

checking requirements and nationals of other countries have proportionately less. So there are a variety of ways of dealing with risk associated with non-return, depending on the visa type and the place of origin.

**Senator CROSSIN**—We are talking about visitor visas. Are there five countries that you would consider high-risk, where the non-return rate is high and the risk profile is higher than anywhere else?

**Mr Metcalfe**—We can certainly provide advice—and if we do not have it with us we can give it to you, I am sure, fairly soon—as to the proportion of those countries from which the nationals have the highest non-return rate and therefore quite often the sort of people who we would see featuring prominently in our compliance activity in the department.

**Senator CROSSIN**—Can you tell me the top five countries?

**Mr Metcalfe**—I do not have the figure with me. I think we might have a fact sheet on that on our internet site.

**Senator CROSSIN**—I am wondering if you could tell me whether the Balkan states such as Montenegro, Kosovo and Serbia would be up there amongst the five or ten high-risk countries.

**Mr Metcalfe**—We will check and I will let you know shortly.

**Senator CROSSIN**—Are those countries reviewed from time to time, or have they not been reviewed for many years?

**Mr Metcalfe**—As I said, there is regular measuring of non-return rates and overstay rates of particular countries. That will change over time depending upon patterns of activity. But what does frequently occur is that the appropriate risk prevention methodology for a region is regularly reviewed, and that is something that is largely done at a local level in our regions overseas. It also depends upon the progress of the particular economy or country, and of course that can change over time. For example, some years ago China had a significant overstay rate issue, but through modern initiatives—particularly the arrangements we have in place with the approved destination scheme—we now have a very low overstay rate for Chinese nationals. That is a very positive development.

**Senator LUDWIG**—Senator Crossin asked about three types of visas: holiday visas—for want of a better word—the work and holiday scheme and visitor's visas. What reciprocal arrangements are in place for these visas, and which countries, if any, are you negotiating with to expand that process? Does it require reciprocal arrangements, or can you simply nominate it yourself?

**Mr Metcalfe**—No. In relation to the first two, you are correct. They are based upon reciprocal arrangements. The working holiday maker scheme is quite an old scheme which has been added to over time in terms of participating nationalities. The work and holiday scheme is a more modern arrangement, which, as I said, is limited as to numbers. We can come back fairly soon, I think, with some advice as to which countries we currently have arrangements with and whether there are negotiations underway with others in relation to those two categories.

In relation to visitor visas, or tourist visas: anyone in the world, of course, is able to apply for a visitor visa. As I have just explained to Senator Crossin, the arrangements for the consideration, processing and decision making on that visa will vary, but note that around 30 or so countries, representing well over 80 per cent of all visitor visas, come through the electronic travel authority, which does not require an application—

**Senator LUDWIG**—I understand that. In terms of those two that do have reciprocal arrangements, in the last 12 months has any country started the negotiating negotiation process and you have indicated that, no, you will not enter a reciprocal arrangement with that particular country because it is a high-risk country in your view, or for some other reason?

**Mr Metcalfe**—We will come back to you on that.

**Senator LUDWIG**—Thank you.

**Senator CROSSIN**—In relation to students: on page 62 of the PBS, table 3.2.1, the one we were actually looking at before—

**CHAIR**—Senator Crossin, I would just like to make a comment before you proceed with that. A little earlier there were some questions which the department have taken on notice in relation to some newspaper articles. There was a reference to an individual's name. I am just alerting the department to the fact. Individual rights and due process will be respected, I am sure, in any answer that you give in terms of individuals' names that may or may not be in the public arena at this time. I just draw that to your attention. Thanks, Senator Crossin.

**Senator CROSSIN**—I am sure the department officials are well aware that this person's name has been well and truly in the public arena many times in many articles, but let us go to table 3.2.1. What was the percentage of students that became unlawful in 2006-07?

**Mr Parsons**—It was 1.43 per cent for 2006-07. That is for only the first three quarters of the year.

**Senator CROSSIN**—What was it for the previous year, 2005-06?

**Mr Parsons**—It was 0.67 for the comparable period, for the first three quarters of the previous year.

**Senator CROSSIN**—Have the numbers of students increased?

**Mr Parsons**—Yes, they have.

**Senator CROSSIN**—What was the total number of students for 2005-06?

**Mr Farrell**—In 2005-06 there were 191,013 student grants, compared to 175,395 for 2004-05. For this year, to date we have 170,145. On current trends, we anticipate that by the end of the financial year there will be an increase in this financial year versus the previous one of around 19 per cent.

**Senator CROSSIN**—So what percentage of student visas were cancelled for nonattendance or for not meeting course requirements?

**Mr Farrell**—I would need to get that breakdown.

**Senator CROSSIN**—If you are taking that on notice, could you tell me what the percentage was for the previous year?

**Mr Farrell**—Yes.

**Senator CROSSIN**—And what was the percentage of applications finalised within the service standard?

**Mr Farrell**—Again, I would need to take that on notice.

**Mr Parsons**—We do have some figures on the percentage of students whose visas were cancelled for non-attendance or not meeting course requirements. I refer to the annual report at page 73.

**Senator CROSSIN**—Yes, this is for 2005-06, isn't it?

**Mr Parsons**—Yes, in fact it goes back to 2002-03 and all the way through to 2005-06.

**Senator CROSSIN**—Just give me the figure for 2005-06.

**Mr Parsons**—It is 1.58 per cent.

**Senator CROSSIN**—Do you have a figure for the first three quarters of this year?

**Mr Parsons**—No, not on us.

**Senator CROSSIN**—I think that is output 1.1 finished.

**CHAIR**—Thank you Senator Crossin. Thank you departmental officers.

**Mr Parsons**—We have some answers on the ASCO codes for the three companies that Senator Crossin asked about earlier. Senator Crossin asked about A-Print. The individual involved was employed as a printing machinist. The ASCO code for that is 4912-11. At Dartbridge Welding the individual concerned was sponsored as a welder first-class—the ASCO code being 4122-15. ABC Tissue Products in fact has 12 different positions. They range from a project manager in construction through to interpreter; supervisor of mechanical engineering, times two; a supervisor fitter; a supervisor pressure welder; a supervisor sheetmetal worker—it must be pretty harsh toilet tissue!—a supervisor electrician; a general electrician; a baker and a cook. The ASCO codes range from ASCO 1191-11 down to ASCO 4513-11. I have the intermediate ones if you are interested.

**Senator CROSSIN**—Yes, thank you.

**Mr Parsons**—For the interpreter it is 2529-13.

**Senator CROSSIN**—You can just table them. Maybe take it on notice, get it typed up and give us the levels with the other answers then. I think that provides what we wanted.

**CHAIR**—Mr Parsons, are there any other answers that you would like to advise us of?

**Mr Parsons**—Not at this point in time.

[4.37 pm]

**CHAIR**—We move now output 1.2, Refugee and humanitarian entry and stay.

**Senator NETTLE**—I would like to go back to the issue that I raised previously, which was about the exchange of refugees between Australia and the United States. My question is: where did that idea come from?

**Mr Metcalfe**—The relocation of refugees or resettlement of refugees of course is not a new thing. I note, for example, that some of the people who arrived at offshore processing centres in the early part of this decade and who were found to be persons in need of international protection were settled in New Zealand. A small number, I think, were settled in Scandinavia. I am also advised that the United States, in relation to its intercepted caseload of people from Haiti and Cuba, has an agreement with Canada—and it has had those arrangements in place since around 1992—and has also resettled refugees in a number of other countries.

**Senator NETTLE**—How did this particular arrangement come about?

**Mr Metcalfe**—I do not think there is anything particularly new in this case. Indeed—in relation to people who were intercepted on their way to Australia and who were placed in an offshore processing centre, screened and found to be in need of international protection—the committee has quite often asked the question: what happens to them then? The government has made it clear that it is seeking to deter people from undertaking travel to Australia in such risky conditions and has indicated that resettlement in Australia is not ordinarily an option.

It is not an option for people to remain on Nauru indefinitely. It is not an option to refer a refugee against their will to return to the country from where they have originated on the basis that that would be a clear breach of the refugee convention. Therefore it seems logical that some form of resettlement arrangement in another country or other countries is the inevitable outcome of that set of policy arrangements.

**Senator NETTLE**—Did Australia initiate this arrangement?

**Mr Metcalfe**—I would have to check. I suspect the answer is probably that it is an iterative process whereby both Australia and the United States are aware that they have not dissimilar cases in a legal sense—people who have been intercepted trying to access their territory and who are refugees and are not able to be returned home—and that there may be some way of working together in relation to this issue.

**Senator NETTLE**—Would you be able to tell the committee when Australia first approached the United States about this arrangement?

**Mr Metcalfe**—I will take that on notice.

**Senator NETTLE**—You made reference in your answer to attempts by the Australian government to find a range of different countries to take asylum seekers who have been coming to Australia.

**Mr Metcalfe**—That is correct.

**Senator NETTLE**—Because you made reference to 2000-01, I am interested in whether the Australian government has been in discussions with the United States, as a potential place where asylum seekers could go, since 2000-01.

**Mr Metcalfe**—I have already said that I will take that issue on notice as to when the approach was made or when the discussions first occurred with the United States. The department and the government, through the good offices of the United Nations High Commissioner for Refugees, have actively sought to resettle people from Nauru who are part of the intercepted caseload. As I said, many people went to New Zealand, some went to other

countries and some came to Australia. Indeed, I think the very last of the previous group went to Sweden. This is not an unusual thing that we are talking about here. It is consistent with a commitment to ensure that a person in need of protection is ultimately granted a long-term durable solution.

**Senator NETTLE**—In all of the other instances that I am aware of there has not been a swap component of the arrangement and it has been an attempt by the Australian government to find another country that will take asylum seekers who had come to Australia. This deal strikes me as one slightly different to what we have had elsewhere. Can you provide us with any explanation of why that is the case?

**Mr Metcalfe**—I would not describe it as a swap arrangement. What Australia and the United States have indicated is that, because both have caseloads of persons for whom they are responsible outside their territory, it makes sense for them to work with each other as part of broader work with the international community in this area. I am not too sure, and Mr Hughes may have more detail, as to whether other countries have similar caseloads. As I have said, the United States has had a policy in place for well over a decade of seeking to intercept people travelling to the United States unlawfully by sea from Cuba and Haiti and it has returned many of those people to those countries if they are found not to be refugees. In relation to people identified as refugees, it has provided them with temporary accommodation at the US naval station at Guantanamo Bay, in Cuba, which is part of the US controlled area. It has sought to look for long-term durable solutions in relation to those people which do not include them travelling to the United States.

**Senator NETTLE**—Are there any other countries that you are aware of that have entered into a similar arrangement of ‘we’ll take your asylum seekers if you take our asylum seekers’?

**Mr Metcalfe**—They are not asylum seekers; they are refugees.

**Senator NETTLE**—Okay. Are you aware of any countries that have entered into arrangement whereby they have said, ‘We’ll take your refugees if you take our refugees’?

**Mr Hughes**—I am not aware of any such arrangements. But that does not mean that something along those lines has not occurred. For example, I believe that Canada as part of its safe third country agreement with the United States, which involves certain asylum seekers in Canada being able to return to the United States if they came from the United States, has agreed to look at some refugee cases or protected persons cases from Guantanamo Bay. It is not the same as the arrangement that Australia has reached with the United States, but it is an example of where in negotiations different matters of interest to each country have been covered in the agreement.

**Mr Metcalfe**—As you know, both the United States and Australia have very proud records of refugee resettlement. The United States annually takes around 70,000 refugees internationally and is by far the biggest contributor to the long-term resettlement of refugees world wide. Australia this year will take 6,000 refugees. Our refugee intake was increased by 50 per cent a couple of years ago. Australia will also take a total of 7,000 people under the humanitarian and onshore protection program. What has been decided in this case is that some—a very small component—of the 6,000 places for people who will be resettled to



Australia might be made available to people who are found to be refugees and who are currently located at the US naval station at Guantanamo Bay in Cuba. Similarly, the United States has agreed to consider taking, as part of the 70,000, small numbers of persons who are found to be refugees and who are located on Nauru.

**Senator NETTLE**—I am wondering when you will be able to come back with an answer about when we approached the United States on this. I have a series of other questions that relate to the timing around that.

**Mr Metcalfe**—Discussions extended over some time. You have asked for advice as to when the first approach was made. We will need to check back through files. I do not anticipate having an answer during the course of these hearings over the next two days. We will need to do some research to make sure that we give you the right answer.

**Senator NETTLE**—Okay. Can you give us an indication of whether that date would have been before or after the arrival of the Burmese Rohingya asylum seekers on Nauru?

**Mr Metcalfe**—It was before that time.

**Senator NETTLE**—When is this arrangement or swap—whatever you choose to call it—

**Mr Metcalfe**—‘Arrangement’ is the correct word.

**Senator NETTLE**—I will choose my correct word.

**Mr Metcalfe**—You seemed to be searching for advice as to what the correct word was, so I thought that I would tell you.

**Senator NETTLE**—Thanks.

**Senator LUDWIG**—Is there a copy of the arrangement available?

**Mr Metcalfe**—No, it is confidential to the governments of the United States and Australia.

**Senator NETTLE**—When does it start?

**Mr Metcalfe**—It is in operation now.

**Senator NETTLE**—Will the Burmese Rohingyas on Nauru be going to the United States?

**Mr Metcalfe**—No. As far as I know, none of the cases currently on Nauru have been referred to the United States for possible consideration of resettlement because as of yet none of those persons has been determined to be a refugee bar two of the Sri Lankan arrivals, who had been in receipt of a UNHCR mandated refugee status prior to coming to Australia but still chose to travel here. As far as I know, those persons have not yet been referred for resettlement consideration by anyone.

**Senator NETTLE**—Okay. Given that the arrangement is in place now, all of those people currently on Nauru may well be—

**Mr Metcalfe**—If there are any refugees among that group—and that is a matter that is yet to be determined—then it is possible that some of those cases will be referred to the US for consideration.

**Senator NETTLE**—You would be aware of the commentary here, in the United States and in the Haitian press about how there is a sense of excitement about the fact that this may be a

way that people can gain access to the United States. There has been commentary from Haitians about how coming to Australia is a way that they can get an easy green card or access into the United States. Is this something that the department or the government took into consideration in making this deal or arrangement?

**Mr Metcalfe**—By definition, you cannot take comments into consideration if they are made after you do something. But the question that you are asking is, ‘Was there a concern that the arrangement would lead to a pull factor?’ The answer to that is no. There was no view that the arrangement would lead to a pull factor.

**Senator NETTLE**—What do you mean by ‘a pull factor’?

**Mr Metcalfe**—Would it make illegal travel more attractive because—

**Senator NETTLE**—An increase in people smuggling.

**Mr Metcalfe**—An increase in people smuggling. The answer is of course not.

**Senator NETTLE**—It is fair to ask the question—

**Mr Metcalfe**—Yes, but—

**Senator NETTLE**—because I want to understand what assessment was made.

**Mr Metcalfe**—That is right. I do not want to be unhelpful, but it seems to me that the Australian government is not going to enter into an arrangement if it believes that it would lead to an increase in people smuggling. We do not believe that it will lead to an increase in people smuggling.

**Senator NETTLE**—The Australian government has made a number of statements about an attitude of deterrence that they believe exists in our current immigration processes. I have concerns around how that operates, but let us work within the framework of the government talking about deterrence. Is it the view of the government that creating a mechanism by which people seeking asylum in Australia may gain entry as refugees into the United States is a deterrent?

**Mr Metcalfe**—I think, taken as part of the overall arrangements, which involve working with regional countries to prevent illegal travel and illegal departures for Australia—the offshore processing arrangements—it was seen as a logical part of an overall suite of measures. I again invite you to consider the alternative, Senator. In a policy environment where, if a person is a refugee, they cannot against their will be returned to the country of persecution, where Australia has said that it does not wish to take people because it does not wish to reward people who travel who have travelled illegally to Australia and where Nauru has indicated that it is prepared to accommodate people for a period of time but not indefinitely, you logically come to the conclusion that Australia should explore with other countries whether resettlement may be available for people who are in fact refugees—which is exactly what occurred with people going to New Zealand and Scandinavia in relation to previous groups who arrived some years ago.

**Senator NETTLE**—Do you accept that some refugees may see entry to the United States as a reward?

**Mr Metcalfe**—I believe that a person who is in need of international protection should regard any place of safety as a reward, and that is what is being provided here. I would not want to get into speculation as to whether Australia is seen as more attractive than the United States or New Zealand or Scandinavia or whatever, but this is a measure as part of a suite of arrangements determined to ensure that people do not risk their lives travelling illegally when they have other avenues of seeking a focus on their claims but at the same time ensure that people who are refugees are not sent back to persecution.

**Senator NETTLE**—Is that a view reflected by the government as well—that protection for people who are found to be refugees should be seen as a reward?

**Senator Ellison**—I think what Mr Metcalfe has said is not that; it is something quite different, and that is that people who are refugees want safe haven, no matter what. If they are dinkum and they are refugees and they are trying to escape the persecution which makes them a refugee, it is not a question of forum shopping or country shopping; your prime concern is to escape the persecution and to seek safety. That is what Mr Metcalfe is saying, and it is a view that the government agrees with. The primary consideration for refugees is to give them safe haven, not to work out which one they would prefer. I think that they themselves want a safe haven first and foremost, before anything else. If they are dinkum, that is what they want.

**Senator NETTLE**—The reason I asked the question was that I see safe haven for refugees as a right that the international community has accepted by signing up to the refugee convention, rather than as a reward—

**Senator Ellison**—So does the government.

**Senator NETTLE**—which was why I was asking the question about the terminology of ‘reward’ being used.

**Mr Metcalfe**—I have never used the word ‘reward’, and I do not think any minister has used the word ‘reward’.

**Senator Ellison**—I think, Mr Chairman, it was Senator Nettle that first used the word.

**CHAIR**—Yes. I think Senator Nettle referred to the word, but anyway Mr Metcalfe and the minister have clarified that point, I think.

**Senator NETTLE**—I did pick it up from Mr Metcalfe’s answer about whether he considered entry to the United States a reward or not. Mr Metcalfe, are you or the department or the minister aware of reports that there has been an increase in the number of people fleeing Haiti for the United States in recent times? There has been commentary to suggest that this has been because of the deal or arrangement between Australia and the United States for entry. Are you aware of those reports?

**Mr Metcalfe**—Yes.

**Senator NETTLE**—Do you have any comment about them?

**Mr Metcalfe**—I will get Mr Hughes to expand on that. This is one of the many areas in which you should not believe everything you read in the newspapers. But we are happy to provide some advice on that.

**Mr Hughes**—I have seen those newspaper reports and we have looked into them. I think they were completely speculative assertions about the fact that there had been an increased outflow of people from Haiti and the reasons behind that. There is a whole complex of reasons why people leave Haiti. The very difficult economic situation in Haiti is seen to be the main motivating factor. As to why there has been a spike in the number of Haitians heading for the United States in recent times, the most plausible explanation we have been able to find from the US authorities is that 100 Haitians recently made it to the US mainland in a boat and, as a result of that, they had a positive preliminary assessment of their claims for protection in the United States, which increased their chances of being able to stay there. That is probably a much more plausible explanation than claims that people left Haiti because they thought they might be able to get to Australia.

Let me make another observation about that. My understanding is that, within the last year, only one of the 2,500 Haitians interdicted by the United States authorities at sea has been found to be in need of protection and has been sent to Guantanamo Bay for the possibility of international resettlement. Given that the United States already had a number of resettlement options from Guantanamo Bay before reaching this understanding with Australia, it seems highly implausible that people who had a one in 2,500 chance of being sent to Guantanamo Bay for international resettlement would spontaneously start to leave in large numbers because one additional country is added to the many countries where people can go from Guantanamo Bay.

**Senator NETTLE**—Is the government in discussion with any other countries about making a similar arrangement?

**Mr Metcalfe**—There are discussions that take place from time to time.

In **Senator NETTLE**—That is not quite what I was getting at.

**Mr Metcalfe**—I answered you quite deliberately.

**Senator LUDWIG**—Are you able to say which countries you are currently negotiating with?

**Mr Metcalfe**—I would prefer not to.

**Senator LUDWIG**—Back to you, Senator Nettle!

**Senator NETTLE**—I am very happy if you want to help!

**CHAIR**—Senator Nettle, Senator Payne would like to ask a question on a similar matter relating to the Australia-US exchange.

**Senator PAYNE**—One of the reports I saw about this arrangement indicated that those persons deemed to be refugees in the United States would in fact be brought to Nauru before they were brought to Australia. For what purpose are they brought to Nauru in the first instance if they are already refugees?

**Mr Metcalfe**—That is an example of incorrect reporting or speculation.

**Senator PAYNE**—That is why I am seeking clarification from you.

**Mr Metcalfe**—Thank you for raising that. As I indicated earlier, we would treat any persons resettled in Australia pursuant to this arrangement as part of our 6,000 refugee places.

People would be brought to Australia and assisted to resettle in Australia as part of our humanitarian settlement arrangements. Why someone put two and two together and came up with 17 about Nauru, I just do not know. But it is certainly incorrect.

**Senator NETTLE**—Correct me if I am wrong, but I thought you were saying there are currently no asylum seekers or refugees that have come to Australia that are in train to be sent to the US. You explained the process on Nauru, which I understand.

**Mr Metcalfe**—What I said was that, of the 90 or so persons currently on Nauru, two Sri Lankans have been found by the United Nations High Commissioner for Refugees to be refugees. They were in receipt of that status prior to coming to Australia. We will work with UNHCR in relation to their settlement as refugees. In relation to all the other persons on Nauru, we are still in the process of discovering whether they are refugees.

**Senator NETTLE**—So the Australian government has not referred anyone to the United States at this point in time?

**Mr Metcalfe**—That is correct.

**Senator NETTLE**—Has the United States referred any cases to the Australian government for resettlement here?

**Mr Metcalfe**—Not yet, but there is an available caseload in the US naval station on Guantanamo Bay, and it is my expectation that we could well receive some referrals from the US authorities before too long. But, as far as I know, we have received none yet.

**Senator CROSSIN**—I have a few questions around this, building on what Senator Nettle raised. When you categorically say that it is not a swap, is that because this scheme does not require a direct exchange of one refugee for another refugee?

**Mr Metcalfe**—That is correct.

**Senator CROSSIN**—So we are really playing with words here. We are not just talking about one on one, are we? We might be talking about a bunch versus a couple.

**Mr Metcalfe**—The arrangement indicates that each country may refer and consider up to 200 cases per annum. The United States may refer 200 to us and we may refer 200 to them. We do not have 200 right at the moment. We do not have any. Therefore, I personally do not use the word ‘swap’, because it implies that I will give you one of mine if you give me one of yours. There is an indication, I think, of broad parity in terms of resettlement numbers, but it is not specific as to a swap.

**Senator CROSSIN**—Does the United States have similar agreements as this with other countries?

**Mr Metcalfe**—I think Mr Hughes may have said earlier that there is an arrangement with Canada. The United States also has resettled people from Guantanamo Bay in a number of other countries.

**Senator CROSSIN**—But that is what they do, is it not? They have this deal with other countries and hold the refugees that are part of this arrangement in Guantanamo Bay, do they not, until these arrangements or swaps—for want of a better word—occur? Is that not right?

**Mr Hughes**—I would not necessarily say that they have deals with other countries. It is simply that the United States have taken the position that people intercepted from Cuba and Haiti will not be resettled in the United States—those who are found to be refugees. They have indicated that they want them to get resettled in other countries. They have managed to do that in practice so far in, I think, 14 countries, including Latin American countries, some European countries and Canada. I do not have the details of all of the numbers or the precise basis on which—

**Senator CROSSIN**—So they have an arrangement similar to this with 14 other countries now?

**Mr Hughes**—No, that was the point I was going to make. I do not have the details of the basis on which those other countries have agreed to take people from Guantanamo Bay. I mentioned that I do know that, as part of the safe third country agreement that Canada has with the United States about return of asylum seekers transiting the United States into Canada, there is some provision for Canada to look at people on Guantanamo Bay. So I am not making any blanket statement; I am just saying that, in practice, without knowing the precise mechanism, we know that the United States have managed to get people resettled in 14 countries from Guantanamo Bay.

**Senator CROSSIN**—So if we do not call it a deal perhaps we might call it an agreement. So they must have whatever it is—an agreement, a memorandum, an understanding—with at least 14 other countries. If they have moved Cubans or Haitians through Guantanamo Bay to other countries, there must be some sort of dialogue between the US and 14 other countries.

**Mr Hughes**—I think ‘some sort of dialogue’ would be correct, but I cannot answer about the nature of the dialogue.

**Senator CROSSIN**—It is actually the number that I am trying to get at. This might be unique for Australia—and we will get to that in a minute—but, as far as you are aware, the US actually has a dialogue about this program with 14 other countries. Is that correct?

**Mr Metcalfe**—At least 14. I think what we are saying is that, according to the information we have, 14 countries have accepted Haitian and Cuban refugees from Guantanamo Bay. The basis of that—whether it is a written agreement or an understanding—is not something that we are familiar with. What we do know is that, with Australia, there is in fact an exchange of letters constituting an arrangement.

**Senator CROSSIN**—As I understand it, the US in fact call this their ‘Caribbean Solution’—where they hold these people at Guantanamo Bay in Cuba or in Puerto Rico. It was, I think, a strategy that was originally put together by George Bush Snr. Is that correct?

**Mr Hughes**—I cannot say precisely what they call it, but I have seen the term ‘Caribbean Solution’ applied to what they are doing. Whether that is a US terminology or not, I cannot say.

**Mr Metcalfe**—I am not sure when it first commenced. It may well have been the first President Bush. I do know that there was a significant tightening of policy in 1992 or 1993 under President Clinton, which effectively sought to screen people on US ships on the high seas and directly return them. I think that was not sustainable logistically at that particular

time. So it has been US policy for well over a decade and prior to the present administration and probably the previous administration.

**Senator CROSSIN**—It could well have been our policy for more than a couple of years, could it not? Our research tells us that in May 2002 a story broke in Australian newspapers that we were to enter into this arrangement with the US. Is that not correct? At the time, Minister Ruddock actively sought to deny any press reports of that nature. Is that true?

**Mr Metcalfe**—I am not in a position to respond to that. I am not sure if you were here, Senator, but I previously undertook to Senator Nettle to provide on notice some advice as to when these discussions may have first occurred. I indicated that it was prior to the arrival of the current groups on Nauru. They arrived some months ago.

**Senator CROSSIN**—Our research tells us that on 18 May 2002 the *Weekend Australian* broke a story that Australia was considering, and a press release issued that day by Minister Ruddock denied that the reports were true.

**Mr Metcalfe**—I will provide advice on notice.

**Senator CROSSIN**—Our research also tells us that the Minister Ruddock confirmed that Australia had agreed to accept into Australia as refugees a small group of Haitians—in fact, five—who had been held by the US at that time. Do we know of any other American refugees that we have accepted in the past as part of any sort of sharing arrangement?

**Mr Metcalfe**—I am certainly aware of Australia taking in the late seventies or early eighties a number of Cuban refugees who were the responsibility of the United States. I am not sure if anyone has any other recollection on that.

**Mr Hughes**—As Mr Metcalfe said, in around 1979 or 1980 I think we might have taken about 60 Cuban refugees from the United States. There was a very large outflow around that time into the United States. The United States sought the assistance of a number of countries to possibly take some of those, and Australia did. I cannot confirm off the top of my head with or not it was in 2002, but I think you are right that there was a small number—five sounds about right—in recent years, but I do not believe that that was part of any reciprocal understanding or arrangement at the time. I think Australia simply undertook to take them. But that is really dredging my memory.

**Mr Metcalfe**—If we can add to that, we will.

**Senator CROSSIN**—My understanding is that Minister Ruddock said at the time that this was part of ‘a long, established custom of burden sharing’. I am wondering why Minister Ruddock was so eager to deny reports of any agreement back then, but we seem to want to embrace it now in 2007. What has changed?

**Mr Metcalfe**—I do not know what occurred back then as to what happened or did not happen or what the then minister said or did not say. I do know what has happened more recently, where we have entered into this arrangement with the United States.

**Senator CROSSIN**—Have any refugees that we are aware of been swapped under the mutual assistance agreement?

**Mr Metcalfe**—I have already answered that question.

**Senator CROSSIN**—Are we paying the airfares of those refugees to be sent to the USA?

**Mr Metcalfe**—We regard any persons accepted as refugees under this arrangement as people who are part of our overall refugee intake for the year—which is 6,000 people—and those people are provided with assistance to travel to Australia and with resettlement assistance in Australia. In the same way that we would take people from all over the world, we would take people who are part of this case load on the basis that there is a broad reciprocity between the Australian and US positions.

**Senator CROSSIN**—We may have had people come in 1979 and 1980. We may well have had five come in around 2002. What is being proposed now that is different to what occurred back in 1979, 1980 and 2002?

**Mr Metcalfe**—From what Mr Hughes said, it is testing everyone's knowledge. I was at university in 1979.

**Senator CROSSIN**—Certainly not in 2002 I would suggest.

**Mr Metcalfe**—No, I was around here then.

**Senator CROSSIN**—That is right.

**Mr Metcalfe**—Dealing with 1979, I think there was a large outflow of people from Cuba to the United States and the United States sought to internationalise the issue. Australia took a number of people. I cannot recall the prevailing conditions in 2002, but I note, as I noted in response to Senator Nettle earlier, that many of the people who sought to come to Australia and were intercepted and taken for offshore processing were resettled in third countries such as New Zealand and Scandinavia. Some did come to Australia. I have also indicated that for some time—and I will check as to when it was first raised—Australia and the United States have been talking about the fact that they had policies associated with offshore entry. They decided that, in order to ensure people who are refugees are offered a durable solution, resettlement in another country would appear to be a sensible way of going about that.

**Senator CROSSIN**—Is the US still keen to pursue this?

**Mr Metcalfe**—As far as I know, Senator; we have just signed an arrangement with them.

**Senator CROSSIN**—Are you putting to us this afternoon that the article that was published entitled 'Australia, US refugee deal seen as bait by Haitians' is inaccurate? I am referring to the article that talks about the number of people who will be—

**Mr Metcalfe**—Mr Hughes has just explained that we have had some discussions with colleagues in the United States and the best that we can see is that the increase in Haitian activity is linked directly to a successful arrival of a vessel in the United States. We also note that the actual success rate for Haitians as refugees is miniscule. Therefore, the actual number of persons who may be acceptable for resettlement would be very low.

I do agree though that one of the conundrums that governments have to face—and this is not new as it is something that has been dealt with by this government and the previous government—is the potential for people smugglers to espouse all sorts of fanciful suggestions as to what will happen if you pay the money. We are largely dealing with organised criminals who are quite happy to promise the world to people and assist them to undertake tragic



voyages; we have seen people tragically drowned on their way to Australia. We have absolutely no interest in encouraging that sort of activity. Australia runs a large well-resourced refugee and humanitarian program. We are amongst the most generous countries in the world. We strongly urge everyone who believes they are in need of assistance to contact the UNHCR.

**Senator CROSSIN**—Mr Metcalfe, you have yet to tell me whether in fact you have done any research to ascertain how many Haitians are getting to America each year or whether the figures in that article are incorrect. That article suggests that, in 2006, 769 Haitians made it to America. In March of this year only five got there and yet in the month of April 704 were either intercepted or rescued. The number for April is pretty close to, or not far from, the number of Haitians that tried to get to America in 2006. Have you not done any research that might show you that this announcement corresponds with that increase?

**Mr Metcalfe**—I am sorry, Senator, but we have been asked that question and we have answered that question.

**Senator CROSSIN**—And the answer is you have not done that research.

**Mr Metcalfe**—No, the answer is that Mr Hughes provided a comprehensive answer only about 20 minutes ago. If you would like, we can repeat the answer but it is on the record.

**Senator CROSSIN**—Who have you asked in America; who have you gone to; what research have you done?

**Mr Metcalfe**—The Australian embassy in Washington has had discussions with the Department of Homeland Security and possibly the State Department. The advice Mr Hughes provided earlier in relation to the article was that the suggestion that a direct outcome of publicity associated with the Australia-US arrangement has led to a spike in departures from Haiti appears to be completely unfounded. We have said that already on the record in the last 30 minutes but we can repeat it.

**Senator CROSSIN**—Based on what though; why do they come to that conclusion?

**Senator Ellison**—On discussions—

**Mr Metcalfe**—The advice we had from US officials is that it is much more likely to be associated with the successful arrival, touch base, of a group of Haitians in the United States.

**Senator Ellison**—That is because a whole bunch of them managed to get their foot on the ground in the United States, because the US has that principle that, if you manage to put one foot on dry land, it then triggers a whole lot of requirements which have to be followed and you get your foot in the door—pardon the pun. That is what has done it, not anything that is happening over on this side of the world.

**Senator CROSSIN**—And there is nothing from your intelligence that suggests that that increased effort will not continue in the following months as people know that at the end of it they may be lucky enough to get an airfare to Sydney?

**Mr Metcalfe**—I am not into speculating about things. The other thing that Mr Hughes said was that the facts are that the actual numbers of Haitians found to be refugees as a result of the US process are minuscule. Therefore, it would also be well known to intending boat

people from Haiti that the results of a refugee status determination are very, very slim. To then extrapolate out that knowing that, the fact that there is now resettlement possibly in Australia in addition to Canada and 13 or 14 other countries, will lead to large-scale departures is really making an enormous leap of logic. We will see what happens in the future and what actually occurs. But, from my many years experience in this area, it is more plausible to suggest that the successful arrival of a boat on the US mainland, where effectively the people are able to enter the US system, at a time when there has been enormous speculation in relation to some form of amnesty or other regularisation of status—just reading news reports over the last couple of days it appears that Congress and the administration are doing a deal which will allow 11 million or 12 million illegals in the United States to remain with some sort of status—I would have thought that would be a far greater pull factor to the United States than some potential resettlements in Australia.

**Senator CROSSIN**—Do we know how many of those Cubans or Haitians currently sitting in Puerto Rico or Guantanamo Bay have been assessed as refugees and do we know how many we will take?

**Mr Hughes**—I believe the number there in Guantanamo Bay assessed as needing protection is less than 50 and, as Mr Metcalfe said earlier, we have not yet had any cases referred to us.

**Senator NETTLE**—Mr Metcalfe, you were making an argument that it is not a direct swap one for one but you thought the arrangement had an expectation as a part of it that an equal number of people would be—

**Mr Metcalfe**—Absolutely.

**Senator NETTLE**—I am just basing this on what you said, that there is a small number of Haitians that have received refugee protection, and the figure that Mr Hughes gives us is less than 50. You used the earlier example around the number of people on Nauru who had been found to be refugees, which is quite a large number. I am just trying to work out this ‘parity in numbers’ argument that you were putting forward in order to get some understanding of what kind of scale you are talking about. I accept it is up to 200. You are saying that the US has more than 50 and if they are sharing with 14 other countries it is only a handful. Is that what Australia is expecting they would enter into an arrangement with the US for—five or six people? I am just using your argument of the parity.

**Mr Metcalfe**—I can understand where you are coming from. Firstly, I have just been passed a note saying it is our understanding there are currently no Haitians in Guantanamo Bay naval base. I suppose I should state for the record—in case anyone wants to misinterpret this conversation—that we are talking about a completely different part of Guantanamo Bay from the place where people are being detained for terrorism purposes, but it is part of US administered territory.

I do not think it would be proper for me to speculate in any way about the likely outcomes of the applications for humanitarian status, refugee status, that are currently being made by the groups on Nauru. It would be very improper for me to speculate upon an outcome. What I do know is that we have entered into an arrangement with the United States. We have indicated that we believe it would be able to accommodate around 200 people per year and

that it would be broad parity in relation to any numbers of referrals. But the arrangement is quite deliberately non-specific in its language so that it can accommodate various adjustments as appropriate.

The fact that there are only 50 or so people in Guantanamo Bay at the moment awaiting resettlement should not be an indication that there will only ever be 50; and the fact that there are roughly 90 people on Nauru should not be an indication that there will only ever be 90. This is a dynamic area. I can understand your point but I do not think it takes us anywhere. There is an expectation though that we will work together in relation to these issues, and that is something I am very pleased about.

**Senator NETTLE**—Does this arrangement relate to Haitians, Cubans and others at Guantanamo Bay or just Haitians and Cubans?

**Mr Metcalfe**—It refers to Haitians and Cubans but it does not seek to exclude any other person. But it is my understanding that the US case load historically placed in Guantanamo Bay is Haitian and Cuban.

**Senator NETTLE**—You indicated you were not prepared to table a copy of the arrangement. Can I just ask why that is?

**Mr Metcalfe**—It is an agreement or certainly an exchange of letters with a foreign country. I would certainly need to check with that country as to whether they were prepared for the arrangement and the correspondence to be made public, and that would be a consideration. But right at the moment it is something we would regard as confidential so I cannot provide it to you now.

**Senator NETTLE**—Could you check that? I think it would be useful for us to be clear on what is being discussed such as: is it Haitians; is it Cubans; how does it work? If it is possible to provide the committee with either a copy of the documents—

**Mr Metcalfe**—I will take on notice: (1) whether the government is prepared to initiate that conversation—that is really a matter for the minister—and (2) if the government was prepared to initiate the conversation, what the results of that conversation might be.

**Senator NETTLE**—Perhaps the minister can add to this: are you aware whether the government would be prepared to ask the US if we can see the arrangement?

**Senator Ellison**—It is a decision for the minister, not mine, but I will certainly take that on notice.

**Senator NETTLE**—Another question about going through those steps that you processed, if we are still not able to get a copy, would it be possible to get something which gave an outline of what the program is?

**Mr Metcalfe**—I think the sum result of the discussion we have had here this afternoon gives a pretty clear picture. It relates to the resettlement of refugees in the US mainland or in the Australian mainland respectively.

**CHAIR**—Or Tasmania.

**Mr Metcalfe**—I include ‘mainland’ in the broadest possible sense, Senator. It relates to people who have been intercepted seeking to illegally travel to the respective countries and

have been moved to an offshore processing place. It is intended to be broadly reciprocal in relation to numbers and it has an indicative limit of around 200 per annum. But all of those things are subject to the potential for review and discussion. It is not a formal agreement; it is an arrangement. It is not binding. In the overall suite of measures that relate to an orderly and proper flow of people, it is seen as an additional useful piece of available policy.

**Senator NETTLE**—I would appreciate it if you could find out whether you can give us more detail—

**Mr Metcalfe**—I have taken that on notice.

**Senator NETTLE**—Because, for example, your answer previously about whether we would pay for flights of refugees to be taken to the US, I took as a yes consistent with—

**Mr Metcalfe**—No, you were wrong there, Senator. I said that with people who were being resettled in Australia we would apply the usual arrangements, and it is my expectation that if a person was being resettled in the US, then similarly they would be covered by the US government.

**Senator NETTLE**—So we would pay for the refugees to come here and they would pay for refugees coming to Australia to go there?

**Mr Metcalfe**—Absolutely consistent with what we do with 6,000 people each year.

**Senator NETTLE**—All right. That is what I mean—that kind of detail is helpful for us in understanding how it works.

**Mr Metcalfe**—I do not think that level of detail actually extends. That is simply a normal part of the way we deal with refugees.

**Senator NETTLE**—Whatever you can provide us about how it works in more detail would be appreciated.

**Mr Metcalfe**—I would be hard pressed to give you much more.

**Senator LUDWIG**—Is there a time limit on the agreement? Does it have a term?

**Mr Metcalfe**—I think we have said that we will review it in two years. If I am incorrect on that point, I will advise you.

**Senator NETTLE**—Senator Crossin was asking before about what discussions were occurring with US authorities around the increase in Haitians and whether that related to the Australian arrangement or not. A lieutenant commander from the US Coastguard is reported in a *Herald Sun* article earlier this month as saying that the US is intending to look into the issue of whether the Australian government arrangement is influencing that. I just wondered if you were talking to the US Coastguard because when you mentioned the people you were talking to—

**Mr Metcalfe**—We talk to their boss which is the US Department of Homeland Security of which the coastguard is an integral component.

**Senator NETTLE**—Is it your understanding that they are doing some assessment of whether or not this is the case?

**Mr Metcalfe**—I am sure that they are keeping constantly under review whether or not any particular policy setting has any particular impact. That is entirely sensible comment for a relatively junior officer, if he is a commander, to make if asked by journalists about an issue. Of course they would want to understand the reason why people were travelling to their country and what the motivating factors might be. But you asked me for my opinion: I reckon the fact that the US was having a very active political debate about granting residency rights to 11 million illegal immigrants and the successful arrival of a boat on the US mainland would have been a far greater motivating factor, I suspect.

**Senator NETTLE**—I did not ask about your view on that. But when Senator Crossin did, and you said you were talking to certain people—

*Senator Payne interjecting—*

**Senator NETTLE**—Senator, Senator Crossin was asking a series of questions, and the witness has indicated which US authorities they were talking to. I thought it might be helpful, because I am aware of this report that the US Coastguard say they are doing, to make sure that we were going to be aware of any results that came out of that study.

**Mr Metcalfe**—It is my expectation that the interlocutors that we have in the United States administration, which are senior level officials in the Department of Homeland Security, will take into account all of their own sources of information and intelligence, and the US Coastguard is part of the Department of Homeland Security. But certainly when we saw that article we followed it up very quickly and we have asked the embassy in Washington to maintain a watching brief.

Chair, if I can take a small liberty and simply note for the record that, according to advice I have, there have been absolutely no interceptions of Haitians since 4 May. So we may well have been dealing with a spike, and the spike may be over. I would not want to speculate about what might happen tomorrow or the next day, but it is an interesting feature that we have seen no-one setting out for the US over the last couple of weeks.

**CHAIR**—Thank you for that.

**Senator NETTLE**—I would like to ask one more question about when we approached the United States on this arrangement.

**Mr Metcalfe**—Yes.

**Senator NETTLE**—Are you able to provide us with a timeline? It was in 2000. Have there been ongoing discussions between ministers since then, and up to the signing? That would be helpful.

**Mr Metcalfe**—In framing the response we will take your request into account.

**CHAIR**—Are there any further questions on 1.2?

**Senator NETTLE**—Yes, my question relates to Iraqi and Afghan refugees. Firstly, in May of 2005—two years ago—Minister Vanstone announced spending on a housing project in Afghanistan. Where is that up to?

**Ms Greaves**—The housing project is in Afghanistan. We do not have a housing project for Iraqis. We have an arrangement with the UNDP to manage the project on our behalf. I

understand that we are getting pretty close to the first digging of the hole, if you like. In Afghanistan, and in the Kabul area, building ceases over the winter months because it is just too cold—the ground is icy. They are looking at commencing the housing project fairly soon.

**Senator NETTLE**—The housing project is in Kabul; is that correct?

**Ms Greaves**—It is in the outskirts of Kabul.

**Mr Metcalfe**—Is it intended that the housing project will provide accommodation for refugees who have gone back to Afghanistan having been in Australia, or is it a general housing project for Afghanistan and Kabul?

**Ms Greaves**—It is a general project for displaced persons, but it also includes returnees who have returned with the assistance of Australia.

**Senator NETTLE**—Is it a specific part of the agreement that because Australia is paying the money therefore some of the people need to have come from Australia, or is it just that we give them the money and they build a place for returned people and some of them may be from Australia?

**Ms Greaves**—No, it is part of the understanding between ourselves and the Afghan government that access would also be provided to persons returning with the assistance of Australia.

**Senator NETTLE**—What is the scale of the accommodation that we are talking about? How many people can it accommodate?

**Ms Greaves**—1,400 families.

**Senator NETTLE**—How many Afghan refugees have gone back to Afghanistan from Australia?

**Mr Metcalfe**—I will take that on notice, but I think that the answer is some hundreds—all voluntarily.

**Senator NETTLE**—I am guessing that a lot of those were many years ago. You are nodding so I will take that as a yes.

**Mr Metcalfe**—That is correct.

**Senator NETTLE**—Correct me if I am wrong, but I cannot see how building a housing project—which I have no criticism with—from which the first hole might be dug soon, is going to help hundreds of people who were returned by Australia several years ago.

**Mr Hughes**—Going back a little earlier, we also funded the Jangalak transit facility, which was available earlier. This particular housing project was to be more substantial. It was also in the context of Australia's overall contribution to reconstruction in and return to Afghanistan. If we recall, Afghanistan has been the destination for probably the largest voluntary repatriation movement in history. I think the numbers of people going back to Afghanistan now exceed five million, mainly from Pakistan and Iran. The Australian government has made a variety of contributions to the stabilisation of the population there. This particular housing project had a dual purpose: to help with the general situation of returns, but also to be available for any returns from Australia. As events have unfolded and as time has moved on, the use for it for people returning from Australia has obviously diminished.

**Senator NETTLE**—I will move to the issue that you raised about the return of Afghan refugees, particularly from Iran and Pakistan. I have read reports about Iran in particular forcibly deporting 85,000 Afghan refugees and the consequent sacking of the Afghan foreign minister. Presumably the department is aware of the movement that is occurring of people back into Afghanistan. You talked about the Australian government being involved in discussions about the capacity of Afghanistan to repatriate those people. How is that going? Is Afghanistan considered to be a safe place that these tens of thousands of refugees can be returned to right now?

**Mr Hughes**—When we look at the five million people who have gone back and the numbers that continue to go back, I think the overwhelming majority of those numbers were arranged with the cooperation of the UNHCR. If you ask whether it is safe to go back to every particular part of Afghanistan, I think there is a subquestion of whether people of particular ethnicities or particular profiles can go back to particular places. Quite clearly the international community believes that overall, for most Afghans outside the country, repatriation is appropriate and that there is a solution that can be achieved safely. Although Australia has not returned any asylum seeker involuntarily to Afghanistan, some European countries do conduct involuntary returns. I think most of the five million that I know about were voluntary repatriations. I cannot say, however, that every particular circumstance of Afghans going back from Iran—you mentioned a particular figure—was voluntary. There might be exceptions to that. But the overall picture is of I think the largest voluntary repatriation movement in history.

**Senator NETTLE**—You made the distinction between forced and voluntary returns. Maybe this is for you and maybe it is for the minister: does the Australian government have any concern about forced returns?

**Mr Hughes**—At the moment we have not involuntarily returned any Afghans.

**Senator NETTLE**—I heard you say that before. My question was in relation to the five million others and people going from Iran. Is that of concern?

**Mr Hughes**—I think that would have to be examined on a case-by-case basis. For example, some European countries currently involuntarily return Afghans who they have found not to be refugees, and that would be after they have been through a series of due processes that are provided within Europe. European countries of course also have to comply with the European Convention on Human Rights. As far as the situation of returns from Iran is concerned, I am unable to offer an opinion about the particular situation you are referring to.

**Senator NETTLE**—There are reports with the Iranian government saying that they are going to send back another million in the next month. It is a large number of people. I accept that there is a mixture of forced and unforced returns. Does the government have a position on that? I hear that what you are saying is ‘No, we think it depends on the individual.’

**Mr Hughes**—It depends on the circumstances either of the groups or of particular individuals involved. Obviously the preference is always for voluntary repatriation.

**Senator NETTLE**—What requests has the department had about taking refugees from Iraq? I understand there has been an international process about requests for Iraqi refugees as a result of the war. Could you tell us whether we have had a request, and how many?

**Mr Hughes**—Australia has resettled more Iraqi refugees from the neighbouring countries than any other country in recent years. In the last five years we have resettled around 10,000; over 2,000 in 2005-06. On all the figures I have we are the leading resettlement country. More recently, as UNHCR had called a conference on Iraq to deal with the pressures of people in Syria and Jordan, the United States, in that context, has offered a very significant resettlement package for Iraqis. Canada, which has resettled a smaller number than Australia, has also indicated that it will do more in that area. Sweden has also indicated it will do more. Although the final allocations for our program for 2007-08 have not been determined yet, it is reasonable to expect that we will do at least what we have done in recent years and quite probably more.

**Senator NETTLE**—If you are able to provide figures on notice on the number of Iraqi refugees that we have taken that would be fine.

**Mr Hughes**—The general position of that conference on Iraq was that the main aim of UNHCR was to stabilise the situation of the people temporarily in Jordan and Syria and increase their protection there with a view to the people being able to go home in due course, rather than creating a major international resettlement movement. The bottom line is that international resettlement is always the solution of last resort, and UNHCR and others were looking for relief of some of the pressures of people for whom remaining in Syria or Jordan is currently untenable. Resettlement will only be a small part of the solution. It will not be the main part.

**Senator NETTLE**—Could you give me an indication of the situation in relation to Afghanistan and get the figures for the Afghan refugees that we have taken and whether we are currently receiving requests about taking Afghan refugees?

**Mr Hughes**—We are continuing to resettle Afghans but the main focus is split family, I believe. We settled about 1,800 Afghans under the humanitarian program in 2005-06.

**Senator NETTLE**—Does the identification or verification unit that we set up in Afghanistan some time ago, around the time of the Bakhtiyaris, still exist?

**Ms Greaves**—Yes, it still exists, but I am not sure quite what the current activity is, so I will have to take any question on what might currently be happening there on notice.

**Senator NETTLE**—Can you give us an indication of the expenditure and whether we have staff there?

**Ms Greaves**—No, we do not have staff there.

**Senator NETTLE**—I would be interested in an update on what is happening.

**Ms Greaves**—We originally provided some funding for that. I will give you some answers to that on notice.



**Senator NETTLE**—My understanding of it was that it was about checking the identification of Afghan asylum seekers in Australia. We were talking before about the levels changing over time; are they continuing to do that now, and is there a need?

**Ms Greaves**—I will take it on notice.

**Senator NETTLE**—Is output 1.2 concerned with temporary protection visas?

**Mr Hughes**—Yes.

**Senator NETTLE**—Do you know how many people are still on protection visas?

**Senator LUDWIG**—Perhaps we could ask a more general question on this area. There is a table for questions that have been asked about temporary protection visas and temporary humanitarian visas. Could we get an update on that? In a range of estimates in the past we have asked this particular question, but it was as at 29 September 2006, 5 January 2007 and 2 March 2007. They are the estimates that were provided at that time. It is really a running tally that we seem to have obtained from the department. It is a question of identifying that table and then updating it for both Senator Nettle and me so that we have got an idea of how many TPVs and THVs are currently in train.

**Mr Hughes**—I would be happy to update that table. I think the figure is about 1,300 for temporary protection visas and temporary humanitarian visas that are current. Mr Illingworth can let me know whether that is correct.

**Mr Illingworth**—That is correct. The number is 1,330.

**Senator LUDWIG**—What is the breakdown between TPVs and THVs?

**CHAIR**—Senator Ludwig has referred to a table you have provided before. Perhaps you would like to look at that and take it on notice. The table should then be referred back to the committee.

**Mr Hughes**—We would be happy to do that.

**CHAIR**—That would be the sensible thing to do.

**Senator LUDWIG**—Thank you, Chair.

**Senator NETTLE**—I want to ask about the application process for those people on a TPV. When are they able to make the application for the permanent protection visa?

**Mr Illingworth**—A person who is granted a temporary protection visa or has entered Australia holding a temporary humanitarian visa is able to apply for a further protection visa at any time. The constraint on access to a permanent further protection visa is that there is a time limit within which they cannot obtain a permanent further visa outcome. They have to hold the temporary visa for a minimum period.

**Senator NETTLE**—What is the minimum period?

**Mr Illingworth**—The minimum period for a three-year temporary protection visa is 30 months. If a person is granted a temporary protection visa, they can apply for a further protection visa immediately, but they cannot be granted a permanent protection visa until they have held their temporary visa for 30 months. There is a similar waiting period for the five-

year offshore humanitarian visa, but in that case it is 54 months. Essentially, six months before the expiry of their visa, they can be granted a permanent further visa.

**Senator NETTLE**—From what you are saying, I take it that the decision to grant them the permanent protection visa cannot be made until that point. If you determine on their application that they should get a permanent protection visa, at what point do they get told?

**Mr Illingworth**—Administratively, what we do is not commence the decision-making process on the further visa application until we are in a position to grant a permanent visa, should that application be successful. So at the 30-month point for a temporary protection visa holder, we will advise them that we are commencing the processing of their further application for protection; at that point, if they are successful, they could be getting a permanent visa. That option is not ruled out. It is open to us to make a decision on the application earlier, but of course if it is a positive outcome it will not be as beneficial to the applicant because all we would be able to give them would be a temporary visa. That having been said, there are opportunities for the individual to ask that that waiting period, if I can use that term, be shortened. The minister has a power to set a shorter period of time than the 30-month period or for the offshore visa, the 54-month period, to essentially negate that waiting period. A number of requests are made by temporary protection visa holders for the minister to essentially allow them early access to a decision where there could be a permanent visa outcome and the minister looks at those cases.

**Senator NETTLE**—I am interested in getting an indication of how long people on temporary protection visas are currently waiting before they are able to access permanency? I know of people who have waited six or seven years on a TPV before getting a decision. You are describing a situation which allows people to get it earlier. Could you provide us with some figures to get an indication of how long people are generally waiting? Is it the end that you are talking about of the shorter spectrum or the instances that I am aware of where people are waiting many, many years?

**Mr Illingworth**—Essentially, the legislation changes in 2005, which introduced a 90-day processing time frame, apply to further protection visa applications as well as to initial applications for protection. Those time frames are met in the overwhelming majority of cases. The 90-day processing time frame starts at the time at which the person is able to be granted a permanent visa. So once again 30 months after holding a temporary visa for that period—at that point the 90-day period is starting to be counted and our processing starts and our expectation is that we deliver decisions within that time frame. I can give you a rough idea of what the caseload looks like at the moment. There is a total of 630 applications for further protection visas on hand before the department. This is at 20 April.

**Senator NETTLE**—Is that TPV holders?

**Mr Illingworth**—This is TPV holders and THV holders who have outstanding applications for further protection before the department. Of that 630, 319 have not reached their 30-month period yet, so we would consider those not available for finalisation. A further 95 are within the time frame for processing—that is, the application is within 60 days of the commencement of our processing period—and another 59 are within the 90-day period. That is, a total of around about 150 of the 319 are within our normal processing time frame and the

balance of 157 are outside the 90 days. In those cases they are individually managed and it is almost without exception factors beyond the department's control, such as offshore criminal record checks, security issues or character issues.

**Senator NETTLE**—Thank you for those figures. There are quite a lot in that final category. The 90-day rule was introduced. That is a reasonably large proportion of those people. Around a third of those people on TPVs making a permanent protection are over the 90 days. I accept what are you saying in terms of why that might be, but it is a large proportion.

**Mr Illingworth**—I suppose numbers are always relative and I think relative to the 9,000-odd further protection visa applications that have been put through this process. What we are dealing with with the 157 is the small but not insignificant number of cases that you will find when you look at 9,000 people where there are unique factors. As I mentioned, there are often character issues, offshore criminal records checks, identity issues and security issues. In those cases, the department has very little or in some cases no real capacity to affect the time frame for resolution of the application. It is essentially in the applicant's hands sometimes.

**Senator NETTLE**—Is that 9,000 since the 90-day limit came in?

**Mr Illingworth**—About 9,000 further protection visa applications have gone through.

**Senator NETTLE**—But do you mean since the legislation around 90 days?

**Mr Illingworth**—No, in total.

**Senator NETTLE**—It would be handy if you could take on notice or if you have it now how many since the 90-day limit, and I would also be interested in what proportion of those since the 90-day limit have not been able to be resolved within 90 days. Is that information that you have?

**Mr Illingworth**—That could be obtained, yes.

**Senator NETTLE**—Are you able to provide us with that now?

**Mr Illingworth**—We will need to look at precisely how we can frame the numbers we have to meet your request. We have information about the current performance, for example, across the board.

**Senator NETTLE**—That would be helpful.

**Mr Illingworth**—But breaking that down, it is about 79 per cent are finalised within 90 days this year.

**Senator NETTLE**—That is for?

**Mr Illingworth**—Primary applications in total, but that is not differentiating between further protection and initial. I will just need to look at how we can break the statistics down.

**Senator NETTLE**—But that gives us an idea, so that is helpful in that regard. I want to also ask about changes in the refugee intake.

**Senator LUDWIG**—Chair, just before we leave the TPVs, is there a separate unit that does the processing of the TPVs and THVs within the immigration department or are they done within the normal processes of other—

**Mr Illingworth**—The processing of further protection visa applications from those people—

**Senator LUDWIG**—After the initial.

**Mr Illingworth**—Yes. Further protection visa applications lodged by those people are all processed by the onshore protection staff in the state offices.

**Senator LUDWIG**—Is there a cost estimate of after the initial position of how much that costs? Quite a few have been done but is there an estimate of the TPV and THV at the end of the initial visa—in other words, when you then have to—

**Mr Illingworth**—Because the applications are treated as an application for a protection visa and processed by the officers and the units that handle initial applications for protection visa applications, I do not believe we are able to split the attribution of cost down to give a cost that relates solely to processing of further protection visa applications.

**Senator LUDWIG**—Is there a cost of the total unit, the number of applications that are processed through it and then the number of TPVs and THVs that are processed through it?

**Mr Illingworth**—We can provide the costs expended by the relevant processing units together with the output in terms of visa finalisations, application finalisations, if that would assist, but we cannot break down the cost to attribute them to the various visa types that individuals held when they were applying for further protection.

**Senator LUDWIG**—That might be helpful, thank you.

**Senator NETTLE**—I want to go to the issue of the make-up of the humanitarian intake because at the last estimates we had some discussion around some changes in that, which were about reducing the number of people coming to Australia from Africa and increasing the number coming from South-East Asia. I just want to ask whether there is an update in relation to that—any decisions that have been made or future decisions around that. I will let you go from there.

**Mr Hughes**—The likely geographic composition, speaking at the broadest level, in 2006-07 is likely to come out at about 50 per cent of the offshore program from Africa, 30 per cent from the Middle East and 20 per cent from Asia.

The planning allocations for the 2007-08 program have not yet been set, so I cannot say what they are likely to be. Looking at the broad picture and the different pressures, I guess I can make some observations about those. For example, you drew attention to the very large numbers of Iraqis in Syria and Jordan—I think over two million and increasing—the pressures there and the efforts by UNHCR to relieve some of those pressures at the margin through resettlement, so that will obviously be a consideration. Equally, in the Asia-Pacific region, some new caseloads are likely to become available for resettlement. Australia and a group of other countries have been doing a lot of work, for example, to try and resolve the situation of 100,000 Bhutanese in Nepal who have been there for about 15 years and in effect not able to leave the camp situations they are in. Those efforts appear to have produced a

breakthrough in recent times, and there is a prospect that resettlement countries will be able to start taking those people and achieving some final resolution for that situation—for example, that would be a new caseload of pressure in the Asia-Pacific region. So it is those kind of factors that will go into the final composition which will be sorted out in the coming weeks and months by the minister.

**Senator NETTLE**—At the last estimates, Mr Hughes, you were indicating that:

... the proportions tend to follow both the advice from the UNHCR on world resettlement priorities and also views of community organisations in Australia.

This came out of the article around the minister's comments about reducing the number of Sudanese young men and issues in relation to how they interact in our community. I want to get a sense of the priority amongst those two. Perhaps we can start by checking whether it continues to be the case that it is based on UNHCR advice and the views of community organisations in Australia.

**Mr Hughes**—They are a major foundation of the decisions because, for example, for refugee cases it depends on referral from UNHCR. So UNHCR has got to actually have the capacity to refer people to us. It is no good us saying that we will take 3,000 refugees from some particular location. If UNHCR does not want us to do that, they will not refer us cases from that location. So the UNHCR request to Australia is a combination of where they think the most compelling cases are, their processing and referral capacity, and of course their assessment of what is the best distribution between resettlement countries. So that remains the case.

**Senator NETTLE**—As I said last time, I think the UNHCR are in a great position to be able to provide that advice. When you started your answer you said that they are major factors and I was not sure whether you were saying they—the UNHCR—are a major factor or they, the UNHCR, and the views of community organisations in Australia. I am trying to get an understanding of the relative importance.

**Mr Hughes**—The answer I gave you last time remains correct. Obviously, the advice of the UNHCR and bodies in Australia such as the Refugee Council of Australia, particularly as the peak body, is taken into account and given a great deal of weight in the government deciding the final allocation. But, ultimately, it is a decision for the government just as any resettlement country in the world decides where it will use its resettlement places.

**Senator NETTLE**—I know this might be a difficult question to answer but I want to get a sense of what the UNHCR is asking for is the major contributor: like 60 per cent of the decision will be based on what the UNHCR are saying and what proportion is about community organisations? You have mentioned the example of the Refugee Council of Australia. In the discussion that we had last estimates, it was around the interactions that young Sudanese men had with police. Are the Victorian police and their views about the interaction of people in our community a factor, an insignificant factor or a significant factor in making those kinds of decisions?

**Mr Hughes**—I do not believe we received a submission from the Victorian police on the humanitarian program.

**Senator NETTLE**—I am using that as an example because last time we had a discussion about that.

**Mr Hughes**—Largely the views of UNHCR and the peak body are the ones that probably carry the most weight in the government forming its final view. For example, I have already mentioned that UNHCR is wishing to increase the resettlement of people, Iraqis from neighbouring countries. That is why they convened the Iraq conference. UNHCR, for example, is also looking to Australia to assist with taking Bhutanese from Nepal in order to unlock the situation of that group of people there because they believe that they will not be able to get the agreement of the government of Nepal to issue exit permits unless they have some sense that resettlement countries are making a commitment. They are some examples of the things that are factored in. I do not have with me the precise recommendations that those bodies made to the government in the annual planning process. They are some of the kind of things that were argued to us.

**Senator NETTLE**—When you said UNHCR and the peak body, were you referring to the Refugee Council of Australia?

**Mr Hughes**—Yes.

**Senator LUDWIG**—I have only got a couple left in 1.2 before we go to 1.3. As I understand it, the government has agreed to resettle the 120 refugees on Lombok and give them TPVs; is that correct?

**Mr Hughes**—The government has taken an ongoing interest in the caseloads of intercepted people in Indonesia. Of those who are there and who have been found to be refugees, the Australian government has always said that it would take its fair share. Over time, Australia has been the largest single resettlement country of people found to be refugees in Indonesia, but a range of other traditional countries, the United States, Canada, I think New Zealand and the Scandinavian countries have taken others. What you may be referring to is the situation of people there who were not found to be refugees and therefore who have remained in Indonesia for a period of time—and I think most of them deciding whether they would go home or not. Some people have returned to their home countries. In other cases, there is a cohort of people that UNHCR has said, ‘We don’t assess the people to be refugees but we’re concerned about their ability to go home at any time in the foreseeable future.’ In that context, they have asked the Australian government if we would accept some of those people for stay in Australia, and so the government has recently decided to take 120 people who have relatives in Australia—these were people who were found not to be refugees but to whom we have offered safe-haven visas for a three-year stay.

**Senator LUDWIG**—What happens at the end of the three years?

**Mr Hughes**—The people will be able to pursue further stay in Australia whilst they are here. They will be able to apply for protection visas.

**Senator LUDWIG**—Can they apply for a permanent protection visa?

**Mr Hughes**—If the minister lifts the bar they can do so.

**Senator LUDWIG**—What bar is there?

**Mr Hughes**—With certain visas you cannot apply for or be granted a protection visa whilst you are in Australia. So that would apply to the—

**Senator LUDWIG**—Because they were offshore and then onshore so that effectively they could not apply for a permanent protection visa. That is why I was wondering what would happen to them. As you have indicated they have not been granted refugee status by the UNHCR therefore they cannot apply onshore.

**Ms Keski-Nummi**—The people have been found not to be refugees but in need of temporary protection. They are being resettled, are entering Australia and have been given subclass 786 visas which has the bar on applying for a further visa. If after a period of time in Australia they require to stay for a longer period of time, the minister can lift the bar to allow them to apply for a permanent protection visa.

**Senator LUDWIG**—How did the minister do that? Is that a discretion that the minister has under the legislation?

**Ms Keski-Nummi**—That is correct, yes.

**Senator LUDWIG**—That will not be known until three years hence. When is the earliest opportunity the 120 could apply, assuming that they were resettled in Australia?

**Ms Keski-Nummi**—Normally, it would be about six months before their visas are due to expire. We would probably go to the minister and advise him of their current situation.

**Senator LUDWIG**—And the alternative to that is at the expiration to consider returning them to their home.

**Ms Keski-Nummi**—It could be a further 786 or, if the situation has changed in their home country, they could consider returning.

**Senator BARTLETT**—I do not think you answered this in the last few questions, but there are still some left who have not been part of that agreement; is that right?

**Ms Keski-Nummi**—There are about 240 in Indonesia of whom 120 Australia has said they would consider resettling, and UNHCR is also talking to other countries and seeking some resettlement options for the others.

**Senator BARTLETT**—How many of the remaining 120 have other resettlement options?

**Ms Keski-Nummi**—I do not know.

**Senator BARTLETT**—Is the Australian government still funding IOM in the meantime?

**Ms Keski-Nummi**—Yes.

**Senator BARTLETT**—So these are all people who have been there since 2001 that we have been funding for all that time?

**Ms Keski-Nummi**—Yes.

**Senator BARTLETT**—Does this come under 1.2 or 1.3 or 1.5? It does not really matter; I will ask you anyway.

**CHAIR**—We are still on 1.2; that is fine.

**Senator BARTLETT**—I thought it might be border protection. Could you give us a total figure of how much we have paid over that period of time? This is to IOM I presume, is it?

**Ms Keski-Nummi**—It is. I would have to take that on notice if you are looking for the full period.

**Senator BARTLETT**—Also, I have received things suggesting that other governments have agreed to take about 100 and there are 21 still unresolved and being asked to return. Could you give us any details on whether that is an accurate situation and maybe where those people are: are they in Lombok or are they in Jakarta?

**Ms Keski-Nummi**—Some are in Lombok and some are in Jakarta. Those who have been referred to Australia have links to Australia and clearly UNHCR are looking at the others and where they have links to as well.

**Senator BARTLETT**—Any extra you could give us on that and perhaps what the age, gender and family relationships would be.

**Ms Keski-Nummi**—Yes.

**Senator BARTLETT**—The area I wanted to ask in this output, which I think comes under humanitarian, is the processing time for people on permanent protection split family visas—that comes under the humanitarian program, does it not?

**Ms Keski-Nummi**—Yes.

**Senator BARTLETT**—I get a lot of feedback about very long processing times. There is the time after processing has happened and how long that takes as well but it is the actual processing time, the internal checks and those sorts of things that have to be done. Can you give us any statistics on what the average processing time in particular areas is and what the goals are?

**Ms Keski-Nummi**—We have not really disaggregated it to specific groups such as the split family classes, but the processing time for grant for a humanitarian visa is currently around 50 weeks. For finalisation, it is around 26 weeks—finalisation being both grants and refusals.

**Mr Hughes**—I might add that the current processing times have been slashed compared to what they have been in past years. But there is no doubt that cases from the Middle East, particularly those that are grant cases and depend on security clearances, do have significant delays associated with that process.

**Senator BARTLETT**—I am particularly interested in the split family grouping because, as you would obviously be aware from dealing with people who, in many cases, have been on temporary visas here already for three, four or five years, they have already had a long wait. I do not know if it is possible for you to break that down, taking it on notice.

**Ms Keski-Nummi**—We could have a look to see just how much we could break it down. For instance, a large part of our Islamabad case load is split family and we do ask officers to give them some priority processing. Just how accurate it will be I cannot vouch for, but we will see what we can do to break it down.

**Senator BARTLETT**—It seems to me that it would not exactly be a shock that these sorts of applications were going to be put in, so, particularly when it comes to security checks or



other sorts of things, those could be done in anticipation. I also want to check, on that area of people applying in the split family situation, that that comes under the special humanitarian program. Is that right?

**Ms Keski-Nummi**—Yes.

**Senator BARTLETT**—Are those the ones where people have to provide assurances of support?

**Ms Keski-Nummi**—No, not under the special humanitarian program.

**Senator BARTLETT**—So it is only if they go through the normal spouse visa pathway that they have to?

**Ms Keski-Nummi**—That is right.

**Senator BARTLETT**—I do not know if ‘anomaly’ is the right word, but the situation, which I have raised with me now and then, of people who go down that pathway—which means they have to do assurances of support and the like—does not have some of the problems we have just touched on, in terms of delays, and of that two-year waiting period for Centrelink. I have sort of bounced backwards and forwards between saying it is a Centrelink issue and it is an Immigration issue. Is that an issue that you are aware of or have any policy view on—the issue of people who are the immediate family of a protection visa holder, and whether or not they should have exemption from the two-year waiting period?

**Ms Keski-Nummi**—The split family category under the SHP program does not have those waiting periods. But you are talking about the spouse cases—is that correct?

**Senator BARTLETT**—Yes, that would be back through 1.1, I suppose—those that go down that pathway.

**Ms Keski-Nummi**—There is an assurance of support that could be required.

**Senator BARTLETT**—I think it comes to a Social Security Act interpretation issue, so I will not ask you about that—although if you have any view on it I am happy to hear it.

**Ms Keski-Nummi**—People who go through the spouse route usually have not declared their family relationships, which is why they go down that route.

**Senator BARTLETT**—Sorry, have to declare—

**Ms Keski-Nummi**—Have not declared, in their initial applications, that they did have family elsewhere.

**Senator BARTLETT**—In their initial protection visa application?

**Ms Keski-Nummi**—Yes.

**Senator BARTLETT**—Why does that have an impact in terms of having to give an assurance of support? They are still a refugee who is trying to get their family out here.

**Ms Keski-Nummi**—They do not meet the split family provisions if they have not told us about them in their initial application.

**CHAIR**—Do you have any further questions at this stage on 1.2, Senator Bartlett?

**Senator BARTLETT**—Has there been any more follow-up—and, again, I do not know whether this comes under 1.2 or whether it might come under compliance—of an issue that has been raised a few times in the past: the investigations of the Edmund Rice Centre into people who have been sent back and what happened to them.

**Ms Keski-Nummi**—I might ask Robert Illingworth to talk about that. We did meet with the Edmund Rice Centre, several weeks back, to go through the reports that they had provided. But Robert met with the Edmund Rice Centre and he might be able to talk more fully about it.

**Mr Illingworth**—We take these reports and the information that is provided by organisations such as the Edmund Rice Centre very seriously indeed, and we try to explore the information that is provided to us to see whether there are lessons that could be learnt from it. We have been in dialogue with the Edmund Rice Centre for some time, and have also communicated in writing with them a number of times, to pursue further information and clarification of some of the claims in the reports. I most recently visited them on 18 April to discuss further their most recent report and to see if they could provide some information to us that would help us examine some of the claims made in those reports.

There are some methodological limitations to the work that the centre produces, which hampers us in our exploration of the issues that they raise. Much of the content of the report does not identify the individuals to enable us to explore particular case circumstances and check records, for example, to verify the information provided. Where names have been provided we have vigorously explored those cases, but we have not, at this stage, identified cases where the refugee assessment outcome in the Australian process has been wanting. There are clearly some accounts of people who are not in ideal circumstances in other countries, but there are questions about the degree to which there is any nexus between that and any activity that Australia undertook in relation to them at some point in the past.

**Senator BARTLETT**—So you had a meeting with them not too long ago—a few weeks ago?

**Mr Illingworth**—That is right.

**Senator BARTLETT**—So it is obviously something you are continuing to follow through on.

**Mr Illingworth**—Yes.

**Senator BARTLETT**—Can I take from your answer then that you are saying you have not found a specific case where you believe, or have come to the view, that there was a mistake made in the Australian determination in the first place?

**Mr Illingworth**—Yes.

**Senator BARTLETT**—But you are still following through a range of cases; what aspects are you following through? Are you trying to establish the circumstances people are in now? Or are you re-assessing the original determinations? They are two separate things, to some extent.

**Mr Illingworth**—As I mentioned a little earlier in my answer, we are stymied in many of these cases because there are some quite serious assertions made, but often no identification

of the individuals to enable us to actually get to first base to substantiate even basic facts about the account that is published. In those cases where there are names or other identifying information then we pursue that vigorously.

Over the years—and it has been a series of years because this is the second report that the centre has produced—there have been a referral of matters to our internal areas in the department that deal with investigating the behaviour of department officials, and referral of matters to the AFP for more formal investigation because we take these things very seriously. Those investigations have not identified any untoward activity by department officers and I understand the AFP has written to the department to that effect and has wound up its inquiries. That information has also been advised to the Edmund Rice Centre. In some cases where names are used that are not the right names—there can be differences and inconsistencies apparent from the information that is published about individuals and what the department has on its record—it leads us to conclude that there is no issue that goes to the reliability of the processing.

**Senator BARTLETT**—The point where you were talking about something being untoward, I guess that goes to people doing dodgy things with travel papers and those sorts of allegations. Is it a separate thing as to whether or not there was a wrong decision made in regard to the protection application? Are you looking at those things as well?

**Mr Illingworth**—We most certainly are interested. From my perspective as the branch head of the Onshore Protection Branch, my primary focus is to identify and thoroughly explore any issue that could point to reliability of a determination process. That is my primary focus.

**Senator BARTLETT**—Are you able to indicate if any of the ones that you have determined as identifiable persons include people who were assessed on Nauru?

**Mr Illingworth**—None of the people who were assessed on Nauru—and they featured quite prominently in the last report—and went back, went back involuntarily. The first issue goes to the reliability of the process. There were reports that there were two names given of people who apparently, according to the report, had gone back and had died. As far as we can ascertain, both of those cases were not assessed by Australian officials on Nauru; they were processed by the UNHCR and I understand the UNHCR has also written to the Edmund Rice Centre informing them about their exploration of the accounts published in their report in relation to the processing on Nauru. In relation to the other seven people, who it is reported had died after return, the names were not produced nor were any other details, so it is incredibly difficult for us to look into. Then there is the issue of nexus because somebody chooses to go back to their homeland even if something has befallen them at some point afterwards. How can one actually draw a connection and say that this points to a judgement about a process that was conducted possibly years earlier? I hate to contemplate it, but I could walk out of here tonight and be run over by a car—life is unfortunate.

**Senator BARTLETT**—It is not our fault for letting you go to dinner.

**Mr Illingworth**—It is a quandary because we are trying to find what we can in terms of lessons from this but it is very difficult to say how one can attribute cause and effect, I suppose, to these things.

**CHAIR**—Have you finished, Mr Illingworth?

**Mr Illingworth**—Yes.

**Senator BARTLETT**—I appreciate we do need to let you go to dinner—

**CHAIR**—We are right on the money. One quick question, if you like.

**Senator BARTLETT**—I do not want to have a fight about it, but I have to put on the record that I would not necessarily agree that all of those people returned voluntarily. There are definitions of voluntary that people might disagree on, but that is a personal view. The final question that I want to ask about that is that when these reports came out—and I realise that it is a contentious issues and the government has to defend their views—there was fairly strong commentary about the veracity and reliability of some these things. Is it fair to say that you are at least not questioning the general integrity behind the intent of the reports being put forward by the Edmund Rice Centre, rather than engaging with them with the view that nonetheless they are all just a bunch of crooks who are anti-government and trying to make you look bad?

**Mr Illingworth**—We take these sort of reports in good faith, and we take them seriously. We are certainly not going through a show process. This is about us being serious about the integrity of the decision making process. If people have concerns and they raise those concerns—and they are serious concerns—we take them seriously.

**CHAIR**—I understand that the department has some answers to questions put on notice. I would like to allow the department to respond to that before the dinner break. I would also like to clarify whether we have concluded output 1.2.

**Senator BARTLETT**—Yes.

**Senator NETTLE**—I think I have. I have a couple of things that—because we have changed the order for outputs—I am not 100 per cent certain that we have done.

**CHAIR**—Do you want to clarify what that might be, because I do not want to keep the departmental officers here unnecessarily.

**Senator NETTLE**—My guess is that they fit in with the other outputs, but I will check that with the officers when we break.

**Senator Ellison**—We have some answers to question on notice. There was an indication that we would deal with outcome 1 today and outcome 2 tomorrow. I take it that it is still the plan that we will finish outcome 1 tonight.

**CHAIR**—Correct. That is the agreement we made this morning and nothing has changed.

**Senator Ellison**—Thank you.

**Mr Metcalfe**—There are three matters that I took on notice earlier today which I can now provide advice about. Senator Ludwig asked me a question about page 97 of the portfolio budget statement, which is the department's capital budget statement, and particularly the variation in expenditure this year on the purchase of non-financial assets funded by capital appropriations. The figure is much larger this year—\$120,153,000, compared to next year where it drops to \$51 million and then drops further into the forward estimates. I am advised that is primarily a result from capital costs linked to the start-up of the major IT program,

Systems for People. It is largely software that has been capitalised, but it may also include hardware. If you have any more questions about that we can cover it at 1.8 when we get to System for People.

Secondly, Senator Crossin asked me earlier this afternoon for the top five countries by overstay rates for visitor visas. The figures I have are for financial year 2005-06. I am advised that the top five countries with the highest visitor overstay rates—and this only includes countries with 500 or more people visiting Australia—were the Philippines with 1.77 per cent of 26,954 visitors, Greece with 1.66 per cent of 5,988 visitors, Laos with 1.64 per cent of 552 visitors, Vietnam with 1.63 per cent of 10,225 and the fifth is Samoa with 1.51 per cent of 3,432 people.

**CHAIR**—Thank you.

**Mr Metcalfe**—Finally, in a combination of questions from Senator Crossin and Senator Ludwig, I was asked about the budget for the National Communications Branch this year, and I gave a figure of around \$6.3 million. I need to correct that. The budget for the operations of the branch is around \$4.5 million. The higher figure included some project spending under the citizenship test funding, which is a separate item but is being administered by that branch. I was also asked about staffing. I have been advised that the branch currently has 39 staff.

**CHAIR**—Thank you. We will suspend and will resume on output 1.3—border security—in one hour, at 7.35 pm.

**Proceedings suspended from 6.35 pm to 7.36 pm**

**CHAIR**—We will resume. We turn now to output 1.3—border security. I will pass to Senator Ludwig.

**Senator LUDWIG**—This is in, as I understand it, 1.4?

**CHAIR**—This is 1.3, border security.

**Senator LUDWIG**—In terms of the joint immigration task force, perhaps we can round it off a little more broadly. There is a current announcement for a joint immigration task force, but what I want to understand are those current arrangements—memorandum of understandings or other funding arrangements—that might be in place between the department of immigration and Indonesia. Is there a current overview of those arrangements? There is that one, and then there are a couple of others that we have asked about over the years, but I am not sure which are current.

**Mr Metcalfe**—I will ask Ms Greaves, head of the International Cooperation Branch, to join us at the table. In relation to the specific issue that you raise—the joint task force between ourselves, the AFP and Indonesian authorities—we can talk about that, too, if you have questions on it. Firstly you are interested in an overview of the arrangements between Australia and Indonesia on immigration cooperation—is that right?

**Senator LUDWIG**—Yes, because there was a range of initiatives some time ago in respect of people-smuggling—are they still current? There is also movement alert systems in place at various ports.

**Mr Metcalfe**—Yes.

**Senator LUDWIG**—And there is also the task force. It just struck me that maybe it is a relevant time to get a snapshot of what current arrangements are in place.

**Mr Metcalfe**—This is a fair bit of Ms Greaves's job, so I will get her to talk about it.

**Ms Greaves**—Thank you, Secretary. We do have a range of different elements of cooperation with Indonesia, and some of them go back some time. I think you mentioned the movement alert system?

**Senator LUDWIG**—Yes.

**Ms Greaves**—That is a project that has been running for a little time now. It is to detect and deter people smugglers as well as terrorists at five major ports in Indonesia—four airports and one seaport.

**Senator LUDWIG**—Does that have a life—is it an ongoing arrangement? How much is it funded for, and for which ports? I am happy for you to take those questions on notice.

**Ms Greaves**—I am not sure that I have all of the information on all of our programs with Indonesia with me.

**Senator LUDWIG**—It could be a long night, then.

**Ms Greaves**—Well, that is right. I will take that on notice. It is a \$10 million project to install a movement alert detection system in five ports, as I said—Jakarta, Bali, Surabaya, Medan and Batam. There is not much more I can say about that at this stage.

**Senator LUDWIG**—What did the \$10 million include? Was it the provision of staff or IT?

**Ms Greaves**—It is basically IT and—

**Senator LUDWIG**—Training.

**Ms Greaves**—Training and those sorts of things, yes.

**Mr Correll**—I can help a bit here. It is covering hardware, software and communication links as well. Once the development is complete, it would then be operationally maintained by the Indonesian immigration department, the Imigrasi.

**Senator LUDWIG**—That was my next question, whether or not there would be ongoing support on an annual basis for it? You do or do not envisage that?

**Mr Correll**—No, we are expecting that on an ongoing basis the support would be provided by the Imigrasi.

**Senator LUDWIG**—That is that one. What others are currently in place?

**Ms Greaves**—We have a number of arrangements with Indonesia for training staff, but they have been ongoing for several years. There is some English language training that we fund for Imigrasi. There is some public administration training. But to give you a breakdown of the amounts I would have to—

**Senator LUDWIG**—I am happy for you to take that on notice and more broadly if they have been initiatives that have been announced in the last couple of years that are still ongoing.

**Ms Greaves**—Yes, they have been going for several years and they are still ongoing.

**Senator LUDWIG**—What about people-smuggling initiatives? Have all those been terminated or finalised? Many of them were announced and have been here for a while now, but back in 2002 and 2003 a range of programs and initiatives was announced. What I am trying to establish is: what is currently in place now?

**Ms Greaves**—We certainly still do provide money to the International Organisation for Migration.

**Senator LUDWIG**—I will come to them. That is not Indonesia.

**Ms Greaves**—Well, it is in Indonesia for the prospective illegal immigrants in Indonesia.

**Senator LUDWIG**—If that is all the programs you currently have on your books that you run for Indonesia, the Indonesian government or with the Indonesian government in relation to either people smuggling or immigration—

**Ms Greaves**—Indonesian government—no.

**Mr Metcalfe**—No, it is not, Senator. I think what we will do is provide a comprehensive answer to you on notice. We have very regular engagement with the Indonesian authorities.

**Senator LUDWIG**—That was my understanding.

**Mr Metcalfe**—To be honest, that has grown, increased, deepened and strengthened over the years. The minister and I were in Indonesia about three weeks ago at the time there was the announcement about the joint task force work involving our embassy, POLRI and Imigrasi. The minister had some very good meetings, including with the Foreign Minister, Minister Wirajuda, and that was followed soon after by a visit by Mr Correll as part of our regular high-level engagement with the Indonesian immigration authorities. I would say that there is daily contact on a range of areas of cooperation: training cooperation, law enforcement investigations cooperation, the sorts of issues we have talked about here—capacity building cooperation. It is by a significant margin our deepest and strongest international engagement. It has become better and better over the years as we have got to know each other and we work with each other very well. We can provide a substantive response.

At the same time, as Ms Greaves indicated, quite a few of the programs and activities are done in partnership with IOM, which has quite a substantial presence in Indonesia and assists with facilities and those sorts of things. We can talk about that later, if you wish.

**Senator LUDWIG**—While I want to look at the range of initiatives that you have with the IOM separately, they will form part of that earlier answer, I suspect.

**Mr Metcalfe**—Yes.

**Senator LUDWIG**—But what I was trying to understand is how much the Australian immigration department funds IOM for a range of programs or initiatives.

**Mr Metcalfe**—We will come back to you with more information about the detail of the relationship. The other aspect which is quite unique is that Australia has a dialogue or arrangement with the ASEAN directors of immigration. They meet on an annual basis. The last meeting was in Jakarta in November. I represented Australia at that dialogue which ASEAN director-generals of immigration have with no other country. So not only were we

able to progress bilateral initiatives with Indonesian authorities but we were able to advance ASEAN-wide initiatives as well.

**Senator LUDWIG**—In terms of the recent funding initiative, what does it add to the current cooperation? We have talked about the current cooperation, with the detail to follow, but what will the current announcement add? What will it do in fact?

**Ms Greaves**—There are two things we are looking at: one is the joint Indonesia-Australia task force with immigration and police on both sides, but that we are still pursuing with them—

**Senator LUDWIG**—Can I stop you at that point. We have already talked about a range of cooperative operations that are currently in train. What I am trying to understand is what value add does this current task force do? What is envisaged?

**Ms Greaves**—This is a new task force.

**Mr Metcalfe**—The new task force. We will get Mr Correll to talk about that.

**Mr Correll**—The major aim here is to look at more preventative measures in relation to people-smuggling ventures coming to Australia and, by working in a very collaborative way between the immigration and police agencies of the respective countries, to be able to work to exchange information and maximise opportunities to be able to identify, detect and take appropriate action against people-smuggling activity that is occurring in the region. The major benefit here is in preventative measures.

The movement alert list development is very similar. From a border security perspective, the stronger the border security arrangements that exist across the region, the better it is for Australia's border security interests. Therefore, the Indonesian movement alert list project called CEKAL is very important from the perspective of preventative measures.

Also the announcement in relation to the refurbishment of detention facilities provides the Indonesian government with strengthened arrangements to act as a greater deterrent to people participating in people-smuggling activities. All of the collaboration is extremely beneficial from a preventative mode. There have been cases that have not necessarily been given enormous publicity here in Australia but have received very strong publicity in Indonesia where major people-smuggling ventures, which were heading for Australia, have been disrupted within Indonesia.

**Senator LUDWIG**—Will that be only with the equivalent immigration department in Indonesia or will it also be with other participants in Indonesia; in other words, IOM or other Indonesian departments?

**Mr Correll**—In relation to the refurbishment of detention facilities?

**Senator LUDWIG**—No, broadly.

**Mr Correll**—That particular case involves significant linkages with IOM in that work. In other projects, they are more direct. In relation to the movement alert list project, an Australian based company was successful in a tender to do that work and is working closely with both ourselves and the Imigrasi department on that project. The task force essentially



involves four key agencies: ourselves, the Australian Federal Police, Imigrasi and the Indonesian National Police. So each involve different players, if you like.

**Senator LUDWIG**—Thanks. I will wait for the more detailed response to follow, thank you.

**CHAIR**—Senator Nettle, do you have any questions on 1.3, border security?

**Senator NETTLE**—If I can check whether two questions are in this output or not: I started asking a question before about the illegal fishers being held and their health impacts related to TB. Is that for now?

**Mr Metcalfe**—No, that is not 1.3; it would be 1.5.

**Senator NETTLE**—Okay. The other one was about our negotiations with Indonesia over the Sri Lankan asylum seekers that ended up on Nauru. Do you want that now or in a later output?

**Mr Metcalfe**—I think we could cover that now, if you wish.

**Senator NETTLE**—I want to look at the processes which led to the Sri Lankans being sent to Nauru, because at the time there was a lot of commentary in the press by Australians, by the Sri Lankan government and by the Indonesian government about where they might be going. I wanted to try to understand this process, because the reports at the time indicated that the Australian government had asked the Indonesians about returning the Sri Lankans to Indonesia. So I thought I would start with that and finding out whether that is correct.

**Mr Correll**—Yes, there was dialogue—I think it was reported at the time—between the Australian and Indonesian governments about the possible return of the Sri Lankans to Indonesia. That was one of the options being considered, along with the transfer to Nauru.

**Senator NETTLE**—If you can run me through a bit of time line, when did the department of immigration first become aware of the Sri Lankans?

**Mr Correll**—The boat was detected on Monday, 19 February by a RAAF Orion aircraft and it was subsequently intercepted by HMAS *Success* on 20 February. That resulted in the usual whole-of-government processes for managing such cases coming into play, which is through an overall people-smuggling task force.

**Senator NETTLE**—When did that meet?

**Mr Correll**—That first met on 20 February. On both 20 and 21 February there was action taken to board the vessel at the invitation of the people on the boat. The vessel was in international waters. And then the first approach was made to the Indonesian government around 22 February.

**Senator NETTLE**—There are various different approaches you made to Indonesia; one is turning around the boat and taking it back to Indonesia, and then a different one is about transferring the people. Maybe I am wrong here but was that about sending the boat straight back to Indonesia from where it was in the water?

**Mr Correll**—Yes, the initial contact was about the straight return of the boat to Indonesia.

**Senator NETTLE**—What happened then?

**Mr Correll**—It then became an operational issue of safety of life at sea, with the boat taking on water. It came to the point where, for their overall safety, the individuals concerned were taken on board the HMAS *Success*. The HMAS *Success* subsequently scuttled the boat to make it safe in the sea lanes in that area. Subsequent to that, the action was taken to transfer the people on board the boat to Christmas Island, in the first instance, for their assessment. That occurred on 24 February.

**Senator NETTLE**—When was the decision taken to transfer them to Christmas Island?

**Mr Correll**—That would have been on or around 24 February.

**Senator NETTLE**—The request to the Indonesians to have the boat sent to Indonesia was made once they were in Australian custody. Is that right?

**Mr Correll**—No. It was initially whilst the boat was in international waters. At that time there were boarding parties which went back on board the boat on several occasions. However, it became clear that there was action being taken on board the boat to effectively scuttle it.

**Senator NETTLE**—I must be getting confused about the timeline. You said that the boat was boarded on 21 and 22 February by Australian personnel?

**Mr Correll**—Correct.

**Senator NETTLE**—Then a request was made to Indonesia on 22 February to send the boat there—to tow it back, or to return it, to Indonesia?

**Mr Correll**—Correct.

**Senator NETTLE**—So Australian officials were in contact with the asylum seekers prior to any request to Indonesia that they be sent to Indonesia?

**Mr Correll**—Yes. It was from the boarding of the vessel that information about the individuals on the vessel became clearer.

**Senator NETTLE**—Did they indicate that they were asylum seekers at that point?

**Mr Correll**—No, I do not believe so. The boat was boarded by Navy personnel. There would have been no formal questioning. The focus of the Navy personnel would have been to check on the state of the boat and its seaworthiness. As I said, there were a series of boardings in international waters. That was at the invitation of the people on board the boat. Those boardings essentially identified repetitive action being taken to make the boat increasingly unseaworthy.

**Senator NETTLE**—The request was made to Indonesia about sending the boat there. What was the response to that request?

**Mr Correll**—There was initial contact with the Indonesian government. That received consideration by the Indonesian government. There was also consideration of the circumstances involved, particularly in ensuring that no action would be taken that would in any way put the individuals on the boat in a position where they might be returned to a country where they might be in peril. That dialogue went on for a short period of time before the decision was ultimately made to relocate the group to Nauru.

**Senator NETTLE**—I thought that as at 24 February we were still sending them to Christmas Island? You said earlier that the approach to Indonesia happened at a time when it was a safety of life at sea issue, whereas you are now talking about protection issues.

**Mr Correll**—The two are distinctly different issues. The boarding issue was ultimately about taking the people on the boat on board the HMAS *Success*. That was a question of safety at sea and the wellbeing of the individuals on the boat. The issue of the return of the group to Indonesia also involved questions of ensuring what the subsequent action would be in relation to those individuals. Those issues were raised in the dialogue with the Indonesian government. To my knowledge, there was no final response to that dialogue. The ultimate decision was taken at that point—in the circumstances and after the individuals had been moved on to Christmas Island—to relocate them to Nauru.

**Senator NETTLE**—So the first approach to Indonesia about turning the boat back had a protection element to it, after which a decision was made by the government to take people to Christmas Island—is that right?

**Mr Correll**—That is reasonably accurate, yes.

**Senator NETTLE**—Did you say that they were at Christmas Island on the 24th? So it was five days after—

**Mr Correll**—That is correct. They arrived on 24 February at Christmas Island.

**Senator NETTLE**—What happened then?

**Mr Correll**—At that stage they went through medical assessments and screening, and fitness to travel assessments, to enable them to be in a position to be relocated to Nauru.

**Senator NETTLE**—That is the point at which there was a range of different reports about what might be happening to them—whether they would be going to Indonesia or whether they would be going to Nauru. Can you run me through the process there, because there were certainly a lot of reports at that time that the Sri Lankan government, through their ambassador in Indonesia, believed that they were going to Indonesia and then back to Sri Lanka. I want to understand why he would have that impression. Can you tell me what conversations were going on with Indonesia and the Sri Lankan government that would leave the Sri Lankan ambassador to Indonesia with the view that they were coming to Indonesia and then going to Sri Lanka?

**Mr Correll**—I cannot give reasons for what might be in the mind of the Sri Lankan government or ambassador, and any question on any dialogue there would more appropriately be put to the department of foreign affairs. However, the issues were that the matter had been raised with the Indonesian government and, as well as that, I think it was made clear at that stage that options were still being looked at for the way their circumstances were to be handled. That was very much the case following their movement on to Christmas Island on 24 February. Ultimately, the decision was taken for their relocation to Nauru.

**Senator NETTLE**—On what date was the decision made to send them to Nauru?

**Mr Correll**—There was a joint announcement made by Minister Downer and Minister Andrews, on the decision to transfer to Nauru, on 15 March.

**Senator NETTLE**—There was an article in the *Age* on 1 March. I will read out a sentence from that. It said:

Last Friday, Australian officials proposed the 83 be sent to Jakarta, then quickly repatriated to Sri Lanka to avoid asylum claims being lodged. The Sri Lankan Government was also told and endorsed the plan.

Is that accurate?

**Mr Correll**—To my knowledge, no.

**Senator NETTLE**—At that point in time, 1 March—so that is somewhere between the month that it took from them arriving at Christmas Island to the decision to send them to Nauru—you have indicated to me that there were discussions with Indonesia about them being sent to Indonesia. But you do not think that is reflected in—

**Mr Correll**—No. I think it needs to be appreciated that that time coincided with a major disturbance at Yogyakarta and clearly that represented a very significant and major distraction.

**Senator NETTLE**—You may remember that there was a Sri Lankan government delegation in Australia at the time that this was occurring and there were statements made by the Sri Lankan delegation in relation to returning these people to Sri Lanka. Did the Sri Lankan government ask for the repatriation of these asylum seekers?

**Mr Correll**—I think issues of the matters that were being raised by the Sri Lankan government with the Australian government should really be put to the Department of Foreign Affairs and Trade.

**Senator NETTLE**—Going back to the time line, the decision was made to send them to Nauru on 15 March?

**Mr Correll**—That was the day of the announcement of that decision.

**Senator NETTLE**—You are indicating that I need to ask the Department of Foreign Affairs and Trade about a number of these issues. You indicated at the beginning that it is the People Smuggling Task Force. Do they have control over the operation? How does that work?

**Mr Correll**—The People Smuggling Task Force is chaired by the Department of the Prime Minister and Cabinet and has representatives around the table from all of the relevant agencies, including us.

**Senator NETTLE**—Which is the lead agency?

**Mr Correll**—As I said, it is chaired by the Department of the Prime Minister and Cabinet.

**Senator NETTLE**—But in this process that you have described to me, over this month, is there a lead agency for that process?

**Mr Correll**—Yes. It is the Department of the Prime Minister and Cabinet that basically convenes those meetings. In various elements there are different organisations that have different roles to play. Obviously, the Department of Immigration and Citizenship plays a very important role around the table, as does the Department of Foreign Affairs and Trade, as do Defence and police forces. So there are involvements from all of the agencies in an event like this.

**Senator NETTLE**—When I asked about whether they had asked for asylum when they were on the boat, and you indicated that that was a point at which there were Navy personnel on the boat—

**Mr Correll**—Correct.

**Senator NETTLE**—Can they ask for asylum of the Navy personnel, or do they have to ask for asylum of an immigration official in order for it to be recognised or indicated that they have asked for asylum?

**Mr Correll**—They were not in Australian territory, it needs to be remembered, at that point; they were located in international waters.

**Senator NETTLE**—So at what point did they ask for asylum?

**Mr Correll**—My understanding is that that occurred once they had reached Christmas Island.

**Senator NETTLE**—You indicated previously that the protection issues had not been raised and that there were Navy personnel on the boat. They were in international waters at one point and then, presumably, they were in Australian waters at another point.

**Mr Correll**—No. As I said earlier, the boat was boarded several times, at the request of the people on the boat. During those boardings the Navy personnel attempted to repair any damage done to the boat and maintain its seaworthiness. However, on each occasion it was subject to some sabotage action. Ultimately, as a result of that, and because of the safety concerns for the individuals, the group was taken on board the *Success* and then ultimately sailed into the contiguous zone, into Australian waters and to Christmas Island.

**Senator NETTLE**—I am trying to work out at what point you can ask for asylum. Can you ask for asylum in international waters? Can you ask Navy personnel for asylum?

**Mr Correll**—In my understanding, you cannot ask for asylum in international waters as there are no protection obligations in international waters, but I might seek confirmation from my more expert colleague.

**Mr Metcalfe**—I think we might be hung up on a point of semantics here. In order to formally apply for protection in Australia, of course you have to be in a part of Australia that is not excised for the purposes of this part of the Migration Act. I think that what you are probably asking is: was there any conversation that evinced an indication that the persons were fleeing persecution? The advice that we have is that there was no indication of that at that time. We stand to be corrected if there is other advice and we will correct the record. Our understanding is that only after the group of people were brought to Christmas Island and there were more detailed discussions with them did those issues emerge.

**Senator NETTLE**—In the earlier answer from Mr Correll there was an indication that protection issues had been raised in the discussion with Indonesia about towing the boat there, after which there was a decision to go to Christmas Island. Is that right? Was the government aware of protection issues and raising them then?

**Mr Metcalfe**—The government was concerned that, if the group were returned to Indonesia and if the people on board had issues that went to their protection, they have the

opportunity to pursue those matters with the United Nations High Commissioner for Refugees and not simply be returned directly to Sri Lanka. So it was a precautionary discussion—I think that is how I would describe it—to ensure that, if there were issues that went to a person seeking protection, they would in fact be able to exercise the ability to have a conversation with a competent authority in Indonesia.

**Senator NETTLE**—Just going back to the comment by Mr Correll about the navy personnel being there, can you ask for protection—I will use the word ‘protection’ rather than ‘asylum’—from navy personnel?

**Mr Metcalfe**—If a person says something to someone else then you can do it. What we are saying is that, if the people on the boat had said to the navy personnel words to the effect of ‘we’re fleeing persecution’ or whatever, then they would be perfectly able to do that. According to the advice that I have—and I have said that if we have other advice we will correct the record—a conversation of that effect did not occur. I was not there and ultimately it is navy personnel who were at that particular time. It is not something that this department was directly involved with. Anything that we know about that is necessarily second- or third-hand information and, because of the history of these issues, I am being very careful in what I am saying. We do know that during our routine screening interviews when people came to Australia, to Christmas Island, they did indicate that there were issues that went to their protection and the government has responded accordingly.

**Senator NETTLE**—I am trying to get to: at what point is it triggered that your department is aware that these are people who are seeking protection? I am trying to work out whether it is when they send in the right form. At what point is it triggered for your department? Is it when they ask the Navy? Do they have to ask you guys? That is where I am trying to get to.

**Mr Metcalfe**—Formally our involvement would be relevant for people intending to enter the Australian territorial sea. I think the Migration Act, in its coverage, reaches out and deals with people intending to enter Australia. The reality is that our officers had no contact with the group until they came ashore on Christmas Island. As to whether they told other people things that those other people then told us, the advice I have is that there was no such advice conveyed to us. I have indicated previously that if there was contrary information to that effect I will correct the record.

**Mr Correll**—The primary point of that information is the screening interview stage, which occurred on Christmas Island with departmental personnel.

**Senator NETTLE**—There is a point at which a decision is made whether to send them to Indonesia or to Christmas Island. I am trying to work out what you are saying about their making a protection claim—where does that fit in with that? You are saying that formally it comes when they have an interview on Christmas Island. But you have already made a number of decisions about whether they go to Indonesia or whether they go to Christmas Island. I am trying to work out where the protection part comes into your decision making about where they go.

**Mr Metcalfe**—I think it permeates all of the decisions that were taken on this matter. If you just strip away the detail and have a look at it in broad terms, we had a group of people intercepted by Australian naval authorities on the high seas. There were a number of visits to

that vessel. It progressively became more and more disabled and sabotaged and therefore unseaworthy. There were discussions initially as to whether it would be feasible to return that boat to Indonesia, but that was always on the basis that the Indonesians would allow those people to be considered through UNHCR processes, as has occurred in the past. When the boat became disabled and unseaworthy, the people were rescued and taken on board the Australian naval vessel. The folks were then brought to Christmas Island. They were interviewed. It was at that stage clear to us that the Indonesian authorities would not provide a guarantee that the group may not be directly returned to Sri Lanka. In those circumstances, and bearing in mind that issues that went to the people's protection from the Sri Lankan environment were being raised with us, the government, acting in accordance with long established policy, transferred them to Nauru, where it is now being considered whether there are issues that do in fact mean they are in need of international protection.

**Senator NETTLE**—So there was an initial series of interviews and health checks carried out on Christmas Island with the department of immigration?

**Mr Metcalfe**—That is a routine arrangement prior to any transfer to Nauru.

**Senator NETTLE**—I had a conversation with you before about when I should ask about the cases in Nauru. Do you want me to wait for that bit?

**Mr Metcalfe**—With the indulgence of the chairman, we are on a roll here and the right people are at the table.

**Senator NETTLE**—I just want to work out where they are up to now. I am interested in both lots on Nauru, the Burmese and the Rohingya.

**Mr Metcalfe**—Both the Burmese group and the Sri Lankan group. We can provide you with an update.

**Senator NETTLE**—Thank you.

**CHAIR**—Senator Nettle, would you be gracious enough to allow Senator McLucas to ask some questions in this area. She has a number of other commitments as well.

**Senator NETTLE**—Okay.

**CHAIR**—Is it possible for us to do that now, or do you want to wrap up on those questions?

**Senator NETTLE**—I am happy if the officers agree with that.

**Senator McLUCAS**—Just call someone to the table who can answer that question before I ask questions.

**CHAIR**—See whether you can complete that answer. Why don't we do that; then we will move to Senator McLucas.

**Ms Keski-Nummi**—I will start with the Rohingya group first of all and then we will move to the Sri Lankan processing of those applications or the refugee status determination. There are seven Rohingya still on Nauru. We are awaiting instructions from their legal advisers as to when we can undertake the interviews. There was an interviewing team there on 19 April to undertake refugee status determinations. They did not proceed at that time, on the instructions of their legal adviser, and we are just awaiting new instructions from the adviser.

**Senator NETTLE**—So they have not been interviewed?

**Ms Keski-Nummi**—No refugee status determination interviews have taken place to date. In relation to the Sri Lankans, an interview team went up at the same time. Fifty-three have been interviewed and their cases are being assessed now in relation to the claims that they have made. On the instructions of their legal adviser, 28 did not have interviews at that stage, and we are waiting for their legal advisers to provide us with instructions on when we can undertake those interviews.

**Senator NETTLE**—Mr Metcalfe was indicating that there were two—

**Ms Keski-Nummi**—Two are mandated refugees. We are talking to UNHCR about them at the moment in terms of resettlement options.

**Senator NETTLE**—Are they in the interviewed or not interviewed category?

**Ms Keski-Nummi**—No, they were not interviewed because they have been mandated as refugees.

**Senator NETTLE**—Do they go through our interview process?

**Ms Keski-Nummi**—The two?

**Senator NETTLE**—The two.

**Ms Keski-Nummi**—No, because they have already gone through a refugee status determination process by UNHCR.

**Senator NETTLE**—What is the next step with them?

**Ms Keski-Nummi**—Resettlement. We are talking to UNHCR about what resettlement options there are because they had undertaken the refugee status determination for the two. They will be seeking resettlement for the two. I am sorry, Senator Nettle; I said that it was 19 April. It was 16 April that the interview team went up to Nauru.

**Senator NETTLE**—Thank you.

**Senator McLUCAS**—I have a series of questions I want to ask about the *Malu Sara* sinking. I understand it is in this output, and I will be as quick as I possibly can. It was reported during the inquest that a series of records were missing from the Thursday Island office, that records of staff meetings and the workbooks of two of DIMIA's staff, the regional manager and another staff member, were missing. Can you explain to the committee what you know about that allegation?

**Mr Metcalfe**—We will assist as far as we can. You are obviously aware that the inquest is continuing and that certain key people have not yet been called to give evidence. I would simply ask that officers, in providing any advice to you, do so in a way that would not be inconsistent with the fact that we have court proceedings currently underway.

**Senator McLUCAS**—Sure.

**Mr Correll**—You asked about the reference to missing documents. I do not want to comment at all in relation to the coronial inquest which is underway, as the secretary has flagged but I can say that, as part of the departmental investigation that followed on immediately from the incident, one of the first things that the team that was sent to Thursday



Island did as part of their work was to secure all documents. We would obviously want to investigate any matters of any missing documents, but action was taken by the investigating team that went up there immediately after the incident to secure documents and lock them away so that there would be full access to information for subsequent investigation and potential coronial inquiries.

**Senator McLUCAS**—I understand the difficulty, given that the inquest is still occurring. Are you telling me, Mr Correll, that the record of staff meetings and the workbooks may in fact be held by DIMIA and that is why they could not be located by one of the witnesses to the inquest?

**Mr Correll**—I would not have thought so in that any documentation that the department had available was made available to the coroner as part of a large kit of material provided to the coroner. The action had been taken to secure any of the documents quickly to ensure that that would be the case. Does that mean we can be 100 per cent certain that there are not documents that in the intervening period may have gone missing for some reason? No, we cannot be 100 per cent certain.

**Ms Bicket**—Perhaps I could add that we have been fully cooperating with the coroner in relation to all relevant documents that he has asked of the department. If there is any other information that comes to hand in relation to documents then we are endeavouring to fulfil the coroner's requests in relation to that. It is important to bring to the attention of the committee that the parties to the inquest are bound by a direction from the coroner that precludes the discussion of the coronial material that has been presented to him. So some of this sort of material would go to matters that are actually before the coroner and would come within the purview of that direction. I seek the committee's understanding of that.

**CHAIR**—Thank you for that, Ms Bicket.

**Senator McLUCAS**—You would be aware that this issue was canvassed in the *Torres News* of 2 May of this year?

**Ms Bicket**—Indeed.

**Senator McLUCAS**—Have you corresponded with the coroner in terms that respond to the allegation that is reported in this article?

**Ms Bicket**—I do not have the specific article in front of me, but certainly we would be responding positively to any request from the coroner in relation to material that is within our control.

**Senator McLUCAS**—I am happy for this to be ruled out of order, if it is out of order: are there any missing minutes of staff meetings or workbooks?

**Ms Bicket**—I cannot say off the top of my head but, as I said, if there is any material that the coroner has requested that is within our control then we will be supplying it to the coroner.

**Senator McLUCAS**—That is not really the answer to the question.

**Ms Bicket**—No, I am sorry, I am just not in a position to say definitively.

**Mr Metcalfe**—Senator, this is a key point: the fact is that the former regional manager has yet to give evidence and it may well be that he is asked this very question by the coroner.

Also, the department has a senior officer who undertook our own internal inquiry, and he may well be asked this question as well. With the indulgence of the committee, I think we should be very careful about going into areas which might yet be the subject of evidence before the coronial inquiry.

**CHAIR**—That is a point well noted, Mr Metcalfe, and we appreciate your advice.

**Senator McLUCAS**—I take your advice, thank you. Is DIMIA paying for the former regional manager's legal representation?

**Mr Metcalfe**—May I say that our acronym these days is DIAC, the Department of Immigration and Citizenship. I will not go into the reason why it is DIAC. But the answer is yes.

**Senator McLUCAS**—Are you providing the former regional manager's support in terms of counselling et cetera?

**Ms Bicket**—Yes, we are.

**Senator McLUCAS**—Is DIAC, formerly known as DIMIA, providing legal representation to the five people who were killed on the DIAC vessel?

**Ms Bicket**—Sorry, to the—

**Senator McLUCAS**—To the victims of the drowning.

**Ms Bicket**—To their families or to—

**Senator McLUCAS**—Yes, their families.

**Ms Bicket**—No, not directly.

**Senator McLUCAS**—On what basis did you make that decision?

**Ms Bicket**—I do not believe we were ever asked, but I will need to clarify that.

**Senator McLUCAS**—Was it ever offered?

**Ms Bicket**—I cannot recall, but I will double-check.

**Mr Metcalfe**—We will take it on notice.

**Senator McLUCAS**—What counselling is being provided to the families of the victims who were killed?

**Ms Bicket**—I do not know. I would need to check that.

**Mr Metcalfe**—We will take it on notice.

**Senator McLUCAS**—You do not recall if there is any being offered?

**Mr Metcalfe**—There certainly was some assistance provided by the department to what are described as 'extended family members' to attend memorial services following the tragedy.

Another issue runs to the responsibility of the department and the Commonwealth's occupational health and safety organisation, Comcare, and goes to whether payments are made to dependants of employees who are deceased. Comcare is currently also undertaking a report on this matter, which is not yet finalised, and the department is fully cooperating with

that. One of the issues as to whether there were payments able to be made to dependants of the deceased goes to whether in fact there were dependants or not. It is not simply a payment to family members. There needs to be a dependency relationship there—

**Senator McLUCAS**—Sorry, Mr Metcalfe, I think you are misunderstanding me. It is not a payment advice I am looking for. I want to know whether an offer of support for legal representation through the coronial inquest was offered.

**Mr Metcalfe**—We have taken that on notice.

**Mr Correll**—You also asked about counselling services, Senator. There were counselling services provided to staff members at the Thursday Island regional office.

**Senator McLUCAS**—But not to families of the deceased?

**Mr Correll**—Not more broadly than that, no.

**Senator McLUCAS**—Let us go to that memorial service. It was held on Thursday Island?

**Mr Metcalfe**—The officer that was directly involved is our senior officer who needs to give evidence before the coronial inquiry. We do not have him with us this evening. My understanding is that it was not held on Thursday Island; it was held on one of the other islands.

**Mr Correll**—It was on one of the other islands; that is my understanding. We will correct the record if that is inaccurate, but I understand it was on one of the other islands.

**Senator McLUCAS**—Can you tell me which island that was in due course?

**Mr Metcalfe**—We will take that on notice.

**Senator McLUCAS**—Who was invited to the memorial service?

**Mr Metcalfe**—We will provide you with advice of that as well.

**Senator McLUCAS**—Did it include the families of the deceased?

**Mr Metcalfe**—I previously indicated that it was extended to what I would describe as extended families, but we could provide advice to you as to who was assisted. From memory, we provided some transport and other assistance to get people to the memorial service.

**Mr Correll**—There were charter facilities provided to get people to it.

**Senator McLUCAS**—It has been put to me in very strong terms that immediate family of the deceased were not invited and there is a feeling across the Torres Strait that they have been shunned by DIAC and not included. Could I have a list of the invitees to the memorial service and also an explanation of how the department came to that list of people?

**Mr Metcalfe**—Yes, providing there are no personal privacy issues.

**Senator McLUCAS**—I understand that.

**Mr Metcalfe**—But it was certainly our intention to not exclude people. There was a logical sort of constraint in terms of the numbers who could be provided with air charter transport to attend the memorial service. It was not a memorial service that we organised; it was organised by the communities from where the folks had come, and our role was in providing assistance

to the very people that you have indicated. But we can provide more detail about that on notice.

**Senator McLUCAS**—So you did not organise the service.

**Mr Metcalfe**—No, we did not.

**Senator McLUCAS**—Therefore, someone else might have been in charge of the invitation list.

**Mr Metcalfe**—I think that is correct. Regarding the arrangements, particularly bearing in mind traditional beliefs and the appropriateness and the fact that people were missing and had not been located—how those cultural issues were dealt with were certainly not matters that we had expertise in. It is my recollection that the services were organised by the communities in the area and that our role extended to assisting some of the family members to attend the service—particularly people who may not have lived in the Torres Strait but lived elsewhere in North Queensland or wherever. But I am very happy to provide you with more information about that.

**Senator McLUCAS**—I take your point in terms of people's privacy. I wonder then whether you could provide the committee with an explanation of your involvement as a department with the service as it was held.

**Mr Metcalfe**—Yes, we will do that.

**Senator McLUCAS**—Did DIAC conduct an official interview with the regional manager of DIMIA, as it then was, on Thursday Island?

**Mr Correll**—It was not a sworn interview as such, but immediately after the incident a team went to Thursday Island and the team conducted interviews with several of the staff—not a formally sworn interview but fact gathering discussions with the staff—as well as researching documentation. That was used to report back on the events leading to the incident and the circumstances surrounding the incident.

**Senator McLUCAS**—Has the coroner requested a copy of that transcript of interview?

**CHAIR**—I find that is perhaps crossing the boundaries of appropriateness in terms of the legal matters that are before the coroner.

**Senator McLUCAS**—I do not have legal training, so I am quite happy to be told it is—

**CHAIR**—I am sure you agree, Ms Bicket.

**Ms Bicket**—Yes. In any event, even if I could answer, I probably would need to check that it was within the relevant documents that the coroner requested.

**Mr Metcalfe**—I just would make the point again that we have cooperated fully with the inquiry and anything that the coroner has sought, of course, he has been provided with.

**Senator McLUCAS**—You referred, Mr Metcalfe, to a report of the incident. Is that a document that the committee can have access to?

**Mr Metcalfe**—Again it was an internal report to inform the department's understanding of what occurred to firstly ensure that remedial action was taken to prevent any further such tragedies from possibly occurring but also to enable us to gain a rapid contemporaneous

understanding of what occurred. As Mr Correll indicated, it was not based upon sworn statements but rather interviews and debriefings and records of documents being gathered. I would like to take on notice whether it is a document that could be made available to the committee, particularly at this stage, given the coronial inquiry. It may be that following the inquiry it would have a different status as well. But, again, if I could seek your indulgence, we will take that point on notice and come back to you.

**Senator McLUCAS**—If you decide that it cannot be released to the committee, could you explain why?

**Mr Metcalfe**—Yes, of course.

**Senator McLUCAS**—What work is the department doing in terms of replacing the vessels that were purchased? Are we considering replacing them? What is happening?

**Mr Correll**—Following on from the incident, all boats were immediately removed and put into storage. It is not intended that they will ever be used again. They will be scrapped ultimately. At the same time an overall review was undertaken of our operations in the Torres Strait to, among other things, determine the future need for access to boats. That review concluded that we did require ongoing access to boats for our operations there. It also identified opportunities for us to be working collaboratively with other agencies in the shared use of boat facilities. There are a number of agencies with boats in the Torres Strait. We have since that time established a memorandum of understanding with other agencies such as the Australian Customs Service and the quarantine service. Both of those organisations also have boats. At this point, we are operating consistent with that memorandum of understanding. We have not yet made a decision to replace these boats. We are awaiting the outcome of the coronial inquiry before we make that decision.

**Senator NETTLE**—I go back to the Burmese and the Sri Lankans. Have the 53 Sri Lankans that we were talking about, the ones that have been interviewed, received any legal assistance?

**Mr Illingworth**—They have retained legal advisers.

**Senator NETTLE**—The 53 that have been interviewed?

**Mr Illingworth**—Some of the 53 have had some contact with legal advisers but we are not quite sure of the extent of that relationship, and others appear not to have had advice from legal advisers.

**Senator NETTLE**—Have they asked for advice? Have they asked for assistance in gaining legal representation?

**Ms Keski-Nummi**—Some of them have but not all have.

**Senator NETTLE**—I refer to those that have asked for assistance in obtaining legal representation. Has that been secured?

**Ms Keski-Nummi**—Some of them have retained legal advisers, yes.

**Senator NETTLE**—Has that been through a request to the department to assist them in gaining legal assistance?

**Ms Keski-Nummi**—I am sorry?

**Senator NETTLE**—Somebody can obtain legal advice through their own mechanisms and others by asking the department to assist them in accessing legal support. You indicated that some had asked and you said some had got it. I am not quite sure which of those that would be.

**Ms Keski-Nummi**—We do not provide them with legal advice or legal representatives, but some have engaged a legal representative to assist them with their claims.

**Senator NETTLE**—Do you have a cost for the transfer of the Sri Lankans to Nauru?

**Mr Correll**—I would need to take that on notice—the cost of their transfer—unless my colleagues have it immediately to hand. We do.

**Senator NETTLE**—Thank you.

**Mr Correll**—The cost was \$316,500.

**Senator NETTLE**—That was for their transfer to—

**Mr Correll**—That was for the charters involving the transfer of 82 Sri Lankans from Christmas Island to Nauru.

**Senator NETTLE**—I am sorry; I am jumping around here a bit with questions. Is there any government assistance for the financing of legal advice for the people on Nauru?

**Ms Keski-Nummi**—No, there is not.

**Senator NETTLE**—Earlier we were talking about the arrangement with the United States and about whether or not that could apply to these people. I have a question associated with that, which I can ask in a more general way. Where somebody receives an asylum claim on the basis of their membership of a particular group—whether it is the LTTE or the Kurdish workers party or a range of different organisations—how does that protection claim, based on their association with a group, work in a situation where that group is listed as a proscribed terrorist organisation? For example, the LTTE are listed in the US. Can a person who becomes a refugee on the basis of the membership of that group receive protection in a country that lists them as a terrorist organisation?

**Mr Illingworth**—The issue of whether or not a person is a refugee because of membership of a particular social group is, I suppose, half of the equation. The other half of the consideration that goes into determining whether a person is a refugee is whether there are exclusion issues which prevent the person from accessing the refugees convention. They are generally very serious character issues set out in the refugees convention, such as somebody who has committed crimes against humanity or war crimes or the like. So, on the one hand, a person's claim for refugee protection could be based on—and it could be political issues as well, not just a particular social group—precisely the element that means that their participation in that cause or that social group has meant that they are excluded from protection because of what they or that group, with their support, has done.

**Senator NETTLE**—Can they then get protection in a country where—

**Mr Illingworth**—It would have to be decided on a case by case basis, but it would mean that a person may not be a refugee and therefore would not be eligible for referral, for

example, by the UNHCR to another country for refugee resettlement because they would not be a refugee if they are excluded from refugee protection.

**Senator NETTLE**—So in the example of these people, if a decision is made on an asylum claim which is based on their membership of the LTTE and the LTTE is a proscribed terrorist organisation in the United States, can they get protection there? We had a discussion about these people being subject to the arrangement. I am trying to work out whether there is something that precludes them from being able to do that.

**Mr Hughes**—There are two separate questions there, and Mr Illingworth has answered the question about Australian officials making refugee status assessment and saying that if a person has certain characteristics that exclude them from refugees convention protection under article 1F then they are not a refugee, in which case it would be difficult for us to refer them to another country for resettlement. Let us assume for a moment that we find the person to be a refugee and we refer them, say, to the United States and ask the US if they will look at them under their program. Any such person would have then to meet the requirements of the US resettlement program, just as any person referred to Australia by the United States would have to meet the legal requirements of the Australian resettlement program. The United States has its own legal arrangements and its own law on who it resettles. A factor in the United States system is the question of whether a person has provided any material support to the overthrow of a government. That could be an issue that could affect the United States' willingness to accept anyone who Australia refers and asks them to consider under their resettlement program after we have assessed the person to be a refugee.

**Senator NETTLE**—What does Australia do in those instances, because we have got terrorism legislation that proscribes the assisting of terrorism? Can somebody make a claim for protection and be assessed as a refugee when their membership of a particular group is the basis of the asylum claim? How does that interact with our terrorism legislation that says if you are a member of that group you get 25 years in prison? How does it work in Australia? How do we do it?

**Mr Hughes**—If we assess anyone under the convention, we assess them under what the convention provides, so it is a question of whether a person is excluded from protection under article 1F. Obviously if we regard them as being a member of a terrorist organisation and having committed terrorist acts, which could be two different things, that might go to the question of their refugee status assessment. It is highly unlikely that we would ever give a visa to anyone who we regarded as a member of a terrorist organisation because they would fail on character grounds.

**Senator NETTLE**—There are instances where somebody receives protection and there are instances now. Let us take as an example somebody who becomes a refugee on the basis of their membership of and association with the Kurdistan Workers Party, the PKK. If that subsequently becomes listed as a terrorist organisation, that is a slightly different dynamic. You describe the situation where that organisation has already been listed as a terrorist organisation. What happens if it works the other way around?

**Mr Hughes**—I think you are getting to all sorts of permutations and combinations there which start to get hypothetical. The fact is we have to consider these issues on a case by case

basis, depending on each of the persons and their circumstances. I can hypothesise all sorts of scenarios, but I think in relation to the people on Nauru it is more sensible that we just work through their individual circumstances on a case by case basis and reach an assessment.

**Senator NETTLE**—I can frame the question around the people on Nauru. If they are found to require protection because of their membership of a particular political group and they receive refugee status—they were in Australia—what happens to their protection claim if their organisation was listed by the government as a terrorist organisation?

**Mr Hughes**—Again, there are separate issues there. There is a question of whether a person is a refugee under the convention; there is a question of whether you are talking about a person in Australia; and there is a question of whether, even if they are a refugee, we would subsequently give a person a visa—whether they would meet the character requirements if they are a member of a terrorist organisation. You really have to put these things case by case. There is no sort of broad rule where can you speculate on what might happen.

**Senator NETTLE**—The sort of circumstances that I would be concerned about would be where somebody was found for every reason to require protection, where there were not character issues, and where there were not exclusions in 1F. I just want to find out how the intersection of those two pieces of legislation work. Which becomes more important and which overrides: an assessment that a person really needs protection or the subsequent listing of an organisation?

**Mr Hughes**—Again, you really have to look at each individual case, because there is no uniform set of circumstances. You were talking about balancing certain considerations, and you said there are no character issues but they are a member of a proscribed terrorist organisation. How does one know?

**CHAIR**—Could I interrupt for a moment. Senator, it is bordering on the hypothetical. If you could just try to recast your question accordingly, I think that would be more helpful to Mr Hughes and the department.

**Senator LUDWIG**—Or we could go to 1.4.

**CHAIR**—I just wanted to remind the committee that we have got an hour and 10 minutes maximum and we are trying to get through all of our output 1. So just bear that in mind.

**Senator Ellison**—Chair, I think you said one hour and 10 minutes. I think it is two hours and 10 minutes.

**Senator NETTLE**—Perhaps I will just say: if you are able to provide any more information about how the existing protection status of somebody with a protection claim—where they do not have character issues associated with that protection claim and they are not excluded through 1F—would intersect with terrorism legislation, that would be really helpful. I am trying not to do it as a hypothetical, because it is about understanding the intersection between those two pieces of legislation that we have.

**Mr Hughes**—I will do the best I can. I cannot promise you that I will leave you any more enlightened than I have already. I think the reason for that is because the advent of different approaches to members of terrorist organisations and participation in terrorism have caused a lot of issues around the world—not just in Australia but in many other parts of the world—as



to the interaction between the refugees convention and people who have varying degrees of participation in terrorism. Those issues tend to be resolved on a case-by-case basis, which is what I said before. But if I can find some other way to answer that to your satisfaction on notice, I will.

**CHAIR**—Senator Nettle, how are you going there?

**Senator NETTLE**—I can come to a conclusion so that we can get onto 1.4. We are talking about the people on Nauru. There was an indication from the Nauruan government that they wanted people to be there for no longer than six months. Is the current understanding of the situation that people are to be there for no longer than six months?

**Mr Correll**—No, the Nauruan government effectively issues visas to the people on Nauru. I do not have any suggestion that there is an end point of six months to that. There is a process underway at present of renegotiating the next memorandum of understanding with the Nauruan government. That is underway, but there no suggestion at this point that there is a limit of six months.

**Senator NETTLE**—Previously there have been different rates for visa renewal fees that have gone up at various times and instances of Mohammad Sagar and Mohammad Faisal being there for a very long number of years. What is the current status of that? Where is the visa fee at from Nauru? Is it at the high rate, the middle rate, or where is it at?

**Mr Correll**—That would be all part of the discussions going on with the Nauruan government at the present stage over that MOU.

**Senator NETTLE**—But what is the current status?

**Mr Correll**—The issues you raised, the ones that have been raised by the Nauruan government, were specific to the two individuals concerned, and there were specific issues raised by the Nauruan government at that time in relation to those individuals. But in terms of ongoing arrangements, that is subject to the MRU discussions now underway.

**Senator NETTLE**—What was the fee for the Burmese and the Sri Lankans?

**Mr Correll**—There was no fee for the 83 Sri Lankans. I am not sure if we have information on the Burmese. Just a moment, please. In relation to the Burmese, we paid a first instalment which was \$2,000 for the first three months. But there were then no ongoing fees for the Burmese.

**Senator NETTLE**—Is that \$2,000 a total fee or a per person fee?

**Mr Correll**—Per person.

**Senator NETTLE**—Chair, I am happy to move on to output 1.4.

**CHAIR**—Thank you, Senator. We will move to output 1.4, Compliance. Senator Ludwig has some questions.

**Senator LUDWIG**—There was a departmental document provided to the committee some time ago around 2006 entitled ‘Onshore detention strategies’. It was an information paper that was provided to us. It talked about compliance, locations, visa overstays and breaches. It indicated that breaches were expected to increase in the future, as I understood that paper. That has not occurred, as I understand it, having looked at your annual report. Would you

examine that issue and provide an explanation of what has happened given the future projections that were made in 2006 and the situation now?

**Mr Correll**—This was referring to an onshore compliance strategy?

**Senator LUDWIG**—It was an onshore detention strategy information paper dated May 2006.

**Mr Correll**—Without having that document in front of me at the moment, but on the presumption that it was a document talking about the overall estimated detention compliance activity and therefore potential numbers of people requiring detention facilities, then it would have been influenced by the developments that have been occurring with the department's compliance program. Under the department's compliance program, there has been a much greater emphasis placed on cases involving national security, character, significant health or other serious matters, which are being given priority attention through our compliance program. As a result, whilst the numbers of people that are being picked up through our current compliance program would have come down from those estimates at that time, the types of cases that are being dealt with now tend to be more difficult and more resource consuming. So there has been a shift in the emphasis of our compliance program to those more difficult cases—particularly character and security ones—with less priority placed on a visa overstayer who has been within the community for a significant period of time.

**Senator LUDWIG**—I was wondering if you could have a look at the annual report at page 159. The figure for overstayers at 30 June 2006 was estimated to be around 46,400. What is the current figure now? Has that continued the trend downwards or has it been maintained?

**Mr Correll**—The latest estimate is very similar. It hardly varies from that 46,400 figure.

**Senator LUDWIG**—And that is up to what date?

**Mr Correll**—The figure as at 31 December was 46,319. So it is very close.

**Senator LUDWIG**—What the onshore detention strategy information paper was getting at was that the compliance locations of visa overstayers would be trending upwards and breaches were expected to increase. When we look at the figures now, it does not seem to be sustained when you then break that down. We have another trend downwards but it has been trending down for a couple of years now. Not that long ago, in 2006, that paper was still saying the compliance location of visa overstayers would be expected to increase. Even though the numbers are trending down, it is still saying that the compliance location of visa overstayers—in other words, the work of the area—would trend upwards. So it does not seem that that is a function of the decrease. Do you follow me? It was a paper that was done in May 2006. Although the overstayers are trending down, it seemed to indicate that the compliance locations would trend upwards in the future and would continue to do so. Presumably—and this is what I am trying to ascertain from you—you would do more compliance work or undertake more efficient techniques.

**Mr Metcalfe**—We will have to have a look at the paper and see why it reached that conclusion. It was presumably something we wrote, so I am sure it is absolutely the right conclusion. It may also have been a longer term factor of simply the increasing numbers of people coming to Australia. We have seen significant increases in tourism, students and so on.

This is a pure assumption on my part, but that conclusion that we may have more people to deal with is simply a product of a larger number of people, even if there are a small proportion of those who overstay and who become subject to compliance action.

**Senator LUDWIG**—Yes, I thought that, but then the numbers of overstayers as a percentage of that have been trending down.

**Mr Metcalfe**—Even if the proportions do trend down, if the absolute numbers increase then we may have absolute growth. My recollection is that the number of estimated overstayers has been around the 50,000 level for quite a few years and has now dropped down a little bit to around 46,000. That is an extraordinarily good result when you consider the sorts of populations that we have in marker countries. The United States has 11 or 12 million illegal immigrants. We are very pleased if the numbers trend down. It reflects the overall way that the visa program is being managed and decision are being made, while at the same time there is a strong growth in the sorts of people travelling. If we can elaborate on that apparent inconsistency, we will do so.

**Senator LUDWIG**—Whilst we are there—

**Mr Correll**—The numbers that are coming out in terms of the locations and, flowing out of that, the numbers of overstayers, are very consistent with the change to the priorities under the compliance program. We are seeing reduced numbers of locations because of the retargeting of that program, but the locations that are occurring are giving much greater emphasis to the more severe character and compliance cases within the community. The resources of the department in the compliance area are being allocated in different ways. The numbers broadly sustain that, but I would like to re-examine that paper you are referring to, just to absolutely validate that.

**Senator LUDWIG**—By all means. Do you have the location figures from an update from the annual report?

**Mr Correll**—The latest location figures are for 2006-07. Total locations to 31 March this year are 8,360. The total PBS projection was 12,250, and we are close to that projection at the present stage.

**Senator LUDWIG**—Of those locations, how many were voluntary? Do your figures go down to that level?

**Mr Correll**—We do not have that in front of us. We will have to take that on notice.

**Senator LUDWIG**—The converse of that, of course, is non-voluntary locations which were actually made as a result of DIAC's compliance work. There might be others which were between those two extremes, and you could perhaps identify those, but I suspect there will be the voluntary and the nonvoluntary.

**Mr Correll**—We will take that on notice.

**Senator LUDWIG**—I think the annual report states that there were 1,506 locations affected by other government departments, so that would be the group in the middle that might have helped along the way.

**Mr Metcalfe**—Yes. That would usually be the state police, I think.

**Senator LUDWIG**—I was trying to establish who they might be. Could you identify the broad federal or state government departments or agencies that may have assisted in that program and whether the Department of Employment and Workplace Relations was involved. Could you take that on notice, please. How many compliance officers are employed by DIAC?

**Mr Correll**—Just under 300.

**Senator LUDWIG**—Are there team leaders? How are they structured?

**Mr Correll**—Yes—

**Senator LUDWIG**—I remember we were talking about mobile strike teams or flying gangs at one stage. Have we moved past that?

**Mr Correll**—There are obviously teams established in each of our state and territory offices. In New South Wales and Victoria they are quite large teams and they are broken up into some different specialities, including mobile teams that do the majority of their work in the field. There are also teams that focus on particular areas and industries. For example, the sex industry is one where there is a specific focus and particular teams organised to undertake compliance operations in that area.

**Senator LUDWIG**—Do they collect trends in employer groups as to which areas to target and what sorts of industries? You mentioned one, I know. What are the other types of industries? Is there a pyramid of which ones you are more likely to target and use compliance checks with?

**Mr Correll**—Yes, and the compliance teams in the state, supported by work at the national office level, do undertake that analysis to help to target their activity. They also draw on dob-in activity that occurs, and that is an extensive source of information that is used for organising compliance operations.

**Senator LUDWIG**—So what sorts of industries are we talking about that are top of the list?

**Mr Correll**—I think two stand-out industries would be the agricultural industry, with things like fruit-picking and, as I flagged earlier, the sex industry, which is a particular area of concern.

**Mr Richards**—Other industries are retail and hospitality. Construction has been an area also of quite a lot of activity and referrals.

**Senator LUDWIG**—I could not see whether this was in the annual report, but do you specify the broad areas of breaches that are undertaken by the employer, the number of breaches that are recorded on a monthly or annual basis and the types of penalties that are imposed, when you do your compliance check?

**Mr Richards**—I guess in terms of breaches, we are responding to information and intelligence that we have as an agency but also through dob-ins from community members et cetera. In terms of sanctions and things, I think maybe what you are getting to is visa cancellations or other action.

**Senator LUDWIG**—Yes—what happens.

**Mr Richards**—We have that information at an aggregate level but I am not aware that we have got it readily available by particular industry.

**Senator LUDWIG**—So the range of penalties that you could impose are, what, warnings? You can then cancel the visa. What else can you do?

**Mr Richards**—I think we are talking about sanctions against the employers as well as the visa holders.

**Senator LUDWIG**—Yes: deny the employer the ability to employ someone else under a 457 visa or something else.

**Mr Richards**—Yes. Warning notices have been one of the sanctions. From August this year there will be employer sanctions.

**Senator LUDWIG**—You do not have any pecuniary penalties in place against employers at this point in time?

**Mr Richards**—Not at this point in time.

**Mr Correll**—But they certainly will come in under the new employer sanctions arrangements.

**Senator LUDWIG**—I think we talked about that earlier.

**Mr Correll**—I think the comments earlier were in relation to the 457 visas. There is also broader employer sanctions legislation that will be coming into play on, as I recall, 19 August.

**Senator LUDWIG**—The sanctions are not in place as yet, though.

**Mr Correll**—No. They will come into play on 19 August.

**Senator LUDWIG**—What sorts of penalties will you be able to apply then, in these circumstances?

**Mr Metcalfe**—Just while we are looking at that, I have now been given a copy of the onshore detention strategy paper that you referred to, which was published around the time of last year's budget and which I think was for public information about detention facilities. The paragraph you referred to read in full:

The future numbers of people to be held in onshore detention is difficult to predict with certainty as detainee populations and demographics are subject to rapid changes and external factors ... modelling indicates that the number of detainees placed in ... facilities will steadily increase from around 8,000 in 2006-07 to over 9,000 in 2012-13.

That is total people, not people at any one time. It then goes on to say:

Compliance locations of visa overstayers and breaches are expected to increase in future years (to around 3,000 per annum) in line with projections of increasing numbers of travellers and short term visitors to Australia.

So that seems to agree with my earlier comment that the modelling was based upon the fact that we are just seeing more and more people and even if the proportion of overstayers is less, which is our objective, the absolute numbers may grow in a moderate way because it is a reflection of the growth in the overall numbers of people travelling here.

**Senator LUDWIG**—Have they grown?

**Mr Metcalfe**—The advice, based on information at this stage, is no, but we are talking about, I think, a nine-month comparison—that is, what the situation was in May last year compared to the available figure that we had given to us earlier. I think that this paper is predicting growth over five years at least, possibly longer, and it was done in line with projections of tourist numbers and other things. So I do not think that it was anticipated in writing it that there would be an immediate observable increase in numbers but rather that it could be something that might occur over a longer period of time

**Senator LUDWIG**—So we may have to wait and see how that pans out.

**Mr Metcalfe**—We will wait and see. I would be always very pleased if it did not happen. That would mean that we are doing our job well.

**Mr Correll**—Senator, an answer to your earlier question is that, under the new legislation commencing on 19 August, penalties for the offences are fines of up to \$13,200 and two years imprisonment for individuals and \$66,000 per illegal worker for companies.

**Senator LUDWIG**—In terms of the compliance activity, what sorts of excuses do employers currently provide for not being able to comply, when you go out and breach them and they find that they have not complied with the legislation?

**Mr Richards**—I think there are a range of reasons that are given, from the worker claiming that they had the right to work in Australia or claiming that they were an Australian citizen or resident through to ignorance of the legislation and what they are actually able to do.

**Senator LUDWIG**—In terms of the compliance, do you also then provide advice as to how they can guard against those things in the future?

**Mr Richards**—Yes, we do, through our employer awareness process and in particular the entitlement verification online tool and the fax back arrangements, where employers can check the status of potential workers.

**Senator LUDWIG**—So they can use a fax back, where they can then forward you the details and you can advise them. They can go online and check.

**Mr Richards**—Yes.

**Senator LUDWIG**—How does that work?

**Mr Richards**—They register for that system. We do not have the figure immediately to hand for how many employers are actually registered to use that; it is certainly in the thousands. So they are registered and then they can go online and check the details of the person to check their visa status and work rights.

**Senator LUDWIG**—Are government departments, including yours, registered online? In other words, do you and other government departments, as employers, register online to check?

**Mr Correll**—I am not 100 per cent sure of the answer to that question. We would need to take that on notice. But, yes, we would expect all employers and recruiting agencies to access the entitlement verification online system. As part of the implementation process for these changes, employer awareness kits have been developed, particularly targeting the high-risk

industries we were talking about earlier. One of the things we will be attempting to do with this change to the legislation will be to have a major drive to increase the number of employers accessing and registered with the EVO system.

**Senator LUDWIG**—DIAC is obviously registered; you employ people. I want to check whether you ensure that other government departments are also online.

**Mr Metcalfe**—We will check and take it on notice. I would be surprised if we were registered with our own system. The reason is that as a Public Service organisation we only ordinarily employ Australian citizens and we would do a check of that as part of our normal recruitment process. It is possible for us to employ people who are not Australian citizens, but again our normal recruitment processes would mean that we would ascertain a person's evidence. The whole intention of the entitlement verification online is to enable businesses, particularly where employees may be casual or where they may not have experience in checking status, to undertake that. But I think that many government authorities would not use the service because they have other processes which relate to the status of the person who they would employ.

**Senator LUDWIG**—The question was more broadly to ensure that the department and other departments act as good role models for employers in respect of these types of services. But if you say you have got existing systems in place then I will ask the question as well: have you employed unlawful noncitizens or people who do not qualify?

**Mr Metcalfe**—Certainly not to my knowledge, but as always I will be careful and say that I will advise you on notice if that answer is incorrect.

**Senator LUDWIG**—You would expect to know, though, wouldn't you?

**Mr Metcalfe**—I would certainly expect to know with our normal recruitment processes. As I said, ordinarily it is only Australian citizens that have the right to work in the Public Service. That is not an ironclad rule; it is possible for the secretary to waive that requirement. But from my recollection I personally have only waived it once in two years, and that was in relation to a permanent resident of Australia who was in the process of becoming a citizen. But I will correct the record if I am wrong.

**Senator LUDWIG**—Could you also check whether other departments have registered for the online program—or do you think they do not have to?

**Mr Metcalfe**—It is ultimately a question for the employer as to whether they believe the online verification process is something that is of assistance to them or not. It is already of assistance to the vast majority of employers, but I think that many public authorities would have similar processes to us that go to only employing Australian citizens and undertaking stringent background and status checks as part of their recruitment process. The EVO system is particularly powerful for people who may not have those sorts of careful recruitment processes, particularly if they are employing casual or itinerant staff members who may only be with them for short periods of time.

**Senator LUDWIG**—What degree of confidence can you have that your department and others have not contravened that rule? I know you cannot speak for other departments.

**Mr Metcalfe**—I said I would find out to see if we had ever inadvertently done the wrong thing. I certainly hope that is not the case. I cannot speak for others.

**Senator LUDWIG**—It would not be a good look, would it?

**Mr Metcalfe**—It would not be something we would be very pleased about.

**Senator CROSSIN**—What is the module 1 training program that compliance officers are required to complete?

**Mr Richards**—Module 1 was part of the former training that was provided to compliance field staff. It was part of a certificate IV in statutory investigations and enforcement. That module is no longer run. We now run a program for all of our compliance staff through the College of Immigration. So there was the former module 1, which was the basic field operations training, and there was a module 2 for the team leaders. Both of those modules have now been overtaken and enhanced through the College of Immigration.

**Senator CROSSIN**—If they used to get a cert IV, what do they get now?

**Mr Richards**—That will also be to a cert IV standard.

**Senator CROSSIN**—A cert IV in what?

**Mr Richards**—Statutory compliance.

**Senator CROSSIN**—So it has just been subsumed and renamed?

**Mr Richards**—It has also been significantly enhanced in terms of the duration of the training program. The initial training program was 12 weeks of face-to-face contact plus components where people went through workplace assessment. That has been refined down and it now runs as a 10-week face-to-face program with the workplace assessment component. Through that program we have broadened the range of modules that staff undertake to equip them to perform their role as compliance officers.

**Senator CROSSIN**—What about the module 2 training program?

**Mr Richards**—That was the module for the team leaders. That is also part of the program that is run through the College of Immigration.

**Senator CROSSIN**—Is that part of the certificate IV?

**Mr Richards**—Yes.

**Senator CROSSIN**—Is that part of the certificate IV in compliance?

**Mr Richards**—In statutory compliance, yes.

**Senator CROSSIN**—So module 1 is just a certificate II or III, is it?

**Mr Richards**—Module 1 I believe was only a two-week program and module 2 was an additional week. I will confirm those periods for you, but what we now have is a program which is substantially longer.

**Senator CROSSIN**—So it is 10 weeks?

**Mr Richards**—Yes.

**Senator CROSSIN**—And at the end of the 10 weeks you come out with a certificate IV?



**Mr Richards**—Yes.

**Senator CROSSIN**—The 2006 annual report states that 84 new compliance officers and 38 new team leaders were successfully trained between 2005 and 2006. Do you have an idea of what the numbers have been since then?

**Mr Richards**—I have the numbers that have gone through the new college program. The first pilot back in July 2006 had 17 participants. We have run two additional programs—one is currently being completed—each with 26 participants. So, quickly doing the maths, I make that 69 officers.

**Senator CROSSIN**—Since July?

**Mr Richards**—Since July 2006, and there is the fourth program due to commence in July this year.

**Senator CROSSIN**—But people are actually taking longer periods. Do they have to take leave from work or do they do this as part of their paid work?

**Mr Richards**—They do this as part of their paid work.

**Senator PARRY**—What have been some of the benefits from these courses that have been run? Have the positives been demonstrated to you?

**Mr Correll**—This was one of the major initiatives following the Palmer report. It was the first priority in the development of the curriculum from the immigration training college that has been developed, again, from the Palmer report. That has developed the capabilities of our staff in the compliance area. That assists in ensuring improvements in the processes that they are undertaking, in their decision making and in the record-keeping practices they are following. All of the issues that were picked up in the Palmer report are very squarely addressed in the curriculum that has been developed at the training college. As we move forward with the further changes that are now occurring with our overall compliance program and operational processes in the department, those changes are also being woven into the curriculum for the college. So the whole training supports a new approach to compliance within the department. It is underpinning the shift in the priorities that I also mentioned which is refocusing our effort into different categories of people under the compliance program. We believe it has been very successful to date and we are continuing to push on with it. Already, with those numbers, I think we would be close to halfway through having all of our compliance staff complete the program.

**Senator PARRY**—Does it lift morale at all within the department?

**Mr Correll**—In talking to people in our state and territory offices about the changes that have happened within the department one of the dominant responses we get is about their increased exposure to comprehensive training in this area. There has been very positive feedback in that area. The training has also moved into other areas as well—not mentioned by Mr Richards. The detention area has now also been picked up through the training college, and programs are now being run for detention staff as well. I have participated in talks with some of the staff on those courses and they have regarded the training as being of very good quality.

**Senator NETTLE**—I have questions on 1.4. I want to ask about the National Character Cancellation Centre. When was that created?

**Mr Correll**—It was established in February this year.

**Senator NETTLE**—Why was that?

**Mr Correll**—It was established to create a single national centre to improve consistency in the way processes were being followed and in overall decision making for character cases—and indeed the most serious character cases. It basically focuses on cases that are dealing with child sex offenders, national security matters, high-level organised crime, serious drug offenders, cases involving murder, manslaughter, rape or aggravated sexual assault and serious violent offenders. It is part of the overall processes that the department have been following to—again, reinforcing my earlier comments—reorient our priorities and emphasis to the more serious cases that we are dealing with in our compliance action.

**Senator NETTLE**—Is it in response to any reports, such as the Palmer report?

**Mr Metcalfe**—Yes. The Ombudsman made a report in February last year in relation to the administration of the powers under section 501 to consider the cancellation of visas. One of the recommendations was that procedures for decision makers under section 501 be applied consistently across Australia. Prior to that time, prior to the establishment of the centre, the delegation to exercise the power to consider cancellation of a permanent visa was spread quite widely across the department and decisions were able to be taken in all of the department's main state and regional offices. Because of the gravity of the decision to consider the cancellation of a permanent visa and the implication that flows from that—that the person, having migrated here, should then leave Australia—we decided that the best way to ensure consistent application, consolidating assessment to ensure that there was consistent decision making, was in fact to develop a centre of excellence and expertise in the one place.

**Senator NETTLE**—So it was in response to the Ombudsman's report on 501.

**Mr Metcalfe**—Yes, it was in response to the Ombudsman's report and in response to work within the department as to how we could ensure the best quality control in this area.

**Senator NETTLE**—And litigation or court decisions?

**Mr Metcalfe**—In the broader sense, obviously this area has been the subject of decision making by the Administrative Appeals Tribunal, the Federal Court and indeed the High Court in some celebrated cases. All of those simply underline, I think, the gravity of the decision to consider cancelling the visa of a permanent resident. As far as I know, the Ombudsman did not recommend the creation of a national centre but he certainly suggested that our decision making needed to be more consistent. Thus, the decision of the departmental executive, supported by the minister, was that the best way to achieve that was to bring together decision making and to ensure that the staff there were well supported and well trained in the work that they were doing.

**Senator NETTLE**—I understand that previously there were things like the New South Wales character task force unit. Is that an example of what was a state body now being part of—

**Mr Metcalfe**—Each of our state offices had the ability, the delegation, to consider cancellation. I should note that this centre deals with decisions onshore and our character decision making where it needs to be considered at a significant level in relation to offshore visa applications is dealt with in a similar specialised unit in Brisbane.

**Senator NETTLE**—So does the New South Wales character taskforce unit still exist or is that now part of the national centre?

**Mr Metcalfe**—I will check, but my expectation is that it has been wound up and effectively its work has been transferred to the national centre in Melbourne.

**Mr Correll**—That is correct; the work is being centralised in Melbourne.

**Senator NETTLE**—How many people work in the National Character Cancellation Centre?

**Mr Correll**—I do not have the figure immediately to hand. From memory, the organisational structure had a figure in the 30s, but we will confirm that on notice.

**Senator NETTLE**—Is there a budget or a cost associated with the centre?

**Mr Correll**—We will also confirm that on notice.

**Senator NETTLE**—Can you give us a ballpark at this point?

**Mr Metcalfe**—We will take it on notice. It is essentially staffing costs and associated on-costs—property and IT support for our staff. We normally cost those out at around \$80,000 per staff member. So, just doing a quick calculation, it is in the region of \$2 to \$3 million, but we will confirm that on notice.

**Senator NETTLE**—How many cases does it deal with?

**Mr Correll**—This picks up some of the timing prior to its full establishment, but it predominantly focuses on those highly serious cases in the categories that I referred to earlier. From 24 May 2006 to 30 April 2007, 422 cases were dealt with and decisions taken. So it is dealing with over an annual period in the order of 600 to 700 cases.

**Senator NETTLE**—How does a case get referred to that unit?

**Mr Correll**—These cases involve in many situations individuals who are in correctional institutions in states. Reports from state correction departments are made to our state and territory offices. From there referrals are made into the NCCC.

**Senator NETTLE**—I am unclear whether it deals with all cancellations or only those cancellations that you described as serious offences.

**Mr Correll**—All the potential 501 cancellations are referred to the NCCC for consideration but its dominant focus is on the category one to six clients. At this stage there would still be cases being dealt with in state and territory offices below the category 1 to 6 level.

**Senator NETTLE**—Page 65 of the portfolio budget statement in the performance information section has under ‘quantity’ cancellations of 501s that occur. I want to work out whether the National Character Cancellation Centre has a target or quota in terms of decisions

and cancellations. How does that interact with the sort of performance information that seems to be there? How do those two interact?

**Mr Metcalfe**—As you can see, it makes it quite clear that there is a quality performance indicator as well as a quantity performance indicator. There is no target whatsoever. Each case is addressed on its merits.

**Senator NETTLE**—Can you explain the difference between those two. Under ‘quantity’ it talks about the number of cases. Under ‘quality’ it says: ‘Proportion of s501 cases in the serious criminal category considered for cancellation.’ I do not understand why that is under ‘quality’ and the number of 501 cancellations are under ‘quantity’. Why are they separated like that?

**Mr Correll**—In terms of the quality indicator, the proportion of section 501 cases in the serious criminal category considered for cancellation, our expectation there would be a clear 100 per cent. As part of our overall priorities in the compliance program, we have all section 501 cases classed as a mandatory consideration so the requirement there is 100 per cent. That does not mean 100 per cent cancellation outcomes. Indeed, as to those earlier figures I quoted to you from May to April 2007 where there had been a total of 422 cases, about 80 per cent of those resulted in warnings compared to 20 per cent that resulted in cancellation action.

**Senator NETTLE**—What proportion of cancellations are decisions made by the minister as opposed to those delegated to department officials?

**Mr Correll**—Bearing in mind that that is not quite comparing apples with apples because the cases that are referred to the minister invariably are the most sensitive and complex cases, of the total of 422—the figure I quoted earlier for the period between May 2006 and April 2007—83 decisions were made by the minister, of which 42 per cent were warnings given. At the same time 339 decisions were made by the department, of which 73 or 74 per cent—rounded—were warnings. Again, the emphasis is that the most extreme cases are the ones that are invariably referred to the minister.

**Senator NETTLE**—To work out the percentage of cancellations, is that just 100 minus 42 and 100 minus 74?

**Mr Correll**—Yes.

**Senator NETTLE**—I am not missing something else from some other category there?

**Mr Correll**—No, that is the maths.

**Senator NETTLE**—I have a couple of questions that I want to ask around compensation.

**Mr Metcalfe**—This is as to the referred cases that we talked about earlier?

**Senator NETTLE**—Yes. I want to check if the Vivian Solon case is completely finalised or if there are any outstanding components of that case.

**Ms Bicket**—In terms of the compensation payment, it is finalised. The only outstanding matter is in relation to legal costs. We have not yet obtained agreement with Ms Solon’s representatives in relation to the legal costs.

**Senator NETTLE**—You indicated before Mr T’s, Mr G’s and Cornelia Rau’s ongoing compensation matters. Are there others beyond those three?

**Ms Bicket**—In relation to the 247 or more generally on compensation?

**Senator NETTLE**—Both.

**Ms Bicket**—In relation to compensation more generally, there are 19 active cases before the courts where damages are part of the claims considered in those matters. Ms Rau's is one of those matters. As I indicated this morning, I am seeking to obtain some further information to identify which amongst the 247 may be amongst other cases. In relation to those 19 active cases before the courts, I have not been able to obtain that detail, but I do know that Ms Rau's is one of those. There are a further 15 matters which the department has under consideration where there is a claim for damage element to them as that has been foreshadowed in relation to those matters, but they are not before the courts. Those 15 matters include Mr T and Mr G, and I believe they also include at least another two persons who are amongst the 247. But, as I said, I would need to take on notice confirming exactly what the quantum of the 247 are ones that we have in those matters.

**Senator NETTLE**—Are you able to provide us with a figure associated with the legal costs with these compensation cases?

**Ms Bicket**—If they are active ongoing matters, then we will not obviously know the final costs in relation to them. It would require us to do some searches to compile that information. So I would need to take it on notice.

**Senator NETTLE**—That is all right. We have asked those sorts of questions before, so if we can get it in the format that would be helpful.

**Ms Bicket**—The answers we have provided before, generally speaking, have been related to concluded matters, not to ongoing, active matters before the courts.

**Senator NETTLE**—I have certainly asked ongoing questions and have got updates at various estimates. However that comes will be fine. The other cost question that we have asked before and which I would like an update on is with regard to litigation. I do not mean just the compensation component, but what are the current litigation costs?

**Ms Bicket**—You mean our internal legal costs for litigation?

**Senator NETTLE**—In relation to cases for visa applications where there is—

**Ms Bicket**—I think we have provided figures in relation to legal expenditure for legal services and we answered a question on notice in relation to that. For the financial year 2006-07 to 31 March, the agency's total legal expenditure was \$29.786 million, of which \$20.508 million was for external legal services, and that would include legal services for counsel's advice, litigation matters.

**Senator NETTLE**—That was 2006-07 up until what date?

**Ms Bicket**—Until 31 March.

**Senator NETTLE**—So it is \$29.786 million in total on what? I am just making sure I have got the terminology right.

**Ms Bicket**—Total legal expenditure.

**Mr Metcalfe**—The first nine months of the financial year.

**Senator NETTLE**—That includes \$20 million on—

**Ms Bicket**—It includes \$20.508 million for external legal services.

**Senator NETTLE**—External legal services, which would include litigation.

**Ms Bicket**—Yes, and indeed the vast majority of that external legal services expenditure would be for litigation matters.

**Senator CROSSIN**—I want to ask some questions on 1.4.2, Status resolution. My questions relate to page 65 of the PBS. What is the number of bridging visa E overstayers as a proportion of the total BVE grants?

**Mr Correll**—We do not have that figure.

**Senator CROSSIN**—It is under the status resolution section.

**Mr Metcalfe**—We have found the performance indicator. We do not have the answer for the sort of current quality measure on that with us. We can obviously come back to you on that.

**Senator CROSSIN**—I am a bit miffed, because this is about the third or fourth question I have asked today about all your indicators, what the baseline data is and how you are going to measure it and you have not brought the baseline data with you to estimates.

**Mr Metcalfe**—We can see if we can provide it to you, but it is not something that we have with us in the room, I think.

**Mr Correll**—Yes. In addition to that, this is an area where, through our Systems for People program, we are about to produce a whole lot of reporting against the key performance indicators in our compliance area. That reporting has been lined up with the PBS key performance indicators. I believe we will be able to manually extract this information, but this will be available shortly in a fully automatic way.

**Senator CROSSIN**—So am I asking you to do it before time?

**Mr Correll**—You could put it that way, but—

**Mr Metcalfe**—Technically speaking, this is how we will next year—

**Senator CROSSIN**—You could have said yes and got yourself out of a pickle, perhaps.

**Mr Metcalfe**—The answer is yes! No, the answer is that that particular performance measure is of course pertinent to financial year 2007-08. If you are asking a question about whether there is a similar performance indicator for 2005-06 and 2006-07 we can check and provide you with data.

**Senator CROSSIN**—I suppose indirectly that is the question, because I am actually asking: what is the number of bridging visa overstayers and what are they currently as a proportion of the total BVE? Unless you have that current data, I am not sure how you measure an output.

**Mr Metcalfe**—I think Mr Correll has explained that we do fully intend to measure that. What I am not too sure about is whether that has been a pre-existing measure in that particular form. We have agreed to take on notice to provide any baseline data that we have.

**Senator CROSSIN**—In that same section, under ‘quantity’, what is currently the number of people entering detention as a result of compliance activities?

**Mr Correll**—We should have the latest detention statistics. There are currently, as at 11 May, 466 people in immigration detention. Of those 466 people at that time, 43 were illegal foreign fishers. The bulk of the remainder would have been attributable to visa overstayers.

**Senator CROSSIN**—Why is it in this table? Is that because you are actually seeking to reduce the number of people entering detention?

**Mr Correll**—No. It simply represents a quantity indicator that is relevant to the issue of status resolution. Considered in isolation it may not mean a lot, but considered both from a trending point of view and also when looked at in relation to compliance activity it helps give an overall performance picture.

**Senator CROSSIN**—So you just want to know the number; you are not looking at whether it increases or decreases.

**Mr Correll**—No, we are looking at trends. Using this as a key performance indicator, it is important in giving us a picture from a trending point of view of the numbers of people in detention. We have been trending down with the numbers in detention for some time now.

**Senator CROSSIN**—Likewise, under that, what is the number of clients in case management services?

**Mr Correll**—Just over 800.

**Senator CROSSIN**—So what are we looking for here? Are we looking to see that increase or decrease in the annual report, or do you just want to know what number exists?

**Mr Correll**—No. It is a useful number in that it is telling us the number of clients that we have who are being intensively managed to achieve the appropriate immigration outcome. Again, we look at it from the point of view of trends that are occurring and we look at it in the context of other numbers. You cannot look at any of these numbers, any of these key performance indicators, in isolation and get the picture on compliance performance; it is a matter of looking at a basket of indicators.

**Senator CROSSIN**—Are those figures reported in the annual report?

**Mr Correll**—Yes. The KPIs lined up in this PBS will be reported again in our next annual report.

**Senator CROSSIN**—Not this one; not this year.

**CHAIR**—The one beyond the next one.

**Mr Correll**—Yes, the one beyond the next one.

**Senator CROSSIN**—I am with you; I am on the program I think. I move to output 1.4.3, Removals. Again on page 65 under the ‘quantity’ heading is: ‘Number of removals, supervised and monitored departures’.

**Mr Correll**—Again, this is a useful number from the point of view of understanding trends that are occurring in overall numbers of removals. But also, one would want to line this up with the trends that are occurring in the other indicators shown on this page. The number of

removals is an important measure of the overall outcomes being achieved under the compliance program.

**Senator CROSSIN**—So have we got the number?

**Mr Correll**—From 1 July 2006 to 31 March 2007 there were 1,834 removals.

**Senator CROSSIN**—These are people who are returned?

**Mr Correll**—No, these are formal removals and that would make them involuntary action. They are also supervised departures. For that same period there were 1,494 supervised departures. There is another category as well of ‘monitored departures’. There were a further 3,222 of those, as well as 601 voluntary returns. So over that period from 1 July to 31 March there were a total of 7,162 removals and returns both enforced and voluntary.

**Senator CROSSIN**—So what is the ‘number of removal pending bridging visa holders returned or removed’, which is the next outcome or KPI?

**Mr Correll**—I will check whether we have that statistic to hand. I do not believe we have that one. As I said earlier, all of this reporting is being generated in an automated form commencing July this year to line up with these PBS. We can attempt to draw it out on a manual basis now. I do not know if that would be useful.

**Senator CROSSIN**—Perhaps you can take it on notice then. I am done with questions on output 1.4.

[9.58 p.m.]

**CHAIR**—We will move to output 1.5, Detention.

**Senator CROSSIN**—My questions mainly go to the Audit Office report preparations for the re-tendering of DIAC’s detention and health services contracts. Can I confirm that the total price for this output is \$149.6 million and the department outcome appropriation is \$148.8 million.

**Mr Metcalfe**—What page are you looking at?

**Senator CROSSIN**—I don’t have that. I just have the amounts. I do know where I found the others.

**Mr Metcalfe**—So you are pointing to a difference of about \$1 million, are you?

**Senator CROSSIN**—Yes.

**Mr Metcalfe**—Where we were in the PBS before, page 66, I can see a figure of \$149.6 million being appropriated.

**Senator CROSSIN**—Okay. I will go to some questions then. Following on then from the Audit Office report, what contract arrangements will be made between the expiry of the current contract and the awarding of the new contract in 2008?

**Mr Metcalfe**—You are talking about last year’s Audit Office report, are you? We have had another one more recently on the tender process itself.

**Senator CROSSIN**—I am talking about the one that has just come down here in May, the re-tendering of the detention and health services contract.



**Mr Metcalfe**—That report was actually initiated at my request. You may recall that there had been an earlier report last year which had been critical of the tendering process and in retendering, I, together with other colleagues, was concerned that we adopt best practice to ensure that we were absolutely squeaky clean in the way we went about this. In addition to all of the usual assurance and support measures and external advice, we thought it would be useful to invite the auditor to actually provide advice to us as to his views on the process to date. So the audit which was undertaken by the Audit Office was in fact in response to a request by me. The audit handed down recently was highly positive about the work that has been undertaken in relation to the retendering. It made one or two minor comments in relation to particular aspects of record keeping which we have of course agreed with. I must say I should not be disappointed—but I do sometimes get disappointed with the media—that the media report in relation to that somehow indicated that the department had not learnt lessons and was making a terrible mess of things. Nothing could be further from the truth on any objective analysis of the report. I did write to the paper indicating that they appear to have got the wrong end of the stick, but regrettably they did not publish that letter. If it would assist the committee, I would be very happy to give you a copy of the letter to just point out the facts as we see them.

**Senator PAYNE**—That would be very helpful.

**Senator CROSSIN**—We could probably have that, thank you.

**Mr Metcalfe**—I will get you a copy. It is a very short letter and very well written, but there did not seem to be space in the paper for it on that particular day.

**Senator PAYNE**—You did not need to do that yourself; you could have left the praise for us.

**Mr Metcalfe**—Unfortunately, I did not write it, but I was very pleased to sign it.

**Senator CROSSIN**—So the GSL contract actually runs out in August this year.

**Mr Correll**—Yes.

**Senator CROSSIN**—My understanding is that the total cost for the contract is expected to exceed \$400 million. Is that correct?

**Mr Correll**—Yes to both questions. The contract with GSL is due to expire in August this year although we are looking at a short extension of that contract to enable us to be sure of completing the tender processes.

**Senator CROSSIN**—So a new contract won't be awarded until at least March 2008. Is that right?

**Mr Correll**—We would expect it to be early in the 2008 year.

**Senator CROSSIN**—So what is going to happen between August and 2008?

**Mr Correll**—That is where, as I flagged, we are looking at a short extension of the existing contract to cover that period.

**Senator CROSSIN**—During the previous tender, as my understanding is, the department wrote to the minister—we are going back to March 2003—advising that it was proposing to encourage ACM, the then existing contract holder, to have a successful transition out by

offering a completion payment of \$5.7 million—even though the Audit Office found no requirement for such a payment. You are not anticipating to make a similar payment to GSL if it is not the preferred tenderer?

**Mr Correll**—My colleagues have confirmed that the existing contract with GSL has transition-out provisions in it which I would have expected in such a contract. There would always normally be in a contract a transition-out clause and that is within the existing contract. Whether that clause gets invoked will depend on the outcome of the tender processes to be followed.

**Senator CROSSIN**—If their contract is due to finish in August anyway, isn't that the end of it?

**Mr Correll**—No, one needs to recall that we are looking at that short-term extension.

**Senator CROSSIN**—Yes, you are. But if you give them an extension until whatever—say, of six months—and if they don't win the tender contract, why would you need to pay some sort of out payment?

**Mr Correll**—They may be a tenderer and they may be successful, in which case there would not be a transition-out provision. On the other hand they may not be a tenderer or they may not be successful, in which case there would be transition-out provisions.

**Mr Metcalfe**—As Mr Correll says, we will be required to extend the current contract because we are expecting to go to tender in the next few days for the next contract. We will need to extend the current contract to allow us to run through the tender process, assess it, consider who the successful tenderer should be and go through any contract negotiations. That will clearly take some months to work through. At this stage, although there is provision in the current contract with GSL for there to be transitioning out, that of course is hypothetical because, as Mr Correll indicated, GSL may or may not contract and GSL may or may not win the tender process. There is provision for something that may possibly occur down the track, but we are nowhere near that stage yet.

**Senator CROSSIN**—So you would not be able to put an estimate on the amount of completion payment that might need to be made, or do you have an amount that is budgeted?

**Mr Correll**—We would no doubt be budgeting for a possible amount, but to estimate that is very difficult because one needs to know the outcome. There are many permutations and combinations that could apply in an outcome. Until we know what the outcome of the tender process is, it is very difficult to be confident about a transition-out cost. We do have different costs set out in the contract for different facilities, but again that will still be influenced by what the outcome of the tender would be, so it is very difficult to give any sensible figure until you know what the outcome of the tender is.

**Senator CROSSIN**—How many times has the contract with GSL actually been altered during the life of this contract?

**Mr Correll**—There would have been a series of contract variations made. We would have to check. This is not one or two. Over the life of a contract like this you would expect a series of contract variations.

**Senator CROSSIN**—Can you take that on notice?

**Mr Correll**—Yes.

**Senator CROSSIN**— I think you have also previously provided this committee with the number of times GSL has breached its contract with the Commonwealth, and the clauses to which the breaches are related. Is there any update on that table that reflects the most recent breaches?

**Mr Correll**—We can provide an update in a similar format to that provided previously—just to update the figures. There is a regular cycle, under the contract, of performance reviews which is linked in with the payment cycle under the contract. Sanctions are identified as part of that performance review process and flagged in there, so we would link it in with the latest round of performance reviews.

**Senator CROSSIN**—There was criticism in the ANAO report that the whole-of-life budget would actually strengthen the management of this tender process. Is there a view to review what has happened and make changes in the next contract?

**Mr Correll**—That reference was a whole-of-life cost for the actual tender process rather than for the detention services contract itself. Throughout the project there has in fact been an overall budget for each financial year affected, and although that has not been formalised into a whole-of-life budget, based on that comment from the ANAO's review we intend to formalise it into a whole-of-life budget. We have had broad estimates of the whole of life; we simply have not taken that further step of formalising it. But we think that that is a good suggestion from the ANAO.

**Senator CROSSIN**—What is your response to the fact that the ANAO was very critical of the department's tender process, concluding that, 'Errors that occurred during the evaluation stage compromised the Commonwealth's negotiation of the contract with GSL'?

**Mr Correll**—We have to be careful and to realise that there are two audits involved here. The audit reference you are talking about relates to the previous tender process. That audit report was very critical of the previous tender process. The latest audit report is a very positive report. It has just two recommendations within it. We saw both those recommendations as value adding and we have taken them on board, but the latest report has also flagged that the overall processes that are in place are very sound and very good processes. So we were very pleased with the latest audit report. But your last comment did not come from the most recent audit report; it came from the earlier one.

**Senator CROSSIN**—Has it still caused you to make some changes?

**Mr Correll**—Yes. We are taking on board the area you mentioned earlier—formalising a whole-of-life project budget for the tender—and also the reference to strengthening record-keeping arrangements on the tender processes. Again, we have been attempting to put good record-keeping processes in place for the tender processes, but we think the ANAO's recommendations are well worth taking on board.

**Senator CROSSIN**—I do not have any other questions about the contract.

**ACTING CHAIR (Senator Payne)**—So that concludes your questions on the contract but not on detention generally?

**Senator CROSSIN**—That is right.

**ACTING CHAIR**—Okay. We will go to Senator Nettle for a moment and then come back to you.

**Senator NETTLE**—This is a question I have flagged a few times, about illegal fishers and their health. People have told me that the boat used for picking up illegal fishers, which was called the prison ship, was not being used because some of the crew on it had concerns around tuberculosis infections amongst the illegal fishers and the impact of that on the crew. I just wanted to put that to you and see if that is accurate.

**Mr Correll**—The boat that I think you are referring to is the *Triton*—

**Senator NETTLE**—The one with the guns mounted on the side and—

**Senator Ellison**—It is not a prison ship.

**Senator NETTLE**—I am just trying to make sure we have got the reference.

**Mr Metcalfe**—It is the Customs vessel which is used to bring larger numbers of people into shore so that patrol boats can stay on patrol.

**Senator Ellison**—That is right. It acts as a mother ship.

**Senator NETTLE**—All right. We will call it the mother ship. People have said to me that the mother ship is not being used because the crew had concerns about potential tuberculosis infection from illegal fishers. I just wanted to ask if that is accurate.

**Mr Correll**—I do not have any knowledge of that, but I do know that the ship certainly is being used and was used as recently as Saturday, when I understand it brought about 50 Indonesian illegal fishers to Darwin.

**Senator NETTLE**—What is the process for tuberculosis screening or checking for illegal fishers that are brought in on that ship or on other ships?

**Mr Correll**—We cannot comment on the processes on board the ship, because that is being handled and managed through the Australian Customs Service. You would need to put that question to them. We understand there is a level of screening on the health side on board the ship, but that is a matter for the Customs Service. We can comment on what happens when the illegal foreign fishers are passed into our jurisdiction in Darwin, at the northern centre. I will ask Mr Casey to comment on that.

**Senator NETTLE**—The part I am interested in is when they are on the ship, whether it be that ship or others.

**Senator Ellison**—That is a question for Customs.

**Senator NETTLE**—Is it Customs both when they are on the mother ship and when they are brought in on their own ship?

**Mr Correll**—Yes.

**Mr Metcalfe**—I think you are seeing Customs later in the week, so we will let them know that they can expect a question.

**Senator NETTLE**—I visited a detainee in stage 1 of Villawood a couple of weeks ago. They were in stage 1 but not because they had spent any time in prison. They were previously in stage 2 or 3—in the other part. I asked them why they were in stage 1—because they were

not a 501 case or anything. The answer I received was that the guard had taken them from the other stages into stage 1. When they asked the next day why they had been transferred to stage 1, the answer they received from the guard was that there had been an anonymous handwritten letter alleging that they were attempting to escape. That struck me as not being a very fair process, because that person had not seen any documentation on that. Are you struck by the same sense of a lack of justice in this instance, or does this fit in with what you would expect?

**Mr Correll**—No. The management of people in detention at Villawood and other centres is handled in a very careful way. People would not be relocated into stage 1 without there being particular risk exposures that would generate that. However, it is very difficult to comment on a case like this. My strong preference would be to try and get the details, not in a public forum like this but perhaps directly from you, so that if there are issues there we can follow them up, check it out and ensure that appropriate practice has been undertaken. In all cases, decisions on the location of people in detention at Villawood are made very carefully and in a very considered way. So we would certainly want to see the circumstances of the case.

**Senator NETTLE**—Are there any guidelines on the risks, as you outlined them, that would need to be assessed for somebody to be moved into stage 1 at Villawood?

**Mr Correll**—I have some information in relation to the case that I think you may be talking about. The issues do not go to an anonymous piece of information alone, so that is why I think it is not sensible to discuss it in this forum. Perhaps we could separately discuss the circumstances, but I would not be prepared to comment in detail on this particular case.

**Senator NETTLE**—I am happy to discuss the case with you separately, and that is why I asked more generally whether there is a set of guidelines in relation to the risks that would need to be met for somebody to be transferred into stage 1 at Villawood.

**Mr Correll**—The answer is: very much so. We have what we call a client placement model, which is the guiding operational policy for determining where people who are detained are placed, across a broad spectrum of different types of detention facilities—from stage 1 at Villawood, at the extreme end, to community based detention in residential housing centres. That wide spectrum is part of the client placement model and it is actively reassessed on an ongoing basis with individuals. Every individual in detention today is subject to full and active case management. They have a dedicated case manager who is reviewing and reassessing their circumstances. We believe this is an area where quite massive reforms have been introduced to focus very strongly on the individual circumstances of each and every case and to have those circumstances actively managed. I think that is reflected in the array of different options for placement of individuals under that client placement model.

**Senator NETTLE**—That is a lot of information about the broad instance. I am interested in what kind of things mean that you end up in stage 1 in Villawood. Can you provide us with any documentation outlining what sorts of things would lead to somebody being put in stage 1 at Villawood? I am interested in that bit, rather than in the whole management scheme.

**Mr Correll**—We can provide that. Quite factually what it will say is that high flight risk cases—invariably, significant character or criminal cases—would be in stage 1 at Villawood. We have that documentation and we can provide it.

**Senator NETTLE**—Would any of those criteria be for the safety of the individual? Would anyone ever be transferred into stage 1 for their own safety?

**Mr Correll**—There are potential cases where that could occur—or other considerations, other possible locations—under the client placement model where the separation of one individual from another or a group of others is seen as a sensible outcome to be managed.

**Senator NETTLE**—I am aware of that occurring in relation to management units and of them being used in that way. I thought I did not need to ask that question; I feel like I have asked that one before. This question is about the transfer of somebody into stage 1 for their own safety.

**Mr Correll**—That could potentially occur. One would not want it to occur for very long in those circumstances.

**Senator NETTLE**—Give me a sense of how serious an instance might be if somebody were transferred outside of the guidelines. Does that go to the level of being a breach of the GSL contract, or is it a lesser level of infringement if GSL does something that is not in line with the guidelines that you are going to table?

**Mr Correll**—Placement decisions under the client placement model are supervised by departmental staff. These are not decisions that are taken in isolation by GSL. In reality there is a close dialogue between DIAC staff at the centre and GSL over those sorts of decisions.

**Senator NETTLE**—But ultimately the placement of individuals is a DIAC responsibility?

**Mr Correll**—Yes, it would be, because in a sensitive case that decision would be taken under close direction and supervision.

**Senator NETTLE**—I will now ask some general questions in relation to the case that do not go to the specifics. They deal with issues of discrimination that occur within a detention centre—discrimination on the basis of sexuality or on the basis of a number of other reasons. Are there requirements that discrimination not occur on the part of staff? What is in place for ensuring discrimination does not occur on the part of other detainees? In what way are those issues managed?

**Mr Correll**—Firstly, we would not expect that there would be any discrimination shown, and that would not be part of any consideration under the client placement model.

**Senator NETTLE**—My question does not relate to client placement. Maybe this is question you might want to take on notice. It is a general question on the discrimination occurring in the detention environment and the frameworks in place for that.

**Mr Metcalfe**—The general philosophy that applies in detention centres is that, to the extent that we can possibly ensure it, the only thing that affects people's lives is the fact that they are within confined areas. Their ability to continue to lead their lives and observe their own cultural or religious observances is a matter that we deal with through the contract, through the performance standards and through the detention framework. We seek to ensure that, to the greatest extent possible, while a person is being deprived of their liberty for administrative purposes associated with their availability for the resolution of immigration matters, in every other respect they are able to continue to lead their life. That is a philosophy

that permeates the detention strategy, the contract and the performance standards underneath it.

**Senator NETTLE**—I will not pursue that any further now, but it would be appreciated if you could provide on notice any information about management strategies for that. I have some other questions on output 1.5, some of which I will put on notice, but I do want to ask the standard question that we ask about the costs associated with the various detention centres—in particular, those that are mothballed or contingencies or whatever their current status is at the moment.

**Mr Correll**—I can give you the fixed and variable costs associated with each of our operational centres at the moment. However, you asked about the mothballed centres.

**Senator NETTLE**—I am interested in both, but I am most interested in the mothballed ones.

**Mr Correll**—I can give you the costs for the operational ones and, whilst I am giving you those, my colleague might be able to find the costs for the mothballed ones. In 2005-06, Villawood had fixed costs of \$16.9 million and a variable cost of \$154 per detainee per day, Maribyrnong had fixed costs of \$5.3 million and a variable cost of \$104 per detainee per day, Perth had fixed costs of \$4.6 million and a variable cost of \$189 per detainee per day, Baxter had fixed costs of \$23.3 million and a variable cost of \$115 per detainee per day, the northern centre had fixed costs of \$3.9 million and a variable cost of \$122 per detainee per day and Port Augusta residential housing had fixed costs of \$2.2 million and a variable cost of \$122 per detainee per day. The costs for Port Hedland, which is in a mothballed state, were \$60,000 per month, which covers security and maintenance services. They are the only ones we have to hand. Looking at the other centres, Woomera has closed and Singleton has closed. That is about the lot.

**Senator NETTLE**—Do you have the costs for the offshore ones as well?

**Mr Correll**—Christmas Island—

**Senator NETTLE**—And Nauru.

**Mr Correll**—We will just check again. Yes, we do. We also have Manus as a mothballed facility at the present stage. So the annual cost for Manus is \$2 million. The total cost for Nauru is—this is operational as well—\$28 million for 2006-07. Of course, Christmas Island has not yet been handed over to the department. Regarding the new facility, the existing temporary facility, I am not sure we have a figure. I think that is the one we may have to take on notice.

**Senator NETTLE**—No worries; that is great. I thought Baxter was on wind-down.

**Mr Correll**—In the 2006 budget the government announced that Baxter would be mothballed by June 2008. That is subject to a review during the course of this year. At the present stage the numbers at Baxter are very low: I think a total of 31 people in both the detention facility and the residential housing centre at Port Augusta.

**Senator NETTLE**—So does the closing of Baxter mean the closing of the Port Augusta housing project or not?

**Mr Correll**—Probably. We would expect to not continue to have any people in detention in either the housing centre or the detention facility at Port Augusta.

**Mr Metcalfe**—Senator, you used the word ‘closing’ of Port Augusta. I think if there was a decision made it would be to mothball it as well so that it remained available to be used at short notice if required.

**Senator NETTLE**—Can you take on notice: of the 31, what is the split between those who are currently in Baxter and those who are in Port Augusta?

**Mr Correll**—I think we have that. We will not take that on notice because I think we can do that in a moment.

**CHAIR**—Senator Nettle, I know Senator Crossin has questions in this area. Can you bear that in mind so that we can get coverage and so that everybody gets a chance. We have got outputs 1, 6, 7 and 8 to conclude.

**Senator NETTLE**—I might just do one more question and then I will hand over to Senator Crossin.

**Mr Correll**—The answer to that question was 18 in Baxter and 13 in the residential housing centre, as at 11 May.

**Senator NETTLE**—The other issue I want to address in 5.1 is legal assistance. I was asking before about people’s access to lawyers. I noticed that the Attorney-General said in the middle of March on ABC Radio, on the *PM* program:

And the idea that every asylum seeker, wherever they are in the world is entitled to Australian legal representation as of right I think flies in the face of what is either reasonable or possible.

I just want to work out how that fits in with section 256 of the Migration Act, which is about people in immigration detention—because that is what I am interested in—requesting and receiving legal assistance. This goes to what I was asking before about the Sri Lankan asylum seekers. I want to understand the process by which an asylum seeker is able to receive legal assistance when they are in detention, by asking the department.

**Mr Metcalfe**—I am sure we have covered this over the years but, of course, section 256 does not say that they get legal assistance; it says that the department must afford a person reasonable facilities in order to seek legal assistance.

**Senator NETTLE**—I want to understand in a practical sense how that works. Do you need to know the name of the lawyer?

**Mr Metcalfe**—No. The normal assistance that is provided if someone requests it is that we would provide the person concerned with a phone book or a list of migration agents and facilities enabling that person to confidentially contact a legal adviser.

**Senator NETTLE**—So, if a detainee asks for assistance in getting legal advice, that is what they would be provided with?

**Mr Metcalfe**—That is right. If they indicate that they wish to contact a lawyer, section 256 obliges us to provide them with reasonable facilities, and I have indicated what we do.



**Senator CROSSIN**—Can I just go to Christmas Island for a minute. In February you advised that the centre was due to be completed there in April, but I am assuming that is now not the case.

**Mr Correll**—No, it is not. We are now expecting to receive handover of the Christmas Island facility towards the end of this calendar year.

**Senator CROSSIN**—Not till December now.

**Mr Correll**—The best I can indicate with precision is towards the end of the calendar year. Once the project has been completed and completion accepted by the Department of Finance and Administration, which is managing the project on our behalf, then there is a process of handover of that facility to the department, and we would be wanting to do appropriate due diligence tests in that handover.

**Senator CROSSIN**—In this PBS, what is the estimated cost per month of managing that facility, once you get the facility?

**Mr Correll**—I think that we would need to take that per month cost on notice. We have calculated those figures, but I do not have them to hand.

**Senator CROSSIN**—Where would I find reference to this in the PBS?

**Mr Metcalfe**—I do not know if the PBS goes to that level of detail.

**Senator CROSSIN**—I do not think it does.

**Mr Metcalfe**—If it does, we will let you know.

**Mr Correll**—I think you would find it within 1.5, but it would not necessarily be separately identified within 1.5.

**Senator CROSSIN**—Who exactly is going to be in this facility on Christmas Island?

**Mr Correll**—Had the facility been available recently, then there would have been 83 Sri Lankans going through initial screening and health checking in that facility rather than in the temporary facilities that we used on Christmas Island.

**Senator CROSSIN**—What is your plan for the temporary facility up there?

**Mr Correll**—We would not have continued use for that temporary facility, and the land and facilities there would be returned for use by the Christmas Island community.

**Senator CROSSIN**—Can you just clarify that for me.

**Mr Correll**—It would be returned to the administrators on Christmas Island, who are the Department of Transport and Regional Services.

**Senator CROSSIN**—Are you talking about the land or the demountables that are there as a temporary centre? What are you planning to do with the demountables that are there?

**Mr Correll**—There would need to be an overall remediation of the site, and that would include taking action with the demountables, removing them, and the site then being used for other facilities, bearing in mind that that site is directly adjacent to a swimming pool and sports facility.

**Senator CROSSIN**—Yes. That is why I am asking the question.

**Mr Correll**—For that reason one would expect the community would have strong interests in what was actually done with that site. We are in dialogue at the moment for the remediation of the site in a way that is consistent with the Department of Transport and Regional Services advice to us. They, in turn, would liaise with the community members.

**Senator CROSSIN**—What are you planning to do with the demountables that are on that site—relocate them back to the mainland?

**Mr Correll**—It has not been finally decided as yet; we have not settled that issue.

**Senator CROSSIN**—What is the total cost of winding down that temporary centre on the island? What is the budgeted amount for that?

**Mr Correll**—I do not have that figure to hand. We would need to take that on notice.

**Senator CROSSIN**—Can you do that? Does such a figure exist?

**Mr Correll**—I would want to have a look at the estimates. There would obviously need to be some budgetary provisions being made for it. Whether there was a hard and fast estimate for that particular cost, I am not sure. That is why we need to take it on notice.

**Senator CROSSIN**—But you must have a costing of: whether you would keep all of the demountables there, or some of them or none of them; what the cost is of taking down the barbed wire fence; what it might cost to rehabilitate the site if you wanted to put the cricket pitch back there.

**Mr Correll**—We would certainly be looking at those overall costs. We would have a total budgetary figure that we are working with but not necessarily broken up for the various items in the way that you are suggesting. We are still in the process of dialogue over remediation of the site and how we are going to be handling those—

**Senator CROSSIN**—With DOTARS?

**Mr Correll**—Yes, with DOTARS. It is too early to have those figures budgeted away with any precision at this stage.

**Senator CROSSIN**—Can you give me a rough estimate of what amount has been set aside to deal with winding down the temporary facility?

**Mr Correll**—Yes, to the level of precision that is possible based on how far those discussions are at the moment.

**Senator CROSSIN**—What will happen with the construction site that is also in that area? Is that your responsibility?

**Mr Correll**—It is. That is also part of the remediation considerations. That facility, as you know, is adjacent to the actual site itself.

**Senator CROSSIN**—It would house more than 300 people, as I understand it, so it is a lot of demountables.

**Mr Correll**—There are a considerable amount, and again that is why it is important for it to be fleshed out in the discussions with DOTARS.

**Senator CROSSIN**—If you get the Christmas Island facility handed to you by 31 December and no-one stays in it in January or February, do you have an idea of what the ongoing cost of maintaining that facility is going to be?

**Mr Correll**—Yes, we would have some broad figuring on that. At the present stage we are looking at the costs associated with the staffing on Christmas Island that would be required to maintain the new facility. As well as that, the actual contractor costs associated with operating that facility will come out of the tender process that we are running for all of the detention facilities. It is difficult to know what that cost will be at this stage, but it will be subject to a market based tender. We would have broad provisioning at this stage for that in the out years, but it is only broad estimates pending the outcome of the tender process. As a guide to the costs—and this goes to an earlier question from Senator Nettle—the operating and maintenance costs for 2005-06 for the temporary facility were \$6.8 million and you could expect that the operating costs for the new facility would be of a significantly higher order than \$6.8 million per annum.

**Senator CROSSIN**—I am not asking about operating costs, because a temporary facility does have people in it and it is used. I am asking whether you have an idea of what it is going to cost you to maintain the Christmas Island facility if nobody is in there.

**Mr Correll**—Yes, we would, but I do not have that figure on hand.

**Senator CROSSIN**—Would you take it on notice for me.

**Mr Correll**—Yes.

**Senator CROSSIN**—How are you going to manage the tender process for a facility that is as far away as Christmas Island if there might be peaks and troughs? There might be nobody there for three months, then 80 people there for a couple of weeks and then no-one for six months.

**Mr Correll**—That would be a specific part of the provisions in the tenders. The prospective tenderers would need to bring forward prices based on estimates of the likely population. In our tender documentation we would be looking to give some indicative estimates of those populations and to provide the ultimately successful contractor with forward estimates of those populations. But in the operation of detention facilities there are always risks of significant ebbs and flows in numbers, and the contract provisions will be designed to cater for that.

**Senator CROSSIN**—So you are saying that the current temporary facility costs around \$6.8 million to operate per year?

**Mr Correll**—That was the cost for 2005-06.

**Senator CROSSIN**—Are there plans to house women and children in the Christmas Island facility?

**Mr Correll**—No. Apart from the initial process relating to immediate reception, we would not be looking at the Christmas Island facility. There are potentially some other facilities on Christmas Island that can be used for women and children and we are currently undertaking a review to examine the adequacy of those facilities for women and children.

**Senator CROSSIN**—What do you mean by that?

**Mr Correll**—We are looking at the overall design of the Christmas Island facility. It was designed prior to the Prime Minister's announcements of May 2005. We are looking to ensure the facilities are consistent with those requirements, particularly in relation to women and children.

**Senator CROSSIN**—Are you looking at modifying the detention centre, or are you looking at reviewing the single units that are being built in Poon San?

**Mr Correll**—We are looking at both aspects: the overall considerations of the security and design of the facility; and the units that are available on the island now and the extent to which they would be adequate.

**Senator CROSSIN**—Who is conducting that, what is the time frame and what do you mean by 'adequate'?

**Mr Metcalfe**—I think you asked a specific question about whether women and children would be accommodated in the new facility. Mr Correll is saying that the government made announcements about this in, I think, June 2005 that women and children would not ordinarily be accommodated within a detention facility. They might be there for initial processing, and that is consistent with what the Prime Minister has indicated. Given that the facility was designed prior to that, it made accommodation available for family structures and that sort of thing. Given the government's current policy setting, we will obviously want to ensure that there remains available on Christmas Island accommodation outside the detention centre should women and children need to be accommodated broadly within the area.

**Senator CROSSIN**—I have information that the detention centre that has been built includes school classrooms, a children's play area and an area for babies, which could be classified as a childcare facility.

**Mr Metcalfe**—Absolutely. That is what we said. It was designed some years ago, prior to the 2005 policy announcements. That does not mean that women and children will be accommodated within the centre simply because those facilities exist.

**Senator CROSSIN**—Can you categorically rule that out?

**Mr Metcalfe**—What I am saying is that the Prime Minister's undertaking and policy statement of June 2005 remains unchanged.

**Senator CROSSIN**—If women and children are currently living in the units in Poon San, or have lived in them, what is there to review?

**Mr Metcalfe**—I think we want to ensure that they remain suitable to provide a decent standard of accommodation for people. It means nothing more than that.

**Senator CROSSIN**—If they are less than three years old, why would they not be suitable?

**Mr Metcalfe**—They are three years old in a tropical environment. I think it is appropriate for us to have a look at whether they remain fit for purpose.

**Senator CROSSIN**—But they are brand new.

**Mr Metcalfe**—They are three years old.

**Senator CROSSIN**—Hardly any of them have been lived in.

**Senator Ellison**—I have been to Christmas Island a few times and I think that, after three years of being left unattended or not used in that environment, they do need looking at. You can get infestations of centipedes and other sorts of things on Christmas Island. You get plenty of them. I can vouch for that. I think that it is wise that that sort of review is carried out.

**Senator CROSSIN**—I do not know if we have too many centipedes in the tropics.

**CHAIR**—Thank you, Minister, for your personal involvement.

**Senator CROSSIN**—They are inhabited, though.

**Mr Correll**—Had been used.

**Senator CROSSIN**—The detention staff that work at the temporary detention centre are living in them. There are 160 units. They are not all occupied, but they are lived in.

**Mr Metcalfe**—What I think we have described to you is that we have a new facility that will become available towards the end of the year. The implications of the availability of that centre for the other property holdings that we have, including the additional temporary facilities, the Poon San units, the need for accommodation for staff and in terms of honouring the government's commitment that women and children would only be held in detention in exceptional circumstances are matters that are currently being reviewed. That is what we have said.

**CHAIR**—Senator Nettle?

**Senator NETTLE**—Are there non-contact visit rooms in the new detention facility on Christmas Island?

**Mr Metcalfe**—Non-contact visit rooms?

**Senator NETTLE**—Yes, like what you get at Supermax in Goulburn—for people in prison for terrorism offences. You are screened—

**Mr Metcalfe**—Where a visitor is physically separated from the person?

**Senator NETTLE**—That is right.

**Mr Metcalfe**—I would have to check on that. We can let you know. I simply remind you that the centre was designed some years ago in a somewhat different environment. But the one thing that I have learnt—and, I suspect, many other people have learnt—is that in this game you cannot predict what might happen down the track and that you had better have the facilities available and flexible rather than having no facilities and having to provide poor facilities to people at short notice. To the extent that the Christmas Island facility gives significant options around the types of accommodation and facilities, I think that is an excellent thing.

**Senator NETTLE**—You mentioned earlier the change in environment, and that is why I am going through these particulars. Have the baby compound, the non-contact visit areas and the 20 management units already been built?

**Mr Metcalfe**—Yes. As I have said several times, the design for this occurred some years ago. Christmas Island is a difficult environment in which to build a large facility. There are a

range of facilities there which may or may not be used—and I suspect that they would not be used in the current environment and circumstances—but I think it would be a brave person who would say that you simply do not need certain things, because the future is a very uncertain thing. What I am saying by that is that the fact that those facilities exist does not mean that they would be used. The government has been very clear about reforms in the detention area, and I think the department has received a great deal of external praise for what we have achieved over the last couple of years.

**Senator NETTLE**—Can you give me an update on the cost of the new facility?

**Mr Metcalfe**—You would have to ask the Department of Finance and Administration for that.

**Senator CROSSIN**—Mr Metcalfe, can you provide me with an update on the answer to question on notice No. 244, which was asked by Senator Ludwig, about the cost of the government's policy of processing asylum seekers on Nauru and Manus Island. We are after an update of the figures in that table in your answer to the question. As I understand it, you have said the cost of processing the asylum seekers on those islands from 2001 to 2006 was \$253.5 million.

**Mr Correll**—Was this question from the last estimates or from a previous estimates? We do not have that question to hand.

**Senator CROSSIN**—It is from May 2006. It is from the last estimates.

**Mr Metcalfe**—You asking for an update on that?

**Senator CROSSIN**—Yes.

**Mr Metcalfe**—We will take that on notice.

**Senator CROSSIN**—In a media release from this budget, the minister stated that the consolidation of the Nauru processing centre would result in a saving of \$33.8 million over four years. At what stage is the consolidation?

**Mr Correll**—There has been a substantial amount of work done with the consolidation, and that will result in the Topside centre being closed. Major refurbishment of the State House facility has been undertaken. It is now in a position of being able to accommodate 400 residents, and ultimately, with the completion of it, it will be able to accommodate 500 residents. My understanding is that most of that refurbishment work has been completed. So we are in a position where we are very close to having full functionality for the 500 residents.

**Senator CROSSIN**—What has been the cost of the reconstruction work for 2005-06 and 2006-07?

**Mr Correll**—We do not have that information exactly as you have asked for it in the question, but the total cost of the refurbishment is \$6 million. That is for the refurbishment of the State House. I do not have that figure broken up on a financial year by financial year basis.

**Senator CROSSIN**—How much is it actually going to cost in total to do this?

**Mr Correll**—That \$6 million is for the work at State House.

**Senator CROSSIN**—That is it completed?

**Mr Correll**—Yes.

**Senator CROSSIN**—There is nothing else to be costed?

**Mr Correll**—No. The only other factors are our annual running costs, and there have been various other projects to improve the infrastructure and services on the island as well.

**Senator CROSSIN**—So the project saving of \$33.8 million will be realised?

**Mr Correll**—Yes, because it reduces the overall fixed and variable costs being incurred and it reduces the overall capacity on Nauru from 1,500 to 500. So we would expect that those original estimates would be sound.

**Senator CROSSIN**—How long will people be held on Nauru if they are found to be refugees?

**Mr Metcalfe**—They will be held there pending their resettlement elsewhere. I would not like to give a precise time figure. It depends upon our ability to resettle them, working in cooperation with the UNHCR and other countries that may wish to assist in this area.

**CHAIR**—I thank officers of the Department of Immigration and Citizenship for your attendance and advice today. The committee will continue its examination of the Immigration and Citizenship portfolio tomorrow, at outcome 2, starting at 9 am. I declare the meeting adjourned until 9 am tomorrow.

**Committee adjourned at 11.00 pm**