



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL  
AFFAIRS

ESTIMATES

**(Budget Estimates)**

MONDAY, 26 MAY 2008

CANBERRA

BY AUTHORITY OF THE SENATE



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

**Monday, 26 May 2008**

**Members:** Senator Crossin (*Chair*), Senator Barnett (*Deputy Chair*), Senators Bartlett, Fisher, Hurley, Kirk, Marshall and Trood

**Participating members:** Senators Abetz, Adams, Allison, Bernardi, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, George Campbell, Chapman, Colbeck, Jacinta Collins, Coonan, Cormann, Eggleston, Ellison, Fielding, Ferravanti-Wells, Fifield, Forshaw, Heffernan, Hogg, Humphries, Hurley, Hutchins, Johnston, Joyce, Kemp, Lightfoot, Lundy, Ian Macdonald, Sandy Macdonald, McEwen, McGauran, Mason, Milne, Minchin, Moore, Murray, Nash, Nettle, O'Brien, Parry, Patterson, Payne, Polley, Ronaldson, Scullion, Siewert, Stephens, Sterle, Stott Despoja, Troeth, Watson, Webber and Wortley

**Senators in attendance:** Senators Abetz, Barnett, Bartlett, Brandis, Crossin, Ellison, Fisher, Heffernan, Hogg, Kirk, Marshall, Ian Macdonald, Mason, Milne, Minchin, Nettle, Payne, Siewert and Trood

**Committee met at 9 am**

**ATTORNEY-GENERAL'S PORTFOLIO**

**In Attendance**

Senator Ludwig, Minister for Human Services

**Attorney-General's Department**

**Management and Accountability**

Mr Robert Cornall AO, Secretary

Mr Miles Jordana, Deputy Secretary, National Security and Criminal Justice

Mr Ian Govey, Deputy Secretary, Civil Justice and Legal Services Group

Ms Sue Chapman, General Manager, Corporate Services Group

Mr David Finlayson, Assistant Secretary, Public Affairs Branch, Corporate Services Group

Ms Jan Blomfield, Assistant Secretary, Human Resources, Corporate Services Group

Ms Sue-Ellen Bickford, General Manager, Financial Services Group

**Outcome 1—An equitable and accessible system of federal civil justice**

**Output 1.1**

Ms Kathy Leigh, First Assistant Secretary, Civil Justice Division

Ms Toni Pirani, Assistant Secretary, Family Pathways Branch

Mr Kym Duggan, Assistant Secretary, Family Law Branch

Ms Sandra Power, Assistant Secretary, Federal Courts Branch

Ms Alison Playford, Assistant Secretary, Administrative Law and Civil Procedure Branch

Ms Kathleen Falko, Acting Assistant Secretary, Intercountry Adoption Branch

**Output 1.2**

Dr James Popple, First Assistant Secretary, Legal Services and Personal Property Securities Division

Mr James Faulkner, Assistant Secretary, Constitutional Policy Unit

Ms Janette Davis, Assistant Secretary, Office of Legal Services Coordination

Ms Janet Power, Special Adviser, Office of Legal Services Coordination

**Output 1.3**

Ms Philippa Lynch, First Assistant Secretary, Classification, Human Rights and Copyright Division

Mr Matt Hall, Acting Assistant Secretary, Human Rights Branch

Ms Helen Daniels, Assistant Secretary, Copyright Law Branch

Ms Kelly Williams, Assistant Secretary, Classification Operations Branch

Ms Amanda Davies, Assistant Secretary, Classification Policy Branch

**Output 1.4**

Mr Bill Campbell QC, First Assistant Secretary, Office of International Law

Mr Greg Manning, Assistant Secretary, International Security and Human Rights Branch

Mr Stephen Bouwhuis, Assistant Secretary, International Law and Trade Branch

**Output 1.5**

Mr James Graham, First Assistant Secretary, Office of Legislative Drafting and Publishing

**Output 1.6**

Mr Iain Anderson, First Assistant Secretary, Territories and Native Title Division

Ms Kerri-Ann Smith, Acting Assistant Secretary, Future Acts and System Coordination Branch, Native Title Unit

Ms Tamsyn Harvey, Assistant Secretary, Claims and Legislation Branch, Native Title Unit

**Output 1.7**

Ms Katherine Jones, First Assistant Secretary, Indigenous Justice and Legal Assistance Division

Mr John Boersig, Assistant Secretary, Indigenous Law and Justice Branch

Dr Albin Smrdel, Assistant Secretary, Legal Assistance Branch

**Output 1.8**

Dr James Popple, First Assistant Secretary, Legal Services and Personal Property Securities Division

**Outcome 2—Coordinated federal criminal justice, security and emergency management activity, for a safer Australia****Output 2.1**

Ms Joanne Blackburn, First Assistant Secretary, Criminal Justice Division

Dr Dianne Heriot, Assistant Secretary, Strategic Policy Coordination Branch

Dr Karl Alderson, Assistant Secretary, Criminal Law Branch

Ms Sheridan Evans, Assistant Secretary, Identity Security Branch

Mr Craig Harris, Assistant Secretary, National Law Enforcement Policy Branch

**Output 2.2**

Ms Maggie Jackson, First Assistant Secretary, International Crime Cooperation Division

Ms Anna Harmer, Assistant Secretary, Mutual Assistance and Extradition Branch

Mr Nick Morgan, Acting Assistant Secretary, International Assistance and Treaties Branch

**Output 2.3**

Mr Geoff McDonald PSM, First Assistant Secretary, Security and Critical Infrastructure Division

Ms Catherine Smith, Assistant Secretary, Telecommunications and Surveillance Law Branch

Mr Mike Rothery, Assistant Secretary, Critical Infrastructure Protection Branch

Ms Belinda Moss, Assistant Secretary, National Security Policy Branch

Ms Annette Willing, Acting Assistant Secretary, Security Law Branch

**Output 2.4**

Mr Tony Pearce, Director General, Emergency Management Australia

Ms Diana Williams, Assistant Secretary, Emergency Management Policy and Liaison Branch

Mr Karl Kent, Assistant Secretary, Capability and Operational Coordination Branch

Mr Peter Channells, Assistant Secretary, Community and Sector Development Branch

**Output 2.5**

Mr Martin Studdert, Executive Director, Protective Security Coordination Centre

Mr Jim Dance, Acting Assistant Secretary, Information Coordination Branch

Ms Leonie Horrocks, Assistant Secretary, Policy and Services Branch

Mr Mike Norris, Assistant Secretary, Counter-Terrorism Branch

Mr Mark Brown, Acting Assistant Secretary, Security Coordination Branch

**Output 2.6**

Ms Elizabeth Kelly, Executive Director

Ms Annette Bouchier, Assistant Secretary, Operations

Ms Jamie Lowe, Assistant Secretary, Business Development and Governance

**Outcome 3—Assisting regions to manage their own futures****Output 3.1**

Mr Iain Anderson, First Assistant Secretary, Territories and Native Title Division

Ms Karen Stewart, Acting Assistant Secretary, Territories East Branch

Mr Julian Yates, Assistant Secretary, Territories West Branch

**Output 3.2**

Mr Tony Pearce, Director General, Emergency Management Australia

Mr Peter Channells, Assistant Secretary, Community and Sector Development Branch

**Aboriginal and Torres Strait Islander Social Justice Commissioner**

Mr Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner and Commissioner Responsible for Race Discrimination

**Administrative Appeals Tribunal**

Mr Doug Humphreys, Registrar

Ms Megan Cassidy, Assistant Registrar

Mr Steve Wise, Chief Financial Officer

**Australian Commission for Law Enforcement Integrity**

Mr Philip Moss, Integrity Commissioner

Mr Peter Bache, Executive Director

Mr Nicholas Sellars, Manager Policy and Governance

Mr Brett Adam, Manager Corporate Services

Mr Gavin Larsen, Manager Operations

**Australian Crime Commission**

Mr Alastair Milroy, Chief Executive Officer  
Ms Jane Bailey, Executive Director, Organisational Services  
Mr Kevin Kitson, Executive Director, Strategic Outlook and Policy  
Mr Michael Outram, Executive Director, Criminal Investigation and Intelligence Strategies  
Mr Paul Southcott, Chief Financial Officer

**Australian Customs Service**

Mr Michael Carmody, Chief Executive Officer  
Ms Marion Grant, Deputy Chief Executive Officer  
Ms Linda Smith, Deputy Chief Executive Officer  
Mr Neil Mann, Deputy Chief Executive Officer  
Ms Sue Pitman, Acting Deputy Chief Executive Officer  
Mr Chris Ramsden, Acting Chief Financial Officer  
Mr Murray Harrison, Chief Information Officer  
Ms Maree Bridger, National Director, People and Place  
Ms Jaclyne Fisher, National Director, Cargo  
Mr Peter White, National Director, Compliance  
Ms Jan Dorrington, National Director, Passengers  
Mr Geoffrey Johannes, Acting National Director, Trade  
Rear Admiral Allan Du Toit, Commander, Border Protection Command  
Ms Roxanne Kelley, National Director, Enforcement and Investigations  
Mr Nigel Perry, Acting National Director, Maritime Operations Support  
Mr Jeff Buckpitt, National Director, Intelligence and Targeting  
Mr Demetrio Veteri, National Director, Law Enforcement Strategy  
Mr Tom Marshall, Director General, Border Protection Operations  
Ms Jo Corcoran, National Manager, Industry Engagement and User Services  
Ms Teresa Conolan, National Manager, Planning  
Ms Tonie Differding, National Manager, Research and Development  
Mr Gill Savage, National Manager, Strategic Development (Passengers)

**Australian Federal Police**

Mr Mick Keelty APM, Commissioner  
Mr John Lawler APM, Deputy Commissioner National Security  
Mr Tony Negus APM, Deputy Commissioner Operations  
Mr Andrew Wood, Chief Operating Officer

**Australian Government Solicitor**

Ms Rayne de Gruchy PSM, Chief Executive Officer  
Mr David Riggs, Chief Financial Officer

**Australian Security Intelligence Organisation**

Mr Paul O'Sullivan, Director-General of Security

**Australian Transaction Reports and Analysis Centre**

Mr Thomas Story, Acting Chief Executive Officer  
Ms Jane Elizabeth Atkins, Acting Executive General Manager  
Mr Alf Mazzitelli, General Manager Corporate, Chief Financial Officer



Mr Darryl Roberts, General Manager Compliance

Mr Russell Wilson, General Counsel

**Classification Board**

Mr Donald McDonald, Director

**Classification Review Board**

Ms Maureen Shelley, Convenor

**CrimTrac**

Mr Ben McDevitt AM APM, Chief Executive Officer

Ms Nicole McLay, Chief Financial Officer

**Family Court of Australia**

Mr Richard Foster PSM, Chief Executive Officer

Mr Grahame Harriott, Executive Director Corporate Services

Ms Angela Filippello, Principal Registrar

**Federal Court of Australia**

Mr Warwick Soden, Registrar and Chief Executive

Mr Philip Kellow, Deputy Registrar

Mr Gordon Foster, Executive Director Corporate Services

Mr Peter Bowen, Chief Finance Officer

**Federal Magistrates Court**

Mr John Mathieson, Chief Executive Officer

Mr Glenn Smith, Deputy Chief Executive Officer

Ms Anne Hicking, Executive Director Corporate Services

**High Court of Australia**

Mr Andrew Phelan, Chief Executive and Principal Registrar

Ms Carolyn Rogers, Senior Registrar

Mr Jeff Smart, Manager Corporate Services

**Human Rights and Equal Opportunity Commission**

The Hon. John von Doussa QC, President

Mr Graeme Innes AM, Human Rights Commissioner and Commissioner Responsible for Disability Discrimination

Mr Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner and Commissioner Responsible for Race Discrimination

Ms Elizabeth Broderick, Sex Discrimination Commissioner and Commission Responsible for Age Discrimination

Ms Susan Roberts, Executive Director

Ms Karen Toohey, Director, Complaint Handling

**Insolvency and Trustee Service Australia**

Mr Terry Gallagher, Chief Executive and Inspector-General in Bankruptcy

Mr Peter Lowe, Executive Director

Mr David Bergman, Adviser, Policy and Legislation

**National Capital Authority**

Ms Annabelle Pegrum AM, Chief Executive

Mr Phil Wales, Managing Director, Governance

Mr Todd Rohl, Managing Director, Planning and Urban Design

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Mr Andrew Smith, Acting Managing Director, Projects  
Mr Gary Rake, Managing Director, Finance and Estate  
Ms Alison Walker-Kaye, Managing Director, International Relations and Leasing  
Mr Peter Byron, Director, Exhibition and Outreach

**National Native Title Tribunal**

Mr Franklin Gaffney, Acting Registrar  
Mr Hugh Chevis, Director Service Delivery  
Mr Hardip Bhabra, Chief Financial Officer

**Office of the Director of Public Prosecutions**

Mr Christopher Craigie SC, Director of Public Prosecutions  
Mr John Thornton, First Deputy Director  
Ms Stela Walker, Deputy Director, Corporate Management

**CHAIR (Senator Crossin)**—I declare open this public meeting of the Senate Standing Committee on Legal and Constitutional Affairs. The Senate has referred to the committee the particulars of proposed expenditure for 2008-09 and related documents for the Attorney-General's 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 24 June 2008, and the committee has fixed 10 July 2008 as the date for the return of answers to questions taken on notice.

The committee's proceedings will begin with the examination of the Australian Federal Police. For the sake of public servants present and those listening, the committee has to some extent restructured the program for estimates. We have mainly allocated agencies for the mornings, going to the department later, in the afternoon. We have attempted to set some indicative times at which we expect agencies to appear and, where possible, have even given the length of time we might take for questioning. That is to try and streamline our efforts in some way and make it a little bit easier for those agencies that are coming from interstate. We will take breaks at the following times: morning tea, 10.30 am; lunch, 12.30 pm to 1.30 pm; afternoon tea, 3.30 pm; and dinner, 6.30 pm to 7.30 pm.

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 the committee. 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 Senate 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 discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise.

The Senate has also resolved 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 either superior officers or to a minister.

This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policy 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 the claim.

As detailed in the program, we have specified start and finish times for agencies and departments. As I have said, these are indicative rather than fixed. If we are going to depart from those, I give the committee notice that we will meet privately to determine how the rest of the program is to be changed. I now welcome the Senator the Hon. Joseph Ludwig, representing the Attorney-General and the Minister for Home Affairs; Mr Cornall, the Secretary of the Attorney-General's Department; and our first witness, Mr Mick Keelty the Commissioner of the Australian Federal Police. Senator Ludwig, do you have an opening statement that you wish to make?

**Senator Ludwig**—No, thank you. Thank you for your welcome, and good morning.

**CHAIR**—We now turn to the Australian Federal Police. Commissioner Keelty, do you have an opening statement you want to make?

[9.04 am]

#### **Australian Federal Police**

**Mr Keelty**—There are two issues I would like to address in an opening statement. The first one deals with the 133rd report of the Privileges Committee, tabled in the Senate on 14 May 2008, relating to possible false or misleading evidence before the Legal and Constitutional Affairs Committee or any other committee in relation to Mr Mamdouh Habib. That inquiry examined evidence previously provided by both me and the Secretary of the Attorney-General's Department to the Senate Standing Committee on Legal and Constitutional Affairs in relation to matters pertaining to Mr Habib. I acknowledge the committee of privileges for coming together so soon after the 2007 election and for finalising this inquiry.

The committee concluded that neither the Secretary of the Attorney-General's Department nor I knowingly gave false or misleading evidence to the committee in respect of our knowledge that Mr Habib had been taken to Egypt. The committee of privileges therefore found that no contempt was committed in this regard. However, within the report, the committee criticised the evidence I have provided in relation to this matter and late responses to questions on notice from the committee.

Previous transcripts show that questions to me in relation to Mr Habib have centred on interviews at which the AFP was present; Mr Habib's allegations of mistreatment and evidence of this, observed by AFP members; and inquiries undertaken by the AFP to ascertain Mr Habib's whereabouts after 29 October 2001 and before we became aware that he was in Afghanistan on 17 April 2002. All of those questions have been answered. I have always accurately relayed my knowledge and understanding from briefings and updates received regarding the events surrounding Mr Habib. However, at times members of the committee clearly misinterpreted these responses, which is evident when you review the transcript of the

May 2005 hearing. I can only respond to the questions that are asked of me. To state that 'extracting answers from officers at estimates can be like drawing blood from a stone' does not accurately reflect the attempt made to provide information when the information sought is not clearly articulated or perhaps not even known.

The report further states that question on notice No. 79 was a reiteration of a question asked in 2005 that had not been satisfactorily answered. The AFP replied to all questions on notice from that hearing and, from a review of the transcript at the times, there were no clarifications required to any of the responses that I had given. The answers to two questions on notice—that is, 79 and 84—asked by Senator Ludwig at the May 2007 budget estimates, and due on 6 July 2007, were delayed due to the coordination of responses by multiple agencies regarding questions relating to Mr Habib.

The delays are regrettable; however, it is Commonwealth practice that responses were provided to the office of the Minister for Justice and Customs on 10 September 2007 for clearance. The responses were resubmitted to the office of the Minister for Home Affairs on 31 January 2008 for clearance. At the committee hearing of 18 February 2008, Senator Nettle asked me question on notice No. 79 again and I provided her the answer. The AFP has no outstanding questions on notice in relation to any estimates hearings.

Since estimates hearings of February 2005, our records indicate the AFP has taken or been asked 365 questions on notice by the committee. Of these, 347 answers have been provided to the minister before the due date. This means 95 per cent of answers to questions on notice prepared by the AFP have been forwarded by the due date. There have been occasions when there have been delays with the provision of answers to questions on notice because of the research involved in providing the answer or the involvement and clearance of multiple agencies. However, it is the Commonwealth practice of obtaining ministerial clearance that contributes to the delay of the provision of answers to the committee and therefore cannot be attributed to the officers appearing before the committee or the AFP in preparation of the responses.

The second matter that I wish to raise concerns the answers that I gave at the previous estimates hearing in February 2008 with regard to what we in the AFP call Operation Rain. I provided the following information in relation to a question on resources, asked by Senator Nettle, into what the senator referred to as the Haneef investigation. I repeat what I said to this committee:

By way of clarification: it is not—believe it or not—all about Haneef. It is about supporting the UK investigation into the attempted bombings in the London metropolitan area and also in Scotland. At its peak, that investigation involved 249 AFP, 225 Queensland police, 12 Attorney-General's Department employees, 54 Western Australian police, 40 New South Wales police, six Australian Customs Service employees, two Northern Territory police, one Tasmanian police officer, six translators, four other law enforcement agencies and two UK police who were posted to Australia.

I provided further information on the costs and the resources that had been deployed to this investigation, stating:

As at the end of December 2007, expenses for the investigation were in excess of \$7.5 million. That is made up of approximately \$5.5 million in employee expenses, of which \$1.6 million accounts for

overtime, and approximately \$1 million in supplier expenses. Obviously, because the matter is ongoing, the final costs are yet to be determined.

I have been told that 601 was the total number of investigators, at its peak. I do emphasise that it is not just the Haneef aspect of the investigation.

Subsequent media releases reflected that these resources were attributable only to the investigation into Dr Haneef, who is a person of interest as part of the entire investigation. I want to clarify to the committee that Operation Rain is the Australian response and the provision of assistance to the United Kingdom Metropolitan Police in relation to the attacks in London and Glasgow in July 2007 and is not just an investigation into Dr Haneef. The expenditure of resources in assisting the UK Metropolitan Police and ensuring any Australian connections were appropriately investigated, in addition to the prevention of similar attacks in Australia, is not only an appropriate response but an obligation of the Australian Federal Police. Our current expenditure on Operation Rain, as at 14 May 2008, was \$8.2 million. This includes both employee and supplier expenses. The amount of \$3.2 million is directly attributable to the specific investigation of Dr Haneef and related inquiries that resulted from this facet of the investigation. Over \$5 million is attributable to the investigation of other persons of whom I will not be commenting due to operational sensitivities.

I should also note that 29 national security hotline reports, generated as a result of Operation Rain, were also responded to by the AFP and are included in the associated costs. I understand that investigations into the prevention of terrorism are not as transparent or as easily understood as those which are typically a response to an attack, such as the Bali bombings. However, they are both just as important and, in some cases, the preventative investigation outcomes are much more desired.

The AFP is committed to continuous cooperation with national and international law enforcement agencies in an effort to investigate and prevent terrorism attacks in Australia. Operation Rain is an ongoing investigation and is also the subject of the Clarke inquiry, commissioned by the government. The AFP is providing full cooperation to the Clarke inquiry and, as I have previously stated, I sincerely welcome it.

I have provided the budget clarification to the committee in relation to Operation Rain. It is not appropriate for me to provide further information in relation to this ongoing investigation or on matters that will be subject to the Clarke inquiry.

**CHAIR**—Mr Wood, do you have anything to add to that at all?

**Mr Wood**—No, thank you.

**Senator ABETZ**—I have only a few questions, which might give Senator Nettle time to consider an apology. If a federal politician is of the view that he or she has been subjected to an offer of a bribe, what course of action should they take? Minister or Commissioner, can you suggest a course of action? Would it be appropriate to take that matter to the Australian Federal Police?

**Mr Keelty**—Speaking hypothetically, if a member of parliament were offered a bribe then they could raise the issue in two places. One would be in the House itself and the other would be with us if there were criminal activity associated with the action.

**Senator ABETZ**—So that it is clear in the mind of everybody who suspects that a crime might be being committed, if they were to report such an event in good faith to the Australian Federal Police, could they be subjected to defamation action?

**Senator Ludwig**—That question is probably bordering on requesting a legal opinion from the Australian Federal Police.

**Senator ABETZ**—Minister, it is legal studies 101, isn't it? If it is done in good faith, you are not subjected to defamation proceedings. I would have thought, as a matter of public policy, it is vitally important that you, Minister, and the government spread throughout the community that if somebody honestly believes that a crime has been committed—or indeed if they suspect that there is a potential act of terrorism or something suspicious occurring—we have hotlines for that. There is no suggestion, is there, that if you make such a call you could be submitted to an action for defamation? I think it is important that this is cleared up.

**Senator Ludwig**—The only point I was making was that you are requesting a legal opinion from the Australian Federal Police. I am happy for Mr Keelty to make a comment on it. If you then talk about the need to ensure that we have a hotline and strong national security laws and if you are suggesting that people should come forward and provide information about suspected things that you have mentioned then we are in hearty agreement; there is no doubt about that.

**Senator ABETZ**—I would like to think you may have misunderstood rather than sought to sidestep the question. The point was we do have such things as hotlines. We do invite and encourage people to make a report if they see something suspicious. Is that right?

**Senator Ludwig**—That is right. Absolutely.

**Senator ABETZ**—If a citizen were to do that, in good faith, would they be subjected to defamation proceedings? I think every citizen of Australia is entitled to know the answer to that question. I would have thought legal studies 101 would tell you that you are not subjected to defamation. I cannot see the difficulty in you clarifying that for us.

**Mr Keelty**—In the normal course, if somebody made a complaint to the AFP about an alleged crime, it would not become public unless the person themselves made it public, which is sometimes the case with some types of investigations where it might be politically expedient to release the details of the investigation to the media before coming to us. Having said that, in the normal course, people who make a complaint to the police are entitled to have that complaint validated and investigated in confidence.

**Senator ABETZ**—Yes.

**Mr Keelty**—More often than not the most appropriate place for any public knowledge of investigation is once a prosecution, if it is ever launched, becomes public. It raises the opportunity for a person to come forward with a complaint. If the complaint is not substantiated or an investigation is not commenced then it should never become public.

**Senator ABETZ**—That is exactly right. As a result, somebody saying that they suspect a crime has been committed but not reporting it to the police because they have obtained legal advice that reporting it to the police might subject them to defamation proceedings does not really have the ring of truth about it, does it?

**Mr Keelty**—I do not want to talk about a particular case, but obviously complaints are made to police every other day on a variety of issues. To say that you would be subject to defamation does not recognise the fact that you can come and make a complaint to the police if it is a legitimate complaint, you can identify who you think is the offender and the police will investigate it. That is the whole purpose of having an independent policing organisation to conduct its inquiries.

**Senator ABETZ**—That is exactly right, and that is why Senator Brown's suggestion that he was offered a bribe and did not take it to police because he had legal advice saying that, if he did, he would be subjected to defamation just does not ring true, does it? I do not expect you to answer that, Commissioner—that is just a rhetorical question—but I think the case has been made this morning. If I may I will come back at Customs this afternoon.

**Senator NETTLE**—I wanted to ask some further questions in relation to Mamdouh Habib. I want to start by referring to an answer to question on notice No. 73 that this committee received from the Attorney-General's Department last Thursday. It states:

The possibility of Mr Habib being transferred to Egypt by another government was discussed after the conclusion of a meeting about unrelated policy issues held in Canberra in late October 2001. Senior officials from the Australian Security Intelligence Organisation, the Australian Federal Police, the Department of Foreign Affairs and Trade, the Department of the Prime Minister and Cabinet and the Attorney-General's Department agreed that the Australian Government could not agree to the transfer of Mr Habib to Egypt.

I want to start by asking Mr Keelty about the date of the meeting that is referred to in the answer. Are you able to provide that?

**Mr Keelty**—By way of clarification, I am instructed that it was not a meeting. It was a conversation in the margins of a meeting that had been conducted and concluded previously.

**Mr Cornall**—We believe the discussion took place on 23 October 2001.

**Senator NETTLE**—I just want to make sure that I understand the answer correctly. The first sentence refers to a meeting, and this discussion happened as a part of or at the end of that. That is the meeting on 23 October. The second sentence talks about senior officials from those different departments forming a particular view in relation to Mamdouh Habib being transferred to Egypt. Was that at that meeting, or is that referring to a range of other discussions that may have occurred—

**Mr Cornall**—It was at that discussion.

**Senator NETTLE**—Are you able to help me further in understanding this answer, because when I read the second sentence, where the senior officials from those departments agreed that the Australian government could not agree to the transfer of Mr Habib to Egypt, that reads to me as though there was a request made about transferring Mr Habib to Egypt. Can you clarify that for me?

**Mr Cornall**—Part of the difficulty is that this deals with operational matters involving ASIO. The issue was raised with ASIO and, realistically, I think it would be better that you direct your questions to ASIO, who will be here later this morning. Mr O'Sullivan is best placed to determine the extent to which it is appropriate to answer these questions in more

detail. One of the difficulties we have with these questions is that they do involve intelligence information that was highly classified at the time.

**Senator NETTLE**—I am keen to ask these questions while Mr Keelty is here, because you provided an answer to this committee previously about the Australian Federal Police being involved in a meeting in Pakistan on 22 October, at which the issue of Mr Habib being transferred to another country was raised. I am trying to understand the train of events. I understand that, the day before, this was raised with the AFP in Pakistan. I wanted to ask Mr Keelty if that was the reason why, the following day, there was a meeting in Canberra about the same issue and whether it was a matter raised by the AFP. You are saying, Mr Cornall, it was a matter raised by ASIO.

**Mr Cornall**—That is my understanding, following investigations we made after receipt of the questions on notice.

**Senator NETTLE**—Mr Keelty, are you able to add anything more to help me make sure that I have got the train of events correct? On 22 October the AFP were involved in a meeting in Pakistan, where the issue of transferring Mr Habib to Egypt occurred. Can you tell me what level AFP officer that was?

**Mr Keelty**—It was a liaison officer attached to our office in Islamabad.

**Senator NETTLE**—So that is the same AFP liaison officer that you referred to in your letter to the Privileges Committee who was advised on 7 October that Mr Habib was being detained overseas.

**Mr Keelty**—That is correct. But I do point out that on 7 October 2001 it was not positively identified that it was Mr Habib.

**Senator NETTLE**—In your letter to the Privileges Committee you say that ‘on 7 October 2001 the AFP liaison officer in Islamabad was advised by the FBI legal attache that Mr Mamdouh Habib was being detained overseas’. Are you saying it was not clear that it was Mr Habib?

**Mr Keelty**—That is correct. The answer that you have is correct. I will try to put some context around it. At the time we were advised by the legal attache that a person whose name was similar to Mr Habib had been detained in custody. He was later positively identified as Mamdouh Habib, which is why the answer to the question on notice is correct.

**Senator NETTLE**—To which question on notice?

**Mr Keelty**—The one you just read out to me.

**Senator NETTLE**—That was your letter to the Privileges Committee.

**Mr Keelty**—Sorry, the letter.

**Senator NETTLE**—Your letter to the Privileges Committee talks about a meeting on 22 October where US authorities discussed the possibility of deporting Mr Habib from Pakistan to Egypt. You go on to write that the AFP representative at the meeting ‘strongly expressed his view that Mr Habib was an Australian citizen and should be dealt with accordingly’. Can you elaborate on what ‘he is an Australian citizen and should be treated accordingly’ means?

**Mr Keelty**—No. It speaks for itself.



**Senator NETTLE**—To me it does not. Does being treated as an Australian citizen mean that the AFP expressed a view that he should not be rendered to Egypt or does it mean that he should be brought back to Australia? He is an Australian citizen—we all agree with that—but what does ‘should be dealt with accordingly’ mean? Lots of people have different ideas about how Australian citizens should be treated. To me that does not shed any light on what views the AFP expressed at that meeting. Are you able to elaborate on that, please?

**Mr Keelty**—No.

**Senator NETTLE**—So what we have so far is that the next day a meeting occurred in Canberra with senior officials from the AFP, ASIO, the Department of Foreign Affairs and Trade, the Department of the Prime Minister and Cabinet and the Attorney General’s Department at which, again, the transfer of Mr Habib to Egypt was discussed. Did that meeting occur as a result of the AFP’s attendance the day before at a meeting in Pakistan about the same issue?

**Mr Keelty**—You would have to ask ASIO because it was an ASIO person who convened that discussion.

**Senator NETTLE**—The discussion on 23 October?

**Mr Keelty**—That is correct.

**Senator NETTLE**—The discussion on 23 October has been described as two separate things, as I understand it: an unrelated policy discussion and a discussion about Mr Habib. Are you saying that the ASIO officer convened the unrelated policy issue discussion or the discussion about Mr Habib?

**Mr Cornall**—I wonder if I can assist. I understand that this was a meeting held at Robert Garran Offices. It was a meeting convened by the Attorney General’s Department, and the people who attended the subsequent discussion were participants in that meeting. It was unrelated to Mr Habib; it was related to other matters entirely.

**Senator NETTLE**—Mr Keelty, when you say ASIO convened that discussion on 23 October, do you mean ASIO convened that part of the discussion about Mr Habib that occurred at an unrelated meeting?

**Mr Keelty**—That is correct.

**Senator NETTLE**—In your response to this committee previously about the meeting on 22 October, you say that US authorities discussed the possibility of deporting Mr Habib from Pakistan to Egypt. In the answer that the Attorney-General’s Department provided to this committee, it talks about the possibility having been discussed of Mr Habib being transferred to Egypt by another government. Perhaps I should ask the Attorney-General’s Department first: is that the US government that you are referring to or is it another government?

**Mr Cornall**—It is the US government. I want to restate for the committee’s benefit that all of this information was brought to our attention by ASIO and it received at the time very highly classified ratings. Therefore, it is very difficult for us to talk about it in this open committee meeting. It would be better if some of these questions were directed to Mr O’Sullivan because he can make a decision as to how far we should go in answering them.

**Senator NETTLE**—I will certainly be directing questions to Mr O’Sullivan and I think I am being quite careful about directing questions to those people to whom they are relevant, as they relate to answers that you have provided to the committee. We have the US government discussing the possibility of a transfer of Mr Habib to Egypt and then senior officials agreeing that the government could not agree to the transfer of Mr Habib to Egypt. Given that you are here at the moment, can you outline for me what level of senior officials from the AFP and the Attorney-General’s were present at that meeting?

**Mr Cornall**—The officer from the Attorney-General’s Department was an SES band 2 officer.

**Senator NETTLE**—Is there a title for their position that you are able to provide to the committee?

**Mr Cornall**—He was at that time called an executive adviser.

**Senator NETTLE**—Do they have a title that relates more to what they do?

**Mr Cornall**—No. That was the title. He worked with me in the executive area.

**Senator NETTLE**—He was an adviser to you?

**Mr Cornall**—Yes, he was.

**Senator NETTLE**—Mr Keelty, are you able to outline what senior officials may have been—

**Mr Keelty**—The AFP person who was present is a former deputy commissioner who has since retired.

**Senator NETTLE**—Thank you. Can I ask if there is a record of the meeting or if any minutes were kept of the meeting and discussion in relation to Mr Habib?

**Mr Cornall**—I do not believe there are any minutes of the meeting, but there was a subsequent ASIO security intelligence report which touched on this issue amongst a number of other issues which, again, had a very high security classification.

**Senator NETTLE**—Was there any Attorney-General’s or Australian Federal Police documentation as a result of that meeting?

**Mr Cornall**—There was none from the Attorney-General’s Department, no.

**Mr Keelty**—There was none from the Australian Federal Police.

**Senator NETTLE**—How did you refer to the ASIO document?

**Mr Cornall**—It was a security intelligence report.

**Senator NETTLE**—This meeting was a discussion about the possibility of Mr Habib being transferred to Egypt and it was not as a result of the AFP meeting the day beforehand. Is that what you are saying, Mr Keelty?

**Mr Keelty**—The meeting before was not an AFP meeting. The meeting before was a gathering of officials in Islamabad where the AFP person, as I have said time and time again to this committee, strongly expressed the view that—to use the right terminology here—Mr Habib was an Australian citizen and should be dealt with accordingly.

**Senator NETTLE**—The next day, the former deputy commissioner of the AFP—according to the Attorney-General’s answer to a question on notice—agreed that the Australian government could not agree to the transfer of Mr Habib to Egypt. Was that following a request from the US government?

**Mr Keelty**—I cannot answer that question, because I was not at the meeting and I would only be supposing what brought the discussion on and what the contents of the discussion were. I think Mr Cornall has adequately answered that previously.

**Senator NETTLE**—Mr Cornall, you had an adviser at that meeting, the senior official from the Attorney-General’s Department who agreed that the Australian government could not agree to the transfer of Mr Habib to Egypt. Was that following a request from the US government?

**Mr Cornall**—This was a matter raised by ASIO, following discussions that it had had on a confidential basis in Pakistan. I think I have already answered the question to the effect that that request came from the United States. I think any further questions about that should be directed to Mr O’Sullivan.

**Senator NETTLE**—Following the discussion amongst the senior officials and the decision that they reached that you have outlined, what action, if any, did the Attorney-General’s Department take to ensure that Mr Habib was not transferred to Egypt?

**Mr Cornall**—It was an operational matter that was being dealt with by ASIO. We left the matter to ASIO and took no action as a department.

**Senator NETTLE**—So the Attorney-General’s Department took no action to ensure that their decision not to transfer Mr Habib to Egypt occurred?

**Mr Cornall**—We were asked our view about the matter, we gave our view and ASIO was the operational agency that had the carriage of the matter.

**Senator NETTLE**—The Attorney-General’s Department, therefore, took no further action?

**Mr Cornall**—I just said that.

**Senator NETTLE**—Thank you. Mr Keelty, can you outline any action that the Australian Federal Police took, following the decision that they could not agree to Mr Habib being transferred to Egypt, to ensure that that did not occur?

**Mr Keelty**—We were not in a position to take any action; it was not our matter to deal with. We expressed an opinion, when the matter was raised, that Mr Habib was an Australian citizen and should be treated accordingly. But it was not a matter for the AFP to become any further involved in; it was a matter for ASIO and the Department of Foreign Affairs and Trade.

**Senator NETTLE**—In your letter to the Privileges Committee, you talked about the AFP being present during interviews of Mr Habib three days later, on 26 October, and then another three days later again, on 29 October. Can you please outline further the nature of that AFP involvement with Mr Habib three days after the meeting in Canberra?

**Mr Keelty**—That was seven years ago. I would have to go back and look at what our records show. For seven years I have been giving answers about the same thing. I can go back and find the answer to that question.

**Senator NETTLE**—I have not been asking questions for seven years, but I have been asking questions for many years and I am still trying to get to the bottom of this to understand the Australian government's knowledge of and any involvement—if there was involvement—in the rendition of Mamdouh Habib to Egypt. This is what we have so far. The AFP was involved in a meeting on 22 October. Then there was a meeting with a whole range of government departments' senior officials in Canberra about his transfer to Egypt. The next two dates that we have are the ones that you, Mr Keelty, provided to this committee, which concern the AFP involvement with Mr Habib on 26 and 29 October. As far as I understand it, that is the last contact that we had—certainly that this committee knows about—with Mr Habib until he was in Egypt. The information you provided to the Privileges Committee was that the AFP was present during interviews with Mr Habib on 26 and 29 October. Were they interviews that the AFP was conducting with Mr Habib, or was it simply present at interviews which another government or another agency was conducting with Mr Habib?

**Mr Keelty**—Again, Senator, those interviews were seven years ago. I have given a number of answers to this committee. Given the importance of getting this correct, I would seek to have that question taken on notice so that I can make sure that the answer is absolutely accurate.

**Senator NETTLE**—We all recognise that it was seven years ago. We have been asking these questions for some time. I acknowledge that the AFP has been one of the organisations that, seven years later, has provided us with some more detail about the Australian government's knowledge of Mr Habib's transfer to Egypt, and I appreciate being provided with that information seven years later. If you are able to provide some more information in relation to those meetings, that would be appreciated. I am particularly interested to know whether those interviews were conducted, as I said, by the AFP or by another agency, because we are now in a position where the Australian public, as a result of Department of Justice reports in the United States, are finding out about FBI officials watching interrogations of Mamdouh Habib. I want to know what role the AFP played in these interviews of Mamdouh Habib that occurred in Pakistan, because currently we are finding out more information about the treatment of this Australian citizen from Department of Justice reports than we are from the information we are being provided with by Australian authorities. I would greatly appreciate it if you were able to provide us with some more information about those two particular dates.

**Mr Keelty**—Madam Chair, by way of clarification, the articles just referred to by Senator Nettle relate to activities that occurred in Guantanamo Bay in 2004. For the record, the AFP ceased its investigation into Mr Habib in November 2002 and last had access to him in May 2002.

**Senator NETTLE**—Thank you. Are you able to provide any more information about the contact that the AFP had with Mr Habib in Guantanamo Bay in May 2002?

**Mr Keelty**—Again, Madam Chair, I have answered a significant number of questions about the interaction between the AFP and Mr Habib in 2002. Solely for the purpose of maintaining accuracy in responses to questions, I would seek to take that question on notice, please.

**Senator NETTLE**—Going back to the meeting on 23 October, can you outline, following that meeting that the deputy commissioner at the time was involved in, who else from the Australian Federal Police was informed about that meeting?

**Mr Keelty**—Again, it is a meeting going back many years, and it was a discussion that was held in the margins of a meeting by the now retired deputy commissioner. I do not recall ever being briefed on it and I do not know of any other person in the AFP being briefed on that meeting.

**Senator NETTLE**—Were you Commissioner at the time?

**Mr Keelty**—Yes, I was.

**Senator NETTLE**—Can you take on notice whether you were informed about the outcome of that meeting?

**Mr Keelty**—I have examined it in the context of the answers that have been provided in relation to this last series of questions on notice and I have no record of being informed of that meeting.

**Senator NETTLE**—Mr Cornall, were you informed of the outcome of that meeting on 23 October?

**Mr Cornall**—I may have been, but it was 6½ years ago and I simply do not recall. But I do know, having gone back and looked, that the security intelligence report that I referred to, which was published the next day, was distributed to me and therefore I would have read that on 24 October. I might say, Senator, that I would estimate that, since October 2001, I have probably read between 3,500 and 5,000-plus briefings from the Office of National Assessments, ASIO and the Defence Intelligence Organisation—so it is hard to be absolutely precise. But I do read them all and, on the basis that it was distributed to me, I would have read it.

**Senator NETTLE**—Was the Attorney-General briefed on the outcome of that meeting?

**Mr Cornall**—I do not recall, Senator, but I do believe that he was one of the people to whom the SIR was distributed.

**Senator NETTLE**—The ASIO document that was distributed.

**Mr Cornall**—Yes, that was the ASIO document that was distributed to his advisers in his office.

**Senator NETTLE**—So the ASIO briefing the following day, on 24 October, would have gone to the Attorney-General's—

**Mr Cornall**—Advisers.

**Senator NETTLE**—What level of adviser would that ASIO document have been sent to?

**Mr Cornall**—I would have to check; I do not recall.

**Senator NETTLE**—Currently, what level adviser in the Attorney-General's Department would a similar level ASIO briefing go to now?

**Mr Cornall**—In the Attorney-General's office.

**Senator NETTLE**—Yes, in the Attorney-General's office.

**Senator Ludwig**—You may need to clarify that because, clearly, in the minister's office there are advisers and that type of—

**Mr Cornall**—It would have gone to the appropriate adviser responsible for security matters. That is the best way to put it, I think.

**Senator NETTLE**—In the Attorney-General's Department or in the minister's office?

**Mr Cornall**—In the Attorney-General's office.

**Senator NETTLE**—As I understand, you said you were going to check what level adviser that ASIO briefing would have gone to. I would appreciate that if that is able to be done.

**Mr Cornall**—I will check the briefing and see what it says. That is all I can tell you.

**Senator NETTLE**—So then I was asking—because I want to understand what level adviser to the Attorney-General would have been provided with this information—about the general process that occurs regarding what level of adviser that level of ASIO briefing would go normally go to. I thought it might be easier to answer the question in the general rather than in relation to that particular one.

**Mr Cornall**—My understanding is that it would have gone to the adviser the Attorney-General has nominated to be his adviser on security matters. So it would have gone to the appropriate adviser in the Attorney's official office structure. I just reiterate that this was a general report on a number of matters, and the report on Mr Habib was only part of the report.

**Senator NETTLE**—I would like to ask Mr Keelty about the AFP contact with Mr Habib. The last date that we have prior to his transfer to Egypt is 29 October 2001 and then the next date I have of AFP contact with Mr Habib was 15 May 2002 at Guantanamo Bay. Was there any other contact that the AFP had with Mr Habib between those two dates?

**Mr Keelty**—No.

**Senator NETTLE**—Was the AFP involved in giving any information to other agencies, be they Australian agencies or agencies from other countries, about Mr Habib between those two dates?

**Mr Keelty**—I would have to check our record of disseminations to other agencies. I am unaware of whether we did. If we did, I would have to check to find out what they were and when they were.

**Senator NETTLE**—I would appreciate it if you could do that; thank you. Mr Keelty, could you also inform the committee whether the AFP were informed about Mr Habib by other agencies—again, Australian or overseas—between those two dates? I have asked you whether you were providing information to others and I now want to ask whether you were provided with information from other agencies.

**Mr Keelty**—I will undertake to establish that.

**CHAIR**—Senator, have you finished with this line of questioning?

**Senator NETTLE**—I think so.

**CHAIR**—We will go to Senator Barnett.

**Senator BARNETT**—I thank the witnesses for being here. I would like to lead off with questions in the area of child protection and the cuts to online child protection operations, particularly for the Australian Federal Police. The 2008 budget revealed a scrapping of the Protecting Australian Families Online program, a \$2.8 million cut, and a rebadging to the Cyber-safety plan. Budget paper No. 2, part 2, on page 415 shows that the AFP component amounted to \$51.8 million of that program over the same period. At page 97, dealing with the Cyber-safety plan, it shows that the AFP component has been cut to \$49 million. I would like to know what the effect of the budget cuts will be on the AFP component of your operation's online child exploitation task force and about any other impact on the AFP of those cuts.

**Mr Keelty**—The Cyber-safety initiative basically has taken over from the previous policy. The initiative is a commitment from the government of \$49.8 million over four years and will involve the recruitment of in the order of 91 additional staff.

**Senator BARNETT**—What were the recruitment numbers under the \$51.8 million AFP component of the previous policy?

**Mr Keelty**—The recruitment targets are largely the same—very similar. In terms of net staffing loss, when I am talking about investigators, the figures are roughly the same.

**Mr Wood**—The main change, the \$2.8 million that has been mentioned in terms of the reduction in the funding over the four years, is as a result of the Department of Finance and Deregulation changing their formula for the calculation of administrative support that sits behind the measure rather than for the delivery of the measure itself. So there was a change in the calculation of the corporate overheads, effectively, and the reduction in the measure is entirely in that area.

**Senator BARNETT**—I guess you can interpret things in different ways from the department of finance or whatever, but a \$2.8 million cut over four years must have some impact. You are saying that that impact is only in the area of administration and that no jobs will be lost. There will be no reduction in the number of officers in this area and it is all in the area of administration?

**Mr Wood**—The advice I have is that there was a change in the formula for the corporate support; that is correct—not a change in the front-line resources, the operational resources, being funded for the measure.

**Senator BARNETT**—I can see where you are coming from, but what is the change in the formula of corporate support to get a \$2.8 million cut? At the end of the day it is \$2.8 million, so changing formulas does not really impact on what is delivered at the end of the day. Can you advise the committee what will change in terms of the delivery of that service?

**Mr Wood**—Firstly, it should be clear that it is the \$2.8 million over four years, so not in a single year. In terms of the detail of the formula itself, I will take that on notice.

**Senator BARNETT**—So we have a \$2.8 million cut over four years—that is what we are sure about. Let's move to the question of child exploitation and child exploitation online. You have a task force called the online child exploitation task force?

**Mr Keelty**—That is correct.

**Senator BARNETT**—How many officers and staff are involved in that task force?

**Mr Keelty**—I do not have that figure in front of me, I am sorry.

**Senator BARNETT**—Has it gone up or down? What is the projection for staff levels over the last 12 months and in the coming three years?

**Mr Keelty**—If you are talking about the last 12 months and the coming three years, I would have to take that on notice. That would be part of our workforce planning. As I just mentioned to you, during the course of the next four years we will be recruiting an additional 91 people into that team. The actual team that you are talking about has now been amalgamated into what we call the High Tech Crime Operations portfolio. It is a new portfolio for the AFP, so there is a significant shift and increase in staffing. If I could take that on notice I will give you a complete picture of what has happened there.

**Senator BARNETT**—The online child exploitation task force is now part of high-tech crime task force?

**Mr Keelty**—It sits within the High Tech Crime Operations portfolio.

**Senator BARNETT**—So it has just moved portfolio, but is it still known as the online child exploitation task force?

**Mr Keelty**—It is, and their work is essentially the same except that it is enhanced now because of the amalgamation with other groups within the same centre.

**Senator BARNETT**—In terms of the staffing levels, you said there were 90 staff to be recruited. Are they all to be officers or are they to be admin staff as well?

**Mr Keelty**—They are officers—they are largely officers, but there is an admin component that the chief operating officer has just reminded me of.

**Senator BARNETT**—I turn to the communication of nude pictures of teenage girls, the child exploitation issue and the involvement of the Australian Federal Police in thwarting that. What part of the Australian Federal Police would be involved in that operation?

**Mr Keelty**—In terms of the detection of the crime, it is the team that you just mentioned. In terms of the investigation of the crime, depending on how widespread it is, we would deploy resources across the board to deal with a specific matter, a specific operation. For example, Operation Auxin, which occurred some two or three years ago had I think in the order of 300 search warrants executed across Australia. That is an example of how we deal with these sorts of issues. Only a very limited number of people actually deal with the images, but a broader percentage of people deal with the investigation to limit the exposure of the images to the wider organisation.

**Senator BARNETT**—Can you describe to the committee the type of crime that you are trying to combat in this instance?



**Mr Keelty**—There are two types. There is the virtual crime, which is downloading child pornography on the internet. Then there is the more serious crime where the ‘virtual’ converts to the real world. That deals with paedophilia or paedophile networks that share these images around the world and around Australia, and those people who convert that activity to an activity in the community. When we do these sorts of operations, it is about identifying the websites, identifying those who share the data amongst themselves from the websites and those who then convert that to activities within the community. Our first priority is to alert either the local police, or we do it ourselves, to those people who we think have children in their custody or care so that they are dealt with as a priority.

**Senator BARNETT**—What is the crime? Can you outline to the committee the crime?

**Mr Keelty**—There are a number of crimes all the way through that. One is crimes related to downloading child pornography on the internet and the other one is trading in child pornography on the internet, which are cybercrimes. Then there is the actual paedophile crime itself, if an activity goes that far.

**Senator BARNETT**—Sure. Would the depiction of a 12-year-old girl on the internet be prima facie a concern that you would be investigating?

**Mr Keelty**—Are you talking about a specific case now?

**Senator BARNETT**—Not as yet, no. I am asking you the question.

**Mr Keelty**—If the depiction translates to child pornography, yes. The problem with the internet is, as broad as it is, there is a significant amount of pornography on there, as opposed to child pornography. So trying to discern between the two is somewhat difficult. The Australian High Tech Crime Centre has a threshold where it will deal with matters. The problem is that there is so much pornography on the internet that you have to create a threshold; otherwise you would never get your priorities right. As I said, our highest priority is to remove children who are potentially the subject of harm from that harm.

**Senator BARNETT**—I can see exactly where you are coming from. But in terms of child pornography or the explicit depictions of young girls, some people would see that as child abuse because of the relaying and communicating of those pictures over the internet. That would be a crime, I assume.

**Mr Keelty**—That is correct.

**Senator BARNETT**—Do you work with ACMA in locating the various websites or identifying those particular websites and do they then follow up on your advice to close down those websites? What is your relationship with ACMA? Can you describe that to the committee?

**Mr Keelty**—The relationship is a positive one, and the answer to your question is, yes, we have closed down sites. We cooperate with a large number of agencies in relation to child pornography. Significantly, a lot of that cooperation is offshore. We have what we call a Virtual Global Taskforce, which is a task force in cooperation with the UK, Canada and the US. We not only cooperate with ACMA; we also cooperate with all agencies that have an involvement in this. If I can recall correctly the statistics, in the order of 3,000 referrals on child pornography have come to the AFP in the last 12 months. Of those referrals, 900 have

gone to state and territory police. About 300 referrals have come to the AFP. That has converted to about 24 arrests. Those figures are off the top of my head.

**Senator BARNETT**—Were those 24 arrests in Australia or overseas?

**Mr Keelty**—In Australia. I can give you the actual figures now. Since March 2005 the child protection online team has laid more than 270 charges against 110 individuals.

**Senator BARNETT**—And the results?

**Mr Keelty**—They would be before the court.

**Senator BARNETT**—But are they all still before the court?

**Mr Keelty**—There would be a percentage still before the court. There would be a percentage dealt with.

**Senator BARNETT**—Could you take that on notice and advise the committee. There has been a good deal of media coverage over the last few days about Bill Henson in Sydney. One report indicates that if you plug 'Bill Henson' into Google you get 757 files. The report says that many are not nudes but many are. Obviously, there is a good deal of public discussion about the police closing down or seizing 20 photo images at the Roslyn Oxley9 Gallery in Sydney last week. Firstly, can you advise the committee on whether the Australian Federal Police was aware of or involved in that investigation, without going into the details?

**Mr Keelty**—We are obviously aware of the investigation, but it is being led by the New South Wales police and at this point in time there is no need for us to extend our involvement in the matter. It is being dealt with by the New South Wales police.

**Senator BARNETT**—You say that, but are federal crimes possibly being committed here in terms of internet downloading of pornographic material?

**Mr Keelty**—There is a potential for it but, at the moment, the investigation is being adequately handled by the New South Wales police. To give you a picture of the size of the problem, one internet site overseas recently was hacked and child pornography images were placed on that internet site. Within 72 hours, 12 million people from around the world accessed that site. Some 3,000 of that 12 million were from Australia. The nature of what we are dealing with here is quite significant in terms of quantity. In terms of the matter you just raised with me, my view is it is being adequately dealt with by the New South Wales police and it is appropriate that they continue with that inquiry.

**Senator BARNETT**—Would they refer certain matters to you if they believed that they needed to be attended to by the Australian Federal Police?

**Mr Keelty**—They certainly can, and they do in other cases.

**Senator BARNETT**—In that instance of the Auxin task force, that is what was being done; there was references from state police to the AFP and likewise?

**Mr Keelty**—That is exactly what happened. It came to us through Interpol, we worked out what states and territories were involved and then we disseminated the information to the states and territories.

**Senator BARNETT**—You have to make a decision because you only have so many resources. You have 91 in the task force, you advised earlier, and you indicated the enormity of the problem. Over the weekend the Prime Minister referred to the depiction as ‘absolutely revolting’, Mr Garrett has referred to it using other words and Ms Macklin yesterday expressed her concerns about the sexualisation of girls and this particular issue raising its head. Do you have the resources to deal with the concerns and with the problem that is in the community at the moment that you have described as ‘huge’—or I have used the word ‘huge’?

**Mr Keelty**—Just to have it clear: there is a group of people who specialise in this area and we have techniques and technology to work with to identify the problem areas. We then use other resources of the AFP to conduct the overt side of the operation. In that sense, the team that is there—the cyber-safety team—is being built over the course of the next couple of years, so our ability to identify these matters will be enhanced. There will also be an increase in staffing to the AFP over the same period, so we will be able to deal with the other matters as well.

As I mentioned to you, the critical issue here is to identify children who are at risk and to remove them from that risk. The AFP is not in a position to do that all over Australia; what we do is receive the full cooperation of the state and territory police, identify the children at risk and get assistance from the state and territory police to remove those children from those areas.

**Senator BARNETT**—You are making the claim—and I can understand, in light of the resources that you have—that you cannot deal with the concerns of all those children at risk. There are thousands of them out there, you are saying. We also have the problem of these crimes being committed and the offenders not being dealt with adequately because we do not have the resources to deal with them.

**Mr Keelty**—To clarify: the description I gave about the size of the problem was just to let you know that we have to have a threshold somewhere, as we do with all crime. This is a serious crime, and we try to deal with it within the resources we have, which are at the moment proving to be adequate. It is not just the AFP; we have, as I mentioned just now, the full cooperation of the other state and territory police and also non-government organisations such as Child Wise who help us and alert us to issues that come to their notice. So there is a community effort here.

**Senator BARNETT**—I can understand that, but the point is that you are creating your own threshold. You have set the threshold in light of the resources that you have—and I can understand that—but the threshold that many in the community are concerned about is the abuse of children, the sexualisation of children and the crimes that are being committed, but apparently we cannot catch all these offenders. That is the concern that I am expressing and I think many in the community have likewise.

**Mr Keelty**—I would not want you to think that we are not adequately addressing this problem because of resource issues. The issue I raised about threshold is because such a large percentage of the internet has pornography content. One of the difficulties is discerning that pornography which would be considered adult pornography and that pornography which

would be considered as child pornography and offensive to children and where we might have a chance of locating the victim. So it is a difficult area.

**Senator BARNETT**—That is fine. Can you advise whether the New South Wales police have given you advice as to their course of action with the Bill Henson matter?

**Mr Keelty**—I will.

**Senator BARNETT**—Can you do that now? Can you advise the committee as to what the New South Wales police have done with respect to the Bill Henson issue and the course of action that they have taken over the weekend?

**Mr Keelty**—That is a matter for the New South Wales police. It has been dealt with by the New South Wales police and I am entirely confident that they have that matter in hand.

**Senator BARNETT**—My question is whether they have advised to you as to their course of action and whether they have made any references or referrals to you for action.

**Mr Keelty**—To my knowledge, at this point in time, no. If that is not correct I will correct the record.

**Mr Wood**—Senator, at the beginning of that line of questioning you mentioned that the AFP has 91 staff in this area. To clarify: what the Commissioner mentioned was an increase of 91. The current full-time equivalent resource in the child protection operations is 53. With the measure that the Commissioner mentioned, that will rise to 145 full-time equivalents in child protection operations.

**Senator BARNETT**—Over what period of time?

**Mr Wood**—That is over the three-year period the Commissioner mentioned.

**Senator BARNETT**—How many next year, the year after and in the third year?

**Mr Wood**—In the current year it is 32.

**Senator BARNETT**—So there will be an extra 32 this current year?

**Mr Wood**—Correct.

**Senator BARNETT**—And the following year?

**Mr Wood**—To get to the 91 it is an even growth, so it is approximately 30 per year to get to the extra 91 by the end of the three-year period.

**Senator BARNETT**—Thank you. The federal families minister, Jenny Macklin, released a paper yesterday on child protection policy and has hinted at the larger role that the federal government might play in that regard. The discussion paper that was released, according to the *Sydney Morning Herald* today, says:

... there has been a 45 per cent jump in the number of child harm, abuse and neglect cases over the five years to 2006-07.

Does that correlate with your figures or understanding?

**Mr Keelty**—I do not have the benefit of having that statement in front of me. I would have to take that question on notice in terms of the number of children that we have identified as

being at risk through our work in the Australian High Tech Crime Centre and the child safety operations team.

**Senator BARNETT**—Can you advise the committee, based on your general understanding, of the trends in terms of child protection and child harm, abuse and neglect cases? Can you give us a feel of the trend?

**Mr Keelty**—I do not have a figure in front of me, and I would not like to guess it. I think I should be a little bit more precise.

**Senator BARNETT**—Did the Australian Federal Police have any involvement in or input to the federal government's discussion paper?

**Mr Keelty**—Not that I am aware of.

**Senator BARNETT**—Did the Attorney-General's Department have any input or involvement in the preparation of the discussion paper?

**Mr Cornall**—I do not know the answer to that. I wonder if we could take that up when the appropriate officers from the department are here.

**Senator BARNETT**—Could you advise the committee accordingly. So they will come back to us later in the committee hearing?

**Mr Cornall**—I have asked for inquiries to be made now.

**Senator BARNETT**—Thank you very much.

**Senator NETTLE**—I have a couple of follow-up questions regarding what we were talking about before, and then I will go on to another topic. The meeting on 23 October—

**Mr Cornall**—The discussion.

**Senator NETTLE**—I want to ask about the meeting. Was that a meeting of the National Security Committee? Was it a standard meeting, or was it a special meeting called for a particular issue?

**Mr Cornall**—My recollection is that it was a meeting to consider aspects of the review of our counterterrorism arrangements that we undertook immediately after September 11. There was a report that we prepared for government which made recommendations about how to improve our counterterrorism arrangements. The meeting was about the preparation of that report. This gives me the opportunity to remind you that this was about six weeks after September 11 and it was a very chaotic period of time.

**Senator NETTLE**—Was the Attorney-General's Department involved in conveying to anyone the decision that the Australian government could not agree to the transfer of Mr Habib to Egypt?

**Mr Cornall**—No.

**Senator NETTLE**—I should ask the Australian Federal Police that question as well. Was the Australian Federal Police involved in conveying to anyone else the decision that the Australian government could not agree to the transfer of Mr Habib to Egypt?

**Mr Keelty**—Not that I am aware.

**Senator NETTLE**—If you could check that for me, that would be appreciated. I have some questions that I want to ask about the Australian Federal Police cooperation with East Timor in relation to the shooting of President Ramos Horta. Could you outline for us any update on what the current status is in terms of the cooperation with East Timor, particularly in relation to two matters: one, the phone calls that were made by Alfredo Reinado to Australia prior to the shooting of Mr Horta; and, two, the bank accounts in Darwin, about which there has been much commentary in the press?

**Mr Keelty**—I would just point out that this is an ongoing investigation in East Timor being conducted by the Prosecutor-General. The AFP involvement forms two levels. The first level is those AFP officers who are part of the United Nations team attached to the investigation. The second level is those inquiries that you identified that may be conducted here. My difficulty is that the investigation is underway and it is at a clearly important phase of the investigation. I do not think it would be appropriate for me to describe what we have been doing and the outcome of what we have been doing whilst it is still current.

**Senator NETTLE**—Is it correct that the AFP is currently cooperating with the Timorese prosecutor in terms of providing information on both those two matters—the phone calls and the bank accounts?

**Mr Keelty**—Yes.

**Senator NETTLE**—There has been commentary in relation to how that cooperation would occur. In particular there has been comment about the need to sign a mutual assistance agreement—I think that is the terminology that is used—prior to that cooperation occurring. Does that impact on the AFP's ability to cooperate, or does it relate more to the Department of Foreign Affairs and Trade?

**Mr Keelty**—If I can talk in hypotheticals rather than the actual case, it depends to what use the material that has been sought is going to be put. I am not talking about the East Timor case. If the material being sought is to be used in a prosecution, then it has to somehow be admissible in the prosecution within the other jurisdiction. So in the normal course, that would be done through a mutual legal assistance request, which would be handled by the department. There are occasions when there is police-to-police cooperation. The difficulty with the police-to-police cooperation is that it does not always render the material that is gathered as admissible in the other prosecution. I cannot put it any more fully than that. In a hypothetical sense, I cannot even advise you whether there is a request in place or not. I am talking about hypothetical situations. If mutual legal assistance requests are made, we cannot discuss them.

**Senator NETTLE**—Okay. Can you say whether the cooperation that you were talking about, which you are having with the Timorese prosecutor, is for evidence or just police cooperation?

**Mr Keelty**—We are trying to cooperate, and we are cooperating, to ensure that the prosecutor has all the material available to him that we can obtain in the most appropriate course. I do not want to elaborate any further.

**Senator NETTLE**—In the media there have been statements by President Ramos Horta that Australia is not cooperating to the extent that he would like to see. Would you care to comment on that?

**Mr Keelty**—No, because it is a newspaper report. I have not spoken to President Ramos Horta on this issue. I obviously have had a relationship with him through the last 10 years. We have provided a lot of assistance to the President in terms of close personal protection whilst he has been hospitalised in Australia, but as far as I am aware the relationship between the AFP and President Ramos Horta is a very positive one and, as you know, we are providing resources to the United Nations mission in East Timor. Prior to the shooting in December last year I had very positive discussions with President Ramos Horta about bilateral development of the police in Timor-Leste, and that is now going to occur through the budget announcements last week. I would not like to comment on the veracity or otherwise of the newspaper reports.

**Senator NETTLE**—Can you say whether the AFP has frozen bank accounts in Australia in association with this investigation?

**Mr Keelty**—That is an operational question. I would not be able to answer that.

**Senator NETTLE**—Is the AFP investigating individuals who are claimed to have fled to Australia following the shooting of Mr Horta?

**Mr Keelty**—Again, I cannot answer the question. Suffice to say that we giving the East Timorese authorities—the prosecutor-general, the East Timorese police and the United Nations our fullest cooperation and assistance where we can.

**Senator NETTLE**—I want to ask you about another East Timor matter. I understand the Australian Federal Police is working on a brief in relation to the Balibo Five matter. Is that correct?

**Mr Keelty**—I can confirm that we have received a request from the Attorney-General's Department in relation to the death of Brian Peters. We are obviously working on that request. There are a number of legal issues involved in this matter. Again, I do not think it is appropriate for me to take it any further, other than to say that we are working with the department on the request.

**Senator NETTLE**—Is that a request for the department or for the DPP?

**Mr Keelty**—My briefing tells me it is for the department, which makes sense to me because, again, it is a matter where jurisdiction is founded elsewhere.

**Senator NETTLE**—Can you explain that to me?

**Mr Keelty**—Because the events are alleged to have occurred in a foreign country, there are a lot of issues about the gathering of evidence and whether it is possible for any prosecution to take place.

**Mr Cornall**—Just to add to that, the department is responsible for the processing of requests for mutual assistance in criminal matters. We are the central agency for dealing with those requests both to and from Australia but, as Mr Keelty has pointed out, under that legislation we are required not to talk about those requests publicly.

**Senator NETTLE**—I am trying to get my head around this. As a result of the coronial inquiry that occurred in New South Wales, I thought that the next stage was for the DPP to make a decision about whether or not they wanted to pursue charges in Australia rather than in East Timor. Is that correct?

**Mr Cornall**—Can I ask that you wait until the criminal justice division is here later today. It is a level of detail I do not have in my brief and I do not want to give you inaccurate information. But if it is to do with mutual assistance requests for information to support the decision whether to prosecute then we do not talk about mutual assistance requests on the public record, and that has been our position, which this committee has respected, I think, for many years.

**Senator NETTLE**—So the mutual assistance relates to whether the prosecution was occurring in another country or is it broader than that?

**Mr Cornall**—It is a process by which countries are able to obtain from another country in a formal way information which could be used in a criminal prosecution—if that was the decision that was made—and in a way that is admissible in evidence, which was the point Commissioner Keelty was making: that some police cooperation does not result in information that could be admissible in a court of law.

**Senator NETTLE**—So if the DPP were to make a prosecution in Australia in relation to the Balibo Five matter, would that necessarily include a mutual assistance component to it because it related to matters in another country?

**Mr Cornall**—I do not have the details of this matter before me, but the point I am trying to make is that a prosecution in Australia may require evidence to be obtained in another country and the way we would do that is through a mutual assistance request.

**Senator NETTLE**—I can ask some more questions when we get to the criminal justice division. I want to ask the Federal Police about investigations into matters in Mauritania that Senator Milne has been involved in in relation to Woodside. Have the AFP completed their investigations in relation to that matter?

**Mr Keelty**—When you say Senator Milne was involved in—

**Senator NETTLE**—I understand that Senator Milne wrote to the AFP about matters in relation to Woodside in Mauritania?

**Mr Keelty**—That is correct, and that matter is now complete.

**Senator NETTLE**—When was that concluded?

**Mr Keelty**—I will just get some advice on that.

**CHAIR**—Commissioner Keelty, it is 10.30, so we will take a break for morning tea. Before we do that you can answer that question. Could you provide to us or table your opening statement so that we can have it with us today rather than wait for *Hansard* to be finalised. Perhaps if we wrap up that question first.

**Mr Keelty**—I do not have the precise date but that matter has been completed recently and no offence was disclosed for prosecution.

**Senator NETTLE**—I will ask you some more about that when we get back.



**Mr Keelty**—Subject to the minister's view, I am happy to provide the opening statement.

**Mr Wood**—May I finalise one question from Senator Barnett. He asked whether the AFP had any input into the material that was released on the report he was referring to. The answer is that the AFP was consulted in relation to the preparation of that report.

**Proceedings suspended from 10.31 am to 10.48 am**

**CHAIR**—We will now resume. We will start with questions from Senator Nettle and then go to Senator Barnett or Senator Brandis.

**Mr Keelty**—I would like to add to a response given by the secretary to an earlier question from Senator Nettle. The secretary referred to an ASIO report being put out the day after the discussions took place in the margins of the meeting that happened at the department. I too was a recipient of that report. I have seen it but, like the secretary, I would add that there are many thousands of reports that I would see in addition to my own department's reports. I just wanted to clarify that I was on the receiving list of that.

**Senator NETTLE**—Mr Keelty, can I ask you why you did not mention that report in your letter to the Privileges Committee where you outlined the AFP's involvement in this matter?

**Mr Keelty**—I can only imagine it was because I was not at the meeting, so it would not have necessarily registered with me—the discussion, that is. The person who was at the discussion has since retired from the AFP, so there would have been nothing to alert me to it. I was only made aware of the report in preparation for these estimates; I was not aware of it at the time that I wrote the response to the Privileges Committee. In fact, I only got a reference number for the report last week and asked to see the report again. When I saw the report, I noted that it had come through my office and had been noted by me back in 2001.

**Senator NETTLE**—To me that highlights the importance of all the things you have said you will take and check on notice, because we are getting more information about this. In your letter to the Privileges Committee you talk about the AFP being involved on the 22nd and then on the 26th. I appreciate that we are getting more info, but to me it just highlights how it is worth going back and checking all that, even seven years later, because we are still getting more information about, in this case, AFP involvement.

**Mr Keelty**—Just to clarify those matters, firstly, there would not have been an index that I would have had that would have told me about the discussions in the first place. Secondly, it was not our report, so I would have needed to have been told by somebody else of the existence of the report for me to go back and see if the AFP had been a recipient of it. That is not an easy thing to do.

**Senator NETTLE**—I recognise that, but you also were not at the meetings that you refer to in the letter to the Privileges Committee, on 7 October, on 27 October, on 26 October and on 29 October. Similarly, you were also not at that meeting; your deputy commissioner was at that meeting. I am just asking why that one was not in there.

**Mr Keelty**—The first meeting that you refer to did have a reference to it, which ultimately was the contents of the cable that has been the subject of other questions. But that second level of activity was outside my total knowledge. The only way it has come back is by people cross-referencing what was happening elsewhere.

**Senator NETTLE**—Can I follow up with Mr Cornall as well about the meeting on 23 October. Could you please outline the other people who were participating in that meeting.

**Mr Cornall**—The officers were from the departments listed in the answer. Are you referring to the meeting before the discussion?

**Senator NETTLE**—No. You have outlined that there was an adviser for you present at the discussion. Can you outline who was there from the Department of the Prime Minister and Cabinet.

**Mr Cornall**—I personally do not know. I would have to take that on notice, or you could refer it to one of the other departments that are listed in the answer.

**Senator NETTLE**—Do you have a list of the people who were participating in that discussion?

**Mr Cornall**—We would have a list of the people who attended the meeting that preceded the discussion, presumably, but I do not have it here.

**Senator NETTLE**—Can I ask you to provide that to the committee on notice.

**Mr Cornall**—I will take it on notice.

**Senator NETTLE**—Mr Keelty, I now want to ask about the investigation of Woodside in Mauritania. Do you know when Woodside were informed about the completion of that investigation?

**Mr Keelty**—No, I do not. But I can tell you that we completed the investigation on 30 April 2008. I can also tell you that Woodside were cooperative and assisted with the inquiries from start to finish.

**Senator NETTLE**—Did you have a similar level of cooperation from those people in Mauritania who were involved in the investigation?

**Mr Keelty**—I do not have any advice on that, Senator.

**Senator NETTLE**—Could I ask you to take that on notice, please?

**Mr Keelty**—Sure.

**Senator NETTLE**—When was Senator Milne informed about the conclusion of the investigation?

**Mr Keelty**—That is a question that would have to go to my minister. We have advised our minister and we would need to get the answer to that from our minister's office.

**Senator NETTLE**—Was the investigation initiated upon approach by Senator Milne to the AFP?

**Mr Keelty**—It was initiated on 5 April 2006. I imagine that if it was a referral from a member of parliament or a senator it would have come through the previous minister's office to the AFP. That is the normal course, but I will check. I am advised that it did come to us from the minister's office and the results have been provided to the minister's office.

**Senator NETTLE**—I do not know who I can ask the question—perhaps Senator Ludwig can help—of whether the minister's office informed Senator Milne in relation to that.

**Senator Ludwig**—I do not have any details on that, but I can certainly find out today and get back to the committee as soon as I can get a response from the Attorney-General or the relevant minister. In this instance it would be Minister Debus.

**Senator NETTLE**—Chair, somebody else may want to ask questions.

**CHAIR**—Senator Barnett?

**Senator BARNETT**—This is a question for Mr Cornall following an earlier answer from Mr Keelty regarding the availability of sexually explicit photos of 12-year-old girls. In your department, if any of your staff or officers had on their computer such a photo, what would happen?

**Mr Keelty**—On the basis of a sexually explicit photo of the sort that you have been talking about, we would certainly treat that matter very seriously and the normal course would be to have an investigation of whether there is any breach of the obligations on public servants in doing so or any breach of our own rules for handling departmental computers, and then appropriate steps would be taken, if that were established, to discipline the officer.

**Senator BARNETT**—What types of disciplinary measures are available in such instances?

**Mr Cornall**—I would have to take some advice from our human resources people, because I can only recall one instance where that has happened and the officer promptly resigned, so we did not get to the point of having to deal with that.

**Senator BARNETT**—I know what would happen to me if I had a sexually explicit photo of an obviously 12-year-old girl, in a sexual context, and that was on my computer. I know what would happen.

**Mr Cornall**—I appreciate what would happen. We would also—

**Senator BARNETT**—I know what would happen in Tasmania and I know what would happen nationally, so I am making it clear—

**Mr Cornall**—We would also report it to the police if it were of that description.

**Senator BARNETT**—Indeed, and you would expect the police—state or federal—to follow up and I assume take the appropriate course of action.

**Mr Cornall**—Yes, Senator.

**Senator BARNETT**—Thank you. I appreciate that opportunity. Mr Keelty, you have a response?

**Mr Keelty**—I have a response to Senator's Barnett's earlier question about conviction rates for offences on the internet relating to child pornography. Until January this year, 54 people were convicted of 120 charges and 30 of those people received prison terms.

**Senator BARNETT**—So 54 since when?

**Mr Keelty**—Up until January this year.

**Senator BARNETT**—Over what period, though?

**Mr Keelty**—I think it was since 2005. If it is not 2005 I will correct that. There were 54 people convicted of 120 charges and 30 have received prison terms.

**Senator BARNETT**—Could you describe the charges again, please?

**Mr Keelty**—The charges relate to the possession or downloading of child pornography on the internet. I am told that the commencement date of these prosecutions and arrests was the commencement date of the legislation—so since the introduction of the new legislation, which was in 2005.

**Senator BARNETT**—Thank you very much. I appreciate that.

**Senator BRANDIS**—Commissioner Keelty, do you have available to you at the table a copy of Budget Paper No. 4: Agency Resourcing?

**Mr Keelty**—No, I do not; I have the portfolio budget statement.

**Senator BRANDIS**—I was going to go through the agency resourcing for the Australian Federal Police on page 23 of Budget Paper No. 4, which purports to be a summary of the budget. As I read it, the aggregate appropriation for the Australian Federal Police in appropriations bills 1 and 2 and special appropriations, netting off receipts, in the current budget for outcome 1, outcome 2 and also taking into account equity injections is \$1,362,503.00 and the estimated actual budget outcome for 2007-08 for the AFP, having regard to the same matters, is \$1,309,803.00, which appears to be a reduction in actual dollars of the AFP funding in the current budget of some \$53 million—and, if you have regard to the fact that the budget itself, in Budget Paper No. 1, assumes inflation of 3.25 per cent, a reduction in real terms of the AFP's funding of very considerably more than that. Would you like to comment on those matters, Commissioner Keelty? Has the AFP suffered a funding reduction in this budget in both actual and real terms? Do you have Budget Paper No. 4 there now?

**Mr Keelty**—We do now.

**Senator BRANDIS**—Do you see page 23?

**Mr Keelty**—Yes.

**Senator BRANDIS**—I am reading from the right-hand column.

**Mr Wood**—So the estimated actual in italics of \$1.309 billion—

**Senator BRANDIS**—If you go to the top of that page—Attorney-General's—you will see the non-italic figures are the agency resourcing, the actual budget, and the italic figures for 2008-08 are the estimated actual 2007-08. If you go down each line item—but it will be enough to look at the total figures at the foot of the right-hand column of page 23—what we see is agency resourcing 2008-08, \$1,362,503 and estimated actual 2007-08, \$1,309,803. I should correct myself—

**Mr Wood**—It has actually gone up, Senator.

**Senator BRANDIS**—I should correct myself. If we take into account the budget's own estimate of inflation at 3.25 per cent, it has actually gone down, hasn't it, in real terms?

**Mr Wood**—If I accept the inflation figure, because I do not have that in front of me, that is correct. The figure has gone—

**Senator BRANDIS**—Do not accept the inflation figure; just accept that that is the inflation figure that those who put the budget together have assumed.

**Mr Wood**—It has gone from \$1.309 billion to \$1.362 billion, correct.

**Senator BRANDIS**—If the \$1.362 billion is worth 3.25 per cent less than in the previous year, it has actually gone down, hasn't it?

**Mr Wood**—Short of doing the sums myself, if that is correct, then that is correct.

**Senator BRANDIS**—Indeed, it has. Having regard to the fact that the AFP's appropriation has not kept pace with inflation, how will that impact on the AFP's operations in particular areas? Will there be a readjustment of priorities not because of perceived operational issues but because of budgetary issues?

**Mr Keelty**—Obviously, we are dealing within the budget that is allocated to us. As I recall the figure, we have a net increase of some \$23.7 million in new measures. We will—

**Senator BRANDIS**—I am sorry; you need to be a bit more precise than that. There is an allocation for new measures of \$24.7 million. That does not of itself mean that there is an increase in real terms in the aggregate appropriation to the AFP, does it? It simply means that, of the appropriation that has been made to the AFP, \$24.7 million is being appropriated to new measures.

**Mr Keelty**—It is \$23.7 million.

**Senator BRANDIS**—Whatever the figure is.

**Mr Keelty**—Which is net. The new measures in 2008-09 included additional new funding of \$57.4 million plus savings measures of \$33.7 million. In answer to your question about how that will impact on the bottom line in terms of policing resources, we are looking to apply the two per cent efficiency dividend as well as the 1.25 continuing efficiency dividend across a range of activities where we think we are best placed to do it. Some 18 months ago we commissioned a review by Mr Len Early, who is the former Deputy Secretary of the Department of Finance and Deregulation. We are looking not at reducing the policing resources or the policing operational capability but reducing other areas where we have some flexibility and efficiencies that we believe we can apply.

**Senator BRANDIS**—Given the savings you have to make as a result of what you have called 'the continuing efficiency dividend', the new two per cent efficiency dividend, and the fact that I suggest to you that the actual funding of the AFP has reduced slightly in real terms having regard to the budget's own assumptions about inflation, where will the cuts be made?

**Mr Keelty**—We have a number of options. We need to determine those options for the commencement of the new year. They will be in areas such as prime contractors—

**Senator BRANDIS**—I am sorry, I am going to ask you to be a little bit more particular rather than just saying 'areas such as'. You are obviously reading from a document. Can you run me through each of the areas in which cuts will be made or are under consideration? You said 'prime contractors', what does that mean?

**Mr Keelty**—The AFP has a number of prime contractors, such as those contractors providing services for the International Deployment Group, as opposed to smaller contractors doing other work. The vehicle fleet—

**Senator BRANDIS**—Just pause, because I want to ask you more particular questions about each of these items. Cuts in prime contractors are in contemplation or have already been decided upon?

**Mr Keelty**—In contemplation.

**Senator BRANDIS**—You said the prime contractors include major prime contractors, such as for the international deployment force?

**Mr Keelty**—Those associated with the International Deployment Group.

**Senator BRANDIS**—What sorts of services or goods are involved there?

**Mr Keelty**—Some of it is offshore logistical support.

**Senator BRANDIS**—It might have been better for me to ask you a preliminary question. Can you tell us the particular spheres of operation of the international deployment force currently?

**Mr Keelty**—In the main, they are deployed to Afghanistan, the Sudan, Cyprus, East Timor and the Solomon Islands and are also involved in capacity development work in some other countries.

**Senator BRANDIS**—Do the prime contractors provide in the case of Afghanistan, Sudan, Cyprus, East Timor and the Solomon Islands logistical support?

**Mr Keelty**—Mainly in East Timor and the Solomon Islands.

**Senator BRANDIS**—As well as logistical support, what other goods or services do the prime contractors provide?

**Mr Keelty**—Catering, hospitals and medical support. They obviously provide some of the materials that we use in equipment to deploy with.

**Senator BRANDIS**—Anything else? Exclude relatively trivial items; I want the most substantial items.

**Mr Keelty**—They obviously provide the management overhead for subcontractors in those areas, which is the area you just mentioned of the smaller contractors.

**Senator BRANDIS**—Are these logistical catering, hospital and medical support services and this equipment, in the case of each of these theatres, support for AFP personnel?

**Mr Keelty**—Sometimes it extends beyond the AFP.

**Senator BRANDIS**—To whom does it extend beyond the AFP?

**Mr Keelty**—For example, in the Solomon Islands it also extends to the defence forces who are deployed there with us.

**Senator BRANDIS**—So you have some kind of joint arrangement, do you, on a case-by-case basis in a particular theatre with the ADF so that, for argument's sake, the hospital

services being provided by your prime contractors are shared with and made available to the ADF?

**Mr Keelty**—That is correct.

**Senator BRANDIS**—Is that on a cost recovery basis? Do they pay you back for their usage of the service? How does it work?

**Mr Keelty**—A number of arrangements are in place. They are very mission specific. When the Solomon Islands was a predominantly defence deployment, they had these contracts and we took these contracts over when it became more of a police deployment. But in other places, including the Solomon Islands, we draw upon defence assets to do some of the work that we do, such as work involving helicopters et cetera.

**Senator BRANDIS**—Is there a complete cost recovery interforce arrangement or is there just a sharing, the costs of which are not necessarily redeemed?

**Mr Keelty**—There are different arrangements in each location.

**Senator BRANDIS**—I do not want to bog you down in the minutiae of that, but what you are telling us is that one of the areas for consideration for cutbacks as a result of the budget measures is prime contractors who provide, among other things, logistical catering, hospital and medical support to AFP officers and on occasions ADF officers in Afghanistan, the Sudan, Cyprus, East Timor and the Solomon Islands.

**Mr Wood**—After a number of years of experience working with these contractors, we would have a view that there is an opportunity to do some of the business better. You keep using the word ‘cutbacks’, but it may well be that the level of service can be achieved with a more effective way of delivering the service. It does not necessarily mean the service itself will be cut back.

**Senator BRANDIS**—Mr Wood, I understand why you would say that in this forum. However, in previous years the AFP has also been operating under the discipline of an efficiency dividend of 1.25 per cent and has been under the general obligation of any government agency to secure the best and most efficient usage of its services. If you were operating as efficiently as you could 12 months ago, as I am sure you were, and there has been the imposition of this additional two per cent dividend, which in effect is a cutback in anyone’s language, then what you are going to have to do, as Commissioner Keelty was candid enough to say in his answer to my initial question, is review the expenditure on prime contractors who are providing these services to your own personnel and in some cases to the ADF in theatres of war. That is right, isn’t it?

**Mr Wood**—I agree with that, but I suppose the point I am making is that if we go into Timor initially for a particular period of time and then the government announces further measures, areas like accommodation can be arranged for longer leases or longer periods of rent. So we can generate a lower cost structure when we understand the length of time, particularly if it is longer.

**Senator BRANDIS**—Of course, Mr Wood, I understand that these operations are mobile and the circumstances that obtain in one particular year and the needs in one particular year

may be less but they may also be greater than in the previous year. That is all you are saying, isn't it?

**Mr Wood**—Sure, Senator.

**Senator BRANDIS**—Thank you.

**Senator BARNETT**—On that point, in terms of East Timor and the Solomon Islands and medical support and hospitals, are you receiving value for money and are you satisfied with the services being provided?

**Mr Wood**—The most recent advice I have is that the senior clinician within the Australian Federal Police is happy with the level of clinical support from that technical point of view, and the prime contractor has services within the budget that we anticipated and is providing a level of service that we anticipated. So it is meeting contractual obligations, yes.

**Senator BARNETT**—And that is in the Solomon Islands, specifically?

**Mr Wood**—Including the Solomon Islands.

**CHAIR**—Senator Brandis, do you have further questions?

**Senator BRANDIS**—Yes. Can I just indicate informally to you, Madam Chair, that if any of my colleagues wish to jump in and elaborate on these answers I am very happy for them to do so. That is very helpful.

**Mr Keelty**—I am hoping, Madam Chair, that they only elaborate on the questions.

**Senator BRANDIS**—Well, we will seek more elaborate answers to the previous questions.

**CHAIR**—And them doing so will be at my discretion as chair, I might also add.

**Senator BRANDIS**—I thought we might save a bit of time; that is all. Is Afghanistan a theatre in which any of the logistical, catering, hospital, medical support and equipment services supplied to the AFP by prime contractors are shared with the ADF?

**Mr Keelty**—No.

**Senator BRANDIS**—What about the Sudan?

**Mr Keelty**—No, the Sudan is the UN mission—albeit I should clarify both those answers. There are some logistics that are provided in terms of those areas of equipment, suppliers et cetera that relate to the entire International Deployment Group no matter where they are deployed to. So in that sense they do, but we do not have the relationship with prime contractors in the Sudan that we have in the Solomon Islands and East Timor. We do have a prime contractor in Afghanistan, but we would not, I believe, do anything to reduce that because it relates to the security of our people.

**Senator BRANDIS**—In your review of reducing the expenditure on prime contractors you are going to quarantine the contractors in Afghanistan. Is that what you are saying?

**Mr Keelty**—That is correct, because we only have one prime contractor in Afghanistan.

**Senator BRANDIS**—What sorts of services does that prime contractor provide?

**Mr Keelty**—The protection of our people.



**Senator BRANDIS**—What about Cyprus? Do you provide any of those services, through your prime contractors, to ADF personnel or are there no ADF personnel deployed in Cyprus?

**Mr Keelty**—There are none that I am aware of. It is another United Nations mission.

**Senator BRANDIS**—So, when you make this observation about sharing with the ADF the services provided by AFP contractors, we are mainly talking about East Timor and the Solomon Islands. Is that correct?

**Mr Keelty**—That is correct.

**Senator BRANDIS**—I will deal with them sequentially. What logistical services are provided to you in the Solomon Islands which are shared with the ADF?

**Mr Keelty**—Catering is shared. Aspen, the medical facility, is shared. I think some of the transport might be shared as well—the helicopter flying hours by contractors. I would have to check whether some of the accommodation is shared as well—that is, the accommodation that we have constructed within the compound.

**Senator BRANDIS**—Which services are shared with the ADF in the Solomon Islands?

**Mr Keelty**—That was the Solomon Islands I was just talking about.

**Senator BRANDIS**—I am sorry; I thought I had asked you about East Timor. What about East Timor?

**Mr Keelty**—In East Timor, again, there would be some catering and some accommodation that we share. My memory is that the ADF have the contract on the medical supplier, so we draw upon their contract with the medical supplier there.

**Senator BRANDIS**—You see, Commissioner Keelty, I think the Australian people would be very disturbed to learn that, as a result of the decisions made in the budget process and in particular the imposition of a super-added two per cent efficiency dividend and the failure to maintain funding of the AFP in real terms, consideration is being given—as you have told us it is being given—to cutting back on the amount of expenditure through prime contractors to provide, for example, medical support to Australian officers, whether AFP or ADF officers, in East Timor. I suppose you cannot comment on that.

**Mr Keelty**—No, I cannot.

**Senator BRANDIS**—Senator Ludwig, do you want to say something about that? Why are we cutting back, as result of the budget, the support provided to Australian officers—AFP and, in some cases, through shared services, ADF—for medical services in theatres of war?

**Senator Ludwig**—As you have heard, these are matters that the AFP are examining for consideration as to where the savings might come from. But let me say from the outset that in the short time that I have been listening to you I have had a look at the Attorney-General's agency resourcing for 2008-09 and estimated actuals for 2007-08. I would really like the opportunity to come back to you on this. I am not sure that I agree with the figures that you have put forward as being the supposition—

**Senator BRANDIS**—Nevertheless, we have heard Commissioner Keelty's answer. Do not worry about my questions. My questions are only designed to elicit answers. Commissioner Keelty has given me an answer—

**Senator Ludwig**—Are you going to let me finish?

**Senator BRANDIS**—You would have heard Commissioner Keelty say—

**Senator Ludwig**—I would like the opportunity to finish the answer I was giving.

**Senator BRANDIS**—that the expenditure on prime contractors is under review in relation to some theatres of war.

**Senator Ludwig**—I did want to finish the answer I was giving.

**Senator BRANDIS**—My question to you, Senator Ludwig, arising from Commissioner Keelty's answer—

**Senator Ludwig**—I am entitled to provide the answer that I started to give and then you are entitled to ask a question in respect of that.

**Senator BRANDIS**—I do not think the chair is listening, so we are not having a—

**Senator Ludwig**—It is difficult, I suspect, for Hansard when we are talking over one another.

**Senator BRANDIS**—Indeed it is.

**Senator Ludwig**—If you would kindly let me answer the question—

**Senator BRANDIS**—Can you answer the question that I asked and not a different question, please?

**Senator Ludwig**—To the extent of the entire question, the answer I am providing to you is, firstly, that these are matters that the Australian Federal Police are considering, as I understand.

**Senator BRANDIS**—Correct.

**Senator Ludwig**—When you then make the assumption that there is going to be a cut, I am entitled to challenge that assumption. What I have said in respect of that is that my short examination of the figures does not lead me to the same conclusion that has been put by you regarding the figures. I would like to take that on notice to make sure of the position of the Australian Federal Police budget—

**Senator BRANDIS**—I am indebted to you.

**Senator Ludwig**—that is, whether it is a real increase in non-ACT police funding . I think it would be appropriate for this committee to understand the exact position. In terms of the broader issue, the question of the two per cent efficiency, it is designed for agencies and departments to pursue efficiencies where they can. So they should consider all areas where they may be able to achieve efficiencies and then report on those at that time. We have not heard as to whether there will be an actual reduction in a particular service. That is clearly a matter for the Australian Federal Police to come back and advise on. But, of course, you can refer to what you may call individual cuts. As a government, we said we would deliver on the commitment of achieving an underlying surplus in 2008-09 of at least 1.5 per cent.

**Senator BRANDIS**—Senator Ludwig, can I interrupt you, please?

**CHAIR**—Senator Brandis, I think the minister is—

**Senator BRANDIS**—On a point of order, Madam Chair—

**CHAIR**—Senator Brandis, I think it is appropriate for us to let the minister finish and then you can ask some questions.

**Senator BRANDIS**—No, I have a point of order, Madam Chair. You have to take a point of order.

**CHAIR**—What is your point of order, Senator Brandis?

**Senator BRANDIS**—I did not ask anything about the underlying budget strategy; I asked a question arising specifically from Commissioner Keelty's answer to my earlier question in which he indicated that cutbacks in relation to the services provided to the AFP by prime contractors were under consideration. My question to Senator Ludwig was: do you not think that the Australian people would be concerned if they knew that, as a result of these cutbacks to the AFP budget, the AFP were being required to consider cutbacks to the services from prime contractors in relation to matters such as hospitals and medical support in theatres of war? That is my question, and I do not require a political speech about the budget.

**CHAIR**—And my ruling is that the minister is in the process of answering that question. So let us give him the chance to do that.

**Senator Ludwig**—Are the Solomons a theatre of war? The point that I am making in the general response to your question is that these matters are under consideration by the Australian Federal Police, as advised here today. You would expect that, where possible efficiency measures can be achieved, they will be achieved. Those are the broad parameters that have been laid down by them. In response to the individual cuts that you might refer to, which I might say have not been made as yet but are merely matters that are under consideration for efficiency savings, it is the view of this government that the two per cent efficiency dividend, the one-off, forms the overall budget strategy to put downward pressure on interest rates and inflation. Cutting \$7.3 billion from the budget in one year is always going to involve some tough decisions. I am confident that the Australian Federal Police are well placed to deal with their operational requirements and, in addition, look for efficiencies and savings within their budget and report those.

**Senator BRANDIS**—Thank you, Minister. Commission Keelty, you said that one of the areas where the AFP was considering cutbacks in its expenditure arising from the budget was in prime contractors, and you indicated that there were other areas as well. Could you take us to the next area, please?

**Mr Keelty**—Do you want me to take them one by one?

**Senator BRANDIS**—Yes, please. By the way, just to anticipate: roughly how many of these different categories are there?

**Mr Keelty**—Six.

**Senator BRANDIS**—Okay. We will take them one by one. What is the next one?

**Mr Keelty**—Travel.

**Senator BRANDIS**—What does that involve?

**Mr Keelty**—We are going to review not only the amount of travel that is taking place but also the cost of that travel to see if we can get some efficiencies out of that. I should point out that already in the AFP we have a practice that the senior executive service, including myself, if travelling in the eastern states, only travel economy. But we are looking for other efficiencies in terms of savings on travel.

**Senator BRANDIS**—I assume—correct me if I am wrong—that those cutbacks in relation to outlays on travel are not going to be in relation to what you might call travel on operational exercises. Could I be assured of that?

**Mr Keelty**—That is correct. Obviously we are trying to cut the cost to fit, which we need to do, and we will continue as many operations as we normally can.

**Senator BRANDIS**—All right. That is the second category. What is the third category where you are contemplating cutbacks?

**Mr Keelty**—The vehicle fleet. We are looking to try to generate some savings in the vehicle fleet both in types of vehicle, fuel costs and also—

**Senator BRANDIS**—You will not get very far with fuel costs, the way they are going through the roof at the moment.

**Mr Keelty**—I mentioned type of vehicle, Senator. Obviously some vehicles consume more fuel than others, and obviously we are looking for some efficiencies there.

**Senator BRANDIS**—Okay. The next one?

**Mr Keelty**—The next one is minor capital items to see if we can generate some efficiencies or reductions in minor capital items.

**Senator BRANDIS**—Such as?

**Mr Keelty**—Laptop computers, mobile phones—

**Senator BRANDIS**—Okay. Again may I take it that you would be quarantining any such cuts away from operational matters? Or may I not confidently assume that?

**Mr Keelty**—I would not go so far as saying ‘quarantining’, but minimising, yes.

**Senator BRANDIS**—So it may well be that the cutbacks on these minor capital items, including laptop computers and mobile phones, for example, could impinge on operational matters, though of course you would, I assume, try to avoid that if possible.

**Mr Keelty**—Obviously with all of these efficiency gains we are looking to minimise the impact on operations. The reality is: we have got find the money somewhere, and we will find it. The other area is stationery items.

**Senator BRANDIS**—Don’t worry about that.

**Mr Keelty**—For us it is \$5.7 million, and we are only talking about \$19.4 million in the first year.

**Senator BRANDIS**—You should use more emails—although people can get into trouble with emails, of course.

**Mr Keelty**—The final one was on criminal record checks.

**Senator BRANDIS**—Oh, yes. Tell me about that.

**Mr Keelty**—We think that we can probably generate some efficiencies in the price charged for criminal record checks. Increasing the price from \$32 to \$40 could generate in the order of some \$2 million.

**Senator BRANDIS**—I see, so this is a revenue measure.

**Mr Keelty**—That is correct.

**Senator BRANDIS**—It is the price you charge a lawyer or a journalist, I dare say, to check somebody's criminal record.

**Mr Wood**—Senator, I assure you it is neither of those two.

**Senator BRANDIS**—What is it?

**Mr Wood**—We offer a fee for service to the general public, to potential employers, et cetera. The fee has not been increased in something like four or five years. The actual cost to us is closer to \$40 per transaction. We currently charge only \$32.

**Senator BRANDIS**—I understand.

**Mr Wood**—There is \$2 million in that alone, potentially.

**Senator BRANDIS**—Okay. It seems to me that the principal area of concern about cutbacks is the first category you properly identified, Commissioner, and that it is cutbacks in outlays to prime contractors. What was the aggregate of the outlays to prime contractors in the previous year? If you could direct me to the relevant page of the PBS, that would be helpful.

**Mr Keelty**—Prime contractors, Senator, would form part of supplier expenses, which is what would be detailed in the PBS. But the answer to your question, I think, is: approximately \$110 million is spent in the area of prime contractors as part of supplier expenses.

**Senator BRANDIS**—And not all suppliers are prime contractors, because the suppliers would include, for example, the lease of buildings, I imagine, and things like that?

**Mr Keelty**—That is correct.

**Mr Wood**—One of the other significant primes is Qantas Travel, and that is not necessarily related to the—

**Senator BRANDIS**—My interest has been stimulated in what you say about the cutbacks to the services provided by prime contractors in either theatres of war or theatres of acute conflict in which the AFP has its officers deployed. Of the approximately \$110 million within the suppliers item represented by service fees of prime contractors, about how much are you looking to cut out?

**Mr Keelty**—I mentioned before that we are looking to save \$19.6 million in the 2008-09 year, so as I have indicated—

**Senator BRANDIS**—But that includes the savings on stationery and vehicles and travel?

**Mr Keelty**—That is right.

**Senator BRANDIS**—So of that \$19.6 million—I understand that this is an exercise that is current and you cannot be too particular—roughly what proportion of that is going to be cut out of prime contractors?

**Mr Keelty**—Where I was coming to is that obviously it is \$19.6 million that we are looking to find and clearly, out of the list that I gave you, it would be a proportion of \$110 million. I cannot be more definitive than that at this point in time.

**Senator BRANDIS**—Can't you? You must have an idea. For a start, the sixth item you mentioned—criminal record checks—is a revenue item, so that is not a cutback; that is getting more money in the door. So we are only talking about five items. Surely you must have an idea whether, for example, the cutbacks to prime contractors are going to be bigger than the cutbacks to buying stationery. It would be the case, would it not, that the cutbacks to prime contractors are going to be the biggest area of saving, since \$110 million is spent on them?

**Mr Keelty**—We do not have an exact figure, but clearly if there is \$110 million approximately sitting in there, depending on what we extract from the other areas, it will mean that obviously that is going to be an area of focus. When I talk about things like contractors for medical support, we are not going to compromise the medical support to the AFP officers who are deployed offshore, but what we might be able to do is go into some sort of partnership arrangements or better arrangements that might produce a lower cost.

**Senator BRANDIS**—Mr Wood agreed with me before—and I am sure you would agree with me too, Commissioner Keelty—that a year ago or two years ago on your watch the AFP was already operating at peak efficiency. Or wasn't it?

**Mr Keelty**—It does not matter what organisation we are running, we can always look—and the reality is that we have to find these savings.

**Senator BRANDIS**—You only have to find them because the government has cut your budget in effect or imposed this two per cent efficiency dividend. The previous government did not impose that two per cent efficiency dividend because the previous government had a view that the needs of the AFP needed to be catered for, particularly in difficult times like these. That is obviously not a view shared. So when you say, 'We have to find these savings,' that is only because, at the political level, a decision has been imposed upon you which other minds may have arrived at a different decision about, as the previous government in fact had arrived at a different decision—a decision not to subject to you to these compromising financial decisions.

**Mr Keelty**—As I said to you before, Senator, I have to cut the cloth to fit and I will.

**Senator BRANDIS**—I do not envy you but I worry about you and your officers, Commissioner Keelty, that this discipline has been imposed upon you when, as you and Mr Wood have told us, one of the potential consequences of it, particularly in the area of prime contractors tendering for services in theatres of war and areas of civil conflict, is that there are going to have to be cutbacks. It worries me. Anyway, be that as it may.

**Senator BARNETT**—Just on that point, I note, Mr Wood, in answer to my earlier question that you indicated that there would be value for money and you are happy that you

are receiving value for money from these prime contractual arrangements. Is that an assessment that you can confirm?

**Mr Wood**—I think you specifically asked me about a particular medical service in the Solomon Islands—

**Senator BARNETT**—Now I am asking you more broadly about your contractual arrangements.

**Mr Keelty**—Of course we have been happy with the contractors we have had on board. But we need to turn our minds to this, and we are turning our minds to it. The alternative is that we cut staff, and one of the things that I have said is that we do not want to cut staff. The cost of staff is increasing, so we need to actually have measures in place to be able to do both—and this is not a surprise to us. As I said, we commissioned Mr Len Early to do a review of the AFP's strategic finances some 18 months ago. Our problem was that most of the funding for the AFP was provided through lapsing programs, so we could only employ people as a result of new programs being introduced or old programs being reviewed or renewed. So we have had a focus on the strategic finances of the AFP for some time. In having to apply the efficiency dividend of two per cent, on top of the 1.25 per cent—which was in place with the previous government as much as it is with this government—we have to look for places to do it, and that is simply what we are doing.

**Senator BRANDIS**—Can I come back to this staff issue please, Senator Barnett?

**Senator BARNETT**—Absolutely.

**Senator BRANDIS**—Do you have to hand Budget Paper No. 2, the budget measures paper?

**Mr Wood**—No. I have the PBS for the Attorney-General's portfolio.

**Senator BRANDIS**—The clerk will give you one. Can you please turn to the first item on page 89, 'Sworn Australian Federal Police officers—increase'. You are aware, are you not, that as part of its election promises the Rudd government undertook to provide 500 extra AFP officers over the next five years? It is the case, is it not, Senator Ludwig, that 500 was an election promise?

**Senator Ludwig**—That is right.

**Senator BRANDIS**—I assume that, across the forward estimates, the measure outlined at the top of page 89 of Budget Paper No. 2 is where we go to find the provision for those additional officers—is that right?

**Mr Wood**—That is the first four years of the measure; that is correct.

**Senator BRANDIS**—How do we relate the figures in the first line below the dates to the italicised figures in the second line below the dates, under 'related capital'. Are the italicised figures the on-costs, or the additional capital costs, associated with expanding the establishment of the officers?

**Mr Wood**—The italicised figures are the capital costs, not all on-costs; they are the capital costs, such as supplies for the new 500.

**Senator BRANDIS**—So, if you add those costs, this year we are going to spend \$6.8 million providing for new officers, the following year we are going to spend \$11.6 million, the following year we are going to spend \$18.3 million and the following year we are going to spend \$60.9 million—is that right?

**Mr Wood**—Correct.

**Senator BRANDIS**—And we are told very grandly in the last sentence of this item in Budget Paper No. 2:

This measure delivers on the Government's election commitment.

Is that right?

**Mr Keelty**—That is correct.

**Senator BRANDIS**—What is omitted is the \$99.4 million in 2012-2013. If, as set out in the first line of the notes to the table, the aggregate cost of providing these 500 extra police officers over five years, including the related capital costs, is \$191.9 million, it looks to me as if about half of that, \$94.4 million, is going to be delayed until the fifth year. Why is that?

**Mr Wood**—In the Attorney-General's Portfolio Budget Statement on pages 134-135, the measure is about halfway down table 1.2. The table has a footnote, footnote 1, which outlines the funding provided through the measure in years five and six.

**Senator BRANDIS**—Is that the note that says:

Funding for this measure also includes \$87.280m in 2012-13 and \$83.167m in 2013-14, and \$83.167 million in 2013-2014.

Is that the one you are referring to?

**Mr Wood**—That is correct.

**Senator BRANDIS**—Yes. And your point is?

**Mr Wood**—You asked the question about where, when you took \$191 million less the dollars that were on page 89 of the document you were referring to, the remaining dollars were. The footnote in the PBS outlines where those dollars are.

**Senator BRANDIS**—My point is a somewhat simpler one. Given that there is a commitment to 500 extra officers over five years and that the aggregate amount of money over the five years, including capital costs to provide the 500 extra officers, is estimated at \$191.9 million, pro rating that figure over 2008-09, 2009-10 and 2010-11 means that, in my figuring, you are only talking about 30 or so extra officers in each of the next three years. This is one of those 'on the never-never' promises in which we are promised, over the political horizon—and I dare say over the operational horizon of the AFP—that there will be 500 extra officers, but there are not going to be 500 extra officers at any time within the next three years. In fact, there are going to be fewer than a hundred extra officers over the next three years. So how does that deliver on the government's election commitment?

**Mr Keelty**—There is a recruitment strategy to make the 500 up, exactly as the government has promised, over the next five years, commencing with this financial year. We intend to recruit 30 new people this year, 30 in the following year, 40 in the following year and 200 in each of the last two years of the five-year program.



**Senator BRANDIS**—I am lost in admiration at your insouciance, Commissioner, that you can say that with a straight face. This promise of 500 officers over five years turns into a promise of 100 officers over the life of this parliament, and this is described as ‘delivering on an election commitment’. Is that your point? The 500 over five years turns into a hundred over three years, and we will pick up an extra 200 in each of the subsequent years. That is the way it works.

**Mr Keelty**—That is the way we will be implementing the program and it will deliver 500 additional police in five years.

**Senator BRANDIS**—Is there any particular reason why, given that there has been a political decision to expand the establishment of officers—and I have no quibble with expanding resources, including the staffing resources of the AFP, by the way—we could not recruit these 500 officers a bit faster?

**Mr Keelty**—The AFP has a number of recruitment programs separate to this initiative. We are still building the International Deployment Group to a force of 1,000—

**Senator BRANDIS**—Please do not take me to other recruitment programs; I am talking about the recruitment program that is specifically the subject of this budget measure outlined on page 89 of Budget Paper No. 2. All I want to know is, within that budget measure, why are we back-ending the recruitment of 80 per cent of these officers for more than three years?

**Mr Keelty**—What I was trying to explain is that we have a capacity within our training college and within the organisation to in fact recruit this number of people. We have been provided an additional \$20 million for a recruitment and retention strategy. I understand why you are looking at this initiative, but it is difficult to look at it in isolation. The AFP College cannot take any more recruits than what we are getting in the next 12 months. Our college is full. So this is a sensible plan to provide the AFP with 500 additional staff over the next five years. Independent of that, we are recruiting additional staff to complete the IDG recruitment strategies, additional staff for the cybercrime strategy that I mentioned before and, as I mentioned just now, \$20 million has been provided for the recruitment and retention of staff strategy.

**Senator BRANDIS**—Going back to page 89 of Budget Paper No. 2, does the related capital expenditure, which appears in the bottom line, include the expansion of the training capability of the AFP College?

**Mr Wood**—Capital expenditure on the college facilities is not included in that.

**Senator BRANDIS**—Should it not be included, if these are the capital expenditure implications of this expanded recruitment program? Why would that not be included as part of the budget measure?

**Mr Wood**—One of the things the AFP has is a longer term capital investment strategy and part of that is to build a college for our longer term future. We do not already have it in sufficient definition to bring forward to government, but we do expect to bring it forward in the near future.

**Senator BRANDIS**—This budget did not contain any appropriation to fund the development of that college?

**Mr Wood**—There is an adjacent measure, which the commissioner just mentioned, in the additional estimates statement of 2007-08, which had an additional \$20 million over five years. That is specifically for retention and recruitment strategies.

**Senator BRANDIS**—That is money appropriated by the previous government?

**Mr Wood**—No, it is part of the election commitments of the new government and it is in the 2007-08 additional estimates that were debated in this committee in February 2008. That measure is specifically to enable the college, and the broader workforce planning capabilities of the AFP, to manage the increase in cybercrime, manage the increase in the IDG and manage the increases that this measure provides. It does not include, though, measures such as building new classrooms et cetera.

**Senator BRANDIS**—It does not?

**Mr Wood**—Correct.

**Senator BRANDIS**—I come back to my question to Commissioner Keelty. Given that 80 per cent of this election promise has been delayed—it is a bit like the l-a-w law tax cuts—until after the next election, wouldn't the AFP wish to see the recruitment of more than 100 extra officers over the next three years? You could handle that, could you not?

**Mr Keelty**—As I mentioned, we are at capacity. We have 200 to recruit to the IDG in the next 24 months, so our organisation is at capacity now. To take these additional staff on would prove very difficult for the organisation.

**Senator BRANDIS**—But, if the government decided not to back-end this until beyond the next federal election and brought forward not only the allocation for the additional officers but also the allocation for associated capital costs, surely you could deal with the training of more than 100 new officers under this program over the next three years?

**Mr Keelty**—As I mentioned to you before, we are not just dealing with this program. We have got other programs in place as well.

**Senator BRANDIS**—No, but I am just dealing with this program, so let us stick to this program. It is not just the recruitment costs of the officers that are provided for in the budget measure. It is also the capital costs associated with that recruitment. All of the costs have been back-end loaded beyond 2011—into the 2011-12 and 2012-13 financial years. My point is: if the expenditure were to proceed in a more even manner over the years, with more capital expenditure as well, surely you could handle more than 100 new officers on this program over the next three years?

**Senator Ludwig**—Chair, this question might be better directed at the government to the extent that Commissioner Keelty is implementing a government election commitment—that is, it is set out in the 2008 budget that the AFP be provided with \$191.9 million and its funding is to be provided over the next five years, commencing from 2008-09. It will provide, as we have said today, 500 new sworn Federal Police officers. Recruitment will be specifically for federal agent roles and not ACT policing, IDG and unsworn support roles. I think that has been made clear today. The recruitment will commence in the following pattern: 30 recruits in 2008-09; 30 recruits in 2009-10; 40 recruits in 2010-11; 200 recruits in 2011-12; and 200 recruits in 2012-13. That is a total of 500 recruits. It is clearly designed to offset

annual contraction and provide new sworn members into tailored priority areas. That is the election commitment that was made by this government and the Australian Federal Police are asked to carry that out. I am not certain that putting hypothetical questions to the commissioner about what he could or could not do is helpful.

**Senator BRANDIS**—It might not be helpful to you, Senator Ludwig, and, if I may say so, frankly, it is not meant to be helpful to you. I am merely trying to seek answers to the questions I choose to ask to illuminate this issue. Commissioner Keelty, if I were your minister and I said to you, ‘I have extracted from our Treasurer a commitment to fund 500 extra AFP officers to the tune of about \$200 million over the next five years, and we are going to front-end load this program or we’re going to roll it out evenly across the next five periods of budget estimates’, you would not be saying to me, ‘We don’t want those extra officers. We can’t deal with them’, would you? You might say, ‘We have to make some arrangements in the short term’, but you would not be asking me to delay three years before we start 80 per cent of the program, would you?

**Senator Ludwig**—Chair, these are hypothetical questions.

**Senator BRANDIS**—They are hypothetical questions, Senator Ludwig; that is absolutely true. I am entitled to ask hypothetical questions in order to elicit the truth.

**Senator Ludwig**—To the extent that the initiative has been—

**Senator MARSHALL**—You cannot ask the officer to give an opinion on something hypothetical.

**Senator BRANDIS**—No, I am not asking an opinion. I am asking whether it is—

**Senator MARSHALL**—You started off by saying if you were the minister, and put this proposition. What a load of nonsense.

**Senator BRANDIS**—Senator Marshall, I think you should concentrate on the questions and stop interfering.

**CHAIR**—Minister Ludwig?

**Senator Ludwig**—To the extent that I illuminated the government’s commitment that we will be providing 500 new sworn federal police in the manner that I have outlined, I am not certain that putting different scenarios to the Australian Federal Police is, in fact, for the Australian Federal Police to answer.

**Senator BRANDIS**—Yes, it is. The chair read out a statement on the definition of relevancy at the start of these proceedings.

**Senator Ludwig**—This government has set out a policy and has sought that the Australian Federal Police implement that policy—and it is doing that.

**Senator BRANDIS**—Mr Keelty, if you had \$200 million to spend on 500 new officers over the next five years and it were up to you how that program would be rolled out and what would be the recruitment rate across each of the next five years of the forward estimates, how would you deal with it?

**Mr Keelty**—In the current environment, with all the other recruitment pressures and deliverables that we have, this is still a sensible way forward. You have to remember that if

you increase the intake in any given year you increase the cost in the out years. I do not have a problem with this. I know that that might not be what you want to hear, but it is in the forward estimates and it is articulated there. I am making no secret of the fact that it is back-end loaded but 70 per cent of the people who apply to come to the AFP are not accepted, so there is a huge program to get to a number like 500, and we are not going to do it in the short term. This is a sensible way forward to deal with the environment in which we are operating.

**Senator BRANDIS**—Is this the way the AFP asked for it to be done, in its submission to government?

**Mr Keelty**—We did not ask for it to be done in the first place. It was an election promise.

**Senator BRANDIS**—You must have given some advice to ministers, once the Labor Party were elected in November last year, as to the manner in which the election policy commitments could be implemented.

**Mr Keelty**—That sort of correspondence or discussion with the government is with the government.

**Senator BRANDIS**—I understand that. I am not asking you what it contained. I am asking you whether you gave advice. Did you give advice on this matter?

**Mr Keelty**—Yes, we did.

**Senator BRANDIS**—Was that in documentary form?

**Mr Keelty**—There would have been a number of iterations of how we would come up with this.

**Senator BRANDIS**—A number of iterations of a document addressed to this topic—correct?

**Mr Keelty**—The sorts of things we were discussing were not the 500 additional staff in isolation, as I have pointed out before.

**Senator BRANDIS**—Yes, you have. What was the date—you might need to take this on notice—on which the first iteration of the documents to which you are now referring was given to government?

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

**Senator BRANDIS**—Can you also take on notice the date of each subsequent iteration of the document? It was not the case, was it, that in any iteration of the documents the AFP recommended that the recruitment of 80 per cent of this program be delayed for more than three years?

**Mr Keelty**—It was a process of negotiation as to how to get to this figure—how best to deliver this and how best to implement it for the organisation. It is a compromise but it is a workable compromise.

**Senator BRANDIS**—You say there was a negotiation, which of course there would have been, and when you say that it was a compromise you are being as clear as you can without saying anything improper—that this is not what the AFP wanted, or not the way the AFP wanted it done. Let us move on.

**Senator MARSHALL**—No-one said that; you are the only one who said that.

**Senator BRANDIS**—I would like to ask you some questions about the Olympic torch relay, which mercifully proceeded in a peaceful and orderly way. Would you agree?

**Mr Keelty**—Yes, from my observations of what went on elsewhere in the world I think the AFP and ACT policing delivered a very good torch relay.

**Senator BRANDIS**—I think that is true and I want to congratulate you. Can you tell me who were the relevant Australian agencies—including agencies of the ACT government—and entities of the Chinese government and the International Olympic Committee who participated in discussions in relation to the logistics of the relay, in particular the security aspect of the relay?

**Mr Keelty**—There were a number of discussions. Obviously, the ACT government was the host, so it involved the ACT Chief Minister, the Minister for Police and Emergency Services and—

**Senator BRANDIS**—So there was the ACT government, obviously. There was the ACT police.

**Mr Keelty**—The ACT Chief Police Officer.

**Senator BRANDIS**—There was the AFP?

**Mr Keelty**—Yes. It is one and the same.

**Senator BRANDIS**—I understand that. But on a functional basis it is obviously separate. I am assuming that there was AFP input into this other than through the ACT police alone. Is that right?

**Mr Keelty**—Yes, but it was a delegated responsibility that I gave to the Chief Police Officer of the ACT.

**Senator BRANDIS**—Was there a representative of the International Olympic Committee or some other agency under its auspices responsible for the relay?

**Mr Keelty**—There were discussions with BOCOG, the Beijing Organising Committee for the Olympic Games. There were obviously members of the Chinese Ministry for Public Security and the ministry of foreign affairs, or their equivalent, from China, through the ambassador here in Canberra.

**Senator BRANDIS**—What about our own foreign affairs department? Were they involved?

**Mr Keelty**—Yes.

**Senator BRANDIS**—What about PM&C?

**Mr Cornall**—I have a briefing on this. I do not have all the details personally but I can read you the briefing notes, which might assist you.

**Senator BRANDIS**—That would be very helpful. Thank you.

**Mr Cornall**—The notes say: ‘The Protective Security Coordination Centre chaired three Australian Government Security Working Group meetings to review the security overlay for

the torch relay. The working group consisted of key security and intelligence agencies, including PM&C, DFAT, AFP, Defence, Customs and Immigration, as well as event coordinators from the ACT Chief Minister's office. Proposed arrangements were considered based on continually updated threat assessments provided by the National Threat Assessment Centre. The Chinese government raised a number of specific concerns and as a result the Chinese ambassador sought meetings with the Prime Minister and several department heads, including the PSCC, in an effort to resolve the issues and gain Australian government assurance that the event would be incident free.'

**Senator BRANDIS**—Is that all?

**Mr Cornall**—They are the points that I thought were going to the questions you asked about who was taking part.

**Senator BRANDIS**—Thanks. That is helpful, Mr Cornall, but I wanted to ask some more detailed questions than that. At what point in these discussions was the role of what have been called in the press the 'torch guardians' first addressed—that is, the Chinese who I understand to have been officials of the Chinese security or policing authorities responsible for, from their point of view, looking after and protecting the torch?

**Mr Cornall**—That is a level of operational detail that I do not have at my fingertips.

**Senator BRANDIS**—Could you take it on notice, please.

**Mr Cornall**—Mr Studdert will be here when we get to outcome 2 later this afternoon, if you would like to address those questions to him.

**Senator BRANDIS**—All right; I will.

**Mr Cornall**—I do know that there was a lot of discussion about whether the flame attendants would be part of the process and, if so, on what basis, but I cannot take it any further.

**Senator BRANDIS**—I will ask Mr Studdert about that and I will confine myself to asking Commissioner Keelty about the position of the Australian Federal Police and the ACT police in relation to all of this. Whether in the context of this working group or in a smaller range of meetings, were there discussions between the AFP as such—or through the delegation of the ACT Chief Police Officer—and the Chinese officials about the role of the torch guardians?

**Mr Keelty**—Yes, there were.

**Senator BRANDIS**—Did it become apparent to the AFP at some point prior to the relay that the Chinese authorities were insisting that the Chinese torch guardians have a more active role in protecting the torch than the AFP were comfortable with?

**Mr Keelty**—Yes, that is correct.

**Senator BRANDIS**—You might need to take this on notice, but can you identify the date of the meeting or meetings at which the position of the Chinese officials as declared was recognized by the AFP to be one that they were not comfortable with?

**Mr Keelty**—There were a number of meetings. Obviously what transpired on the day of the torch relay was an outcome of a large number of discussions—

**Senator BRANDIS**—I can imagine.

**Mr Keelty**—with the Chinese ambassador and the defence attache and that is what, I think, resulted in a very good torch relay. Everybody knew what the ground rules were and we did the torch relay according to the ground rules.

**Senator BRANDIS**—I don't want to be antagonistic about this; I have already said at the start of this bracket of questions that I think it worked very well and you are to be congratulated. So I am not really interested in knowing what happened on the day. That is a matter of public record. I am interested—because there was a shift, you see, in the Prime Minister's position in relation to this—in knowing what went before. Can you state in your own words what the position of the Chinese authorities was in the course of these meetings that the AFP felt uncomfortable with in relation to the role of the torch guardians?

**Mr Keelty**—I think to reopen the discussions would make it very difficult in terms of the confidentiality of the nature of those discussions with both BOCOG and the Chinese government officials and representatives here in Canberra.

**Senator BRANDIS**—Well, there is no national security issue. The matter has come and gone. You heard the chairman read out the definition of relevancy for the purpose of these proceedings. That question is incontrovertibly within the definition of relevancy as declared by the chairman. You have told us that the Chinese took a position that you were not comfortable with. I want to know what it was.

**Mr Keelty**—I don't know that I did say that the Chinese took a position we were not comfortable with, but clearly our position was that we wanted to provide security for the relay in our country. We negotiated a position on that and that is what occurred.

**Senator BRANDIS**—Well, what was the Chinese position in this negotiation, please?

**Mr Keelty**—That is a matter you need to ask the Chinese.

**Senator BRANDIS**—But you know, don't you? So I can ask you?

**Mr Keelty**—I do not want to reopen negotiations that have been settled in private discussions with the Chinese.

**Senator BRANDIS**—I know you do not. Of course you do not, but I want you to. I am asking you to. It is a relevant question and you are obliged to answer it.

**Mr Keelty**—Well, I do not want to answer the question, Senator.

**Senator BRANDIS**—But you are obliged to.

**Mr Keelty**—I do not wish to reopen the negotiation process that I have had with a foreign government.

**CHAIR**—Minister Ludwig, perhaps you might be able to assist Commissioner Keelty in this instance.

**Senator Ludwig**—What we can do is take it on notice. It may very well be—and clearly I was not at the meeting that is being referred to—all part of the discussions but this is a matter that may need to be addressed by the Attorney-General's themselves or Minister Debus the minister for justice, or alternatively it may very well be a matter for Foreign Affairs, so—

**Senator BRANDIS**—That is irrelevant, Minister, because Commissioner Keelty knows the answer.

**CHAIR**—Senator Brandis, we will let the minister finish first, please.

**Senator Ludwig**—I am not clear as to where it may actually fall but what I have said is that I am happy to take it on notice to see what information can be provided in this regard to Senator Brandis's line of inquiry.

**Senator BRANDIS**—With all due respect, Minister, there is absolutely no point in saying that this question could be asked in another estimates committee when we have a witness at the table who knows the answer.

**Senator Ludwig**—That is not what I said.

**Senator BRANDIS**—That is the consequence of what you said, Senator Ludwig.

**Senator Ludwig**—I am not sure that can be—

**Senator BRANDIS**—The commissioner has declined to answer and there has been no ruling that it is an improper question or could there sensibly be. But you have said that you will take it on notice. What I want to know is the position adopted by the Chinese authorities in these negotiations. For the moment, I will leave it at that. I will leave the question that you have agreed to take on notice and I will ask some more questions of Commissioner Keelty. Was it the position of the Chinese government in this negotiation that they sought, if necessary, to physically restrain Australian citizens if Australian citizens or protesters on Australian soil had attempted to interfere with the torch or the torchbearer?

**Mr Keelty**—My problem with answering these questions is that these are discussions with another party and the party is not represented here. I do not think it is appropriate for me to reopen what was negotiated in the torch relay.

**Senator BRANDIS**—You are not reopening it; I am.

**Mr Keelty**—My answer would reopen the negotiation process.

**Senator BRANDIS**—The negotiations are over. The torch relay has come and gone. This is now of historical interest only but it is of relevant political interest because there is a suspicion entertained by many people that the Prime Minister was less than candid in some of his responses in the days prior to the torch relay. Let me ask you a different question which goes exclusively to your own state of mind. What was your understanding of the Chinese position in these negotiations on the question of whether there could in those circumstances potentially be physical contact between the Chinese torch guardians and Australian citizens or people on Australian soil?

**Mr Keelty**—Again, Senator, I would need to take that on notice. Obviously what you have just asked was central to the negotiation process. There is nothing in my knowledge that the Prime Minister said that was wrong.

**Senator BRANDIS**—I am not asking you about what the Prime Minister said.

**Mr Keelty**—I know you are not. What transpired on the day and in the torch relay was a manifestation of a number of negotiations—not on a single occasion but over a number of



days—involving a number of entities, and for me to represent that when I am only one party to a multilateral negotiation process would be wrong.

**Senator BRANDIS**—But, Commissioner Keelty, you are a smart man and you know as well as I do that, if 10 people witness a traffic accident, you do not have to ask all 10 witnesses what happened to get an account of the traffic accident; you can ask one person who saw everything that happened and, as long as they are a trustworthy witness with a clear view of what went on, that is good enough—that is good evidence. You have said that you will take it on notice, but you will do me: you are the man sitting in front of me who knows and I trust you to tell the truth. So what was the Chinese position?

**CHAIR**—Senator Brandis, I would just pause for a moment here. It might be helpful if I just re-read a section of my opening statement at this point in time. I want to reiterate that 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 a claim. I thought it might be helpful if I remind people in this room of the opening statement that was made this morning.

**Senator Ludwig**—What I was going to say on that point was that I am not sure of the interaction that it may have with dealing with foreign governments in respect of this matter. I said earlier that it might fall relevantly in the foreign affairs portfolio and therefore we may need to elicit a response in that direction. I am not sure of this matter itself; clearly I was not part of the discussions. I am concerned that it does deal with foreign governments. I am concerned that there is a public interest here which may lead to the relevant minister—that is, the Minister for Foreign Affairs—providing a response more generally to Senator Brandis's question. That may include, unfortunately, Senator Brandis appearing before that committee and asking this question. Alternatively, it could fall within the relevant Attorney-General's portfolio, in which case this is the correct committee and, as I have said earlier, I can take the original point and the second point on notice and ask what information the Attorney-General can provide to the committee to assist in its deliberations.

**Senator BRANDIS**—That is complete persiflage, Senator Ludwig, and you know it. You have the man sitting at your left shoulder who knows the answer to the question, and his agency was a party to the working group. That much is established. He is in as good a position as any other person or agency which was a party to the working group to answer these questions. If it is relevant to ask them in other estimates committees of other men or women who were parties to the working group, it is just as relevant to ask them of this man, whose agency was a party to the working group. Come on, Senator Ludwig.

**Senator Ludwig**—I have stated the position that it may involve negotiations with relevant foreign governments. In those instances, Senator Brandis, as you are aware, it would be necessary that those issues be put to the relevant foreign affairs committee. Alternatively, we can seek to elicit a response from the Minister for Foreign Affairs in respect of the matter that you raise. I am concerned that it is a matter that the commissioner feels should be directed elsewhere for an appropriate response. That is why I intervened—to make those suggestions.

**Senator BRANDIS**—Thank you, Senator Ludwig. Commissioner Keelty, how much did the torch relay security operation cost the AFP, including the ACT police?

**Mr Keelty**—The total cost was \$723,059. The ACT policing component of that was \$304,621. The AFP national component was \$427,929.

**Senator BRANDIS**—What was the original estimate of the cost? I have a sense that the operation became a much bigger one as the day approached.

**Mr Keelty**—I do not know that figure, Senator. I could take that on notice, recognising of course that the ACT government would have had a separate estimate and budget process for it.

**Senator BRANDIS**—All right. Senator Trood, parliament's pre-eminent China expert, wants to ask some questions.

**CHAIR**—Senator Trood?

**Senator TROOD**—Thank you. Commissioner, there were a large number of people in Canberra on the day of the torch relay. Were there as many people as the AFP anticipated?

**Mr Keelty**—Our crowd estimates and the crowd that turned up were pretty much on par.

**Senator TROOD**—What were those figures?

**Mr Keelty**—It was around 7,000.

**Senator TROOD**—You think there were around 7,000 people watching the relay from start to finish along the route?

**Mr Keelty**—Certainly what we were more concerned about was the additional number of people coming to Canberra for the relay.

**Senator TROOD**—What was that figure?

**Mr Keelty**—That was around that 7,000 figure.

**Senator TROOD**—Did you make any estimate about where they were coming from?

**Mr Keelty**—Yes.

**Senator TROOD**—What estimate was that? Which particular places across the country did they come from?

**Mr Keelty**—We knew that a large majority would be coming from Melbourne and from Sydney, but there were also people who came in from other parts of Australia.

**Senator TROOD**—Did that estimate change at any time during the course of your build-up towards the relay?

**Mr Keelty**—No. By and large, the estimate remained the same. We had a very good relationship with the Chinese ambassador in determining the numbers of Chinese that we thought would attend and how many buses were coming. We had a very good relationship with the Tibetan community, who told us how many people with their interests they thought were coming. We had very good numbers of the Falun Gong community. So the actual range of people we went to in terms of discerning the numbers of people we anticipated was quite accurate at the end of the day.

**Senator TROOD**—Were you anxious about the possibility of any difficulties between any of the groups that might be attending?

**Mr Keelty**—We had several meetings, some hosted by us and some by the Chinese ambassador, that gave us confidence that the likelihood of violent demonstrations was minimal. In fact, the community leaders from all sides were quite committed to having peaceful protests. At the end of the day, when you look at the size of the crowd, that is very much what occurred.

**Senator TROOD**—So the Chinese ambassador or the Chinese embassy felt that the Falun Gong dimension, for example, was not going to present any difficulties?

**Mr Keelty**—You will have to ask them what they thought about Falun Gong, but certainly the Chinese ambassador hosted meetings with interest groups for us so that we could get, ahead of time, the numbers that we thought would come to Canberra for the relay.

**Senator TROOD**—When you say that they hosted meetings for you, does that suggest that the Chinese embassy was enthusiastic about making sure there was a large and strong Chinese ethnic representation around the relay?

**Mr Keelty**—From my perspective, they were enthusiastic to cooperate with us and ensure that we had an opportunity to meet the community leaders, which was some five days before the actual event.

**Senator TROOD**—Who were these community leaders?

**Mr Keelty**—Various Chinese community leaders from around the country.

**Senator TROOD**—But largely from Sydney and Melbourne?

**Mr Keelty**—Sydney and Melbourne.

**Senator TROOD**—Do you have any sense of how big a community those individuals represented?

**Mr Keelty**—No. We were more interested in meeting with them, impressing the point that we wanted a peaceful relay and also trying to get some sort of understanding of the numbers that these various community groups would bring to Canberra.

**Senator TROOD**—To what extent were the torch guardians expected to play a part in the protection of the crowd and of the torch?

**Mr Keelty**—Obviously, we had responsibility for the security of the torch relay, which I have just explained to Senator Brandis.

**Senator TROOD**—So the discussions you had with the Chinese embassy were not specifically about the management of the crowd that would attend; it was the protection of the torch. Is that a distinction that can be made?

**Mr Keelty**—No, we talked about management of the crowd. The ACT government enacted specific legislation for the torch relay. So we used that opportunity to explain that legislation and the extent to which that legislation would be applied to the relay should people commit offences in the areas that were prescribed in the new legislation.

**Senator TROOD**—Were there any offences committed for which people were charged?

**Mr Keelty**—Yes, there were. My recollection—and I will correct the record if I am wrong—is that there were eight arrests.

**Senator TROOD**—Have those people been charged with any offences?

**Mr Keelty**—As I recall, they were all charged under the new legislation and they have since been dealt with or are before the Canberra courts.

**Senator TROOD**—Have those matters been disposed of as yet?

**Mr Keelty**—I do not have the detail in front of me. I imagine they would have been, because they are minor matters. I will get the detail of that, if I could take that on notice.

**Senator TROOD**—Perhaps you could take that on notice and let me know the specific charges and whether they have been disposed of.

**Senator Ludwig**—I have a response to a question from Senator Nettle regarding the Woodside investigation. The question was: has Senator Milne been informed of the outcome of the investigation in Woodside petroleum? The response is: I can confirm that Minister Debus has written to Senator Milne confirming the outcome of the investigation. I understand that the letter was delivered this morning. The second question was: was it started as a result of Senator Milne's referral? I am advised that the AFP received a referral on 5 April 2006 from the then Minister for Justice and Customs, Minister Ellison, which was made as a result of correspondence from Senator Milne sent to the then minister on 2 April 2007.

**CHAIR**—Mr Cornall?

**Mr Cornall**—Thank you, Madam Chair. I just wanted to go back to Senator Barnett's question about whether the department was consulted on the development of Minister Macklin's paper 'Australia's children: safe and well'. The answer is yes. We were part of an interdepartmental committee, chaired by FaHCSIA, which assisted in the development of the paper. The areas where we provided input were family law, human rights and criminal law.

**Senator BARNETT**—Who else was on that departmental committee?

**Mr Cornall**—I am sorry, Senator, but I do not have that. I will have to get that further information for you. I have only got a note about this department's participation.

**Senator BARNETT**—What was the extent of the advice that you provided? You said family law—

**Mr Cornall**—Human rights and criminal law.

**Senator BARNETT**—What was the extent of your advice?

**Mr Cornall**—I am sorry, Senator, but I do not have that level of detail. I did not realise that you wanted that level of detail. We can take it up when the relevant people are here tomorrow.

**Senator BARNETT**—All right. If you could consider that in advance of tomorrow, that would be useful.

**Mr Cornall**—There was another point that I wanted to clarify. When we were talking about pornographic images and I referred to a matter in the department, that was a matter where the person concerned had not downloaded material onto the computer but through our

monitoring processes had accessed inappropriate sites. I just wanted to make that distinction as to what we were discussing before.

**Senator BARNETT**—Yes, it is entirely relevant to the matter we were discussing before. You indicated that that person was dismissed. Was that matter also referred to the police?

**Mr Cornall**—He resigned. It was a question of accessing inappropriate sites. He was not disciplined, because he resigned.

**Senator BARNETT**—He resigned?

**Mr Cornall**—Yes.

**Senator BARNETT**—Was the matter referred to the police or was it just a resignation matter?

**Mr Cornall**—I would have to go back and check the records, because I am just going from memory.

**Senator BARNETT**—Sure.

**CHAIR**—Commissioner Keelty, I think we are still waiting for a hard copy of your opening statement to be provided to the committee.

**Mr Keelty**—I think it has been arranged.

**CHAIR**—We have it now. Thank you.

#### **Proceedings suspended from 12.33 pm to 1.35 pm**

**CHAIR**—We will resume questioning. Minister Ludwig, did you want to say something? Please go ahead.

**Senator Ludwig**—I have two matters. Firstly, I am informed that I said that I was advised that the AFP received a referral on 5 April 2007 from the then Minister for Justice and Customs in response to the Woodside investigation. I should have said 5 April 2006, so I would just like to correct the record there. Secondly, in response to the issue raised about what I will call the Olympic torch questions, the view in respect of that can be found under ‘Scope of public interest immunity’ in the guidelines:

Documents—or oral evidence—which could form the basis of a claim of public interest immunity may include matters falling into the following categories that coincide with some exemption provisions of the FOI Act:

- (a) material the disclosure of which could reasonably be expected to cause damage to:
  - (i) national security, defence, or international relations; or
  - (ii) relations with the States;

More to the point, there is a view that they could provide that the issue of damage to international relations could result. The broader issue is that the Chinese government would have an expectation that private discussions with the Australian government about security arrangements would remain private, and public disclosure of such discussions could damage our relations with China. Therefore, on that basis that claim is made.

**CHAIR**—Thank you, Minister. Questions, Senator Barnett.

**Senator BARNETT**—I have a question of the minister in that regard. I find that it is a very long bow that you have drawn to advise the committee that you are not willing to allow the officer who is sitting next to you to answer the question. Can you repeat the last sentence or the last paragraph of your answer? Was that the advice of the Chinese government or is that your advice—that it could damage relations between Australia and China?

**Senator Ludwig**—There are two issues. Firstly, these questions, as I have indicated, will not be answered, and the public interest immunity is claimed on that basis: that disclosure of private discussions with China could reasonably be expected to damage international relations. This is consistent with previous practice. Paragraph 2.32 of the government guidelines for official witnesses is the relevant paragraph. Secondly, as I said, the Chinese government would have an expectation that private discussions with the Australian government about security arrangements would remain private and that public disclosure of such discussions could damage our relations with China.

**Senator BARNETT**—That is one answer. You are providing one answer. We are interested in the views of the Australian government. You are providing the views of the Chinese government in terms of their responses to how they might see the public disclosure of that information. Is that the view of the Australian government?

**Senator Ludwig**—What I said was that we would have an expectation that the private discussions with the Australian government about security arrangements would remain private, and public disclosure of such discussions could damage our relations with China. That is the point I am making. That is under the heading at paragraph 2.32 relating to oral evidence. I will read the provision:

- (a) material the disclosure of which could reasonably be expected to cause damage to:
  - (i) national security, defence, or international relations; or

So it is between both that it is claimed under.

**Senator BARNETT**—I think that is a very long bow that has been drawn and I will certainly speak to Senator Brandis about that. If we wish the committee to take it further, that is a matter that could be taken up in the Senate.

If we move onto questions, I want to ask about the focus on combating terrorism at home and abroad, to the neglect of the issue of illicit drugs and deception and investigations. There has been quite a bit in the media on this, and I draw your attention to the *Canberra Times*. On 7 April their headline was ‘AFP cuts may leave burden on the states’. On 6 April the *Sunday Age* headline was ‘Police brace for heroin flood as razor gang lurks’. Could Commission Keelty please advise the committee how many officers are deployed in operations targeting the illicit drug trade?

**Mr Keelty**—The number of officers deployed to combating the illicit drug trade varies from time to time, depending on the operational tempo. They come under the portfolio responsibility of the national manager for border and international, but suffice to say there has been no reduction in the number of staff allocated to those functions. One of the advantages of the way the AFP is structured is that we have a flexible teams model that enables us to deploy staff to the most current and highest priorities. So there has not been a reduction in people in that border and international area. We can give you average staffing applied to those jobs over

a period of time, and we can let you know the sorts of allocations in funding to those investigations, but it is an environment where we will put additional resources into it depending on what the operational tempo is.

**Senator BARNETT**—Can you advise the committee accordingly, as you outlined?

**Mr Keelty**—I cannot give you the average figures at the moment; I could take that on notice and do a breakdown of the figures for you.

**Senator BARNETT**—Can you advise how many staff you have in the international section?

**Mr Keelty**—Border and international is the portfolio responsibility, but of course border—whether it be drugs interdiction or whether it be things like people-smuggling—can occur anywhere in Australia. The staff in the area offices can be allocated to those sorts of functions, depending on what their other priorities are. There is no such squad as a drug squad; it is a crime type, and the resources to the crime type are allocated on a priority basis. I can give you some statistics but I do not have them here now.

**Senator BARNETT**—You can break it down in terms of staff allocation to particular crime types—

**Mr Keelty**—What I can do, because we operate in very much a business environment, where staff are required to allocate the number of hours that they perform on each function, is to give you a breakdown over the last 12 months and indicate to you how many hours have been worked on drug interdiction matters.

**Senator BARNETT**—I would appreciate that, if you are happy to take that on notice. If there has been a reassessment of the priority at AFP, and within the government, that there should be more of a focus on terrorism and combating terrorism at home and abroad, the question is: how has that impacted upon the organisation and its efforts and priorities to focus on illicit drugs and the interception of the same?

**Mr Keelty**—The impact is marginal. In the counterterrorism arena we have joint counterterrorism teams in each of the states and territories, and the only reason we would extend beyond those teams into the other resources in the area offices is in the event of a higher priority in the counterterrorism area being identified. By and large, we have not reduced staffing levels, in terms of the allocation of time, to the border interdiction work that you are talking about.

**Senator BARNETT**—How do you increase the level of resources to address terrorism and combat antiterrorism activity?

**Mr Keelty**—There is an operations monitoring committee that will determine whether a particular matter is of a higher priority and whether it needs additional resources—remembering, too, that the life of an investigation is such that it might well be that you need minimal resources at the beginning of the investigation, you might have a peak of activity in the middle of the investigation, and that might peter out for the prosecution process. That flexibility enables us to ensure that people who are working on the highest priority work all the time.

**Senator BARNETT**—Do you want to make any further comment?

**Mr Keelty**—No.

**Senator BARNETT**—I draw your attention to and I am sure you are aware of the comments that have been made that some of the resources and the effort that are required to address the drug trade—and, I assume, organised crime and the like—will fall on state police resources rather than on the AFP. If you are putting more effort into combating terrorism, which of course is a priority, there will be more of a role for those joint task forces that you undertake with state police and, likewise, a lesser role for you. That is the concern that has been expressed. I wonder if you would like to respond to that.

**Senator Ludwig**—Chair, if the senator is going to take Commissioner Keelty to relevant comments, those relevant comments should be made available to Commissioner Keelty so that he can see what they are and respond accordingly to the question. I do not doubt the veracity of his citation of those questions and concerns, but it would allow the witness to focus on the answer to the question. This is a matter that is raised in committees, and my expectation in the past has been that the relevant newspaper clipping, or whatever is being relied on, be made available to the witness, in this instance to Commissioner Keelty.

**CHAIR**—Senator Barnett, could you quote either the newspaper article or the reference you are using?

**Senator BARNETT**—I did earlier, Chair, and Commissioner Keelty acknowledged that. I am happy to provide a copy of that particular article if he wants it. In my question I was talking about comments and responses by the state police and the impact on state resources. If Commissioner Keelty would address that question, I would be happy to hear his response. Otherwise, I am happy to provide a copy of that article. It is up to Commissioner Keelty.

**Mr Keelty**—I am answering in the absence of having the material before me. If I recall, some of that media speculation was on the back of some of the misreporting that occurred around the cost and size of Operation Rain, which, you might recall, was what I addressed in my opening statement. The resourcing and staffing for the border work has not reduced. Indeed, in general terms we have had an increase in staff for both counterterrorism initiatives and border operations. All I can say about the media speculation is that it is precisely that. I do not think anyone can quantify any additional workload that might have fallen upon the states and territories because we have been unable to do a particular type of work. In fact, I do not have anything before me that suggests that that is the case.

**Senator BARNETT**—This is not rocket science. If you are putting more effort and greater priority into one area, combating terrorism, and you have a limited number of resources within your capability, there must be a consequence. Please, I am just trying to follow that through. There is logic to it.

**Mr Keelty**—I know exactly what you are saying, but what I am saying is correct too. Operation Rain, for example, had a peak of activity right across the organisation and involved some of the states and territories. Like any policing environment, you put the resources to the priority, but the priority does not last forever; it only has the life expectancy of whatever the investigation is. It might be that for two or three days or even longer—a week—you have an operation at peak resource allocation, but it does not last forever, and that is one of the



advantages of the environment in which we operate: we determine the priorities and allocate resources accordingly.

There is a template on the number of people working in the joint counterterrorism teams. If we need additional staff, we move staff around for a particular purpose and then we put them back to where they were. And border is exactly the same: we would not let the importation of a major amount of narcotics occur without some sort of interdiction. It is not only the AFP; obviously, we work in partnership with Customs, AQIS and other agencies to get the resources around the work that is there. And it happens. I know what you are saying, but in reality the way we operate is much more flexible than that. It allows the allocation and the movement of resources. For example, before the break I read out the number of resources on the national side that contributed to the torch relay. You would have noticed, I am sure, that the number of national resources exceeded the number of ACT resources. That is the flexibility we have: if there is a particular priority occurring, we can reallocate the resources accordingly.

**Senator BARNETT**—I think we have gone down the track as far as we can there. I would like to focus on the trends, the information, that you are currently aware of with respect to the importation into Australia of heroin and other illicit drugs. Can you advise the committee of the latest statistics, or the latest trends at minimum, with respect to the importation of drugs and whether there has been an increase in the amount of heroin and illicit drugs coming into Australia?

**Mr Keelty**—In terms of trends, the drug-use market in Australia appears to be shifting away from opiates towards the use of synthetic stimulants, which is also a reflection of global trends. Currently, the leading global threats in amphetamine type stimulant precursor production are India and China, largely due to the size of their legitimate pharmaceutical industries and illicit diversion from those industries. We have received, in the 2007-08 period, additional funding to address the amphetamine type stimulants problem. Key measures of that initiative are increased capacities to pursue ATS investigations domestically and offshore, particularly in Asia. This increased capacity has enabled the opening of new posts and the development of a specialist response ATS team to combat ATS. In terms of heroin—

**Senator BARNETT**—Do you mind just detailing where the new post is, what the amount of increased capacity is and what the additional funding is?

**Mr Keelty**—The additional funding is \$5.8 million over four years. That is what we received in the 2007-08 financial year. There are three new posts. We obviously are in negotiations with these countries. The three countries are India, Laos and China.

**Senator BARNETT**—What about the increased capacity? Does that mean you are talking about people? Do you have figures on that?

**Mr Keelty**—I do not have the actual number of people here—just the amount of money—in terms of increased capacity.

**Senator BARNETT**—Are you happy to take that on notice?

**Mr Keelty**—Yes. I was just about to mention heroin. Most of the heroin imported into Australia comes from the Golden Triangle, particularly Burma. Heroin and morphine

produced in Afghanistan is distributed generally in Europe. Afghanistan is the world's primary opium-producing region, accounting for 93 per cent of global production. Even though the Australian drug market has shifted toward amphetamine type stimulants, heroin will continue to remain a danger to the Australian community. There has been an increase in Afghan heroin seizures in Australia.

In terms of the priorities that you talk about and the allocation of resources, between August and December 2007 the Joint Asian Crime Group, which is housed in the AFP, was involved in a multinational crime task force which arrested 40 people worldwide. There have been a number of significant operational outcomes. One aspect of that is that 600 kilograms of cocaine, 111 kilograms of methamphetamine, 83 kilograms of ecstasy, 1,200 kilograms of precursor materials, including ephedrine and MDP2P, have been seized. They are all used in the production of methamphetamine.

During 2007, 33 people were arrested for attempting to import drugs internally. Sixteen of those were couriers who were Australian nationals. In total, 7.2 kilograms of heroin and 1.7 kilograms of cocaine were seized from those internal couriers. The couriers had arrived from Vietnam, Thailand, the United Arab Emirates, Cambodia, China, Malaysia and India. In October 2007, a shipment of 25 kilograms of MDMA was detected, having been shipped from Canada. In December 2007, in excess of 27 kilograms of methamphetamine was seized, again from Canada. In December 2007, we and Customs detected 105 kilograms of ephedrine in air freight from Cambodia. In January 2008, we and Customs detected and seized a multidrug shipment that had been sent from China. That shipment contained 559 kilograms of ephedrine, 49 kilograms of methamphetamine and 35 kilograms of cocaine. On 26 February this year, a joint operation with us, New South Wales police and Customs resulted in the seizure of 28 kilograms of heroin from Indonesia.

In terms of operations—and obviously there are ongoing operations that span many months and are current as I speak to you today—there has been no fall or drop-off at all in terms of the priority given to drug interdiction.

**Senator BARNETT**—Commissioner, I would like to clarify: I am now asking for the amount of heroin, cocaine and illicit drugs that is coming into Australia. I appreciate the very informative material that you have just provided to us, but do you have the latest figures on the amount that is coming into Australia? Are they going up or down?

**Mr Keelty**—The question, although it seems simple, is not that simple. What you are actually asking me to do is quantify the size of the problem. That is difficult because, if I knew the size of the problem, we would seize it all and there would not be a problem. Because of the nature of the illicit market, it is very difficult to guess the size of the problem. As you know, I chair the board of the Australian Crime Commission. The Australian Crime Commission annually produces an *Illicit drug data report*. I think the latest edition of that report is 2006-07, released in recent months. That has predictions about the size of the market, but obviously it is an imprecise science because of the illicit nature of the market.

**Senator BARNETT**—I appreciate that, and the ACC are coming to us later today. Thank you for that. Regarding Burma, you mentioned most of the heroin coming in to Australia comes from Burma. Can you provide further and better particulars?

**Mr Keelty**—For some years now Burma has been providing up to about 70 per cent of the heroin that comes to Australia, which is one of the reasons why the AFP has a relationship with the Myanmar National Police. That statistic has changed in favour of amphetamine type stimulants in the course of recent years. As I just mentioned to you, we have the National Heroin Signature Program that can determine the origins of heroin that is seized by state and Federal Police, and Customs. The indication from those seizures is that there is a growth in the detection of Afghan based heroin coming into Australia.

**Senator BARNETT**—What amount of heroin has come in from Burma over the last few years?

**Mr Keelty**—Around 70 per cent of all heroin seized—I have not got a total figure. In 2007 the potential opium production in South-East Asia increased by 40 per cent, which is equivalent to an estimated 520 tonnes. But I stress that is not just for the Australian market. That is for distribution right around the world, most of it in the countries that border Myanmar or Burma. The production of heroin in Burma is still 50 per cent less than it was in 2002, so there has been a significant drop-off in production. In terms of the size and quantity of seizures, if I can take that on notice I will give you the correct data.

**Senator BARNETT**—That would be appreciated. You mentioned your relationship with the Myanmar police. What is the nature of that relationship?

**Mr Keelty**—The relationship with the Myanmar National Police is one of capacity development. It is a relationship dating back to 2000 when we opened our office in Yangon, or Rangoon. We have been training the Myanmar National Police in drug detection capability. We have provided them with drug detection kits. We have also been able to provide some intelligence training to them. Around 68 members of the Myanmar National Police have also attended our courses conducted at JCLEC, the Jakarta Centre for Law Enforcement Cooperation, in Myanmar. Forty of the 68 attended a criminal intelligence training program. I am trying to emphasise that whilst we have a relationship with the Myanmar National Police, it is a relationship that is centred around developing their capacity to interdict drugs within their own country and to understand the intelligence that is available to them in order to assist them to do the interdictions offshore.

**Senator BARNETT**—Thank you for those answers. I appreciate you are taking some of those questions on notice. I have one other area of questions, on the Safer Suburbs program. Is the Safer Suburbs program, and the CCTV cameras, within your jurisdiction or is that an area that we need to put to Attorney-General's?

**Mr Cornall**—It is part of our criminal law division's activities and they can answer questions later on today.

**Senator BARNETT**—We will come to that. Thank you very much.

**Senator BRANDIS**—Mr Keelty, I want to ask you about the Haneef inquiry. Of course, I am not going to ask you any questions that go to either operational matters or the content of communications between the AFP and the government. Nor, of course, will I be asking you any questions which might, for the purposes of the Haneef inquiry itself, be regarded as—although this is not technically true in this context—sub judice. When was the AFP first

notified, in a formal sense, by the new government of its intention to convene this inquiry? Or did you find out about it from the Attorney-General's press statement?

**Mr Keelty**—I would have to check on the date. I had had discussions with the Attorney-General about the inquiry, but I do not recall what that date was, although I could look it up.

**Senator BRANDIS**—Can you take that on notice, please. If it comes to your attention from your officers before the end of your evidence, perhaps you could let us know here and now. Was it a matter of weeks before the Attorney-General's announcement, or was it days? Approximately how long before the Attorney-General's announcement was the AFP first formally notified of this decision?

**Mr Keelty**—It was some time, I think, because of the fact that we had discussed the creation of the inquiry, then I think there were significant administrative matters to deal with in terms of appointing somebody to do the inquiry, and then there was the announcing of the inquiry, as I recall.

**Senator BRANDIS**—Are you able to help me a little more? I am going to take you further on particular aspects of this, but just for the minute I only want an approximate time. How many weeks before Mr McClelland made his announcement were you first notified?

**Mr Keelty**—I would say it was weeks but, without my diary in front of me, I cannot tell you exactly how long it was. It was an iterative process that occurred over a period of time. In terms of the first time it was raised with me and the ultimate announcement, I am unsure of that and I would need to consult my diary.

**Senator BRANDIS**—When you were first advised of the decision to hold the Haneef inquiry, was that before or after cabinet had formally made the decision? Or don't you know?

**Mr Keelty**—I do not know the answer to that question.

**Senator BRANDIS**—Was the AFP consulted on the terms of reference of the inquiry?

**Mr Keelty**—My recollection is that we were not. That was one of the administrative areas that was being developed away from the AFP.

**Senator BRANDIS**—Do you have any idea—if you do not, you do not—why it was that, when the terms of reference of the Haneef inquiry were drafted, there was a specific exclusion of foreign intelligence sources from the inquiry?

**Mr Keelty**—I cannot answer that question.

**Senator BRANDIS**—Why? Because you do not know?

**Mr Keelty**—Because I do not know and I did not draw up the terms of reference for the inquiry.

**Senator BRANDIS**—So, basically, whatever the provenance is of that aspect of the terms of reference, it has nothing to do with the AFP?

**Mr Keelty**—The AFP had no role in drawing up the terms of reference.

**Senator BRANDIS**—Was the AFP consulted as to the choice of the gentleman, Mr Clarke QC, who will conduct the inquiry?

**Mr Keelty**—No. That was a matter, as I understand it, for the department.

**Senator BRANDIS**—Finally on this, is Dr Haneef still a person of interest to or under investigation by the AFP?

**Mr Keelty**—The reason for the delay in my answer on this is that I have been away and I know that there were some issues that were being looked at. The answer to both those questions is, yes, it is an ongoing inquiry and, yes, he remains a person of interest.

**Senator BRANDIS**—Turning to another matter, no doubt you have lain awake at night worrying about the Street review and how the AFP might cooperate as fully as it can with the recommendations of the Street review. Can you tell me what particular steps the AFP have put into place to give effect to the recommendations of the Street review and, in particular, the conclusion of the Street review, if I may paraphrase it, that there was an insufficient degree of transparency in the interoperability between the AFP and ASIO.

**Mr Keelty**—Yes, I can. There has been significant progress. Recommendation 1 of Sir Laurence Street was that a heads of agency committee be formed, comprising myself, the Director-General of ASIO and the head of the Commonwealth Director of Public Prosecutions, to form what is known as the chief executive interoperability forum. That forum has actually met. We had been discussing it and we had our first meeting on 21 May 2008. We approved a draft project implementation plan.

**Senator BRANDIS**—Is that a public document or a secure document?

**Mr Keelty**—The implementation plan? The Street review itself is a public document.

**Senator BRANDIS**—I understand that, but the document that you have just referred to.

**Mr Keelty**—The plan at the moment would not be a public document. I have just been told that it is classified. There now are terms of reference to be agreed for that interoperability forum, although we largely agreed them last week when we met. That will now be implemented. Recommendation 2—

**Senator BRANDIS**—Before you go on to recommendation 2, how frequently is it contemplated that the interoperability forum will meet?

**Mr Keelty**—We agreed last week to meet on a quarterly basis or more frequently if it is required.

**Senator BRANDIS**—Recommendation 1 also contemplates the cooption, if appropriate, either permanently or on an as-needed basis, of state and territory agencies. Were any state and territory agencies present at last week's first meeting?

**Mr Keelty**—No, they were not, but we reaffirmed that we would coopt them, as in the recommendations, on an as-needed basis.

**Senator BRANDIS**—Has the AFP actually written to the state and territory agencies, particularly the state and territory police forces, inviting their views as to mechanisms for enhanced cooperation between the respective agencies?

**Mr Keelty**—Yes. The state and territory commissioners were interviewed as part of the inquiry conducted by Sir Laurence Street. They were also consulted on the recommendations and they had input into the final draft of the document and the final recommendations.

**Senator BRANDIS**—So you are, in an ongoing way, going to seek to engage the state and territory police agencies?

**Mr Keelty**—That is correct.

**Senator BRANDIS**—You were going to say something about recommendation 2, Commissioner.

**Mr Keelty**—With regard to recommendation 2, a draft joint operations protocol between the AFP and ASIO has been prepared by ASIO and is currently being assessed by us and by the Commonwealth Director of Public Prosecutions. Recommendation 3, the draft counterterrorism prosecution—

**Senator BRANDIS**—Whoa! Hang on a second. When was that document prepared? The Street report was released on 13 March, and it is now 26 May. Why did it take so long to act on recommendation 2?

**Mr Keelty**—Recommendation 2 was put in process from early May.

**Senator BRANDIS**—Early May? Why was there a delay of nearly two months before starting to put in process compliance with such an important recommendation?

**Mr Lawler**—In relation to recommendation 2, the joint protocol that is spoken of is quite a complex document. Soon after the recommendations were made in the Street review, ASIO commenced drafting that protocol. That protocol was in its first draft in early May, when it was circulated to both the AFP and the Commonwealth DPP.

**Senator BRANDIS**—I am sorry to cut you off, but we can probably shorten this. So the initiating agency, from a drafting point of view, was ASIO and you were awaiting ASIO's draft?

**Mr Lawler**—Correct.

**Senator BRANDIS**—Thank you. Are the state and territory police forces involved in this as well?

**Mr Lawler**—We have been in constant dialogue with the state and territory police forces at a deputy commissioner level against each of the recommendations, and they have been briefed in detail.

**Senator BRANDIS**—Allowing for the vicissitudes of these things, roughly when do you expect that this protocol will be finalised?

**Mr Lawler**—We are focusing on content, not necessarily on speed. We want to make sure that the protocol is comprehensive and actually meets the requirements, moving forward, of all the agencies. That said, we would be hopeful for a penultimate draft sometime towards the end of this financial year.

**Senator BRANDIS**—Where are we now: the antepenultimate draft?

**Mr Lawler**—We are at the second draft stage and we are working through that.

**Senator BRANDIS**—Recommendation 3?

**Mr Keelty**—The draft counterterrorism prosecution guidelines have been prepared and are currently being reviewed by AFP and ASIO—

**Senator BRANDIS**—Again, you are not the moving agency in this; it is the DPP?

**Mr Keelty**—That is correct.

**Senator BRANDIS**—Recommendation 4 does not affect you particularly. What about recommendation 5?

**Mr Keelty**—With regard to recommendation 5, there has been a comprehensive education program instituted. AFP members have been reminded of their obligations under the *Commonwealth Protective Security Manual* and our own practical guide of security classification of information. We have established a program to build on national security standards and practices for counterterrorism investigations and we are spending funds currently in order to store nationally rated sensitive material.

**Senator BRANDIS**—What is happening with recommendation 6?

**Mr Keelty**—We are developing an integrated information technology system to provide a basis for conducting national security related investigations. It is a long-term project.

**Senator BRANDIS**—How much is that going to cost? I do not see a specific budget measure covering that one.

**Mr Keelty**—It is being worked upon.

**Mr Lawler**—There are a number of different facets to managing highly classified information, particularly its connectivity to other agencies that also deal in that material. There are a number of programs within the AFP dealing with the complexity of this. This is in relation to not only the security of the systems but also where they are housed and other matters that attach to that. One of these programs is Project Spectrum and the other is referred to as the CASI program.

**Senator BRANDIS**—Mr Lawler and Commissioner Keelty, do I understand you to be saying that at the moment there are not uniform procedures and facilities for the secure electronic transmittal of classified information between the AFP and ASIO?

**Mr Keelty**—The AFP has had a program to upgrade its systems to the level that is required for ASIO. It does not impede the transfer of information. What happens now is that ASIO officers will come to the AFP office or AFP officers will go to the ASIO office. But there are significant infrastructure issues to be addressed that relate to both IT and physical structure of buildings to enable that to occur in an appropriate way. We are in a transition period for the AFP. As you would know from this committee, we have been in the process of moving to a new headquarters for some time now. One of the priorities was to ensure that that infrastructure went into wherever our new headquarters was going to be. I do stress that it is not impeding the exchange of intelligence or information at the moment; it is just not as convenient as if our IT systems were geared to take this and our physical structure and environment were geared to take it.

**Senator BRANDIS**—Commissioner, with respect, I must say, that it sounds like the answer to my question is yes, that there is not a comprehensive system of secure electronic transmittal of classified information, if you are saying that the way we can exchange this information is that the AFP officers go over to the ASIO offices, or the ASIO officers come over to the AFP offices. What about urgent electronic transmittal of secure information

between different parts of Australia—between Canberra and one of the state capitals, for example? Are there gaps in the capability of doing that?

**Mr Lawler**—The answer to your question is that we do have electronic connectivity of classified material between ASIO and the AFP. What Sir Laurence Street was recommending was enhancements of this capacity. It is true that certain classified documents are delivered by hand. There are different types of information that need to be treated in different ways. So this recommendation is about enhancements to what are increasingly complex issues around the transference of information, particularly around volume and timeliness.

**Senator BRANDIS**—I do not think it is wise for me to pursue that in an open forum. I asked before about a budget allocation. I am right in thinking, aren't I, that there is no specific budget measure dealing with this? This is something that is going to have to be absorbed in the AFP's current operating budget; is that right?

**Mr Keelty**—Not for the Street recommendations specifically, but there is, and has been, previous funding allocated for an upgrade of the AFP IT systems that had in mind the sort of transfer of information that we are talking about here.

**Senator BRANDIS**—I see. So are you basically saying to me, Commissioner, that what Sir Laurence recommended you do, you were already of a mind to do or were already in the process of doing?

**Mr Keelty**—That is correct, albeit that what he suggested was further enhancements to that.

**Senator BRANDIS**—What about recommendation 7: desktop secure telephones? Goodness me! You would think that there would be desktop secure telephones.

**Mr Keelty**—Obviously, what we have done here is to commence a dialogue with an Australian government agency regarding the installation of secure desktop telephones in appropriate work areas—remembering, Senator, that this applies to all three agencies. The Commonwealth DPP are involved in this as well, and they are an office that did not necessarily have this sort of infrastructure prior to the Street inquiry.

**Senator BRANDIS**—You mean the Commonwealth DPP did not have secure desktop telephones?

**Mr Keelty**—For the transfer of the type of material that we are talking about in terms of the national security investigations.

**Senator BRANDIS**—Okay. What are you doing with recommendation 8?

**Mr Keelty**—We have established a subcommittee between the AFP, ASIO and the Director of Public Prosecutions to develop a joint training and relationship enhancement program. The inaugural meeting of the subcommittee took place on 10 April 2008. The Assistant Commissioner of the Queensland Police Service, Ian Stewart, through the auspices of the investigation support capability coordination subcommittee, has agreed to advance the recommendation. On 1 May the AFP national manager for counterterrorism commenced a four-week attachment to ASIO. A letter of exchange was prepared to govern the attachment.

**Senator BRANDIS**—I can understand that that is an ongoing program—



**Mr Keelty**—It would be ongoing.

**Senator BRANDIS**—but are there going to be some protocols and training manuals developed or have they been finalised?

**Mr Keelty**—They will be developed. We want to await the return of the senior executive exchange. The Director-General of ASIO and I have had discussions expanding that, but we want to wait until that particular deployment has completed and then we will sit down and work out what is the best way forward from there.

**Senator BRANDIS**—When is that likely to be, roughly?

**Mr Keelty**—I would say in the next fortnight or so.

**Senator BRANDIS**—What have you done about recommendation 9? Have you made that request?

**Mr Keelty**—Yes, we have. We have written to PM&C seeking support from the National Counter-Terrorism Committee for exercises to be conducted addressing issues associated with the investigating and prosecuting of terrorist offences in Australia.

**Senator BRANDIS**—On what date was that letter written?

**Mr Lawler**—Senator, I wrote the letter. It was done shortly after Sir Laurence Street made the recommendations and issued his report. I have subsequently had discussions with senior officials from Prime Minister and Cabinet and the Protective Security Coordination Centre.

**Senator BRANDIS**—Mr Lawler, when you say ‘shortly after’, do you mean before the end of March?

**Mr Lawler**—I will need to check on the exact date of my letter.

**Senator BRANDIS**—Would you check, please. The Street review was released on 13 March. I am not saying you let the grass grow under your feet, but if you did it shortly after one would assume that it was done within several days of the Street review being released.

**Mr Lawler**—I would not say that. Certainly, from all the recommendations, there has been a significant amount of work done here in a very short time. I could get you the date that I wrote to the Chair of the National Counter-Terrorism Committee.

**Senator BRANDIS**—Would you mind doing that? I am interested in knowing what that date is.

**Mr Lawler**—I would be delighted.

**Senator BRANDIS**—I am also interested in knowing the date on which there was a substantive response from PM&C. By ‘substantive response’ I mean something more than merely a formal acknowledgement of the receipt of the letter.

**Mr Lawler**—Yes. There is such response.

**Senator BRANDIS**—You will take that on notice, will you?

**Mr Lawler**—Yes, I will.

**Senator BRANDIS**—Thank you. Finally, recommendation 10—has that policy been implemented yet?

**Mr Keelty**—We have engaged the services of Ernst & Young to conduct a review of recruitment and retention strategies. While the review will consider issues of recruitment and retention across the AFP, the counterterrorism area will be the focal point of that. The meeting with Ernst & Young took place on 8 April. We have also written to our state and territory counterparts for assistance in the development and implementation of a strategy to enhance recruitment and retention opportunities for personnel attached to the joint counterterrorism teams.

**Senator BRANDIS**—Thank you very much.

**Mr Keelty**—Madam Chair, the Attorney-General announced the Clarke inquiry on 13 March 2008. My diary has been looked at and I had meetings with the attorney in relation to that on 26 and 28 February.

**CHAIR**—We will put further questions on notice to the Australian Federal Police. Commissioner Keelty and Mr Wood, thank you for your time today.

[2.31 pm]

#### **Australian Security Intelligence Organisation**

**CHAIR**—Welcome, Mr O’Sullivan. We have only you listed on our witness list from ASIO today. Is that correct?

**Mr O’Sullivan**—Yes.

**CHAIR**—Do you wish to make an opening statement this afternoon?

**Mr O’Sullivan**—Yes, thank you. Today I will provide a snapshot of the security environment before indicating what ASIO is doing to respond to the threats facing Australians. The security environment which Australia faces and in which ASIO operates continues to be both dynamic and challenging. The threats to national security posed by espionage and threats and acts of foreign interference persist. As I will flag later, we continue to build our capability to counter them.

Globally, there have been at least 70 significant terrorist attacks in 23 countries since the beginning of this year, resulting in the deaths of nearly 800 people and the injury of approximately 1,500 others. The global violent jihadist movement, and the terrorist activities it inspires and embraces, continues to be a significant threat to Australia, our people and our interests.

On the information currently available to us and our best judgements about likely trends, there is no basis for thinking that this threat has abated or that it will diminish any time soon. As you may be aware from previous statements I have made, al-Qaeda is active and has been rebuilding its operational capacity and reach. Aside from regrouping in the tribal regions on the borders of Pakistan and Afghanistan, it is extending its reach by foreign partnerships with other terrorist groups and networks, most notably through a series of alliances with extremists in the Gulf, the Middle East and Africa. This means, in short, more effort and resources devoted to carrying out attacks against western and international targets, such as the bombing in December of the United Nations office in Algiers by al-Qaeda in the Islamic Maghreb. Al-Qaeda also continues to disseminate its violent, extremist ideology, particularly via the internet. Through its media arm, al-Sahab, and other violent jihadist websites, al-Qaeda

continues its propaganda campaign, regularly releasing messages and statements by key extremist figures. One of these, issued on 6 January this year, made passing mention of the results of the 2007 Australian federal election. And a recent document issued by al-Qaeda's No. 2, Ayman al-Zawahiri, claimed that, in Bali, Indonesia, the Australian tourists were killed in defence of Muslims in Iraq and Afghanistan.

In our immediate region, effective counterterrorism efforts by governments have put extremists on the back foot, although key terrorist figures, including Noordin Mohammed Top, remain at large and retain the ability to mount anti-Western terrorist attacks. I hasten to add that the picture of the global security environment I have sketched is relevant to Australia's security interests at home and abroad. In this environment no country is immune from, or invulnerable to, the threat posed by violent jihadists. While it is now much harder for known extremists to travel undetected, all countries remain vulnerable to some degree to an attack launched by foreign based extremists. Areas where violent jihadists have a strong presence—often areas of insurgency or armed conflict—continue to attract individuals from around the globe. Australians who travel overseas to associate with extremists or participate in violent jihad likely pose serious consequences for our national security, and we remain vigilant in our investigations to identify them and to determine the security relevance of their activities here and abroad.

Many countries are also confronted with the problem of so-called home-grown extremist networks, although it is not unusual for such networks to span various countries in terms of their contacts and communications. The reality for Australia is that radicalisation processes are at work in our own community. As the committee may be aware, a number of Australians have or are being tried on serious terrorism related charges before the courts. Some members of the Australian community continue to take inspiration from the global jihadist movement and are engaged in activities of security concern. We continue to have a close interest in such persons and to work with other areas of government, including the police services, to ensure we can identify and to the fullest extent possible disrupt existing or emerging threats to national security.

In this security environment, where diverse threats can originate offshore and onshore, ASIO is working hard to build capability across all of our functions. As I indicated earlier, we have boosted the resources devoted to our counter espionage and foreign interference functions as well as to the collection of intelligence needed to counter the threat posed by the proliferation of weapons of mass destruction. Many of the threats faced by Australia have a transnational character and call for strong international cooperation, and as such we continue to cultivate and strengthen our international links with foreign security intelligence and law-enforcement agencies, the total number of which is now 311 agencies in 120 countries.

More broadly we continue to build on our ability to collect and analyse information to provide relevant and timely advice across all the areas of intelligence priority. In the area of border control, an area where workflows continue to be particularly demanding, we continue to focus our efforts in conjunction with Australian agencies and foreign partners to maintain an effective border security regime, to inhibit individuals of security concern from entering Australia. During 2006-07 we completed 53,387 visa security assessments, and in the current financial year we have completed to date approximately 49,000. We continue to contribute

our expertise and advice to the development of broader, whole-of-government strategies including those dealing with counter-radicalisation and Australia's long-term national security requirements. We have strengthened our longstanding engagement with federal and state police services, particularly in counterterrorism, by attaching ASIO officers to joint task force teams in some states, as recommended by the Street review report—as you just heard in testimony from Commissioner Keelty.

We also remain committed to expanding the breadth and depth of our engagement with the private sector, most pointedly through our Business Liaison Unit and our work in the Critical Infrastructure Protection Unit, which included in 2600-07 the release of 33 threat assessments on vital national infrastructure. The business liaison website, which continues to expand, provides business subscribers with access to wide-ranging security reports that can inform their risk management considerations and, together with the National Threat Assessment Centre, is implementing an important new initiative which will allow Australian businesses to register securely with ASIO details of their overseas interests and operations so that we can better target our overseas threat reporting and assist the government's overseas emergency response efforts should the need arise.

The challenges of the present security environment are, in our judgement, being compounded by the pace of innovation in modern communications technologies and the facility with which some individuals of concern conceal their intentions and activities. So it is essential in the light of these challenges that we continue to sharpen our ability to identify and obtain information relevant to national security. In addition to ongoing efforts to hone our human intelligence collection capacity, we have embarked on a substantial program for replacing and upgrading equipment used to support our technical operations and surveillance capabilities. Obtaining information, of course, is only one part of the equation. It is critical to the success of our work that we can systematically absorb, evaluate and provide expert advice on this information to a range of stakeholders both inside and outside of government. That is why we continue to dedicate resources to the enhancement of our information management systems and to innovating and bedding down advanced methods for processing and analysing information. We are also conscious of the need to devote resources to the task of identifying the unknowns and bridge the inevitable intelligence gaps.

None of this is easy in a volatile security environment in which we have to continually make hard choices concerning our investigative priorities, sometimes under conditions of uncertainty or in the face of contradictory or fragmentary information.

**Senator BARTLETT**—Could I firstly make sure I am interpreting the budgetary and staffing figures for ASIO correctly. As I read what you have in your portfolio budget statement, you are anticipating a reasonably significant staffing increase for the following financial year. Is that right?

**Mr O'Sullivan**—Yes. The funding for staff increases runs over four years and envisages an expansion of the organisation to 863 staff.

**Senator BARTLETT**—Can I just clarify that. I am going off the PBS; hopefully I have the right year's in front of me. On page 185 you have average staffing level numbers: 1,349 for this financial year and 1,535 for next financial year.

**Mr O'Sullivan**—Those figures are full-time equivalent staff. I was talking about actual bodies on the ground.

**Senator BARTLETT**—Sorry? What is the difference between—

**Mr O'Sullivan**—The figures for 2007-08 are the ones you correctly quoted—the average staffing level is expected to be 1,349 full-time equivalent staff. For 2008-09 the average staffing level is expected to be 1,535 full-time equivalent staff, which is an increase of 186, which explains the staffing budget increase.

**Senator BARTLETT**—How does that match with the, as you said, 'bodies on the ground'? I thought the figure you gave before was lower than that.

**Mr O'Sullivan**—What happens is those full-time equivalent figures translate into somewhat higher numbers of people because some staff operate on a part-time basis or a job-share basis and things like that.

**Senator BARTLETT**—Sorry; I must have misheard the first figure you gave. That is okay. The numbers that are on the paper are the main thing. So that is on the basis of ongoing recruitment and the like, as I understand it. I see lots of ads around the place.

**Mr O'Sullivan**—Yes, that is correct.

**Senator BARTLETT**—I am looking for a new job myself at the moment.

**Mr O'Sullivan**—We would be happy to interview you, Senator.

**Senator BARTLETT**—On a more serious note, to some extent going to what you said in your opening statement, obviously part of the ability to effectively address some of those issues would include making sure you can draw staff numbers in particular or new staff from a diverse range of backgrounds, including people from Arabic-speaking and Muslim communities. Are you particularly targeting them for recruitment, as opposed to just engagement?

**Mr O'Sullivan**—We do not ask people to specify their religious commitments and things like that when we have recruited them of course. But, we are engaged in a dialogue with the Islamic community and we aim to intensify that.

**Senator BARTLETT**—I am aware that you cannot be overly specific in some of these things but in regard to that wider question of engagement, rather than just finding recruits, with the community—and I imagine that is done predominantly through the AFP but I understand from past comments that you also play a role—are you satisfied that progress in that regard is going in a positive direction?

**Mr O'Sullivan**—In terms of dialogue with the Islamic community, yes, we are. The broad framework is that we naturally support a whole-of-government approach to social inclusion and to making sure that the full range of government policies are directed towards avoiding the alienation which can ultimately lead to extremism and from extremism into terrorism. So clearly we have a role in that broader process. What we have to say additionally, however, is that ASIO is the agency which also has to consider what happens if that process breaks down or when it breaks down. So, yes, we are engaged and we are putting more effort into that

broader social inclusive and comprehensive whole-of-government approach, but at the same time we have to be very clear what our precise role is and what the provisions of our act are.

**Senator BARTLETT**—I have a question—just to try to match the budget figures up with previous years in regard to estimates. As I understand it, there are no new measures in this budget specifically affecting ASIO. That had previously been announced. The total estimate for 2008-09 is a bit under \$395 million. Looking at the additional estimates last year, that is still a significant jump. It was about \$357 million, which was a little bit under what was in the original budget papers from last year. Can you explain to me why that is higher than what was recorded last year without any additional budget measures? Is it just a new accounting approach or a carry-over of other monies?

**Mr O'Sullivan**—I am not sure that I have exactly the same figures in front of me as you, Senator. The appropriation for 2008-09, for ordinary operating expenditure, is \$352,653,000, and the capital appropriation for 2008-09 is \$70.81 million, giving a total appropriation for the coming financial year of \$423,463,000. That figure represents an increase in ordinary operating expenditure from \$291,460,000 in 2007-08. That increase is largely driven by what you were just referring to, that is, the biggest component of that increase is staffing costs.

**Senator BARTLETT**—That figure is a fair bit higher than what was in the forward estimate from last year's budget. I am just trying to get an indication of why that is. The forward estimate in last year's budget was a figure of \$357 million. I am reading the table. It possibly does not have the equity injection. In any case, the figure you have indicated is roughly equivalent to what you are anticipating from a year ago—having an increase on the basis of recruitment.

**Mr O'Sullivan**—That is correct. The change, in a way, has been in the decline from last year's budget in capital appropriations, which is partly because the Taylor program injected early on very considerable amounts of money for technological capability and for information infrastructure. That money having been received, the total Taylor capital injections have started to decline, and that was anticipated in the four-year program.

**Senator BARTLETT**—Can I go to one other area, which is one that I have asked you about previously—the time frames taken for security assessments. I am particularly interested in protection visas, although it is obviously relevant for everybody. You indicated back in February that you are working closely with the immigration department in regard to electronic connectivity to enable more swift handling, and the figure you gave me then was that about 74 per cent of cases were finalised within your agreed time frames. Has there been further progress in that regard since then?

**Mr O'Sullivan**—We have been putting in effort, especially with DIAC, to enhance the electronic connectivity, which means that data gets transmitted much more quickly—including from outside Australia—so that we are able to process it as quickly as possible. That program, which we call security referral service, is evolving, we think, very satisfactorily. We have been through the first two stages of it with DIAC; we hope the third stage will be implemented late July or early August of this year. What we have seen so far has been an increase in the efficiency of the system and in the processing times. We have some statistics that a very small number—less than 0.03 per cent of total number of visas assessed—has been

the subject of complaints to the IGIS, and usually those complaints are through delay reasons. For the period 1 July 2007 to 31 March 2008, we completed, as I said in my opening statement, about 49,000 visa assessments, of which 38,000 were temporary visas and 11,000 were permanent. So we expect to finalise around about 65,000 assessments this financial year, if you project the figures out. That is up from 53,300 last year, so you see there has been quite a work rate increase. The backlog in permanent residency cases has been reduced from 8,900 in January to about 4,900 as of 30 April, and those numbers continue to decline. To date, for the financial year 2007-08 we have issued two adverse assessments with respect to individuals seeking to enter Australia.

**Senator BARTLETT**—Do you give any prioritisation to protection visa applications for people that are not in detention?

**Mr O'Sullivan**—I am not sure I have an answer to that question. Can I take some advice and get back to you?

**Senator BARTLETT**—Thank you. One of the other issues I want to get at, because it is continually raised with me, is the speed of processing protection visa claims. As you know, the speed of processing those claims has been an ongoing issue for a long period of time for people within Australia, particularly those within detention—but I am also continually having it raised in regard to people that are offshore and coming here. My understanding is that you do a security assessment of anybody that is coming from offshore on a protection visa type claim. You do not do them for every visa; otherwise your workload would be much larger than you are suggesting. I am particularly thinking of those where it is a family reunion type of arrangement, where in most cases the father or husband is already in Australia and on a permanent visa and the others are seeking to come here. Do those have any ranking in prioritisation as well, in amongst the fairly large number that you have?

**Mr O'Sullivan**—You are correct, Senator, and this is a matter that you raised previously. The time taken for visa processing does vary, of course, because of the case-to-case circumstances and background. We think in most part the security assessments have been processed and continue to be processed reasonably quickly and within acceptable time frames. Those time frames are affected by things such as the total caseload but, as that comes down, it means the time frames shrink by resource availability, by the complexity of the particular environment that we have to assess and by the priority sometimes to eject external agents, where we have to refer matters and give additional checking that we ask them to do. Despite all that complexity, the client services time frames have continued to improve and we think that they will continue in that direction. To your last point, we do respond to security risks where we see them or to DIAC priorities, and we particularly give emphasis to the refugee and humanitarian caseload on the one side, or to genuine compassionate or compelling cases, such as the one you have just described.

**Senator BARTLETT**—So, obviously, you cannot be given a hurry-up per se on an individual assessment by DIAC, but you are able, in terms of a category, to shift them up the pile with regard to at least looking at them before another group?

**Mr O'Sullivan**—We try to make sensible judgements across the range and we do try to take account, as I said, of those compassionate and compelling cases when they are drawn to our attention.

**Senator BARTLETT**—So you would be able to take into account advice from the immigration department about that at least?

**Mr O'Sullivan**—Yes, we do.

**Senator NETTLE**—I want to ask questions in relation to the rendition of Mamdouh Habib. I want to start with an answer that this committee received last week from the Attorney-General's Department, which refers to a meeting that, we found out this morning, was on 23 October in 2001. In the answer from the Attorney-General's Department it states that senior officials from ASIO, AFP, Foreign Affairs, the Department of Prime Minister and Cabinet and the Attorney-General's Department agreed that the Australian government could not agree to the transfer of Mr Habib. I want to start by asking you who represented ASIO at that meeting.

**Mr O'Sullivan**—Of course, I was not involved at that stage but, if I understand correctly, there was a meeting on another matter in Canberra. I do not know what that other matter was but at the end of it there was a pull-aside, to use an American expression, and Mr Richardson, my predecessor was the ASIO person at that meeting.

**Senator NETTLE**—The answer from the Attorney-General's Department says that the senior officials from those various departments that I mentioned agreed that the Australian government could not agree to a transfer of Mr Habib to Egypt. Was there a request to transfer Mr Habib to Egypt?

**Mr O'Sullivan**—I believe no is the answer.

**Senator NETTLE**—This morning we heard that ASIO convened that meeting, not the actual meeting. When I asked Mick Keelty, the AFP Commissioner, we heard that the Attorney-General's Department convened the pull-aside, as you described it.

**Mr O'Sullivan**—I do not know whether convened is quite the word, but certainly, ASIO was involved, yes.

**Senator NETTLE**—The reason that I was asking Mr Keelty about this this morning was that he previously provided information to this committee that the AFP liaison officer in Islamabad was present at a meeting in Pakistan on 22 October, the day before, at which the transfer of Mr Habib to Egypt was discussed. So, I thought that when we were here this morning with the AFP, perhaps that pull-aside or discussion had been initiated by the AFP. At that point I was told that it was not the Australian Federal Police but ASIO. Can you tell me if that is correct?

**Mr O'Sullivan**—I am not sure exactly what the dynamics of the arrangement were, but I think you might be overformalising it when you talk about who convened or chaired it? It is clear that a meeting took place and it is clear that Mr Richardson was a central figure in that discussion. Whether he convened it in the sense that you are using that word, I am not sure, but there was a pull-aside at the end of a meeting on another matter and he was centrally involved with it for sure.



**Senator NETTLE**—Was it information from ASIO that led to that discussion occurring?

**Mr O’Sullivan**—I do not think it was information from ASIO exclusively. I think there had been a meeting the previous day—if I have got the dates correct—in Pakistan, that you are referring to, and one of the things that happened at that meeting in Pakistan was a discussion of hypothetical possibilities. One of those possibilities was that Mr Habib could be transferred from Pakistan to Egypt. What happened then at the meeting of 23 October in Canberra was that the officials, including Mr Richardson, considered that issue and came to the conclusion that you have described—that is to say that the Australian government would not give assent to such a process of rendition, if that is what you want to describe it as.

**Senator NETTLE**—What did ASIO do after that meeting to ensure that the decision of that discussion was conveyed and to whom?

**Mr O’Sullivan**—Mr Richardson conveyed that information to the United States.

**Senator NETTLE**—Was ASIO present at the meeting on 22 October in Pakistan?

**Mr O’Sullivan**—Yes.

**Senator NETTLE**—Did ASIO brief the Prime Minister about that discussion?

**Mr O’Sullivan**—I do not know what conversations Mr Richardson may have had privately, but the essence of the meeting was conveyed to senior people in Canberra, including all those who had a need to know. I do not have the list of people in front of me, but it was a piece of intelligence reporting that was distributed appropriately in Canberra.

**Senator NETTLE**—We heard this morning about an ASIO security intelligence report that came out as a result of that meeting. Are you saying that there would have been other informal discussions as well as the distribution?

**Mr O’Sullivan**—I am saying that I do not know that. What I was saying was that that security intelligence report—which, by the way, was not exclusively about the matter you refer to; it was broader but it had a paragraph in there on this matter—was distributed to an appropriate range of people in Australia. I have not got the list in front of me. I do not know exactly who was on that list, but this is a standard procedure within government.

**Senator NETTLE**—I am interested in who that was distributed to.

**Mr O’Sullivan**—It is a very highly classified document and I would not be prepared to put on the public record either its content or its distribution.

**Senator NETTLE**—This morning we heard that it was distributed to the AFP commissioner. We also heard that it was distributed to Mr Cornall, as the Secretary of the Attorney General’s Department at the time. Are you able to provide us with any more information about who else it was distributed to?

**Mr O’Sullivan**—As I said, it was and remains a very sensitive piece of government information. It was distributed to an appropriate group of people in Canberra, as you would expect. Really, I do not think it is appropriate for me to go beyond that.

**Senator NETTLE**—I will ask the question in a general sense now, rather than specifically in relation to that particular memo. What level in the Prime Minister’s office would such a document usually be distributed to?

**Mr O'Sullivan**—As a generalisation, in my direct experience, for numbers of decades—if I can go back that far—such intelligence material is routinely distributed to the Prime Minister's office, to whoever the staffer is in the Prime Minister's office who is charged with handling this material. There is a pattern that goes back at least to Malcolm Fraser's time, and possibly before, where that has been the practice, and I assume it was the practice on this occasion too.

**Senator NETTLE**—Were you working in the Prime Minister's office at that point in time?

**Mr O'Sullivan**—No. I was happy to be in a job in a foreign environment which was extremely challenging but did not involve working in Canberra at that stage.

**Senator NETTLE**—Thank you. I just thought I would ask. I understand that ASIO were involved in a meeting with Mamdouh Habib the next day in Pakistan. I am wondering whether the possibility of his transfer to Egypt was raised by ASIO with Mamdouh Habib the next day, when they met with him in Pakistan.

**Mr O'Sullivan**—It was not.

**Senator NETTLE**—Can I ask you what ASIO did, beyond conveying to the United States the decision of that meeting, to ensure that an Australian citizen was not transferred to Egypt?

**Mr O'Sullivan**—Essentially, the issue of the transfer and treatment of an Australian overseas is a matter for the department of foreign affairs. ASIO's job is to make sure that that department has that information, and that is what happened in this case.

**Senator NETTLE**—So ASIO briefed the department of foreign affairs after that meeting?

**Mr O'Sullivan**—I do not know who participated in the pull-aside, but either they participated in the pull-aside or they were informed via the SIR the next day.

**Senator NETTLE**—This morning—again, it is other people's descriptions of ASIO's role—I asked the AFP and I asked Attorney-General's Department what action they took to ensure that the decision of that pull-aside was implemented. Their indication was that they did not take action and it was ASIO's responsibility. I want to make clear what ASIO did, apart from telling the Americans.

**Mr O'Sullivan**—As I said, the Director-General of ASIO informed the United States authorities that it was not the Australian government's policy and position to engage in practices of rendition.

**Senator NETTLE**—Can you tell us anything else that ASIO did to ensure that an Australian citizen was not rendered to Egypt?

**Mr O'Sullivan**—You have to understand what the role of the different agencies is here. Our role is to assess threats to Australia's security. The person involved is a person who was and continues to be a very serious security concern. The issue of the treatment of Australians overseas is a matter for the Department of Foreign Affairs and Trade. We made sure that they were aware of his status.

**Senator NETTLE**—It has been previously indicated to this committee that, on the following day, ASIO in the meeting with Mamdouh Habib was acting for the department of foreign affairs in relation to consular access because the department of foreign affairs had not

been able to gain any consular access. I understand that normally a matter of how an Australian citizen is treated elsewhere would be handled by the department of foreign affairs. In this instance, as I understand it, on the day after that meeting, ASIO indicated that they were acting on behalf of the department of foreign affairs in relation to consular access because the department of foreign affairs was not able to. That is why I am asking you about what ASIO did. I understand it would normally be by the department of foreign affairs but, because the committee has been told that on the next day ASIO acted on a matter that would normally be handled by the department of foreign affairs, I want to ask you whether ASIO did anything else to ensure that this citizen was not rendered to Egypt.

**Mr O'Sullivan**—Since at that stage we had no knowledge that he would be rendered to Egypt, I do not know what else we could have done except to make sure that the United States understood the government's position.

**Senator NETTLE**—At the point at which ASIO formed the view that he had been sent to Egypt, do you know whether ASIO had subsequent communications with the United States about Australia's decision that they did not support him being transferred to Egypt.

**Mr O'Sullivan**—I know that the former Director-General on a number of occasions made plain to the American authorities the Australian government's position. It was in October 2001—I believe it was November 2001. I have to check exactly what was said when, but I have the impression that in October 2001, and at least in November of 2001, that it was made clear to the American authorities that that was the Australian government's position.

**Senator NETTLE**—Which American authorities?

**Mr O'Sullivan**—I do not have in my mind the names of the individuals, but it was at a senior level.

**Senator NETTLE**—Of which authority? I am not looking for the name of the individual.

**Mr O'Sullivan**—I believe it was people who were in the state department and people in the intelligence community.

**Senator NETTLE**—At the time, Mr Richardson conveyed the information back to the United States; was that following a request from the United States in relation the transfer of Mamdouh Habib and the rendition to Egypt?

**Mr O'Sullivan**—We were never asked by the United States about that issue.

**Senator NETTLE**—How did it occur? You indicated that Mr Richardson reported back to the United States with the decision of that meeting. What was it that initiated that discussion about the rendition of Mamdouh Habib? Was it the United States or was it Australia?

**Mr O'Sullivan**—My understanding is that there was a meeting in Pakistan on 22 October 2001 where that possibility emerged amongst a range of other hypothetical possibilities. When that became known in Canberra, there was fortuitously a meeting about other matters the next day. At the end of that other meeting, there was the pull-aside where Mr Richardson and others discussed that question. When the distillation of the Australian government's position was clear, it was then conveyed back to the United States authorities.

**Senator NETTLE**—Can I ask why ASIO did not inform Mr Habib that he might be sent to Egypt?

**Mr O’Sullivan**—At what point is this question—

**Senator NETTLE**—On 24 October.

**Mr O’Sullivan**—Because we did not know at that stage that he was going to be.

**Senator NETTLE**—Was there any discussion with him of his possible rendition to Egypt when ASIO also met with him on 26 October and on 29 October?

**Mr O’Sullivan**—I would have to check, but I think the answer to that question is no, and that is for the same reason: there was no reason at that stage to suppose that he would have been transferred.

**Senator NETTLE**—You indicated that the director-general put forward the position of the Australian government—that is, that they did not support the rendition of Mamdouh Habib—in November 2001. Was that at the point at which ASIO was of the view that he was in Egypt?

**Mr O’Sullivan**—In November?

**Senator NETTLE**—In November 2001.

**Mr O’Sullivan**—I think my predecessor, Mr Richardson, gave testimony to this committee in 2005, and he indicated then that in November 2001 ASIO came to the view that it was likely that Mr Habib was in Egypt and by February of 2002 that it was almost certain that he was in Egypt.

**Senator NETTLE**—You indicated that Mr Richardson spoke to the US authorities about the Australian government’s view. That was when ASIO had the view that it was likely that he was in Egypt.

**Mr O’Sullivan**—No, no. Not at all.

**Senator NETTLE**—You said before that in November 2001 Mr Richardson communicated the view of the Australian government, which was that he should not be taken to Egypt.

**Mr O’Sullivan**—Presumably, it was after the point at which Mr Richardson had conveyed his views that the decision was taken by the United States authorities to transfer Mr Habib from Pakistan to Egypt.

**Senator NETTLE**—When Mr Richardson communicated to the Americans after the meeting on the 23rd that it was the position of the Australian government that they would not agree to the rendition of Mamdouh Habib, was that communicated because it was the government’s view that the Americans would follow the wishes of the Australian government?

**Mr O’Sullivan**—Once again, I was not present, so I am speculating, but my assumption is that it was because of longstanding Australian government policy, going back over decades, that Australia does not support torture, and so we would not support a position where one of our citizens was put in the position of being rendered. I presume it was based on primary government considerations.

**Senator NETTLE**—I do not know if you remember the date, but when was Mr Habib transferred to Guantanamo Bay?

**Mr O’Sullivan**—If I understand correctly, he was transferred in May 2002.

**Senator NETTLE**—Can you tell me about what ASIO was doing from the time he was transferred to Egypt to the time that he was transferred to Guantanamo Bay in relation to implementing the government decision that he should not be rendered to Egypt?

**Mr O’Sullivan**—We of course did not know for certain. As I said, the position was that ASIO formed the view in November 2001 that he was likely to be in Egypt and by February 2002 that he was almost certainly in Egypt. What happened was that the Australian government sought access to him through the Egyptian government but was never able to obtain from the Egyptian government either confirmation that he in fact was there or, if he was there, access to him. So there was no access to him, assuming—as we now think and as we thought then—that he was in Egypt.

**Senator NETTLE**—We have heard before from the department of foreign affairs about what they were doing to try to get consular access. I am asking more about what the actions of ASIO were and what ASIO was doing to try to get access.

**Mr O’Sullivan**—We had no contact with Mr Habib, as I understand it, once he left. I can give you the details of our interviews with Mr Habib, if it is any use to you.

**Senator NETTLE**—Sure. I did want to check whether I had them or not.

**Mr O’Sullivan**—That will settle the issue. I think I have that detail with me. We interviewed him, as you correctly say, on three occasions in October 2001—on 24, 26 and 29 October. The next occasion on which there was an ASIO interview of him was in Guantanamo Bay on 15 May 2002 and then subsequently on 13 August 2002, 21 November 2002, 27 May 2003 and, lastly, 5 November 2003.

**Senator NETTLE**—Did any ASIO members go to Egypt to try to get access to Mr Habib?

**Mr O’Sullivan**—I do not know the answer to that. Even if I did have the answer, that is getting very close to operational practice that I would prefer not to discuss.

**Senator NETTLE**—Do you know whether there were discussions with US intelligence about where Mr Habib was during that period of time when he was in Egypt?

**Mr O’Sullivan**—I do not know the answer to that.

**Senator NETTLE**—Going back to the meeting of 22 October about the possibility of Mr Habib being rendered to Egypt, do you know who brought up that possibility—whether it was Australian or US authorities?

**Mr O’Sullivan**—The meeting in Pakistan?

**Senator NETTLE**—Yes.

**Mr O’Sullivan**—I do not know who initiated what. My understanding is that there was a canvassing of hypothetical possibilities. Who canvassed what, I do not know. In fact, I do not know that anybody has ever specified that.

**Senator NETTLE**—When Mr Richardson conveyed to the US authorities the decision from 23 October, what was the response of ASIO at the time that they found out that he had been sent to Egypt?

**Mr O’Sullivan**—As I say, Senator, you have to be careful about a phrase like ‘found out’. In November 2002—I do not know precisely what point in November—ASIO formed a view from its own inquiries that it was likely that Mr Habib was in Egypt and by February 2002 had come to the view that it was almost certain that he was there. But there was always an element of doubt, although I think Mr Richardson had a view by February 2002 that it was fairly definite. At precisely what point he moved from ‘likely’ to ‘almost certainly’, I cannot say. I just do not know the answer to that.

**Senator NETTLE**—I am asking about the activities of ASIO during that period of time because I have an ASIO internal minute from 28 March 2002 about Mamdouh Habib which is 269 pages long. It strikes me that ASIO was doing something at the time when Mamdouh Habib was in Egypt, and I am wanting to find out what ASIO was doing in relation to Mamdouh Habib at that time.

**Mr O’Sullivan**—I do not know what you mean by ‘doing’, but Mr Habib was at the time and subsequently—and previously as well, actually—a subject of intense concern because of his activities that bear on the security of this country, its citizens and its interests. If I may say, Senator, in our view, those interests were at serious threat from his activities. What precisely ASIO was doing at what point is impossible for me to say. But what we were doing in a general sense was investigating his activities to see whether they threatened or continued to threaten the security of this country. We had and have sound reasons to think that he was of a serious security interest.

**Senator NETTLE**—On 9 March 2002 there was an article in the *Sydney Morning Herald* by Christopher Kremmer which said:

Egyptian authorities have broken their silence on the fate of a Sydney man, Mamdouh Habib, confirming he is in their custody.

Can you tell me whether ASIO was involved in discussions at that time with Egyptian authorities about him being in custody in Egypt?

**Mr O’Sullivan**—What time was this?

**Senator NETTLE**—It was 9 March 2002. There was an article in the *Sydney Morning Herald* by Christopher Kremmer. It is referred to in the ASIO internal minute that I was just talking about.

**Mr O’Sullivan**—I do not know that; I would have to have a look at it. Can I go back to the point I made previously. I think one of the things that is a bit missing in this discussion is some consideration of Mr Habib’s activities. It has been difficult for ASIO to make comment on this because of the classified nature of so much of the activity, but I am happily aware of some comments by the Administrative Appeals Tribunal. There are three matters before the courts, you may know, initiated by Mr Habib: firstly, a compensation claim for negligence on behalf of the Commonwealth in his treatment; secondly, a defamation action against Nationwide News; and, thirdly, an issue before the AAT to do with the cancellation of his passport.

When the AAT considered his case, it concluded—if I can advise you—that the Director-General of Security was well-grounded and correct in his adverse security assessment of Mr Habib and, therefore, in the cancellation of his passport and that the evidence supported the grounds of that assessment. In this respect, the tribunal accepted that Mr Habib had had contact with the 1993 World Trade Centre bombing conspirators, that he supported and continues to support Osama bin Laden and was motivated to be untruthful before the tribunal by the fact that he continues to hold those views, that he has an interest in developing connections with extremists abroad, that he went on a Lashkar-e-Taiba training course in 2000, that he attended a course possibly run by al-Qaeda in a guesthouse in Afghanistan in 2001, and that he was in the proximity of senior al-Qaeda members on 11 September 2001. I want to make the point that some of the questions imply that the activity of ASIO was somehow directed against a person of ordinary standing in the community, but this person was not of ordinary standing in the community.

**Senator NETTLE**—I am aware of the findings of the court cases that you just read out. My questions are about what ASIO did to ensure that an Australian citizen was not kidnapped or rendered to Egypt, where it is claimed that he faced torture. What I want to understand is why this Australian citizen—after the Australian government and the senior officials that we have talked about made a decision that they could not agree to his transfer to Egypt—was transferred to Egypt. ASIO were in communication with him up until 29 October in Pakistan, when he disappeared from Pakistan. Surely they asked the Americans, ‘Where is he?’ What did the Americans say to ASIO at that point in time?

**Mr O’Sullivan**—I do not know the answer to that question, but I can tell you again that we conveyed in unambiguous terms to the United States the Australian government policy about rendition.

**Senator NETTLE**—What did ASIO do when they did not listen?

**Mr O’Sullivan**—The issue of whether or not they listen to us or to anybody else is a matter for them to say. It is not for me to characterise the American position.

**Senator NETTLE**—How did ASIO respond to them not complying with the Australian government’s stated position in relation to their citizen?

**Mr O’Sullivan**—As I said before, Mr Richardson conveyed to them on a number of occasions—he went back again and conveyed it to them several times—the clear position of the Australian government.

**Senator NETTLE**—Do you know whether he was the only Australian official conveying that to the United States?

**Mr O’Sullivan**—I do not know, but I suspect the Department of Foreign Affairs and Trade would have made the position very clear, too.

**Senator NETTLE**—Do you know whether the Attorney-General’s Department was expressing a view about the rendition of an Australian citizen at that point in time?

**Mr Cornall**—No. It was not our position to do that. As I have explained to you before, we have no operational people in Pakistan and we are not the agency responsible for dealing with foreign governments in relation to these broad general matters.

**Senator NETTLE**—I am trying to find out who, and so far the only person we have is the Director-General of ASIO. I will certainly keep asking questions in relation to that. Can you outline any changes that have been made to ensure that the rendition of an Australian citizen does not happen again?

**Mr O'Sullivan**—I have explained, and Secretary Cornall has just repeated, that the issue of the compulsory, non-voluntary transfer of an Australian citizen overseas is not an issue for ASIO or for the Attorney-General's Department; it is an issue for the Department of Foreign Affairs and Trade—it is a consular issue.

**Senator NETTLE**—Where it did happen in the case of Mamdouh Habib, so far we have only been able to determine that ASIO communicated that the Australian government did not want Mr Habib to be rendered. Of course I will ask that question of the department of foreign affairs. But in this instance we have a meeting happening on 23 October, with senior officials of ASIO involved, which decided the Australian government's position was that they did not want Mr Habib to be transferred. The only person I have so far been told of that even communicated that message was the Director-General of ASIO. So I think it is fair to ask, in the instance where an Australian citizen was rendered and ASIO were involved in passing on that information: have ASIO been involved in or made any changes to the way in which they operate to ensure that, if that situation occurred again, an Australian citizen would not be rendered to a country like Egypt for torture?

**Mr O'Sullivan**—As I said, the position in 2001 was that Mr Habib was of intense security concern to this country and its interests. When we found out that the hypothetical possibility existed of his transfer from Pakistan to Egypt, we expressed to the United States authorities our views about that. I do not know whether similar views were expressed by others.

**Senator NETTLE**—Mr Cornall, surely it is an illegal act when another country has effectively kidnapped an Australian citizen and taken them to another country where they were put in prison and, it is understood, faced torture. Was there any legal action taken by the Australian government that the Attorney-General's Department was involved in at the time when Mamdouh Habib was taken to Egypt?

**Mr Cornall**—No, not that I am aware of.

**Senator NETTLE**—Are you aware of anything that has been done by the Attorney-General's Department to ensure that the rendition of an Australian citizen would not occur again?

**Mr Cornall**—Not by the Attorney-General's Department, no. But there are two factors to take into account. Firstly, this was, as I pointed out this morning, at a very extraordinary time—the meetings that we are speaking of were some six weeks after September 11. Secondly, from my observation it seems that the American government has moved away from the process of rendition. That was indicated when it brought the 14 high-value detainees from wherever they were being held to Guantanamo Bay. Our discussions, when I visited Washington with the former Attorney-General, were to the effect that that was a very significant change in United States policy in this area. So I think the United States policy has significantly changed.



**Senator NETTLE**—Did the Australian government make representation to the American government about their policy of rendition?

**Mr Cornall**—I am not in a position to answer a broad general question in those terms, because this department does not have the principal responsibility for those sorts of discussions and negotiations.

**Senator NETTLE**—Could you answer it in the context of the trip that you just referred to that you took to the United States with the former Attorney-General, where you talked about a change in the United States position on rendition?

**Mr Cornall**—I cannot remember the exact date, but it was several years after 2001. We would have expressed support in the discussions we had with US officials for the decision they had taken to bring the high-value detainees to Guantanamo Bay so everyone knew where they were.

**Senator NETTLE**—When was the trip you made to the United States that you are referring to?

**Mr Cornall**—I am not sure of the exact date; I think this was about 2005. We can pinpoint the time because it was just after the United States brought Khalid Sheikh Mohammed and several other high-value detainees to Guantanamo Bay.

**Senator NETTLE**—Can I ask either ASIO or the Attorney-General's Department—I am not sure who to ask—on what legal authority Mamdouh Habib was transferred to Egypt?

**Mr Cornall**—In addition to the point that Mr O'Sullivan made about the reasons we would have objected to his transfer to Egypt is the point that it would not have been in conformity with the normal processes of extradition. That would be one of the legal reasons why we would not have supported the proposal to transfer him to Egypt in the way that it was proposed to transfer him.

**Senator NETTLE**—But no action was taken when ASIO formed the view that he was in Egypt?

**Mr Cornall**—The action having apparently occurred, the only thing then to do was to see what we could do to have access to him and to look after his interests. The government tried on at least 16 occasions to gain access to Mr Habib in Egypt and never received any confirmation, as Mr O'Sullivan said, that he was in Egypt.

**Senator NETTLE**—So did the government make a decision not to pursue the illegality of his rendition to Egypt?

**Mr Cornall**—I am unable to answer that question.

**Senator NETTLE**—I would have thought that the Attorney-General's Department would have been involved in that. I accept what you are saying about consular attempts to gain access; I would have thought another avenue that was open was legal redress in relation to his transfer. Was the Attorney-General's Department involved in any discussions about the possibility of taking legal action against the rendition of Mamdouh Habib?

**Mr Cornall**—That is a very broad question, but, to the best of my knowledge, no.

**Senator NETTLE**—Can I ask you to take that question on notice, because I think it is an important issue about the legal questions around the transfer and the rendition of an Australian citizen—whether the Attorney-General’s Department was involved in discussion or asked for advice about legal avenues for pursuing the rendition of Mamdouh Habib.

**Mr Cornall**—We will take the question on notice.

**CHAIR**—We are going to break now for afternoon tea. We will be back at 3.45 pm.

**Proceedings suspended from 3.30 pm to 3.45 pm**

**CHAIR**—We are ready to resume the estimates questioning.

**Senator Ludwig**—I wonder if we could discover when the department might be needed. If they are not needed until after dinner then we can certainly find them alternative work.

**CHAIR**—We could probably find out.

**Senator Ludwig**—Perhaps it is a matter that you might take up with the relevant committee members in the next short while so that we can see what the program will be.

**CHAIR**—If we could finish with ASIO by four o’clock—

**Senator Ludwig**—then we have a range of agencies that might very well take us through to the dinner break.

**CHAIR**—We will not need the department till after dinner.

**Senator MARSHALL**—I think we might be done for the day, Minister. I am trying to encourage the chair to finish up.

**Senator Ludwig**—If there are no questions for Mr O’Sullivan then we might.

**Senator MARSHALL**—There certainly do not seem to be.

**Senator Ludwig**—I do not want to let the opposition miss out on the opportunity of concluding the questioning of Mr O’Sullivan. I note that Senator Nettle was in continuation.

**CHAIR**—No, I think she was considering putting the rest of her questions for ASIO on notice. But I did have an indication that perhaps Senator Brandis had a few.

**Senator Ludwig**—Do we want to have a short adjournment—if you do not mind me suggesting this—while the committee secretariat find out whether or not there are alternative questions for Mr O’Sullivan, or I could leave it in your hands, Chair, to make a decision.

**CHAIR**—I think we will need to have a short adjournment, because I am not entirely certain that Senator Marshall and I have any further questions. So perhaps we will have another short adjournment. My apologies. We will come back to you.

**Proceedings suspended from 3.48 pm to 3.49 pm**

**CHAIR**—We will now continue with questioning.

**Senator BRANDIS**—Mr O’Sullivan, it was announced as part of the budget that there would be created within the Department of the Prime Minister and Cabinet a new Office of National Security. I refer to a report in the *Australian* of 14 May 2008, which says the new office would ‘develop and coordinate’ a whole-of-government policy in the national security area. It goes on to say that ‘the cost of the new office will be met partially by drawing funds

from existing resources of a number of agencies, including ASIO. What can you tell us about the proposed new Office of National Security? What will be the jurisdictional borders between it and ASIO? Are there any aspects of ASIO's current operations which will be overtaken by the new Office of National Security? What, if any, costs which are currently absorbed by ASIO will be shifted to this new agency?

**Mr O'Sullivan**—On the first part of your question, my understanding is there is not to be any adjustment to the current provisions of the ASIO Act as a consequence of the creation of the office of a National Security Adviser. So there will be no transfer of ASIO functions to such an office. In terms of the second part of your question, ASIO has contributed or will contribute \$0.325 million over four years towards the cost of the establishment of that office. The contribution in 2007-08 is \$49,000, in 2008-09 it will be \$68,000, in 2009-10 it will be \$103,000 and in 2010-11 it will be \$105,000.

**Senator BRANDIS**—Does it follow from your answer to the first part of my question that your understanding is that there will be no shifting of jurisdictional boundaries between ASIO and this new office—that there is, in other words, nothing that this office will be doing in place of something that ASIO is presently doing?

**Mr O'Sullivan**—That is correct. The only thing that I should perhaps add to that is that the issue of the coordination of intelligence has to be constantly considered. It could be, if and when a person is appointed as the adviser to this office—to head it—that there may be a role for such a person in the coordination of the national intelligence. That has not yet been implemented, so it is a bit hard to say quite what that would amount to.

**Senator BRANDIS**—If this new office within PM&C is not taking over any of ASIO's functions, why are ASIO and apparently other agencies, too, being asked to contribute to the cost of funding the office? Why isn't it merely an appropriation in the PM&C budget?

**Mr O'Sullivan**—I am not sure I know the answer to that; it is really a question for the Department of Finance and Deregulation. But I assume part of it is that, although there has been no jurisdictional shift, some of the anticipated activities of the National Security Adviser would bear on the activities of the security intelligence agency—that is to say, the context within which we operate would be partly defined by what that person had to say in public, for instance.

**Senator BRANDIS**—Can you indicate with a little more particularity what other activities that are currently undertaken by ASIO would change as a result of this new office?

**Mr O'Sullivan**—I do not think there is any further definition to offer—at least at this stage. I suspect there may not be very much even subsequently, because the activities that ASIO undertakes in forming advice on security intelligence, as I say, are sort of *sui generis* to the act under which we operate. However, there is, beyond the activities prescribed precisely in the act, a role in helping to define for the community more generally where the security environment has got to—such as the statement I made to the committee this afternoon. It is quite conceivable that a National Security Adviser may wish to have a role in that sort of public articulation of the government's policies and priorities, and they would bear or could bear on advice that ASIO provided.

**Senator BRANDIS**—This is to be an agency or an entity established within PM&C, not within the Prime Minister's office. Is that right?

**Mr O'Sullivan**—That is my understanding.

**Senator BRANDIS**—And its function will presumably be quite separate from that of ONA.

**Mr O'Sullivan**—That is my understanding too.

**Senator BRANDIS**—Perhaps I will ask ONA about that in another estimates. On another matter, you made some remarks that were reported in the *Canberra Times* on 15 May—and I think you have made them elsewhere on earlier occasions—to the effect that ASIO is planning to increase its work of international liaison officers to 120 countries. Can you tell us why it is that ASIO is expanding its offshore operation and what effect that will have on the relationship between ASIO and ASIS?

**Mr O'Sullivan**—I should explain that that statistic of the number of countries with whom we have liaison relationships—which, by the way, are authorised by the Attorney-General—does not mean that we have representatives in that number of countries. It is a very much smaller number of overseas locations where ASIO is at. But the doctrine is that we go where the work takes us—that is to say, where threats to Australians and Australian interests can be identified, we pursue those interests with overseas partners. In the security environment that we now face, it is obvious that the complexity and the dynamism of that environment and the dangerousness of that environment require us to enter into relationships with overseas partners who can help us protect Australia and Australia's interests. That is why we have our liaison arrangements overseas.

There has been some slight expansion of ASIO's presence overseas over the past 10 years; it is not very dramatic. I would say that that expansion in itself has not had any particular effect on our relationship with ASIS—that is to say, the collection of foreign intelligence, which is the work of ASIS, is separate from the work of the collection of security intelligence, which is the work of ASIO.

**Senator BRANDIS**—So the observations that were attributed to you do not intend, and, indeed, were not intended, to foreshadow any change in the character of the relationship between, or the functions performed overseas by, ASIO and ASIS respectively.

**Mr O'Sullivan**—That is correct.

**Senator BARNETT**—Just on that issue: I have read the media reports of your public speech on that very matter, and I would like to know whether you can advise the committee about the network of overseas countries for which you have representation—that is, what it was last year and what it is this year. You said in your speech that it was to be extended to 120 countries.

**Mr O'Sullivan**—First of all, can I just point out that the speech that was quoted in the media is on the ASIO website. It is a somewhat edited but not a very much edited version of a speech that I gave at the conclusion of the most recent meeting of our liaison officers overseas. They come back to Canberra once a year. This was the text of a set of remarks that I made to them, which is on the website. So you do not have to rely on the media

characterisations. As to the details of the statistics you have just asked for, we would prefer not to answer that question in a public forum. The two statistics that I have quoted this afternoon are that we do have authorised relations with 311 intelligence services overseas in 120 countries. We have put that in the unclassified annual report, but we do not divulge the details of other aspects of that overseas representation.

**Senator BARNETT**—Is it fair to say there has been a considerable increase in representation overseas, in terms of the 120 for example?

**Mr O'Sullivan**—There would have been. I would have to get you the precise statistics, but there would have been an increase in the number of liaison arrangements that we have with overseas services, yes. I do not have in my mind just how—

**Senator BARNETT**—Could you let us know the liaisons and the countries where they exist. In terms of personnel overseas, can you advise the committee of that?

**Mr O'Sullivan**—No. We do not divulge the details of the numbers, but it is quite modest, if I can put it that way.

**Senator BARNETT**—But is it increasing?

**Mr O'Sullivan**—It has increased somewhat but not very dramatically. The reason, essentially, is that the work we do is defined in our act thematically and not geographically. The protection of Australian interests is not confined just to within Australia; it is confined to wherever those interests locate themselves. That is why we have representation overseas. But, having said that, it is fairly obvious that most of the interest and most of the threats to Australian security will occur in Australia.

**Senator BARNETT**—Is the objective to boost staff to 1,860 by 2010-11 still on track?

**Mr O'Sullivan**—Yes, it is. I can give you the precise statistics if you wish. We put these in the unclassified annual report. The position is that, as at 30 April, we had 1,465 people employed. I gave some statistics earlier to Senator Bartlett, but those were in terms of full-time equivalents; these are actual numbers of bodies. That number of 1,465 on 30 April this year represented an increase of 222 over the period 1 July to 30 April, with a total net increase of 109.

**Senator TROOD**—On this theme, in relation to your recruitment program, are you happy with the speed at which you are recruiting new officers into the organisation?

**Mr O'Sullivan**—That is a surprisingly tricky question, Senator.

**Senator TROOD**—I am sure I can rely upon you to give an appropriate answer, Mr O'Sullivan.

**Mr O'Sullivan**—The reason it is tricky is that traditionally the intelligence community has placed a heavy emphasis on vetting people before they are admitted into an intelligence agency. There are very good reasons why that happened, and there are very good reasons to continue, in many respects, with that traditional pattern. The problem, however, is that it can lead to long delays and, in a very mobile and very tight labour market, such long delays can end up meaning that you do not get as many of the people as you would like to have. So it is a trade-off. There are some views around the intelligence community both in Australia and

internationally that advocate a lesser emphasis on the vetting process, as people become admitted into the intelligence community, versus a greater emphasis on counterintelligence afterwards. Where we get that balance at any particular moment is a matter for judgement. I think your question about speed raises some difficult management practice issues for us. We are trying quite hard to accelerate processes that can be speeded up. At the same time, we try to assure ourselves that we do not admit people to the intelligence community who would become problematic subsequently.

**Senator TROOD**—Indeed. So you have not thus far compromised your standards in relation to recruitment?

**Mr O’Sullivan**—We do not believe we have dropped our standards. In fact, we have got quite good ways, we think, of monitoring performance and standards—compliance and so on. We have been able to use some innovative ways of looking at recruitment patterns to try to get that speed quicker.

**Senator TROOD**—I see. Please clarify something for me: do you seek to recruit in areas of any specialty—in relation, for example, to language?

**Mr O’Sullivan**—ASIO is a very heterogenous organisation. In many respects it is quite unlike other government agencies because it has a diversity of functions. So there are quite a range of skill sets that we aim to acquire and we have a range of recruitment campaigns aimed at those different skill sets. That includes different linguistic capacities.

**Senator TROOD**—Are you having any difficulty in relation to any group of skill sets? Are there any that you are finding particularly difficult to identify as possible recruits and, therefore, difficult to proceed to the actual employment stage with?

**Mr O’Sullivan**—I would not like to go too far into that because, once again, it gets close to operational activities. It would not be much of a secret to tell you that, as in other parts of the economy, engineering graduates and especially very high quality IT graduates are difficult to come by. We are trying to think of some innovative ways to approach that issue.

**Senator TROOD**—Are you having any difficulty in relation to language at all?

**Mr O’Sullivan**—That is an eternal dilemma. We would always like to have more linguists in various categories but, on the other hand, I do not believe that we have had operational deficiencies because of a lack of linguistic competence.

**Senator TROOD**—I am encouraged and reassured to hear that but I was interested in whether or not you had any particular targets with regard to language expertise and whether or not you had found it difficult to recruit in relation to that language expertise?

**Mr O’Sullivan**—I would rather not specify which languages—

**Senator TROOD**—I do not seek to press you on that point at the moment.

**Mr O’Sullivan**—As a general observation you mean?

**Senator TROOD**—Yes.

**Mr O’Sullivan**—We have had some, but I would not say that it is an overwhelming difficulty.

**Senator TROOD**—I see. That is all.

**Senator IAN MACDONALD**—Under the Department of Defence, there is an item as to illegal foreign fishing intelligence support. Does ASIO in any way contribute to that or is that mainly ASIS and ONA?

**Mr O'Sullivan**—It is mostly the latter two. There could be an ASIO involvement if such illegal fishing activities arrived on shore in Australia. There might be some security dimension to that. Broadly speaking, it is matter for ASIS and ONA.

**Senator IAN MACDONALD**—Has the budget in any way interfered with your funding in a way that may restrict your ability to do any work that you may have to do in that regard? I notice that it is under the Defence budget but it involves ONA, ASIS and Customs, which we will be dealing with it shortly, but there is a cutback it seems of some millions of dollars over the next four years. I am just wondering if that has filtered through to you.

**Mr O'Sullivan**—On the whole, no.

**Senator IAN MACDONALD**—Not in relation to that aspect?

**Mr O'Sullivan**—No.

**Senator TROOD**—I want to ask you some questions on the Street report and the recommendations in the report. Can you outline to the committee your response to recommendation 2 of the report?

**Mr O'Sullivan**—Yes, Senator. I also recall that Mr Keelty gave some details as well from the AFP's perspective. From our perspective, we are in the process of developing that joint operations protocol. It is quite a complex document, as Deputy Commissioner Lawler commented to the committee earlier. However, we do have a draft of that protocol. It has been circulated to both the AFP and DPP for their comments. We propose to forward that protocol, after we receive those comments, to the inspector-general for his comment once an agreed draft is concluded. Our planning assumption is to have a final draft completed at the end of this week, we hope—or soon afterwards—for out-of-session consideration by the senior executive committee. We are working quite determinedly on that and we aim to have it in place as soon as possible.

**Senator TROOD**—Do you have an idea of a possible date? Are we looking at the middle of the year by which you hope this process will be concluded or earlier perhaps?

**Mr O'Sullivan**—Certainly by the middle of the year.

**Senator TROOD**—And in relation to recommendation 4?

**Mr O'Sullivan**—We have actually implemented the recommendation for full-time attachment and physical co-location of ASIO officers to the joint counterterrorism teams in Sydney and Melbourne. We have officers in both locations doing that work now.

**Senator TROOD**—The last sentence of recommendation 4 says that 'the attached ASIO officer should have direct information technology connectivity to ASIO systems'. I assume that follows, does it?

**Mr O'Sullivan**—It will follow. It has not happened yet because, as Deputy Commissioner Lawler was describing earlier, we need to do further work to put in place those highly

classified electronic connectivity systems. The last part of the recommendation still has to be implemented.

**Senator TROOD**—Do you have a time frame on that?

**Mr O'Sullivan**—I do not. Can I get back to you on that?

**Senator TROOD**—Yes. Would you mind taking that on notice? What about recommendation 6?

**Mr O'Sullivan**—Yes. ASIO and the AFP met on 10 April and then on 7 May. We are scoping out the strategies required to implement that recommendation. That, of course, is a complex matter, as both Commissioner Keelty and Deputy Commissioner Lawler explained. We do, of course, have classified IT connectivity systems with the AFP, but the process of an integrated technology system up to very high national security standards is a complex matter and it will require budget funding as well. We are working with them to develop a protocol and we will have an implementation program at some point. I cannot say, quite yet, when that will be.

**Senator TROOD**—Will this particular recommendation have budgetary implications for your agency?

**Mr O'Sullivan**—It may well be that we have our own systems in place. It is more an implication, I suspect, for the AFP budget than ours. But it could have some budget implications for ASIO.

**Senator TROOD**—You are hoping, Mr O'Sullivan, that it will not have any implications for your agency. Is that right?

**Mr O'Sullivan**—We hope it will not have any negative ones.

**Senator TROOD**—Indeed.

**CHAIR**—Thank you, Mr O'Sullivan. I understand that is all the questions that this committee has for ASIO today.

[4.13 pm]

#### **Australian Transaction Reports and Analysis Centre**

**CHAIR**—I welcome officers from AUSTRAC. Did you want to start with an opening statement?

**Mr Story**—No.

**CHAIR**—Then we will go to questions.

**Senator TROOD**—You have had a very modest increase in your budget—in fact, not an increase at all based on real terms if I take account of inflation et cetera. Can you explain to the committee how you are dealing with the circumstances that the agency now finds itself in?

**Mr Story**—At this stage, we have a funding increase of \$1.3 million for this year. The situation today is that will allow some modest recruitment for staff who are involved in our industry supervision areas in the main. We have now around 400 staff and contractors in AUSTRAC, and the last of this funding will allow us to expand the field force that are involved in industry supervision activities.



**Senator TROOD**—You now have around 400 staff; is that correct?

**Mr Story**—That is correct—staff and contractors.

**Senator TROOD**—Is that the agency total? Is that where you projected your numbers should be to fulfil all your functions?

**Mr Story**—Roughly, yes. Our plan is to increase the industry supervision resources to a complement of around 80 in 2008-09. Those figures are at around 50 today. We will achieve some of that increase through internal reallocation of resources and some we will recruit.

**Senator TROOD**—In light of this budget outcome, have you seen the need to cut back any of the functions that you are performing at the moment?

**Mr Story**—No. The impact of the budget outcome has been that we have not grown quite as much as we had originally projected.

**Senator TROOD**—How less quickly have you grown?

**Mr Story**—If you lose a figure of around \$2 million in efficiency dividends then, on our average salaries, that is about 25 people. As I said earlier, the growth is to be in the industry supervision area. So we would reallocate from elsewhere in the organisation to buttress what we were going to do in industry supervision.

**Senator TROOD**—So the 25 were going into the industry supervision area primarily; is that right?

**Mr Story**—Yes.

**Senator TROOD**—And they are not now going into that area.

**Mr Story**—No, we—

**Senator TROOD**—Are you reallocating resources from some other section to try and cover some of the shortfall in the industry supervision area?

**Mr Story**—That is correct.

**Senator TROOD**—You cannot get the 25 in there, so how many are you able to put in there?

**Mr Story**—The final budget allocations for 2008-09 are yet to be made, so we still have some internal reviewing to do. We have a large complement of resource in education activity today. This is to inform the various reporting entities of the new obligations. We think that we will move some of the resources who were working on the education side more towards the supervision work a little earlier than we otherwise thought we would.

**Senator TROOD**—So this is an educative function in relation to other agencies?

**Mr Story**—No, this is simply to inform the reporting entities who are coming into the AML regime for the first time on the new obligations.

**Senator TROOD**—Page 194 of the PBS says:

A second tranche of reforms (covering real estate agents, dealers in precious metals and stones and ... non-financial transaction providers ...) is currently in consultation stage ...

What precisely does that mean?

**Mr Story**—At the moment there are some proposals on what likely designated services would be provided by the new industries. Some draft tables are out now that talk about what those designated services may be. They were issued for consultation back in August of last year, and those consultation processes are continuing.

**Senator TROOD**—And what does this reflect in relation to, for example, real estate agents—that there is an increasing degree of anxiety about their behaviour in the market place or the way in which they are dealing with transactions? What is the policy issue that we are trying to combat here?

**Mr Story**—If we look at the Financial Action Task Force's 40 recommendations, real estate agents are one of the sectors that are seen as a level of money-laundering risk, and I think it is fair to say that we are following those broad prescriptions from the FATF.

**Senator TROOD**—This is at the consultation stage. Are you expecting that it will move towards an implementation stage in the near future?

**Ms Atkins**—Consultations are going on at the moment with the Attorney-General's Department, who have the primary carriage, around the development of legislation to amend the act to cover the designated businesses and professions which the FATF nominates, other than the financial sector and the gaming sector. We have done a first round of consultations with all the industry bodies and we are now working with the Attorney-General's Department on possible proposals for government to consider. There will then be further consultations with industry, depending on what the government's decision on policy is.

**Senator TROOD**—I see. And what is the reaction of industry that you have consulted with? Are they cooperative about this? Are there any apprehensions that they have mentioned to you about this direction of policy?

**Ms Atkins**—I would say they are somewhat apprehensive in the sense that this is not something that they have been subjected to before, but I think, at the moment they are comfortable that we are listening to what they are saying, and they are now waiting for the outcomes of that as to what proposals we might put to government. They will have another chance to have more say in what that looks like.

**Senator TROOD**—Is there apprehension about the likely costs of change or are they and apprehensive about the privacy dimensions of it, or is there some other issue about which they are concerned?

**Ms Atkins**—I would say it is about how they will go about complying with obligations, what those obligations are, the cost of them and to some extent the privacy questions.

**Senator TROOD**—You will be consulting with industry again once the consultations with the Attorney-General's Department are concluded. Is that correct?

**Ms Atkins**—The Attorney-General's Department actually have primary carriage of the consultations.

**Senator TROOD**—I understand that.

**Ms Atkins**—But, yes, once the internal government consultations are concluded and once we have the government's position on where they want to take the proposals—

**Senator TROOD**—You will be going back to the industry.

**Ms Atkins**—Absolutely.

**Senator IAN MACDONALD**—You said that your budget had not yet been determined.

**Mr Story**—No; just the final allocations between the various functions of AUSTRAC. This is something that we will do in late May, early June, once we know the final budget outcome.

**Senator IAN MACDONALD**—So what is your budget allocation for AUSTRAC?

**Mr Story**—Our allocation for 2008-09 is \$55.51 million.

**Senator IAN MACDONALD**—And you said earlier in answer to Senator Trood that that represented a \$1.5 million increase over the previous year.

**Mr Story**—It is a \$1.337 million increase in our annual services appropriation. We received a one-off capital injection last year to get the system going, and that was just over \$7 million. That is there for the IT, for the buildings, for these one-offs. That was a one-off, as I said.

**Senator IAN MACDONALD**—That was a capital injection.

**Mr Story**—Correct.

**Senator IAN MACDONALD**—It was from the previous government, obviously. Your \$1.5 million extra would be less than two per cent, would it? I do not have my calculator with me, but it is perhaps a 2½ per cent increase. We are told that inflation, which we have all been hearing about—rather mischievously, I might say—is running out of control and is likely to be three or four or more per cent this year. So, effectively, you have a substantial cutback in your overall operating expenses.

**Mr Story**—It is a 2.52 per cent increase in our ordinary annual services budget.

**Senator IAN MACDONALD**—I think the rhetoric before the budget was that inflation for the year was expected to be four per cent. You are going backwards. Is that correct?

**Mr Story**—The impact of that is that we were expecting a certain level of further recruitment in 2008-09 and it will not be to the level that we had expected.

**Senator IAN MACDONALD**—Your organisation, as with most of those before the committee today, does a fabulous job in fighting crime and, in other places, terrorism. Congratulations on what you do. But I would have thought that, in this day and age with increased criminal activity, you would need to put on a lot more people to properly discharge the functions that have been given to you by the parliament and the government.

**Mr Story**—Show me a regulator that does not want more resources. We are close to—

**Senator IAN MACDONALD**—I do not want to embarrass you. I know it is not your fault; it is the guy sitting next to you who should be answering these questions, but he seems to have been struck dumb.

**Senator Ludwig**—If you want to ask me a question, you are entitled to ask me a question. I prefer you do not make gratuitous comments about me. I think it is quite offensive and you should withdraw them.

**Senator IAN MACDONALD**—I withdraw if you are so sensitive, Minister.

**CHAIR**—Your questions were to Mr Story.

**Senator IAN MACDONALD**—The normal thing is that they are all to the minister, who distributes them. But if you want me to be more specific, Minister, let me put the question to you: what is the government's principle in cutting back effectively the very effective work that this agency was doing in fighting crime in Australia?

**Senator Ludwig**—As you can appreciate, it is spread all across government.

**Senator IAN MACDONALD**—I beg your pardon?

**Senator Ludwig**—It is spread all across government—the two per cent efficiency dividend, if that is what you are referring to. AUSTRAC's recurring appropriation for ordinary annual services, which is appropriation of section 31 receipts, has increased in 2008-09 by \$1.337 million. This represents, as I think you have heard, a 2.52 per cent increase over the 2007-08 funding for ordinary annual services. There was, as Mr Story has already indicated, a one-off equity injection in 2007-08, which was \$7.036 million. That was, as Mr Story indicated but may not have clarified, funding to support the planned implementation of the AMLCTF Act in itself.

This government thinks it is necessary that the efficiencies that can be derived from efficiency dividends should be applied across all of government. It creates a position where individual agencies and departments can look at their budgets and find savings to meet that two per cent efficiency dividend. That is a responsible position to take in the fiscal climate that we are currently in. If you are saying that we should increase spending in every agency and department, then I would be quite concerned about that position being put by you as an opposition senator. I am sure you do not subscribe to that view more broadly. Individual agencies do have a responsibility to look for efficiencies and, in this case, AUSTRAC is doing just that.

**Senator IAN MACDONALD**—I am not sure that you heard the exchange—perhaps you were busy with your papers. We worked out that inflation is running at—what was the pre-election rhetoric?—three or four per cent. So an increase of 2½ per cent is, in fact, a reversal of current budgeting for this particular agency. Is that correct?

**Senator Ludwig**—Inflation, if you want to talk about that, is at a 16-year high. The previous government left us with that.

**Senator IAN MACDONALD**—That is not relevant to my question.

**Senator Ludwig**—What we are now doing is taking a responsible position of trying to provide fiscal savings—in other words, budgetary savings. In that instance, we have put a two per cent efficiency dividend across agencies.

**Senator IAN MACDONALD**—My question was: it effectively means a reduction in funding to this agency. Is that correct?

**Senator Ludwig**—As I have said in answer to your question, what we have sought to do is put downward pressure on inflation and hence interest rates. We have included a two per cent efficiency dividend as part of that process.

**Senator IAN MACDONALD**—Well, Minister, this is not the place to argue about the pretend inflation running out of control.

**Senator Ludwig**—It is pretend inflation, is it?

**Senator IAN MACDONALD**—This is not the place for that, but if you want the debate here we can have it. With the \$22 billion surplus that you have been left by the previous government, one would have thought you might have been able to properly fund the agencies that are at the forefront of the fight against crime. Can I suggest to you, Minister, and invite your comment, that your cutting back of these agencies demonstrates that your government is not interested in the fight against crime.

**Senator Ludwig**—You might also note that this agency has had significant increases over the last couple of years.

**Senator IAN MACDONALD**—I am very conscious of that; our government provided them.

**Senator Ludwig**—It has effectively doubled in size and capacity to provide for the AMLCTF legislation, which the then opposition supported because it is one of those areas where we do need to continue the fight against crime. There is no argument there.

**Senator IAN MACDONALD**—Absolutely.

**Senator Ludwig**—As I said in answer to your specific question, there was a 2.52 per cent increase in the 2007-08 funding for ordinary annual services in this area. The government is mindful of the fact that we do have to spread the risk of ensuring that we are fiscally responsible right across all agencies and departments in this area. AUSTRAC is not immune from that responsibility.

**Senator IAN MACDONALD**—We have been through the increase, which is less than the inflation rate so it is in fact a decrease, and we are conscious that the previous government did put some significant capital injection into this agency because the previous government recognised what a great job it was doing in the fight against crime. I am simply wanting to know how this reduction in this agency correlates with your government's professed aim of increasing the combat of crime. Furthermore, the evidence given is that 25 additional people were required to be engaged for the important work of this agency, yet they are not now going to be engaged. How does that correlate with your government's professed aim to fight crime?

**Senator Ludwig**—As you would appreciate, all present and future funding to implement AMLCTF reforms is committed to the entire reform program. AUSTRAC'S total budget appropriation for 2009-10 is \$55.510 million; for 2010-11 it is \$53.189 million; and for 2011-12 it is \$54.156 million.

**Senator IAN MACDONALD**—We have got all that.

**Senator Ludwig**—That is a commitment to fighting crime and, in other words, to supporting the AMLCTF program. The government has approved the continuation of strengthening the regional financial intelligence program for a further two years from 2008-09. This measure in itself will enable AUSTRAC to continue work with counterpart financial intelligence units, or FIUs, in South-East Asia to enhance their counterterrorist financing capability. Those commitments are continuing and they do demonstrate our fight, in this

instance, using the counterterrorist financing ability and, in other areas, funding for anti-money-laundering, or AML, initiatives.

**Senator IAN MACDONALD**—Minister, with respect, they demonstrate that your government is cutting back finance to this important agency, finance which could have been used in the fight against crime. Your inability to answer the question I put to you clearly demonstrates you agree that your government's rhetoric about fighting crime was simply just that—rhetoric. No comment?

**Senator Ludwig**—It seemed to be a statement rather than a question.

**Senator IAN MACDONALD**—I invited you to make a comment or to challenge it, but you have not, so I assume you accept it. I will leave it there. Thank you, Madam Chair.

**Senator Ludwig**—Clearly, I do not accept it, but you might want to continue in any event.

**CHAIR**—Senator Macdonald, do you have any questions rather than points of debate?

**Senator IAN MACDONALD**—I have already said thank you, which means I have finished.

**CHAIR**—Thank you very much for your time this afternoon.

[4.35 pm]

#### **CrimTrac**

**CHAIR**—I welcome officers from CrimTrac. Mr McDevitt, do you wish to commence with an opening statement?

**Mr McDevitt**—No, Madam Chair.

**CHAIR**—We will go to questions, then.

**Senator IAN MACDONALD**—With the acquiescence of my colleagues, I will just continue on that line of cross-examination very briefly. Mr McDevitt, first of all congratulations for the work your agency does. It is very, very important, and I grew to very much appreciate it. Generally, have you got an increase in this year's budget?

**Mr McDevitt**—No. The CrimTrac agency has a fairly unique arrangement in terms of its funding. The agency was commenced, as I think you know, with a \$50 million injection, which was principally capital funding, back in 2000. That money was fully drawn down by the end of 2004-05. Since then, the agency has been primarily self-funded through criminal background checking, and the numbers involved in that function have continued to increase.

**Senator IAN MACDONALD**—I am aware of that from my previous involvement. You do not seek any appropriations from the federal government—your pay-as-you-go policy gives you the money you need to do your job?

**Mr McDevitt**—That is correct. The Commonwealth appropriation really consists only of an interest equivalency, which this year is in the order of about \$6 million.

**Senator IAN MACDONALD**—Of what, sorry?

**Mr McDevitt**—It is an interest equivalency. It relates to interest earned on the special account into which our funds from criminal history checks go.

**Senator IAN MACDONALD**—So you pay the money in to the government and they get interest on it and then pay it back to you—that is what happens. Do you need additional capital injections in 2008-09? Have you any planned capital requirements?

**Mr McDevitt**—I will hand over to the CFO.

**Ms McLay**—We do have a capital budget, which is funded via the revenue in our special account that is earned from the fee-for-service arrangements. So there is no requirement for additional capital from government in next year's budget.

**Senator IAN MACDONALD**—Let me repeat that to make sure I have got it: your interest on your own earnings accounts for your capital budget?

**Ms McLay**—Also, the surpluses that we have been generating in prior years have contributed to a cash balance. We are using that cash balance plus our depreciation earnings, which is an accumulation of cash, to invest in our capital budget.

**Senator IAN MACDONALD**—Well done. Not only do you do your work well but you run your finances very well as well—so congratulations.

**Senator BARNETT**—I echo Senator Macdonald's comments, and thank you for the work that you do—it is appreciated. Can you provide an update on the national fingerprint DNA database register?

**Mr McDevitt**—There are two separate systems. We will talk to the national fingerprint database first, if you like. That database contains about 4.1 million fingerprint records. It matches about 325,000 person-to-person searches per year and contains approximately 650,000 unsolved, latent images. On average there are about 36,000 people-to-crime-scene identifications through the NAFIS each year.

**Senator BARNETT**—I presume you are saying the results and benefits of that flow through to the state police and law enforcement agencies as well. Can you summarise the benefits of the program?

**Mr McDevitt**—The NAFIS is an extremely mature and sophisticated system. It is directly involved every year in linking offenders to crime scenes. It is the one national fingerprint database which services all police forces in this country. With recent 'lights out' processes and advanced algorithms we have, to a large extent, eliminated the need for fingerprint experts in matching, checking prints and so on. We are getting results back in a couple of minutes. When people are processed through watch houses, it will search the database and come back.

There are a couple of other projects that we are doing in the national fingerprint space this year. One is looking at a portable biometrics identification system, which we are trialling with the New South Wales Police and which involves use of a hand-held device. Another is with DIAC in relation to immigration detention centres. We are doing a project with DIAC at the moment to check fingerprints against the law enforcement holdings when people are processed through an immigration detention centre.

**Senator BARNETT**—And the DNA database?

**Mr McDevitt**—It is probably fair to say that we have not had the success with the national DNA database that we have had with the national fingerprint database in recent years.

However, it would be fair to say that significant progress has been made over the last 12 to 18 months towards a single ministerial arrangement for the sharing of DNA profile information around the country.

**Senator BARNETT**—You are saying that the success has been impeded by different state jurisdictions being unwilling or incapable of cooperating as you would like?

**Mr McDevitt**—It is probably not so much about incapability or unwillingness; it is probably more about the jurisdictions' move to address DNA issues in their own right. They came up with various legislative and policy regimes, particularly in relation to privacy around the collection and dissemination of DNA profile information. It is fair to say that it has been an incredibly complex and quite tortuous path over the last couple of years but we are now at the stage where I am quietly confident that by the end of this year we will have all jurisdictions signed on to a single ministerial arrangement.

**Senator BARNETT**—Which ones are on and which ones are not?

**Mr McDevitt**—All jurisdictions have now committed to the single arrangement other than New South Wales. Minister Debus wrote a letter to New South Wales about two to three months ago asking them to clarify what the legal status was for them in terms of their capability to sign on. The response that we got back was an intent to commit. However, there was some legislative requirement in that jurisdiction.

**Senator BARNETT**—Are there any other reasons for the lack of success today?

**Mr McDevitt**—Not that I am aware of.

**Senator BARNETT**—I understand the National Criminal History Record Checking is up and running. How effective and successful is that?

**Mr McDevitt**—The original system that was set up, the National Criminal History Record Checking system, was designed several years ago to cater for CrimTrac's component of the criminal history checking business, which goes right across the country and each of the police forces put a lot of effort and energy into loading up conviction information and so on. It would be fair to say that the increases in criminal history checks over recent years have put considerable pressure on the system itself, to the extent that we set up a working group last year to look at finding a better way of doing business in that space.

We have subsequently gone to the CrimTrac board of management with a proposal and a business case to set up what we are calling a national police checking service. Essentially, that would involve a transfer of the lion's share of the work, which is currently done in jurisdictions, to CrimTrac. It would occur in a centrally managed model with new technologies, and would digitise the vast number of criminal history records that are currently out there on paper, microfiche and so on. We are hoping we will be able to speed up the process and also strengthen the technology. But the system is working. I think we did 2.3 million checks last year and we are planning on doing about 2.6 million this year.

**Senator BARNETT**—Cutting to the quick, which jurisdictions or states are dragging the chain in terms of meeting their obligations and responsibilities?

**Mr McDevitt**—We have got an in principle commitment from all jurisdictions to adopt the national police checking service.



**Senator BARNETT**—I understand that, but could you please advise which ones are dragging the chain in terms of practical support to make this system work?

**Mr McDevitt**—I do not think any of them are. They are all committed. We have a number of working groups set up, and a number of committees which are actually looking at all of the issues associated with this. It involves things like privacy impact assessments, looking at the legislative regimes and looking at the technologies. All jurisdictions are committed to that process.

**Senator BARNETT**—But you indicated earlier that there are a lot of challenges and there is pressure on the system. I am wondering if you can elucidate.

**Mr McDevitt**—The pressures on the system was the catalyst, if you like, for us to look at moving down this path. As I said, the system is up and working. The checks are being processed, so there is no issue whereby checks are not being processed or anything like that; it is just that we think there is a better way of doing this business. We think that a centrally managed model would be a better way of doing it. The jurisdictions, as I say, are in principle supporting that and are contributing to the fact-finding mission to actually work out how that would come to fruition.

**Senator BARNETT**—When will it come to fruition?

**Mr McDevitt**—It will happen on an incremental basis, if you like. Jurisdictions will come on in a staged approach probably over the next two to three years, I would imagine.

**Senator BARNETT**—Can you advise of the status of the National Child Offender Register?

**Mr McDevitt**—Again, the ANCOR system is a robust system. It is up and running and it is viable. It maintains data on just over 7,000 registered offenders who are on the system at the moment.

**Senator BARNETT**—Are they on the public record?

**Mr McDevitt**—No, they are not.

**Senator BARNETT**—They are on the system but not on the public record? I am not entirely sure how it works. So they are not on the public record?

**Mr McDevitt**—No, they are not. Of all of our systems, ANCOR is probably the one with the least number of users. Access to ANCOR is fairly strictly kept to the police registrars in each jurisdiction who are responsible for maintaining the records and ensuring that, when a registered offender moves jurisdictions, the information and the case management are transferred to the receiving jurisdiction. We are actually doing a sustainability assessment at the moment on that system, because a number of the jurisdictions have flagged different requirements for the system. For example, some jurisdictions want ANCOR to go beyond just adult and child offences, to be extended to offences involving adult and adult. There is a range of requirements that different jurisdictions want to better reflect their own legislative arrangements. At the moment we are just running the system as it is but going around to jurisdictions, working through the national child protection committee to get a better sense on user requirements for the future.

**Senator BARNETT**—Can you either answer now or take on notice the number and breakdown of that 7,000? In terms of numbers on that register, can you let us know how many are adults, how many are child offenders, the numbers over the last three years and your prognosis for the next couple of years?

**Mr McDevitt**—I can give you the number of persons who are registered: ACT, 45; New South Wales, 2,092; Northern Territory, 110; Queensland, 1,989; South Australia, 170; Tasmania, 115; Victoria, 1,421; and Western Australia, 1,146.

**Senator BARNETT**—There is a big variation in those numbers: New South Wales, Victoria and Western Australia are all over 1,000. You said New South Wales had how many thousand?

**Mr McDevitt**—New South Wales is 2,092. I need to point out that those figures I gave you do not include the total number of registrable persons in Australia. Obviously a number of persons are yet to be placed or registered on the system, and that includes people who have been convicted and are in custody. Obviously once they come out then they will go onto the system.

**Senator BARNETT**—An area of interest for us is the increase in the number of child offenders. Are they the trends that you have noticed?

**Mr McDevitt**—CrimTrac's role is not really around the intelligence aspects of the system itself. We merely built the system, maintain it and enable the registration of offenders. I do not really have any specific thoughts in relation to the trends or anything else around these figures.

**Senator BARNETT**—Thank you very much.

[4.51 pm]

#### **Office of the Director of Public Prosecutions**

**CHAIR**—I welcome officers from the Office of the Director of Public Prosecutions. Do you want to begin with an opening statement?

**Mr Craigie**—No, thank you.

**CHAIR**—We will go to questions then.

**Senator BARNETT**—Mr Craigie, can you provide an update on staffing of the DPP at this time?

**Mr Craigie**—Currently, we have about 557 full time equivalent staff. That is taking into account a number of people who are working part time. I would expect that number to grow over the next year by about 10½ per cent and that will be spread over a number of different areas.

**Senator BARNETT**—Can you provide a breakdown either now or on notice of the location of those staff?

**Mr Craigie**—I cannot give you the specific locations. I think you could reasonably suspect that the lion's share would be in the larger cities, particularly Sydney.

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

**Mr Craigie**—I can certainly take that on notice.

**Senator BARNETT**—How does the 10½ per cent increase in staff correlate with your budget, because you have had, in real terms, a funding cut. Is that correct?

**Mr Craigie**—We have sustained a cut and taking that into account—

**Senator BARNETT**—How big is the cut?

**Mr Craigie**—We have the efficiency dividend, which reduces us by the order of \$2.5 million.

**Senator BARNETT**—That is \$109.606 million down to \$107.66 million—is that correct? What is the efficiency dividend? I calculate a 1.45 per cent funding cut in real terms, but what is your correlation?

**Mr Craigie**—Can I start at the other end?

**Senator Barnett**—Yes.

**Mr Craigie**—What we are left with, effectively, is a lesser increase than we otherwise would have got. The lesser increase with which we are working is roughly \$1.59 million.

**Senator BARNETT**—Taking inflation into account, have you calculated what that cut is in real terms?

**Mr Craigie**—The efficiency dividend is \$2.174 million.

**Senator BARNETT**—Okay. Let us just cut to the quick. What was your budget last year and what is it this year?

**Mr Craigie**—Last year, we were of the order of \$105,760,000 and the appropriation this year is \$107,356,000.

The **Senator BARNETT**—That is a cut in real terms. How do you correlate or get an increase in jobs or staff of 10.5 per cent based on the budget?

**Mr Craigie**—Much of that comes from funding allocated for specific projects in earlier years.

**Senator BARNETT**—Could you, on notice, advise the committee as to how you fund that 10.5 per cent increase in staff?

**Mr Craigie**—I can give you a breakdown in each of these areas. There is an area for which funding was previously provided. The 10.6 per cent rise in staffing will translate into 59 people. Those 59 people will be allocated as following: three to combating trafficking in persons—

**Senator BARNETT**—Is this a net increase of 59 people?

**Mr Craigie**—It is a raw figure of 59 people we will go out and hire. It does not, of course, take account of wastage if that is what you are asking. We are looking for another 59 people. They will be funded from the specific allocations in earlier years under these headings: three of them will be under the combating trafficking of persons area; 12 will be supported by the cyber safety plan; seven will be allocated to the new area of cartel prosecutions; six will be allocated to intellectual property and a further 31 will be generally allocated.

**Senator BARNETT**—In terms of the cyber safety, is that replacing the Protecting Australian Families Online?

**Mr Craigie**—As I understand it, Senator, yes.

**Senator BARNETT**—Did you have any staff allocated for the Protecting Australian Families Online budget measure? Are they simply replacing the 12 or thereabouts that would have been there in any event?

**Ms Walker**—We were allocated something in the order of 8.5 staff this financial year and that will be increasing to about 16.5 for the cyber safety measure in the coming financial year.

**Senator BARNETT**—Okay, we will look at that. Has any of your staff been charged with criminal proceedings?

**Mr Craigie**—Not to my knowledge, no. I should say, Senator, unless you know something I do not know. It would be something brought to the notice of the director, I would have thought.

**Senator BARNETT**—You can only answer to the best of your knowledge, I am sure.

**Mr Craigie**—Indeed.

**Senator BARNETT**—In terms of your submission to the Haneef inquiry, will you be making a submission?

**Mr Craigie**—We have made a submission. It was lodged in due time as is publicly known.

**Senator BARNETT**—What resources went into that submission?

**Mr Craigie**—They were the internal resources of my office at deputy director level. It was all done in-house, effectively. If you want me to be more specific than that and give you a breakdown of time and individuals, that would be something that I would have to take on notice, but I can indicate that it was done within the office.

**Senator BARNETT**—I would appreciate—and I hope the committee would too—if you would take that on notice and tell us about the time, individuals and other resources allocated to the submission to the Haneef inquiry.

**Mr Craigie**—Certainly.

**Senator BARNETT**—Thank you.

**Senator IAN MACDONALD**—Mr Craigie, you would be aware of media reports of a horrific situation in the Office of the Director of Public Prosecutions in Queensland. Are you aware of that? There was a leaked document tabled in the Queensland parliament showing that there were not enough prosecutors, there was not enough funding available and they were getting very junior staff to take on complicated trials. My question to you is whether you are aware of it.

**Mr Craigie**—I am aware of a view expressed in the media, yes.

**Senator IAN MACDONALD**—And there is a leaked report which was tabled in the Queensland parliament, which was a report into the Queensland DPP. That is an aside to saying that, with your effective cutback in funding, you do not anticipate that you would get into the situation that Queensland is allegedly in at the moment with its prosecution service.

**Mr Craigie**—I do not want to reflect on the way another director runs his or her office, but I can assure you that I am confident that I will be able to continue running a very effective prosecution service for the Commonwealth.

**Senator IAN MACDONALD**—I am not casting aspersions on the director. The director has problems with funding and it is the funding that I am more interested in. But you are relaxed that the funding you have got is sufficient to carry out the duties you are charged with doing?

**Mr Craigie**—One should never be relaxed about funding. Shall we say that I am content that I am surrounded by very competent people who can do the job.

**Senator IAN MACDONALD**—I can assure you that you are surrounded by very competent staff and the DPP has a very good reputation. Are you finding it difficult to attract qualified people into the service?

**Mr Craigie**—It is always a challenge in the public sector in various parts of Australia to attract good people. I think it was ever thus. But beyond making that general observation there is no particular challenge at present.

**Senator IAN MACDONALD**—Do you have to meet the market to get good legal people on board?

**Mr Craigie**—To the extent that one prudently can do that with public moneys. There are all sorts of ways that you can meet the market. Apart from raw salary, there are the not unattractive conditions of working for the Commonwealth, certainly, and they are something that we do push.

**Senator IAN MACDONALD**—You are in a catch-22 situation here. You would be aware of the Prime Minister's call for wages restraint, which he followed through so that opposition parliamentarians had wage restraint. They are the only ones in Australia, as far as I can ascertain, who have been affected by the Prime Minister's call. Are you conscious of the Prime Minister's call for you and everyone else not to go beyond what you have offered in previous years?

**Mr Craigie**—I do not think anyone would ever accuse us of being overgenerous, and I will not depart from that approach.

**Senator IAN MACDONALD**—But it is a difficult situation. The private profession, as I understand, is doing pretty well these days. If you are going to get people in whom you have not brought up through the ranks yourself—and even those you have can be attracted away to the private profession—I am just concerned about your ability to maintain the very high quality of your staff in the face of no real increase in your budget and an urging by the Prime Minister not to pay more even if you had an ability to do that.

**Mr Craigie**—I can only say that I have not seen any diminution in the standard of people who apply to join us, and specifically people who will shift from one jurisdiction to our jurisdiction to be part of this organisation. Of course, it is always a challenge because you are in the public sector, but I have not noticed anything over and above the usual challenges when it comes to recruiting.

**Senator IAN MACDONALD**—Getting back to my Queensland question, does the turmoil—my word—in which the Queensland Office of the DPP finds itself throw more work onto the Commonwealth DPP in cases which perhaps could be dealt with by either jurisdiction?

**Mr Craigie**—The scale of that sort of interchange is not of a level where there would be a discernible impact—certainly not one that I have seen so far.

**Senator IAN MACDONALD**—Thank you very much.

**CHAIR**—Any further questions?

**Senator TROOD**—I have two on the Street inquiry in relation to the recommendations that specifically concern the DPP, which are recommendations 1 and 3. Mr Craigie, perhaps I could have your response in respect of your office's progress in relation to recommendation 1.

**Mr Craigie**—I can indicate first of all that the inaugural meeting has taken place. I think Commissioner Keelty indicated that this morning. This is the committee of the three heads of agency—sorry, what was your question?

**Senator TROOD**—So the inaugural meeting has taken place?

**Mr Craigie**—Yes.

**Senator TROOD**—Are these meetings intended to take place on a regular basis or as needed?

**Mr Craigie**—Quarterly or more regularly than that if required.

**Senator TROOD**—Thank you. What progress has been made in relation to the guidelines in recommendation 3—the checklist?

**Mr Craigie**—I can indicate that is underway, as is a lot of the work that is listed. You will see that the lion's share of the recommendations are bilateral between the AFP and ASIO.

**Senator TROOD**—I understand that.

**Mr Craigie**—The greater part of our support for the process is in the area of training and providing guidelines, as indicated in recommendation 3 with the guidelines and checklist.

**Senator TROOD**—So that is in progress—is that your response to my question?

**Mr Craigie**—It is in progress, yes.

**Senator TROOD**—Thank you. That is all, Madam Chair.

**CHAIR**—Thank you very much for your attendance at Senate estimates this afternoon.

[5.08 pm]

#### **Australian Commission for Law Enforcement Integrity**

**CHAIR**—Welcome, Mr Moss. Before I go to questions, do you have an opening statement you wish to make?

**Mr Moss**—I have no opening statement, thank you.

**CHAIR**—Senator Fisher, please proceed.

**Senator FISHER**—Mr Moss, your agency, whilst relatively new, performs a very important role. I note that the budget provides your agency with a certain amount of additional money—\$750,000 in 2008-09 and an additional \$2 million a year over the next three years. The portfolio budget statements 2008-09, the budget related paper, at 1.1, under the heading ‘Strategic direction for 2008-9’ on page 81, sets out well your agency’s strategic directions. In the third paragraph it says:

ACLEI’s primary focus will continue to be on assessment and investigation of allegations of corrupt conduct and other possible corruption issues that have been brought to the attention of the Integrity Commissioner—

which of course is you. Can you give me some sort of flavour of the other possible corruption issues that you might be referring to beyond allegations of corrupt conduct?

**Mr Moss**—Certainly. In the agency’s first and only annual report—that is for the year 2006-07—we reported on patterns and trends in corruption that had been raised with the Integrity Commissioner. They fell into three broad categories: namely, evidence before courts, unauthorised disclosure and illicit drugs. That was the broad trend as reported then and that trend has continued into the present financial year. I might say also that we are talking here about corruption issues, which are in fact allegations, and, until they are investigated and proven, one cannot draw any firm conclusion from those issues.

**Senator FISHER**—Indeed. I might take you to that a little later. Do you have a backlog in the agency’s workload?

**Mr Moss**—Since ACLEI commenced in late 2006 we have received, for the period ending 30 April this year, some 48 corruption issues.

**Senator FISHER**—Sorry, since when?

**Mr Moss**—Since ACLEI commenced in late December 2006 we have received some 48 corruption issues. We have disposed of some 20 of those matters by assessment, leaving a current workload for that period—that is, ending April 2008—of some 28 matters.

**Senator FISHER**—And of those 20, are you able to say what their end point was?

**Mr Moss**—Their end point was that we made a thorough assessment of them and I decided on that basis that there was no further investigation required by ACLEI.

**Senator FISHER**—So 20 allegations were essentially dismissed?

**Mr Moss**—Yes.

**Senator FISHER**—And have you prioritised your 20 out of the 48? Perhaps the other 28 potentially have cases to answer, or did you deal with them in terms of timing of receipt? How did you decide how you would prioritise 48 allegations and your investigation of them?

**Mr Moss**—I am required by the legislation to focus on the most serious matters, and that is the prioritisation that I give to the work before me and ACLEI. Some of those matters are under investigation now as a matter of priority under that scheme, and I expect to be able to report on those shortly. Already one report has been made and given to the minister.

**Senator FISHER**—And when was that report provided to the minister?

**Mr Moss**—That report was provided at the end of March this year.

**Senator FISHER**—Presumably in writing?

**Mr Moss**—Yes. When I use coercive powers, I am required to make a report to the minister, and this was one such case.

**Senator FISHER**—Are you able to particularise the coercive powers.

**Mr Moss**—Coercive powers means when a hearing is held and witnesses can be required to attend before the Integrity Commissioner and provide evidence.

**Senator FISHER**—Implicit in what you are suggesting is that, of those 28 that remain in play, you are part way through investigating them?

**Mr Moss**—Yes, that is correct.

**Senator FISHER**—Are you saying the legislation requires you to prioritise according to what is serious? Of course, I suppose it is rather difficult to work out what is serious until you have put your investigative toe in the water.

**Mr Moss**—That is a very valid point. One does not know until one commences an assessment of those matters what really lies behind them.

**Senator FISHER**—To date, have you felt sufficiently resourced to exercise the agency's powers, and, in particular, to be able to assess the seriousness of allegations brought to the agency's attention so you can prioritise in the first place, let alone assess whether or not there is a case to be dealt with?

**Mr Moss**—One of the significant features of the integrity regime established by legislation is that heads of agencies must notify me of corruption issues as they become aware of them. So that ensures that matters come to my attention. As to the further part of your question, can you just remind me of it please?

**Senator FISHER**—To date, have you considered that your agency is sufficiently resourced to carry out what you have said is your legislative duty to prioritise the allegations brought to your agency according to their seriousness, let alone actually then proceeding to investigate those that you consider are worthy of investigation?

**Mr Moss**—Yes, I believe so. My legislation enables me, upon notification, to make a decision as to what needs to be done with a matter. For instance, I can conduct an investigation myself with my resources, I can ask the agency itself to conduct an investigation under my supervision or management, or I can also ask an agency to deal with a matter without further reference back to me. Or, indeed, I can enter into a joint investigation with an agency. In determining what is out there—what issues may be of concern by way of integrity—I have taken a broad sweep of issues raised with me in order to keep my resources matched to my workload. I may well in future tend to put more matters back to the agency at an earlier point than I have been to now. But to come to your question, I do think that I have the resources and will have the resources to do what is required.

**Senator FISHER**—How do the powers of the agencies whose help you can seek to investigate these matters match with your powers? I would have thought there would, of necessity, be a significant gap.



**Mr Moss**—My powers are as broad as you would want them to be to investigate matters. For instance, I have a hearing power and I have other law enforcement type powers to assist me, including what I would call intrusive powers—namely, telecommunications interception, assumed identities, surveillance, both technical and physical et cetera. Those powers are not all available to the AFP—it has no hearing power, whereas the ACC does have a hearing power through its examiners. But I would not be asking them to exercise that particular function. It would be more in terms of assisting me with investigation or perhaps use of intrusive powers.

**Senator FISHER**—I am trying to probe into your earlier suggestion that you were able to find a way to keep the resources matched with the demand by calling on agencies. Did ACLEI make a budget submission?

**Mr Moss**—You mean in the present budget round?

**Senator FISHER**—Yes.

**Mr Moss**—Yes.

**Senator FISHER**—Are you able to tell me anything about that submission?

**Mr Moss**—I was very pleased to find as an outcome that we were successful in receiving additional funding.

**Senator Ludwig**—We provide what the budget now provides for. I am sure, Senator, you know the rules about inquiring into pre-budget issues that then are part of the budget.

**Senator FISHER**—Thank you, Minister. Mr Moss, How many officers work for ACLEI at the moment. What is your staffing?

**Mr Moss**—At the moment ACLEI has a staff of nine, including me.

**Senator FISHER**—What do they do?

**Mr Moss**—Some are investigators—

**Senator FISHER**—How many?

**Mr Moss**—Three. One manages intelligence, one provides legal advice, one provides assistance on policy and governance and three others provide assistance in the corporate services area. Then there is myself and an executive assistant.

**Senator FISHER**—Perhaps I cannot do maths. You said nine, including you: three investigators, an intelligence manager, a legal adviser, an adviser on policy and governance, three corporate services people and you and an executive assistant.

**Mr Moss**—And there are three additional staff on secondment to ACLEI.

**Senator FISHER**—They are additional over and above?

**Mr Moss**—Yes.

**Senator FISHER**—I am trying to see how I get nine out of that. I get 11 plus three on secondment.

**Mr Moss**—And I have one other part-time staff who provides policy advice.

**Senator FISHER**—Essentially, you have got three investigators. Let us go now to how the expansion of the AFP has impacted your agency's workload.

**Mr Moss**—I am not able to draw a direct link between the expansion of the AFP's workload and functions and work coming to ACLEI.

**Senator FISHER**—You are not?

**Mr Moss**—I am not, yes.

**Senator FISHER**—At this stage, you probably will be able to over the next three years. They are budgeted to increased by about 500 officers.

**Mr Moss**—Yes, that is well possible.

**Senator FISHER**—What sorts of evaluation mechanisms do you have, or you are going to develop, so that you can work out the relation between the number of people that you are supposed to be watching and the resources that are required?

**Mr Moss**—At this stage I have no such plans, but I will certainly turn my mind to that as needed.

**Senator FISHER**—Indeed. In terms of the additional funding that the budget does provide you with, how will you use those increases?

**Mr Moss**—It is my intention to increase the number of substantive positions in ACLEI, and I would do that in 2008-09 to the number of staff that are seconded to ACLEI. In subsequent years, particularly 2009-10, I would increase the staff again, possibly by four, and they would be investigators. So I would seek to increase my investigative capability.

**Senator FISHER**—In 2008-09, how many substantive positions would you increase by and what would they do?

**Mr Moss**—There would be three positions: one in the investigation area, one in policy and governance and another in corporate services support.

**Senator FISHER**—So that is 2008-09 and 2009-10.

**Mr Moss**—The additional funding is over a four-year period. In the year 2009-10 and the two years following that there is funding of \$2 million each, so the changes that would come to staff numbers in 2009-10 would continue for the remaining two years.

**Senator FISHER**—Does that mean it would be plus four, plus four in those two years?

**Mr Moss**—Thereabouts, yes.

**Senator FISHER**—Are you aware of comments made by the then acting head of ACLEI, Mr McMillan, in July last year that he was of the view that the investigative staff of the agency needed to be increased tenfold in order to carry out their job?

**Mr Moss**—Yes, I am aware of those comments.

**Senator FISHER**—What do you think of that statement?

**Mr Moss**—I think that there are various ways to look at ACLEI's role. The role as I see it differs from the suggestion that it would need to increase by that order of staff or that order of funding. ACLEI was established in quite different circumstances from the equivalent

anticorruption bodies in the states, which have oversight of the police services. The comparison is usually made with the funding levels and the staffing levels of those agencies. Indeed, those bodies were established out of crisis. There were royal commissions in three states and links between police and gangland killings led to the establishment of the fourth agency. We have not had that experience at the federal level. What we have is a perception that there is not any significant problem with corruption in either of the two agencies for which I have responsibility.

**Senator FISHER**—You commenced that answer by saying that you differ on the agency's role. Differ from whom and what? Can you answer that question?

**Mr Moss**—The comparison is made with state agencies, and their role differs from ACLEI's role in significant ways. For instance, the Office of Police Integrity has full responsibility for oversight of Victoria Police, including receiving and investigating complaints, whereas ACLEI shares that jurisdiction with the Commonwealth Ombudsman, who receives and investigates complaints.

**Senator FISHER**—If you have a backlog of 28 claims, are you sharing the investigation of some of those complaints with the Commonwealth Ombudsman to assist you with the backlog?

**Mr Moss**—No, we are not. I am talking about matters that are raised with me as corruption issues, as distinct from the full range of other matters that may be raised in relation to the AFP or the Australian Crime Commission—namely, matters of serious misconduct or other matters.

**Senator FISHER**—Do you have a different view as to the role of your agency versus state based agencies?

**Mr Moss**—I think the comparison is being made between agencies in a different situation, with regard to the police services they oversight, and the agencies which I have responsibility for.

**Senator FISHER**—That is a presumption in itself. In terms of your plans, the agency currently employs three investigators, and by 2012 you will have engaged another 12 investigators, by my calculations, plus an additional policy and governance person and an additional corporate services person. Is that right?

**Mr Moss**—I will need to clarify that point with you.

**Senator FISHER**—That is from my notes of your answers to questions earlier.

**Mr Moss**—I may need to clarify that point for you. I would see three additional staff coming in 2008-09, with a further four coming in 2009-10.

**Senator FISHER**—I thought you earlier clarified that you would see an additional four and then a further four in 2010-11 and 2011-12. Did I misunderstand?

**Mr Moss**—Yes. I think the point here is that the funding levels continue at an additional \$2 million per year.

**Senator FISHER**—You did say that—I was trying to work out how you got there. To restate my understanding: by 2012, you consider that you will have employed an additional

three plus four—seven—investigative staff beyond what you currently have and an additional policy and governance person and an additional corporate services person. Is that right?

**Mr Moss**—As I see it, the sum is three plus four. Of the three, one would be investigative; of the four, all would be investigative.

**Senator FISHER**—Okay. That would mean an additional five investigative staff beyond the three you currently employ, so you would end up with eight investigative staff?

**Mr Moss**—From this point, yes, that is correct.

**Senator FISHER**—That is certainly a far cry from Professor McMillan's suggested tenfold increase in investigative staff. From a current staffing of three to an increased staffing of eight investigative staff is hardly a tenfold increase. But you have suggested why you might take a different view of the agency's role. Turning more to the agency's role, the PBS refers to your current role as investigating corruption issues that have been brought to your attention. You have touched on that. It refers to fully establishing your 'corporate functionality', and you have explained how you might engage some additional staff to do that.

On page 85 of the PBS, at output 1.1, the summary in the table says:

Output 1.1 contributes to Outcome 1 by ensuring that possible corruption issues in the Australian Federal Police (AFP) and the Australian Crime Commission (ACC) that are brought to the attention of the Integrity Commissioner are independently assessed and, where appropriate, investigated in a timely manner.

For the purpose of clarification, I presume that 'where appropriate' refers to where it is appropriate to investigate rather than suggesting that it is appropriate to investigate in a timely manner only some matters rather than others.

**Mr Moss**—I think the key thought here is that I would want to see—and the extra staff will help me do this—a more timely assessment of matters that are brought to my attention by notification or referral. That will be assisted by the additional staffing that we have just discussed. As I mentioned earlier, I will be looking to refer matters back to a greater degree than I have to this point. I feel as though I have got enough of an idea, at least for the time being, of the issues that are likely to arise, leaving me as free as I would need to be to focus on those serious issues that I may have to investigate myself, or enter into a joint investigation of, because of their seriousness or their systemic nature.

**Senator FISHER**—The discussion thus far has largely been around dealing with matters that have been brought to your attention, but the PBS talks about your strategic direction as being to 'detect, investigate and prevent corruption'. The first and the third words, 'detect' and 'prevent' imply to me some sort of proactive role for the agency, as opposed to investigating those matters that have been brought to your attention.

**Mr Moss**—Yes, that is true, but on notification some matters may, on investigation and assessment, lead to other investigation and therefore detection—

**Senator FISHER**—Sure. They are not mutually exclusive, obviously.

**Mr Moss**—Prevention I see as relating to educative programs with the staff of the two agencies.

**Senator FISHER**—What legislative obligation does the agency have to detect, in the absence of an allegation being made to the agency?

**Mr Moss**—The agencies have a great interest in their own integrity, and each of them has its own professional standards. They are obviously concerned with detecting corruption and investigating it. The point here is that the heads must notify me when they become aware of corruption issues and then my role, as an independent external agency, is to decide how that matter will be dealt with.

**Senator FISHER**—The PBS says on page 81 that it is your role to detect. How can you farm that out to agencies? I appreciate that, on occasions, agencies may detect and that may result in an allegation or a complaint to your agency; but the PBS, on page 81, under the heading 'Strategic direction for 2008-09', suggests that it is your role to detect.

**Mr Moss**—The corruption issues can come to me other than just as notifications by heads of agencies. They can also come to me by referral from other agencies and by individuals; that is, members of the public. I have the power to commence an own-initiative investigation. So that is another way whereby the detection role can be exercised.

**Senator FISHER**—I think it is a valid question about the extent to which you are able to watch the watchers if you are not able to detect causes for concern yourself. Are you saying you can commence investigations yourself?

**Mr Moss**—Yes, I can.

**Senator FISHER**—You have that power. Do you have the resources?

**Mr Moss**—The resources, I am sure, would be available to me. The powers are there and they are all that I need. If it should occur to me that I could not work jointly with an agency to investigate a matter, then I could make a submission to government. I am sure that would receive timely consideration.

**Senator FISHER**—There is a lot of optimism and hope in that answer. You have an obligation to detect; you have some powers to investigate off your own bat. I am not hearing you say that, as of today, you have either the resources to deliver on that legislative requirement for you to detect or the function to make inquiries off your own bat.

**Mr Moss**—ACLEI was established in the context that there was no perceived serious or systemic corruption. We are building a capability to deal with it should it occur.

**Senator FISHER**—How can you know? If you are the watchdog of the watchers and you are limited by resources to dealing only with those causes of concern that you are notified of, how can you know that there are others out there that you are not being notified of if you are not equipped with the resources to assess the situation? I do not see how you can credibly make that assessment.

**Mr Moss**—You seem to be contemplating a regime where you have a standing capability that would, in an intrusive and perhaps auditory way, make checks on members of the agencies in order to try to get some level of assurance that there was no corruption there. What I am suggesting to you is there are a number of mechanisms which ensure that matters come to my attention.

**Senator FISHER**—They are your words, Mr Moss, not mine. The budget papers, Minister, do say that your agency has a detection role. It is that which I am trying to probe.

**Senator Ludwig**—The AFP, the ACC, ACLEI, state police, ACT and Northern Territory police all have that detection capability. ‘Fight to Win’ is a motto that the AFP subscribes to.

**Senator FISHER**—The budget of the AFP has been increased by \$400 million. They are getting an extra 500 officers—

**Senator Ludwig**—Let me finish answering the question. Then you can ask your next question. If you look at the establishment of ACLEI, it was not established in light of a royal commission, as Mr Moss indicated. It does have a significant and serious role to play in those three interconnected matters that you raised. It also was established to oversee something of the order of the Australian Federal Police and the ACC in number terms. You could not say that they were equivalent to the New South Wales police or the Victorian police in size. There are significantly larger organisations in body numbers in New South Wales, Victoria, Queensland et cetera.

I suspect the Liberal government of the day made a decision when they established ACLEI that they would appropriately resource it for the expected workload that it would have—that is my understanding. I was not part of the previous government to know or understand that decision that may have been made.

**Senator FISHER**—You are the minister now, Minister.

**Senator Ludwig**—But let me add what this government did was recognise that it did have a larger than anticipated case load and we did fund for that case load to be dealt with out of this budget. That is why we have demonstrated an increase in the funding for ACLEI of \$7.5 million over four years. The separate reason was that it was a considered view that the corporate functions provided for ACLEI at the time by the previous government were underfunded for that role at that time. We have also addressed the shortcomings that the previous government had when they established ACLEI. In this context, I think you have to then draw a couple of things together. You have to say that ACLEI has a serious role to play in detecting and dealing with corruption issues. It was not born in the circumstances that I have characterised previously—integrity commissions being established in other states. Also, it was not one where you would say at large that there was a visible problem with the policing of the Australian Federal Police, the ACT police or the ACC. In fact, you would say the opposite. Having been in the Senate for a number of years and asked questions through this committee of those organisations, I know they do subscribe to a high standard. I think that is well recognised throughout the Commonwealth by both Liberal and Labor, I suspect, and even the minor parties.

That is the framework that we need to understand, the one ACLEI was born in and has operated in in the current environment. I wanted to add that. In addition, you need to appreciate the difference in scale between other integrity commissions. I think Mr Moss was going to the fact that the direct comparison between state integrity commissions and ACLEI would also be a difficult analogy to draw given the size of the Australian Federal Police, the ACC and other state policing entities. The nature of their work should be taken into account too. The ACC has powers different from what you might find in the state policing. To that

end, I know, from previous answers the ACC have provided to the committee, they do play a very important role in fighting crime and also have significant measures in place to deal with integrity issues. ACLEI, of course, works across agencies to ensure that those standards are maintained.

**Senator FISHER**—Thanks, Minister. The comparison with state agencies was not actually one that I was seeking to make. Mr Moss introduced that in his answer to a question that I asked. The government has chosen to retain ACLEI, so presumably the government believes that ACLEI has a valid job to do. I am concerned to see, if the job is stated as including detection in addition to responding to allegations made, that ACLEI is appropriately resourced to be able to watch the watchers. I have one further question which is essentially around much the same issue. Mr Moss, you are probably aware of an article which appeared in the *Australian* newspaper on 19 May 2008 that quoted you. It suggested that in Senate estimate hearings, then last month, you admitted that ACLEI did not have the resources to conduct proper investigations of suspected corrupt officers. The article quotes you as saying:

“It will be a quantum leap for this organisation ... if we get to the stage beyond responding to notifications and referrals and get to the point where we more proactively engage these intrusive powers in the detection of corruption and corrupt conduct ...

It is to that point of proactive engagement that I am trying to take you. As I see it, if this is an accurate reflection of your view, not so long ago you were concerned about your agency’s inability to proactively detect. I am not convinced by your answers today thus far that you are convinced that the budget provides you with the resources you will need to carry out your obligation to detect.

**Mr Moss**—Those comments of mine were taken from evidence I gave at a public hearing which the PJC on ACLEI conducted into the annual report 2006-07 of the Integrity Commissioner. I was outlining perhaps a longitudinal view about the prospects of ACLEI and saying that at some future stage it might need to have that standing capability to use the intrusive powers that are available. It was not so much a commentary on the present situation.

**Senator FISHER**—‘A quantum leap’ were reportedly the words you used, Mr Moss.

**Mr Moss**—Yes, they were the words that I used, but they were not reflecting the present situation. They were reflecting the situation as I saw it down the track, where perhaps some issue might arise and ACLEI might need to acquire the capability to use those powers.

**Senator FISHER**—Are you saying that the budget closes what would therefore be that quantum gap?

**Mr Moss**—No, I am not. Not at all.

**Senator FISHER**—Thank you.

**Senator IAN MACDONALD**—Just on that point, I think you said to Senator Fisher before that your budget in this year’s budget was not terribly flash. They were not your words. Is that correct—that you did not get the increases you might have hoped for?

**Mr Moss**—I was very pleased to get the increases in this budget. It builds on the existing base and it provides the basis to build further if need be.

**Senator IAN MACDONALD**—What were they?

**Senator Ludwig**—It is \$7.5 million over four years.

**Senator IAN MACDONALD**—How much is that a year? How much is that this year?

**Mr Moss**—In 2008-09 it will comprise \$1.5 million.

**Senator IAN MACDONALD**—On an existing budget of what?

**Mr Moss**—Of \$2 million per annum.

**Senator IAN MACDONALD**—This is quite a remarkable statement: you are saying that you are concerned that in the future you will not have the funds to do all the things that you would like to do.

**Mr Moss**—No, I am saying that in the future I may need to develop a standing capability for the use of intrusive powers. That was the reference that was quoted in the newspaper article.

**Senator IAN MACDONALD**—But on the funding you have now you would not have that capability.

**Mr Moss**—I have in place arrangements to get that capability if I need it, through interstate agencies or by using agency capabilities themselves—the ones that I oversight. I could use that. I would need to at that point, though, go to government for supplementary funding and wait for them to consider that request.

**Senator FISHER**—So you would be relying on agencies that do not have the powers that you have. Their powers are not tantamount to yours; otherwise there would be no need for your agency's existence. I mean that in an entirely positive way, if one can say that. Or you are going to be relying on the goodwill of the minister's office to give you more resources.

**Senator Ludwig**—Future budgets are not closed. You are not suggesting—

**Senator FISHER**—Of course not, Minister.

**Senator Ludwig**—Thank you.

**Senator IAN MACDONALD**—But you do have forward estimates. What do the forward estimates show for this agency?

**Senator Ludwig**—There is an additional \$2 million a year after this year. If you look at the size of the organisation, that is a significant increase in its funding.

**Senator IAN MACDONALD**—Okay, so it is a significant increase. So, Mr Moss, you do not really think that you will have problems into the future, seeing as you have a significant increase over the out years.

**Mr Moss**—I cannot predict the future. Should the need arise, I will be taking the steps I have outlined.

**Senator IAN MACDONALD**—That is approaching the government for a bit of extra money.

**Mr Moss**—Indeed.

**Senator IAN MACDONALD**—Good luck.



**Senator FISHER**—In relative terms, Minister, you may well be able to make the claim that it is a significant increase, but you cannot claim both that the agency was underfunded under the previous government and that you are significantly increasing what was an underfunding without—

**Senator Ludwig**—I am pleased that you have admitted that, anyway.

**Senator FISHER**—demonstrating that the resources can deliver.

**Senator Ludwig**—We do know that we need to address the number of complaints that are on hand, and the funding will go a long way to addressing that and ensuring that cases are dealt with in a timely manner. I am sure you would appreciate that that is the role of the organisation.

**Senator FISHER**—In fact, three-fifths of the allegations that have been made thus far are still in the pipeline to be dealt with. Two-fifths have been dealt with but three-fifths remain in progress. That is right, isn't it, Mr Moss—28 out of 48?

**Mr Moss**—Yes, and I am sure the additional funding will help us to finalise the issues that remain.

**Senator FISHER**—Presumably within the time frame set out in the budget statements. We look forward to seeing you back here. Thank you.

**CHAIR**—How long has ACLEI been established, Mr Moss?

**Mr Moss**—ACLEI was established on 30 December 2006.

**CHAIR**—Would it be fair to assume that in the course of only one year you have got yourself established and harnessed all the resources you need?

**Mr Moss**—ACLEI is an independent agency. We have gone through the process of establishing ourselves from the ground up. So, yes, what you suggest is correct.

**CHAIR**—What was your initial funding allocation from the previous federal government when you started?

**Mr Moss**—It was in the order of \$2 million per year.

**CHAIR**—How much has this budget given you?

**Mr Moss**—For 2008-09, it has given us in the order of \$3.5 million.

**CHAIR**—So it is a substantial increase over last year's spend.

**Mr Moss**—And for the three years after 2008-09, we will get an additional \$2 million per year.

**CHAIR**—Thanks.

**Senator IAN MACDONALD**—I would never hold the newspapers out to be an accurate reflection of anything, but the report that Senator Fisher was referring which was in the *Australian* of 19 May says the budget is 'lifting the ACLEI's budget by only \$750,000 in 2008-09 to \$2.82 million, along with a one-off capital injection of \$750,000'. I assume from that that the *Australian* has got it wrong yet again.

**Senator FISHER**—It is in the budget papers.

**Senator IAN MACDONALD**—Senator Fisher points out that that is actually said on page 82 of the PBS, which is a bit different to what you just told me of a \$2 million increase on a \$1.5 million base. We need some integrity here!

**Mr Moss**—It is a \$2 million base and a \$1.5 million increase in 2008-09.

**Senator IAN MACDONALD**—Sorry?

**Mr Moss**—It is a \$2 million base and an increase of \$1.5 million in 2008-09.

**Senator IAN MACDONALD**—Oh, I see; I have got the figures around the wrong way.

**Senator FISHER**—Comprised of \$0.75 million and \$0.75 million.

**Senator IAN MACDONALD**—It is a one-off \$0.75 million for capital—

**Senator FISHER**—For capital.

**Senator IAN MACDONALD**—Yes, for capital. So your increase actually is \$0.75 million on a \$2 million base.

**Mr Moss**—The increase is \$1.5 million on a base of \$2 million for the year 2008-09.

**Senator IAN MACDONALD**—But what are the forward estimates, say, for the following year, seeing there was a \$0.75 million one-off capital injection?

**Mr Moss**—For 2009-10 and the two years after that there is an additional \$2 million on a \$2 million base. This is on page 83 of the PBS.

**Senator IAN MACDONALD**—Yes, I have that. Thank you.

**CHAIR**—As there are no further questions, thank you, Mr Moss, for your time this evening.

[5.59 pm]

#### **Australian Crime Commission**

**CHAIR**—I now welcome representatives from the Australian Crime Commission—Mr Milroy and his team. Before I go to questions, do you wish to make an opening statement?

**Mr Milroy**—No, thank you.

**CHAIR**—Senator Barnett, do you have any questions?

**Senator BARNETT**—Yes. Mr Milroy and team, thanks for being here today and for the work that you do at the ACC—it is appreciated. Firstly, to the budget and the consequences of the efficiency dividend and the cut. Can you just outline to the committee your understanding of the budget allocation for the ACC for last year and this year?

**Mr Milroy**—The annual appropriation from the Commonwealth in the 2008-09 financial year is \$96.663 million. In addition, the agency, of course, also has an additional revenue stream provided by Commonwealth, state, and territory agencies of \$12.335 million—making a total of \$108.99 million available for the ACC to undertake its functions under the ACC Act. The net impact of the efficiency dividend and the weighed indexation is a reduction in appropriation in the 2008-09 financial year of \$2.320 million.

**Senator BARNETT**—Going back to the 2007-08 financial year, what was the appropriation and the joint appropriation from the other agencies?

**Mr Milroy**—The annual appropriation in 2007-08 was \$100.206 million. The total appropriation was \$99.378 million. If we look at the other revenue streams, that took the total revenue available to carry out our functions under the act to \$111.514 million.

**Senator BARNETT**—So the cut was from \$111 million back to \$108 million. I think I calculated that at around \$3 million? Is that correct?

**Ms Bailey**—About \$2.7 million.

**Senator BARNETT**—What is that in percentage terms?

**Ms Bailey**—It is about the same. It is just over \$100 million, so it is around 2.7 per cent.

**Senator BARNETT**—Have you calculated that in real terms? I have calculated it at 7.74 per cent in real terms, taking inflation into account.

**Ms Bailey**—No, I do not have that figure; we will have to calculate that.

**Senator BARNETT**—That is fine. This is significant, and it will have consequences for the ACC, so I would like to ask you how you are going to respond to the cuts that you have incurred—particularly in relation to the impact on jobs and staff and the programs that are going to be affected. Could we work through those questions?

**Mr Milroy**—In relation to the programs that would be affected, you would appreciate that the Australian Crime Commission board will meet in June to set the strategic direction for the ACC, and that really determines the focus for the agency for 2008-09 and beyond. That is linked to the papers that we provide to the board, which is driven by the national criminal intelligence priorities, the overview of organised crime and all the results of the activities that were carried out this financial year.

It is an important point to make that, to achieve these efficiencies set by the government, it is not initially about reducing staff numbers; it is also looking at efficiencies across the whole agency. It is a major challenge for the ACC in that we are a national agency required to have a foothold across the country. So we are looking at areas in which to be more efficient in terms of infrastructure costs, operational costs and supply costs. We are also looking at our attrition rate. Yes, there will be some reductions in staff numbers to meet this efficiency dividend, but we are reviewing all our operational functions and looking at ways where we can save and make it more efficient.

**Senator BARNETT**—Thank you very much for that overview, Mr Milroy. I would now like to drill down in terms of the impact of that efficiency dividend or cut. Firstly in terms of staff, what is the prognosis for staff numbers over the next 12 months?

**Mr Milroy**—You will notice that the PBS indicates a range of about 50 staff, but of course that depends a lot on the salary, costs of an individual staff member—

**Senator BARNETT**—An estimated reduction of 50?

**Mr Milroy**—That is correct.

**Senator BARNETT**—And they are full-time equivalent, aren't they?

**Mr Milroy**—That is correct.

**Senator BARNETT**—Can you tell me what the current level of staffing is, please?

**Mr Milroy**—The current level of staffing, as of 30 April, is 737. When you add the 42 free-of-charge—that is, task force personnel funded by our partner agencies—we have an operational capability in intelligence and in investigations of 779. And of course we are quite a unique agency in that the states, territories and Commonwealth contribute to the cost of quite a large number of their resources committed to joint projects—which is reflected in our overall funds available for the organisation to operate.

**Senator BARNETT**—Have you got a dollar figure for those 50 full-time equivalents that you are planning to save?

**Mr Milroy**—Looking at the organisation taking on board the efficiency cuts, the cost of running the organisation across the country, and increases in a raft of areas—and we have not completed our review—we have estimated that it could be in the vicinity of 50 staff over a 12- or 18-month period.

**Senator BARNETT**—Can you advise the committee what amount of saving you will make as a result of that decision?

**Ms Bailey**—Senator, perhaps I could help. Looking at the cost structure for the commission next year, with the efficiency dividend and our on-costs, I suggest that to reduce by 50 staff we need to reduce our costs by about \$5 million to \$6 million overall. That is because we have got other increased costs in depreciation and other matters. So the total is around that.

**Senator BARNETT**—Have you identified where those people are likely to come from—what parts of the ACC and geographically, and what programs or parts? Where will they come from?

**Ms Bailey**—We will be looking at a very detailed review of the work on hand and what the requirements are. It is mainly matching skills and capabilities to the work, so that is the first thing. Also, we have had quite a lot of new projects in the commission over the last few years and they were coming to an end this year anyway, so there will be some staff attrition through that. We have not formalised our view. We are taking a very scientific review of the work on hand and what the skills and capabilities are. We need to do it and then we are working back from there. So I guess we will have a view at some point, but at this point we are still at that process.

**Senator BARNETT**—All right. I draw your attention to page 93 of the portfolio budget statement where it says:

... the ACC Board will streamline its approach to addressing key high-risk criminal activities ...

Can you confirm that that is one of the areas that you will be streamlining or making relevant cuts to achieve the efficiency dividend?

**Mr Milroy**—That reference is as a result of discussions that were held at the previous board meeting and subsequent committees of the board, clearly driven by the results of the agency and our partners' work over the last 12 months, looking at what the intelligence analysis has indicated in terms of the national criminal intelligence priorities and the overview

of organised crime in Australia. Based on all of that information the board is considering a refocus and looking at priorities, clearly looking at the issues addressed in the PBS.

**Senator BARNETT**—Can we drill down. What are the high-risk criminal activities? Can you identify those for the committee?

**Mr Milroy**—At this stage, these are matters that are currently being drafted and submitted to the board for them to consider in June, to consider the focus and the strategic direction of the ACC. Bear in mind, of course, some of the areas that we are currently working in, you would appreciate from the budget papers, are tied funding. Those areas of activity will continue into the 2008-09 financial year.

**Senator BARNETT**—But what are those areas of activity?

**Mr Milroy**—At present those areas are in relation to criminal infiltration into the security industry. We have issues to do with the Wickenby matters, which are investigations. There are also identity strike teams, where we are in partnership with the Australian Federal Police. There is also the issue of synthetic drugs and some work in the covert environment.

**Senator BARNETT**—Is it likely that each of those or just some of those areas will receive the razor, or the streamlining?

**Mr Milroy**—No. The efficiency dividend applies across all funding, which includes tied funding but, subject to the board's decision, we will be continuing work in those areas, including the national intelligence task force and the Northern Territory emergency response.

**Senator BARNETT**—I will be coming to that in a minute. Can you identify any specific programs? Have you made a decision with regard to any specific programs that will be cut and, if not, have you contemplated any specific programs that will be cut? Can you advise the committee accordingly?

**Mr Milroy**—Based on the intelligence and the work that we have been doing over the last 12 months with our partners, it is more of a realignment or an integration in relation to certain work that we are doing in terms of high-risk crime groups, based on the intelligence and the knowledge that we have been able to achieve over the last 12 months. Crime in the transport sector is an area that is currently under consideration by the board to cease on 30 June. We knew six months ago that we were progressing towards completing that work.

**Senator BARNETT**—Which one is that?

**Mr Milroy**—Crime in the transport sector, which is looking at criminal infiltration into the airport, maritime and broader transport environment.

**Senator BARNETT**—And that will be decided by the board at the June meeting?

**Mr Milroy**—That is correct.

**Senator BARNETT**—But it has been flagged as likely to conclude on 30 June?

**Mr Milroy**—That is correct. There are some other areas of work where, clearly, as I indicated—prefaced on the criminal intelligence priorities, our overview of organised crime and the results of our activities—the board are going to consider a refocus, with more emphasis on some priority work, based on what the intelligence is telling us. We are gearing

towards submitting to the board proposals along those lines, clearly driven by the outcomes to date.

**Senator BARNETT**—So, in summary, if that does cease, did you say that another area will be likely to start up, or will you put your efforts and resources into the current areas of crime?

**Mr Milroy**—That is right; into the new focus. We will use those resources and put some of those resources into other areas where we believe it to be appropriate to merge some of the activities where we see a linkage across some of the intelligence and investigative work.

**Senator BARNETT**—I draw your attention to the PBS and the \$4.2 million in 2008-09 for your investigation into child abuse in the Northern Territory. On page 99 of your paper it says that it is to 'expand its activities currently conducted under the National Indigenous Violence and Child Abuse Intelligence Task Force'. But it goes for only one year, according to the budget papers. Is that a correct assumption? Can you alert me if that is not right? Is it a one-off funding?

**Mr Milroy**—There is funding in the current financial year, and the funding is continuing into 2008-09. It is interesting because the bulk of the funding for the Indigenous task force, which is tied funding, also finishes at the end of the 2008-09 financial year on the basis that we have a certain program of work, that we are working to that timetable to ensure that we complete the work across Australia in relation to the scope and extent of child abuse in Australia, and that we are able to report that to the board and governments for consideration.

**Senator BARNETT**—Is that a separate program?

**Ms Bailey**—Yes; there are two.

**Mr Milroy**—There are two, but in actual fact we manage them under one area because they are linked. They cross over and enhance the work—

**Senator BARNETT**—So there will be no further funding in the 2009-10 year, for example? At this stage it is not in the budget?

**Ms Bailey**—As you are aware, most of the Northern Territory emergency response is on a one-year allocation until the review is conducted. That is in the context that we have this appropriation. That further funding is in consideration post the review of the—

**Senator BARNETT**—But it is not in the forward estimates—there is no funding in the forward estimates at this point in time?

**Mr Milroy**—In the 2009-10 financial year there is an amount of \$443,000 which is for the completion of the Indigenous task force work. That funding is in our forward estimates.

**Senator BARNETT**—Would the minister be happy to clarify and confirm that that is the case?

**Senator Ludwig**—The additional \$4.2 billion appropriation in 2008-09 for the Northern Territory emergency response is an extension of the National Indigenous Violence and Child Abuse Intelligence Task Force. It is dependant upon the review, so it is not in the forward estimates. If it were—and I stand to be corrected on this—then the original NTER in this area

was not for other than 12 months to begin with, so it was not reflected in the forward estimates.

**Senator BARNETT**—When will the review be complete?

**Senator Ludwig**—That is a question that I can get back to you on, but I think it should be asked in the Families, Housing, Community Services and Indigenous Affairs area.

**Senator BARNETT**—It is relevant. We are talking about the Northern Territory emergency response.

**Senator Ludwig**—We all take that very seriously but, in that respect, this is not the agency to ask when that review will be completed.

**Senator BARNETT**—I am reading from page 100 of the PBS, which says:

The revenue decreases in 2009-10 as the Northern Territory Emergency Response measure terminates.

That is what it says, so I think it is not an unfair question and I hope that you can advise us swiftly.

**Senator Ludwig**—You are quite right and I indicated that it is subject to review. I certainly share your interest in this area. It is important work that the ACC does, and other agencies contribute to the success of the NTER.

**Senator BARNETT**—Could we focus on the litigation that the ACC is involved in and the various litigation that has been taking place with the ACC? Can you advise and provide an update to the committee in terms of the cases won and lost and those that are still at foot?

**Mr Milroy**—The legal cases I assume you are referring to are challenges to the ACC powers?

**Senator BARNETT**—Yes, particularly the coercive powers.

**Mr Milroy**—I will get Mr Outram to comment. I think there have been a considerable number won by the government and the ACC, but there are one or two matters that are still the subject of Federal Court and High Court hearings.

**Mr Outram**—The majority of the civil litigation has been brought on as a result of the Wickenby matters. There are over 30 occasions in the last two or three years where the ACC has effectively been sued. They cover a whole range of legal issues: some constitutional, some in relation to legal and professional privilege, some in relation to ACC processes and the ACC Act, some in relation to the exercise of powers by the examiners and so forth.

Thus far we have been highly successful in the defence of the vast majority of those cases in the Federal Court and also up to the High Court. In recent months, two or three of those matters have been successfully resolved. One, notably, was a case that was called MM and DD. We are told that the process for appeal has been withdrawn, so we are seeking costs in that case. There are still a couple of matters on hand. There is one in the Melbourne Federal Court where we recently received a notice of appeal in the decision. That is Dunn and Misty Mountain. These cases are still ongoing and there is a lot of complexity. We have brought a lot of legal capability into the ACC. We now have a QC as counsel assisting and he provides us with very good advice. We of course have a good relationship with the Attorney-General's

Department and the Australian Government Solicitor. So our response is very well coordinated but it is a constant challenge for us.

**Senator BARNETT**—Can you advise us, either now or on notice, of the details of each of the more than 30 cases in which the ACC has been sued. Do you have that with you? I am happy for you to table the papers if it is more convenient.

**Mr Outram**—We do have a fairly lengthy list but it may be advisable for us to take that on notice. There is a lot of detail in this list and it may take some time to work through it.

**Senator BARNETT**—That would be fine. You have sort of summarised it, but you have said there are some still at foot. How many are still at foot?

**Mr Outram**—We have two matters before the Federal Court in relation to Wickenby. We have other matters that will come on foot in the Federal Court in Darwin that relate to the national Indigenous task force into violence and child abuse.

**Senator BARNETT**—What is the nature of those matters?

**Mr Kitson**—Those matters relate to the service of summons notices on a couple of the parties in the Northern Territory. It goes to whether we can find information about child abuse from agencies that we believe hold that information. There have been challenges in that they have been seeking to withhold that information from us.

**Senator BARNETT**—So you have two cases at foot in the Federal Court with regard to the Wickenby matters and all the others have been dealt with?

**Mr Outram**—That is correct.

**Mr Milroy**—There are two current challenges, yes.

**Senator BARNETT**—How far away are they from being heard?

**Mr Outram**—We have only just received the notice of appeal for the Dunn and Misty Mountain case, so presumably that is going to take quite some time to work through. It now has to go to the full bench of the Federal Court.

**Mr Milroy**—The others are listed for mention in May and August respectively, so we would hope that we would get a decision in 2008—but we are in the hands of the court.

**Senator BARNETT**—When you take that question on notice, could you advise the committee of the cost of those cases to the ACC?

**Mr Outram**—Yes.

**Senator BARNETT**—I presume you are going to try and recover costs where you have had successes, so it would be of use if you could advise the committee of that.

**Mr Outram**—Absolutely.

**Senator Ludwig**—It might be worth clarifying whether all or some of the cases that are currently on foot may have provision for cost recovery.

**Mr Outram**—We can provide that information.

**Senator BARNETT**—I asked some questions earlier of the AFP in regard to the importation of heroin and other illicit drugs. The Australian Customs Service, in its 2006-07



report, outlined a useful matrix or format for the illicit drugs that they detect—the weight of those drugs and so on. Are you able to do the same? Can you outline for the committee the type of drug, the detection, the weight, the method of importation—whether it came in by air, land, sea or post—and the origin of that particular illicit drug?

**Mr Milroy**—Yes, we can. In fact, the *Illicit drug data report* is about to be released. We will be able to provide that information to you. It is a public document so we hope that in the next few weeks it will be readily available.

**Senator SIEWERT**—I want to ask about the issue that Senator Barnett touched on, and that is the National Indigenous Violence and Child Abuse Intelligence Task Force. As I understand it, the \$4.2 million has specifically been allocated for the emergency response in the NT. Is that a correct understanding?

**Mr Milroy**—That is correct.

**Senator SIEWERT**—As I understand it, though, your new powers that were given under that NT response actually refer to Indigenous child abuse beyond the NT. Am I correct?

**Mr Milroy**—Yes, that is correct. We have an Indigenous task force which has a national responsibility, which has been funded, and the powers were granted for use, where applicable, across the country.

**Senator SIEWERT**—But in all cases, as I recall, it is specifically about Indigenous child abuse, is it not?

**Mr Milroy**—That is correct.

**Senator SIEWERT**—Do you do any work on child abuse outside of Indigenous child abuse?

**Mr Milroy**—Other than collecting some intelligence, but specifically in relation to this work, no. It is Indigenous-specific.

**Senator SIEWERT**—How much money have you been allocated to the broader issue of Indigenous child abuse as opposed to just in the NT?

**Ms Bailey**—This year it is \$4 million for the emergency response and \$4 million for the Indigenous task force. For 2008-09, it is \$2 million for the Indigenous task force and \$4.2 million for the Northern Territory emergency response.

**Senator SIEWERT**—I understand there is an ongoing investigation. I may ask a question that you cannot respond to, so just tell me. When investigating the issues in the Northern Territory, have you had evidence of child abuse in a non-Indigenous community?

**Mr Kitson**—The inquiry, which is an intelligence operation for us, looks at violence and child abuse in Indigenous communities. There may have been some low-level, minor intelligence relating to non-Indigenous victims but, essentially, the answer is no.

**Senator SIEWERT**—Is the work of the NT section of the task force specifically related to the 73 prescribed communities?

**Ms Bailey**—I think the funding is primarily for use in the Northern Territory, but I would have to confirm that. I am not aware that we are limited to the 73 prescribed communities. I

think it is primarily for use in the Northern Territory, but I am not sure whether we are constrained by that. But I could verify that.

**Senator SIEWERT**—That is the \$4.2 million. Could you confirm whether it is for the whole of the NT?

**Ms Bailey**—I think it is as it is written in here, which is ‘primarily for use in the Northern Territory’, but I can confirm that.

**Senator SIEWERT**—Are the same people who are responsible for the broader issue of Indigenous child abuse, which the task force is working on, also working on the NT intervention?

**Mr Milroy**—As far as the ACC are concerned, this is all managed under the one team.

**Senator SIEWERT**—Is it possible to give us an indication of whether people have yet been charged under your investigation?

**Mr Milroy**—The work that we have been doing has specifically related to collecting intelligence and understanding the scope and extent and, where we have uncovered allegations of violence, child abuse or any other related matter within the Indigenous community, those have been referred to the relevant law enforcement or government agency to assist them in their ongoing inquiries. In relation to any matter that may be the subject of an investigation then the answers would need to come from the specific jurisdiction as to whether they have been able to be progressed. But, at some stage or other, we were capturing that data to report to the board on what has occurred with the information that we are provided and it has been quite considerable.

**Senator SIEWERT**—Could you just repeat that?

**Mr Milroy**—At some stage in the next few months we will be reporting to the Crime Commission board on the findings nationally and by jurisdiction. We are also hoping to be able to collect from our partner agencies which received the information details on what have they done with it, whether it was successful and whether there has been any investigation that may or may not have led to a prosecution.

**Senator SIEWERT**—So you have already handed over quite a bit of intelligence?

**Mr Milroy**—Yes.

**Senator SIEWERT**—And, as I understand it, you will be doing a summary report to give to the board?

**Mr Milroy**—That is correct.

**Senator SIEWERT**—I have a couple of questions and I see I am racing against the clock. Chair, can we come back on this issue?

**CHAIR**—Yes.

**Proceedings suspended from 6.30 pm to 7.31 pm**

**CHAIR**—It being just after 7.30 pm, we will resume questioning regarding the 2008-09 budget. Welcome back to the Australian Crime Commission.

**Senator SIEWERT**—Could you tell me how many staff are working in the task force that is dealing with the broader issues across Australia and the number of people working in the specific NT end? I think that is where we were up to, weren't we?

**Mr Milroy**—Yes.

**Senator SIEWERT**—We were talking about who was working where.

**Mr Milroy**—My colleagues might clarify this, but I believe the total number of staff on the task force at the moment, from a national perspective, is 37, and 17 are specifically in the Northern Territory.

**Senator SIEWERT**—Is that 37 plus 17 or 37 overall?

**Mr Milroy**—It is 37 including the 17 in the Northern Territory.

**Senator SIEWERT**—In that case, 20 are working in the rest of Australia and 17 are in the Northern Territory.

**Mr Milroy**—That is right. The task force is run from a national perspective. The original purpose of the task force was to look at the nature and extent of Indigenous crimes, and it is managed under that arrangement. Based on the profiling and the other work that we are undertaking by broad consultation, we decide which sites are to be visited across the country to collect intelligence. It is important to point out that this is an intelligence collection process and it does not have an investigative function.

**Senator SIEWERT**—It is not investigative?

**Mr Milroy**—It is not investigative. Information that we collect is disseminated. There have been over 333 disseminations to law enforcement and government agencies since the commencement of the task force when it was approved by the board on 13 July 2006.

**Senator SIEWERT**—There were 333 intelligence disseminations. Were they to the other agencies that you were talking about—the Northern Territory Police, for example?

**Mr Milroy**—That is right. And also to some government agencies as well.

**Senator SIEWERT**—As I understand it, you can use your coercive powers under the act.

**Mr Milroy**—That is correct.

**Senator SIEWERT**—Have you had to use those in gathering that intelligence?

**Mr Milroy**—Yes, we have.

**Senator SIEWERT**—In how many instances have you had to do that?

**Mr Milroy**—We have conducted one range of hearings in Alice Springs, and there are plans to carry out some other hearings shortly in another locality, which for security reasons I am not at liberty at this stage to divulge.

**Senator SIEWERT**—Your coercive powers were to require people to attend?

**Mr Milroy**—That is correct. The powers also have a notice provision, and one of the main reasons for the powers being approved by the board as a special intelligence operation was impediments to the information collection due to a lack of reporting that we had seen across the country and traditional methods not being effective. The notices are issued to NGOs and

other health workers who we believe have indicated that they have information. The issue of the notice would provide them with legal coverage under the confidentiality of the coercive power process to be able to divulge that information to the ACC for analysis and subsequent dissemination, if need be, to an agency to pursue the investigation or follow up some inquiries.

**Senator SIEWERT**—Are the 333 intelligence dissemination reports 333 cases, or are they reports around one case—for example, when it goes to other government agencies or to the NT police? I am trying to find out whether that includes multiple reporting of the same case.

**Mr Milroy**—I think we basically indicate that from the commencement of the task force until May we have conducted 163 visits to 128 different communities and we have also attended over 1,200 meetings across Australia. As a result of all that activity, we have disseminated the 330 pieces of information to the various agencies. Also as a result of our work we have uploaded 750 information reports into the Australian Criminal Intelligence Database, which is accessible by those partners who are duly authorised to access the database. Also seven intelligence reports have been produced on situations or persons of interest—again, for consideration and appropriate action by other agencies. So there are a variety of pieces of information as a result of the broad-ranging field intelligence collection activities across a raft of areas across the whole country, and that information is then disseminated. As to whether they are multiple reports, or duplication, Michael or Kevin could perhaps comment.

**Mr Outram**—There will be some of what you might call duplication when we get information from two separate sources about the same issue. That may well represent two disseminations if it comes in at different times and it is from entirely different sources.

**Senator SIEWERT**—Okay. Sorry, I am not used to dealing with crime issues so I do not understand some of the terminology. When you talk about intelligence dissemination reports, it could be that you just have a bit of information and you send it on?

**Mr Milroy**—That is right. In actual fact I have to explain that what we have seen across the whole country—and it is fairly consistent—is instances of violence, child abuse, child neglect, use of pornography, fraud and substance abuse. So the information reports that are uploaded as well as disseminated, depending on the value of information, relate to this broad range of incidents or information relative to those alleged crimes.

**Senator SIEWERT**—In what way are the seven situation reports different to the other reports—the 333 intelligence dissemination reports?

**Mr Milroy**—That is where we basically would have gathered quite an amount of information relative to a person of interest from, say, more than one source. But if you want any further information we would probably have to take that on notice.

**Senator SIEWERT**—If you could, that would be appreciated. From my understanding of the legislation, your remit is that you look at Indigenous violence and child abuse but you can deal with non-Indigenous people abusing and causing violence to Indigenous people and Indigenous children; is that correct?

**Mr Milroy**—That is correct.

**Senator SIEWERT**—So the work that you have been doing has been looking at those situations as well?

**Mr Milroy**—That is correct.

**Senator SIEWERT**—The report *Little children are sacred* reported on Indigenous people causing abuse, but there were also big issues around non-Indigenous people coming into communities. Has that come out in your investigations?

**Mr Milroy**—We have identified that in some instances, yes.

**Senator SIEWERT**—What proportion of the instances would be related to Indigenous versus non-Indigenous abuse?

**Mr Milroy**—We would have to take that on notice. We would have to analyse quite a lot of data to be able to answer that question, but I can assure the committee that any of that information is forwarded to the appropriate authorities for inquiries or investigations.

**Senator SIEWERT**—When the community affairs committee met in Alice Springs and Darwin it received evidence from community based legal organisations that most of the reports they had had and the cases they were dealing with related to underage sex rather than to paedophilia per se. I have also had that feedback in my office and when I have been travelling. Do you deal with those issues? I should hasten to add that I am not justifying the underage sex issue, but in my opinion it should be dealt with in a very different way. There are different education levels and all sorts of things involved. Has the ACC come across that? Do you deal with it and what happens when you do?

**Mr Milroy**—We have received reports, and that is reported on to the relevant agency.

**Senator SIEWERT**—In what proportion of the investigations that you have done have you found that the issues revolved around underage sex rather than paedophilia?

**Mr Milroy**—I am not sure if my colleagues can answer that specifically. If not, we will have to take it on notice.

**Mr Kitson**—We can attempt to take that on notice, Senator, but I doubt very much that the detail will be available to us to that level of granularity. Certainly, the extent of underage sexual activity is endemic across all of the communities that we visited and all of the communities from which we received reporting and where people have shared their stories with us. The extent to which it is a proportion of the information that we have either uploaded to the criminal intelligence database or provided to other agencies, I very much doubt that we would be able to provide with any great degree of confidence in its accuracy.

**Senator SIEWERT**—I am just wondering why you would not be able to. I could understand if you were not able to for legal reasons but I would have thought that, if you have a fairly accurate database, that would have been fairly easy information to provide.

**Mr Kitson**—We would need to go through each of the 1,100 reports. I think we would be able to say that the issue of underage sexual activity would probably be present in the vast majority of the reports, but the extent to which that is the defining feature of the report, rather than some contextual information for it, is perhaps the area of difficulty for us.

**Senator SIEWERT**—If you could look at it and provide me with any further information, that would be very much appreciated.

**CHAIR**—To clarify that, you have conducted interviews or investigations across a range of communities in the Northern Territory; is that right?

**Mr Kitson**—Yes.

**Mr Milroy**—Across Australia.

**CHAIR**—Across Australia; not just the 70 communities under the NTER?

**Mr Milroy**—That is correct.

**CHAIR**—So you have now 1,100 reports; is that right?

**Mr Kitson**—Roughly, yes.

**CHAIR**—Do you have a breakdown of those by state and territory—how many from the Territory and how many from Western Australia, for example?

**Mr Milroy**—Yes. We take into account the number of visits, whether we have returned to a community more than once and the reports that were generated from those visits—by community and by state, and who the information has gone to.

**CHAIR**—Can you take that on notice and provide us with a spreadsheet of that?

**Mr Milroy**—Yes.

**CHAIR**—The majority of those 1,100 reports would provide you with evidence that there is underage sex in those communities.

**Mr Outram**—I would clarify the word ‘evidence’. Information is provided and we then have to determine its accuracy and the credibility and validity of the source of the information. Sometimes it is hearsay and the sort of information that we receive is very anecdotal. Then we may get similar information from other sources, so you start to think that there may be something to this. If somebody gives evidence at an examination it may add more weight to the information they have provided, given that it is under oath, on compulsion, et cetera. Information can obviously have a lot of different weightings attached to it.

**CHAIR**—Does your level of investigation go to whether that underage sex is consensual or not?

**Mr Outram**—In some cases, if that was the theme or the subject matter of the report, it would say that, yes. If there are allegations specifically of under-age sex, some reports, I suspect, would specifically deal with that issue.

**CHAIR**—But you do not have that by quantity or number?

**Mr Outram**—No, I do not believe we do.

**CHAIR**—How many cases of paedophilia are under investigation not only in the Northern Territory but also across the country?

**Mr Milroy**—As far as the field intelligence collection goes, we have not detected any organised paedophilia rings operating across Australia in the areas that we have been to. So, in

relation to whether they are the subject of other investigations, that would be a matter for the individual police agencies. But we have not found any evidence of that at this stage.

**Senator SIEWERT**—No organised paedophilia?

**Mr Milroy**—No organised paedophilia.

**Senator SIEWERT**—Have you reported any paedophilia and have charges been laid?

**Mr Milroy**—We would have to check on that. We do not lay charges.

**Senator SIEWERT**—I understand that you are intelligence—

**Mr Milroy**—We would have to check with other agencies to see whether we have actually referred any information.

**Mr Outram**—We have received information of that type. Of course, you would be aware of the difficulty in that we can refer that information on but it is then a question of whether or not witnesses and other people are willing to provide a statement to the police. Our referring of that information on to police does not necessarily bring about a criminal prosecution because they have to go through a lot of other things. But we are unearthing a lot of previously unreported information. That is really what our mission is. A lot of information is locked down in various organisations and agencies, some of them in hard copy and paper. So we are using our powers to try to put some light on that information and aggregate that information to get a better understanding of some trends and issues—geographical or other sorts of trends—that we can tease out. But, certainly, when we refer information on to the police, it is a matter for them to take action and to try to put an evidential brief around that, and that of course is not very easy some times.

**Senator SIEWERT**—So at this stage you are unaware of or you have not followed up whether charges have been laid on the intelligence reports that you have made?

**Mr Milroy**—We will need to take that on notice. As I indicated previously, we are currently checking with our partner agencies in relation to the information that they have already provided over a period of time so that we can include that in our submission to the board. I would also indicate that, from my own experience, investigations of these types of matters are sometimes fairly protracted. And, of course, when you have under-age individuals making allegations that are not witnessed, the challenge is for the investigative bodies to take the information which may be from one source and try to do investigations to establish whether in actual fact the alleged offence has been committed. Even in the broader community, matters of this kind take quite a lot of investigative time and they have to be dealt with very sensitively. We are undertaking at the moment to collect the information from our partners on what has occurred with the information that we have provided to them and whether it has assisted them in any investigation or whether they are in the process of initiating any prosecutions. We will report on that in due course.

**Senator SIEWERT**—I want to come back to another question in a minute, but I would just like to follow up on this. When are you due to report that—

**Mr Milroy**—We will provide the Crime Commission board with a report on a national picture of Indigenous violence and child abuse at the board meeting in June. Each of the jurisdictions is being provided this week with a jurisdiction specific list of the findings of the

task force to date. We of course have another 12 months of work, and the Australian Institute of Criminology will also be doing some research on some of the overall findings. So we will be reporting after the June board meeting in due course, probably over the next 12 months or as required, as to the results of the field intelligence collection work.

**Senator SIEWERT**—The government has announced that it will be undertaking a review—and in fact has already released one of the tenders for that review of the NT intervention. I am presuming that you will be part of that review and the information that you have collected will form part of that review.

**Mr Milroy**—That is a matter for the government and the minister. The results of our work are referred to Minister Debus and briefings have also been provided to Minister Macklin and the relevant ministers will receive a suitable briefing—and have to date. I would imagine that that information would form part of any subsequent review.

**Senator SIEWERT**—Have you been involved in any discussions about the nature of or the terms of reference for the overall review?

**Mr Milroy**—Personally, no.

**Senator SIEWERT**—Have you or the agency been involved, I should say.

**Mr Milroy**—No.

**Senator SIEWERT**—There have been no discussions, then, of your involvement in that review?

**Mr Milroy**—Not at the present time.

**Senator SIEWERT**—Going back to the issue of the reports: there are no organised paedophilia rings in any communities in Australia?

**Mr Milroy**—Based on the visits we have conducted—which have been quite extensive—we have not uncovered any information to substantiate that claim.

**Senator SIEWERT**—I understand from what was said earlier that there have been reports of paedophilia.

**Mr Milroy**—I would have to take that on notice unless my colleagues can answer.

**Mr Kitson**—There are some definitional issues to be overcome here. I think we tend to view issues of paedophilia through some conventional understandings and terms that probably relate to paedophilia as we understand it in cyberspace. There are those issues of identification, grooming and perhaps a high degree of organisation, secrecy and sophistication. We may be looking here at much more informal systems that do not readily identify—

**Senator SIEWERT**—Did you say ‘informal’?

**Mr Kitson**—Yes. We do not see that highly organised, highly structured pattern of paedophilia. It may be possible to look at some of the information that we have got and infer that there is a degree of organisation or collaboration involved in the abuse of some individuals but not what we would classify as a paedophile ring. I think there is quite an important distinction to be made.



**Senator SIEWERT**—Thank you for that. In the reports that you have made to date, are you able to break the paedophilia issue down into Indigenous and non-Indigenous perpetrators?

**Mr Kitson**—Where we are looking at people from outside the communities being involved?

**Senator SIEWERT**—Sometimes the non-Indigenous people within the Indigenous community.

**Mr Kitson**—I do not know. We would have to take that on notice.

**Senator SIEWERT**—If you could, I would like it broken down to Indigenous and non-Indigenous, as well as Indigenous from outside the community. I am presuming that, where you have been looking outside the NT, you have been looking in urban communities as well. Of course, it is a bit harder then to say what is outside and what is inside, but if you could provide me with that information it would be much appreciated. Are you able to tell us which communities or regions the seven situation reports that have been submitted relate to?

**Mr Milroy**—We will provide that on notice.

**Senator SIEWERT**—I apologise if I asked that one before.

**Mr Outram**—There might be an in-confidence aspect with that, given that we are seeing some of those communities yearly.

**Mr Milroy**—We would have to look at the actual information that we have provided—the current state of it—and indicate whether there are legal issues here, but we will give you a suitable response.

**Senator SIEWERT**—I understand that you also look at the other issues around porn and substance abuse. Could you tell me if provisions have been put in place to control access to porn in the prescribed communities? Are you looking at the effect of those? Have you noticed a decrease in the availability of porn in those communities?

**Mr Milroy**—I do not think we have a comment in relation to that.

**Mr Kitson**—I do not think we have a comment on that, but a good chunk of last year's funding is designated for the Institute of Criminology to examine such issues. At this stage we would not have either sufficient information or understanding to be able to provide you with an authoritative comment.

**Senator SIEWERT**—Is porn still playing a major role in those communities as it relates to child abuse?

**Mr Milroy**—We are basing this on the visits, but I think there is a general concern amongst communities that limited supervision, overcrowding and the alleged showing in public spaces contribute to the inappropriate exposure of children. That is what we have uncovered as a result of information based on the visits to date.

**Senator SIEWERT**—This is past exposure rather than current exposure?

**Mr Milroy**—I cannot go into that sort of detail at this stage.

**Mr Kitson**—I think it would be fair to say that there are elements of both current and past exposure.

**Senator SIEWERT**—On the issue of Austar and access to the adult-only R18+ channels, there are claims that the encryption process and using a PIN are sufficient to protect children from actually accessing that material. The issue is that there is a proposal to stop the use of that material, and the companies claim that the encryption process and the PIN code work. Has access to those channels been an issue that has come up in your investigations?

**Mr Kitson**—I do not think so.

**Mr Milroy**—I am not sure, but that could be picked up in the AIC research.

**Mr Kitson**—It may be picked up in the latter phase research projects, but it is not something that is featured in any of the reporting that I have seen to date.

**Senator SIEWERT**—The access to that material has not featured?

**Mr Kitson**—That is right.

**Senator SIEWERT**—So printed porn material is more the issue?

**Mr Kitson**—I think there is certainly evidence of moving image pornography, but I do not know that you can point to it being satellite distributed.

**Senator SIEWERT**—So it is on the web?

**Mr Kitson**—It is probably videotape and DVD material.

**Senator SIEWERT**—That is consistent with what I have been told by other people. You also investigate substance abuse and drug movements into communities. Do people tell you about concerns that people are moving into communities and bringing illegal substances in?

**Mr Kitson**—Yes, and we have a very close relationship with the Substance Abuse Intelligence Desk, which is based in the Northern Territory and is predominantly hosted by the Northern Territory police force but funded by the Commonwealth. We have worked very closely with them over the past two years of the Indigenous task force's activities. We follow very closely the movements of people in and out of the community who are alleged to be dealing in drugs.

**Senator SIEWERT**—Do they relate to the 330 intelligence reports that you have provided?

**Mr Kitson**—I am sure they would do.

**Senator SIEWERT**—Would you be able to break down those 330 intelligence reports into what relates to drug issues versus the child abuse issues?

**Mr Kitson**—I am sure we could give a broad indication of the criminal intelligence matters that are covered in those. There would be a substantial amount of work involved in that, but we could probably do it. It would take time, I suppose, is the point that I am flagging—but, yes, it is possible.

**Senator SIEWERT**—Thank you.

**CHAIR**—Thank you very much, Mr Milroy and your team.

[8.00 pm]

### Australian Customs Service

**CHAIR**—Welcome. Would you like to begin with an opening statement?

**Mr Carmody**—Not so much an opening statement but, seeing this is an estimates hearing, I do need to correct a figure in our table in the budget related paper 1.2—Attorney-General's portfolio. On page 112 there is a table, '2.1 continued'. Unfortunately, the average staffing level numbers that are recorded there are inaccurate. So I want to take the opportunity to correct those now, as it is probably relevant to your hearings. The estimated average FTE for 2007-08 is about 5,864, rather than 5,525. Our estimate for the coming year, 2008-09, is an average FTE of roughly the same number, around 5,875. Firstly, I apologise—we got it wrong—but I want to correct those figures. Secondly, a couple of points: they do reflect average FTE for a year and they reflect a period of growth in FTE over 2007-08 and a period of some decline in FTE over 2008-09. I wanted to correct those figures for the committee.

**CHAIR**—I can report in opening that I was in Nhulumbuy on the north-east Arnhem Peninsula last Thursday and your new Customs building on the peninsula looks like it is on schedule. It is in the middle of being built. I imagine there will be a fight to see who is going to staff it. It is two storeys and it looks out over the Wessel Islands.

**Mr Carmody**—That is very important—what an outlook!

**CHAIR**—Four people behind you have put their hand up to go there already! Do we have some questions?

**Senator MARSHALL**—Flicking through some yachting-cruising magazines recently I saw some letters to the editors that are rather scathing about Customs. I have a couple of questions about your complaints process.

**Mr Carmody**—Someone will be able to handle them for you.

**Senator MARSHALL**—In terms of overseas cruising and Australian based yachting, what level of complaints do you get?

**Mr Carmody**—I do not know that we have any details, but I do not believe they are that significant. Possibly the background to some of those complaints was a prosecution that was done of people who did not report within the time frames.

**Senator MARSHALL**—I want to take you to that specific matter.

**Mr Carmody**—I think that was what was generating it, but I am not aware that we have received a large number—not at all, apparently.

**Senator MARSHALL**—Could you take that on notice and give me a list of how many complaints there have been and whether they are all on that issue or whether there are some other issues. Some of the complaints go to some heavy-handed nature of Customs officials, but I will not go to the detail of each complaint at this point. But you are right: many of them are around the issue of reporting within 96 hours of arrival. Can you explain to me how that works in practice. To predict your entrance at an Australian port 96 hours in advance when you are relying on the weather seems a rather difficult ask to me.

**Mr Carmody**—We will get an expert to help.

**Senator HEFFERNAN**—It sounds easier than tax.

**Mr Carmody**—Calculating 96 hours is not all that taxing, Senator.

**Ms Kelley**—While the legislation requires that the report must be lodged no earlier than 10 days before a vessel's intended time of arrival, this provision is administratively waived in relation to yachts and other small craft in recognition of possible limitations in their communication options and also the length of their journeys. That takes account of some difficulties they may have.

**Senator MARSHALL**—Again, some of the articles refer to prosecutions by Customs for breach of this provision. How many yachts or masters of yachts have been fined or prosecuted for failing to comply?

**Ms Kelley**—I do not have that figure with me. We can take that on notice.

**Mr Carmody**—I do think a lot of this is generated by the particular case. I do not have it on me. It would be instructive to read the court's comments on this, because I think it is fair to say they are rather scathing of the particular gentleman's approach.

**Senator MARSHALL**—Okay. That is all I have. I would like the answers to those questions on notice.

**Mr Carmody**—We do have a number of prosecutions.

**Ms Grant**—Since the introduction of the new pre-arrival reporting regime in October 2005, which required 96 hours prior to arrival, we have had seven prosecutions of individuals who have failed to comply with the requirements and one prosecution of a company that failed to comply with the requirements.

**Senator MARSHALL**—I will leave the complaints breakdown there. We will have a look at that and maybe ask a couple more questions next time around. Finally, are Customs officers required to wear identification when they are boarding vessels?

**Ms Grant**—Customs officers are not required to wear a Maritime Security Identification Card when they are working in the port environment because they are law enforcement officers under the relevant legislation. Customs officers will wear the identification pertaining to the Customs uniform. The uniform requires wearing of a name badge or a number badge.

**Senator MARSHALL**—Are there set protocols for the boarding of yachts?

**Ms Grant**—There is certainly a small craft boarding guide that our officers apply when they are boarding craft.

**Senator MARSHALL**—Is that a public document?

**Ms Grant**—A public version of that document was made available to this committee some years ago, so we could provide that version of the document again. That document deletes some operationally sensitive risk assessment information.

**Senator MARSHALL**—My final question is: under what circumstances would Customs officers board an Australian registered vessel in Australian waters?

**Ms Grant**—The Customs Act allows us to board an Australian registered vessel in Australian waters if we believe that there has been a contravention of some Commonwealth legislation that we administer.

**Senator MARSHALL**—So there does in fact have to be just cause for the boarding of an Australian vessel?

**Ms Grant**—We can request to board a vessel to ascertain the circumstances of that vessel and what that vessel is doing. In Australian waters we can board an Australian registered vessel at any time, but of course we would be boarding to ascertain the journey of the vessel, what the vessel is intending to do in those waters and if any contravention of legislation is taking place. We would not board a vessel for no apparent reason.

**Senator MARSHALL**—Thank you. That is all the questions I have. I may have some more questions in November.

**Senator HEFFERNAN**—How are you, Mr Carmody? You look pretty cheerful these days!

**Mr Carmody**—I am very good, thank you.

**Senator HEFFERNAN**—I am chairing, believe it or not, an inquiry into fertiliser. To assist that inquiry, I want to ask you: what records do you keep of port movements—in this particular case, for Townsville? Do you keep invoices and accurate records of the fertiliser that comes through the port and its destination?

**CHAIR**—Shouldn't you be raising these matters in your inquiry?

**Senator HEFFERNAN**—These blokes should have this information.

**CHAIR**—I know that, but is this the right place for doing this?

**Senator HEFFERNAN**—Yes, it is, because then we will have it for the inquiry.

**Mr Carmody**—We certainly have a combination of vessel reporting requirements and cargo reporting requirements. But I do not know what specific details we could provide to the committee.

**Senator HEFFERNAN**—I have the shipping records from the port, and there is some definition of 'destination', but we have heard various assertions and allegations in our inquiry. Do you keep accurate records on whether a shipload of fertiliser from Townsville is going to Melbourne, Burnie, Bullamakanka, Taiwan or somewhere?

**Ms Grant**—We keep records of international arrivals in Australia. If an international vessel is arriving here, we have 96 hours advance notice of a ship's expected arrival time. We have a report of the ship's crew, the passengers on board the vessel and the cargoes on board the vessel.

**Senator HEFFERNAN**—That is inbound, but what about outbound?

**Ms Grant**—We have a record of the departure of the vessels as they leave ports and move to another port or leave their final port in Australia. If they are exporting goods from Australia an export entry would be lodged, so we have a record of export cargo.

**Senator HEFFERNAN**—By way of routine, in the case of fertiliser, do you sample it to see what it is? Does anyone bother to see whether it is actually fertiliser?

**Mr Carmody**—Not by way of routine, but we would make interventions on a risk basis.

**Senator HEFFERNAN**—Would you be able to provide to this committee, to assist the other committee, a breakdown of where the 492,674 tonnes of fertiliser that went through Townsville in 2004-05 actually went?

**Mr Carmody**—If you provide us with the questions, we will provide what we can. As Marion has indicated, we get reports on exports and imports.

**Senator HEFFERNAN**—If I am a ship's captain and I load my ship in Townsville and say that I am going to, say, Suva, is there any way the ordinary Australian citizen can tell that the ship actually went to Suva and did not go to Brazil?

**Mr Carmody**—Short of getting intelligence reports, we do not track vessels once they leave Australia to go overseas. In the normal course of events, we would not have that information.

**Senator HEFFERNAN**—If the ship left Townsville, went to the port of Melbourne, paid demurrage and then left for overseas somewhere, would you know about it?

**Ms Grant**—Yes. In fact I should clarify my previous response. If the vessel was on a domestic voyage from, say, Townsville to Melbourne and had been on a domestic voyage, we may not know about that one. But when voyages commence overseas and arrive in Australia, we know movements of those vessels from port to port within Australia, and then we know when they leave Australia to an overseas destination.

**Senator HEFFERNAN**—So you would have a definite record of a ship that loaded in Townsville and then went to Melbourne. You would have a record that it went down to Melbourne and did not go to Fiji?

**Ms Grant**—If it was on an international voyage we would have that record.

**Senator HEFFERNAN**—If it was just supplying fertiliser—

**Mr Carmody**—If it was an Australian vessel doing coastal trade—that is, not international—we do not have records of that.

**Senator HEFFERNAN**—At the port in Townsville, though, does the ship have to fill out a log saying, 'We are going to Melbourne'?

**Mr Carmody**—I think what we have been attempting to explain is that we are talking about international exporting, importing and associated links in Australia. But, if it is purely domestic plied trade, we do not get records of that.

**Senator HEFFERNAN**—So if there were an instance where a ship allegedly was exporting—going to an overseas destination—but instead went to the port of Melbourne and stood off in the port of Melbourne for a month, for instance, and paid demurrage, you would not know about it?

**Mr Carmody**—I think if it is alleged to be an export they are due to report to us.

**Ms Grant**—Yes. If it were to export, we should have—

**Senator HEFFERNAN**—In other words, if they were playing silly buggers, which is one of the allegations that have been made to our committee—

**Mr Carmody**—We are talking in generalities. If you do have specific details of vessels and craft, if you provide them to us we will provide what information we can on notice.

**Senator HEFFERNAN**—I have here a document showing a record of shipping for three years out of Townsville and the ships recorded. Would you be able to provide the alleged destination for those ships?

**Ms Grant**—If those ships departed from Australia, we would be able to extract the information about their next port on departure from Australia.

**Senator HEFFERNAN**—That will do me. Thank you very much. I might take that bit of paper back and do some paperwork up and send you a request—

**CHAIR**—Senator Heffernan, I was just about to draw your attention to the fact that I think we may well be right in our first assessment about your questioning, and you may well be—

**Senator HEFFERNAN**—Out of order.

**CHAIR**—You may well be out of order.

**Senator HEFFERNAN**—That does not surprise me. I am always out of order.

**CHAIR**—Let me just tell you for future purposes: standing order 25(14) says:

A committee shall take care not to inquire into any matters which are being examined by a select committee of the Senate appointed to inquire into such matters and any question arising in this connection may be referred to the Senate for determination.

**Senator HEFFERNAN**—To overcome that, we could call these people to the select committee.

**CHAIR**—That is correct, and you would need to ask your questions in that forum.

**Senator HEFFERNAN**—That will do, thanks.

**CHAIR**—Thank you, Senator Heffernan. I had a feeling my first reaction was close.

**Senator SIEWERT**—I have some questions on whales and some on bees and honey. I will do the bees first. I understand that earlier in the year there was a result in the long-running court case on the import of honey—120 cases of it—that stretched from 2000 to 2002. That was concluded and, in fact, it was won.

**Ms Grant**—That is correct.

**Senator SIEWERT**—Could you tell me who was found guilty and what penalty was applied?

**Ms Grant**—I will need to take that on notice; I do not have those details with me.

**Senator SIEWERT**—That would be appreciated. Could you also tell me if costs were awarded against those who were found guilty.

**Ms Grant**—We will include that with the answer on notice.

**Senator SIEWERT**—You do not know.

**Ms Grant**—Unfortunately, I did not bring any details of that particular case to the hearing this evening.

**Senator SIEWERT**—You may not be able to help me with my other questions then, but I will ask them and it would be appreciated if could take them on notice. Did the government fully recover their legal costs?

**Ms Grant**—I will take that on notice.

**Senator ABETZ**—I appreciate that. Could you also tell me whether Customs believes that the penalty applied was adequate to cover the seriousness of the offence? It was a pretty serious case in terms of the threat posed by importing that honey and then exporting it. The honey was moved from China via Australia to the US to circumvent the US antidumping laws. Does Customs consider that the penalty was significant enough to actually discourage people from doing it again, considering the seriousness of the offence? Has Customs made any recommendations of any review of penalties for infringing customs and our quarantine rules?

**Ms Grant**—I can answer the last question to say that we have not made any recommendations about a review of the penalties, but I will need to answer the rest on notice.

**Senator SIEWERT**—Thank you. Turning to whales, I understand that \$8.4 million has been provided over four years to continue intelligence support in Australia's response and law enforcement operations in the Southern Ocean. I would like to know if part of this is being used to support monitoring of activities of the Japanese whaling fleet.

**Mr Carmody**—I am not sure of the figures, but we certainly have ongoing operations in the Southern Ocean. There were the particular activities of the *Oceanic Viking* undertaken earlier this year. I am not aware of any particular decisions on future operations of that nature.

**Senator SIEWERT**—I interpret that to mean that the government will be making a decision down the track.

**Mr Carmody**—I imagine the government will make those decisions, but I am not conscious at the moment of particular decisions having been taken.

**Senator SIEWERT**—Therefore, would the \$8.4 million be enough to cover that or would you need to have an additional allocation?

**Mr Carmody**—That would depend on the nature of the activities and the location of our vessels at the time. On the occasion that this was undertaken, we reported in the last Senate estimates an additional allocation of, I think, \$1.3 million for that particular operation.

**Senator SIEWERT**—I need to do a bit of quick maths—I do not have that particular line item in front of me. How much in the past have you received for monitoring and surveillance for the Southern Ocean?

**Ms Grant**—Senator, I just want to clarify that your \$8.4 million figure is a whole-of-government figure rather than just an Australian Customs Service figure—that is the basis you are working from.

**Senator SIEWERT**—Okay.



**Mr Carmody**—That funding is actually a continuation of funding that I believe lapsed as of June this year, so that was funding to maintain the intelligence effort in the Southern Ocean. The original funding was more around the illegal foreign fishing in the zone rather than associated with whaling.

**Senator SIEWERT**—I appreciate that, and that is why the additional \$1.3 million—as Mr Carmody just said—was allocated last year. Is it a safe assumption that, to carry out further surveillance on the whaling fleet this summer, there will need to be an additional allocation beyond what has already been allocated?

**Ms Grant**—Yes. Customs has no funding beyond that \$1.3 million, which was specifically for the surveillance monitoring activity.

**Senator SIEWERT**—So that has not been factored into this budget?

**Mr Carmody**—No. We do undertake missions to the Southern Ocean, so the extent of and any requirement for additional funding will depend on the actual operational positioning of the vessel at the time and what is available. So it is really on a case-by-case basis given the operational circumstances.

**Senator SIEWERT**—So you are saying that there could happen to be a ship down there next time that could then be put on to surveillance work.

**Mr Carmody**—There may be some additional costs. I am just saying this will need to be determined on each occasion.

**Senator SIEWERT**—Thanks. How much time would Customs need to send a properly equipped vessel to monitor the Japanese whaling fleet if a decision were made to do that?

**Mr Carmody**—Again, it depends on the timing and whether or not the vessel is already provisioned for a voyage.

*Senator Abetz interjecting—*

**Mr Carmody**—I think that is right—the present chartering arrangement goes through to 2010.

**Senator SIEWERT**—What would be the minimum time?

**Ms Grant**—It is quite difficult to give you minimum times because it depends, as the chief executive officer has said, on where the vessel is located, on whether it is provisioned, on whether we have the crew available and on what the turnaround time to get the right combination of qualified crew is. P&O provide the vessel and the crew to drive the vessel and Customs provide the boarding parties, and we have an Antarctic Division doctor on board. So there are a number of factors that all need to come together to get the vessel safely away. We have a planning program so we know when to give crew their accrued days off from having done a patrol in the Southern Ocean. You would appreciate that it is arduous work in the Southern Ocean; they accrue days off for the days they have been down there, so a different crew needs to be available to go if there is to be a back-to-back turnaround of a vessel. So it is quite hard to tell you precisely how many days it takes to get all of the factors lined up.

**Senator SIEWERT**—Thank you.

**Mr Carmody**—For the sake of accuracy: I was just looking at the last committee hearing, and the cost was \$1.271 million.

**Senator SIEWERT**—Which rounds up to \$1.3 million!

**Mr Carmody**—Yes—around about \$1.3 million. I like to be accurate!

**Senator SIEWERT**—Thank you. At the moment, sending a vessel to the Southern Ocean to monitor any whaling activity next summer has not been put into your planning process. Would that be a fair assumption to make?

**Ms Grant**—That is correct.

**Senator SIEWERT**—Thank you. I suppose it is safe to assume it could cost around the same amount?

**Ms Grant**—The costs this year were calculated on what it would cost us additional to a normal mission to the Southern Ocean—that is, to extend the mission to undertake the whaling monitoring. It would presumably cost in a similar order: the money that we would already have in our budget for the mission plus any additional costs and fuel costs arising. So I would expect the overall cost to be higher in the future than in the mission we have just undertaken.

**Senator SIEWERT**—Higher because of fuel and other costs?

**Ms Grant**—Input costs going up.

**Senator SIEWERT**—I may need to ask somebody else this question but I will ask you in case you are the right person to ask. Have you made any response to the claims on the website of the Japanese Institute of Cetacean Research that the *Oceanic Viking* impeded their research and endangered their vessels?

**Mr Carmody**—Yes, we have responded to that and made it clear we do not accept that accusation.

**Senator SIEWERT**—Is that a publicly available response?

**Mr Carmody**—I am not sure that it was made public but I can assure you that we emphatically denied those suggestions.

**Senator SIEWERT**—Is it possible to get a copy of that?

**Mr Carmody**—We would have to see. If it is possible, we will make it available to you.

**Senator SIEWERT**—Thank you. That is appreciated. Can you provide detail on whether the evidence that the department gathered during the *Oceanic Viking*'s trip has been shared with other countries? If so, on what basis has it been shared?

**Mr Carmody**—Ours was the gathering of evidence issue and we have done that. I cannot help you with what use that has been put to.

**Senator SIEWERT**—You have collected it, handed it over and I have to ask A-G's.

**Mr Carmody**—Yes, that was our responsibility on behalf of—

**Senator SIEWERT**—Thank you very much.

**Senator ABETZ**—I have a few questions following on from what Senator Siewert was asking about. Has the government made any plans, or is it considering any plans, to extend the *Oceanic Viking*'s contract? It will expire in about two years.

**Mr Carmody**—We have been reviewing the capabilities we require in that time frame, because between 2010 and perhaps 2012 our Bay class patrol vessels will also be reaching their end of life. We have been doing an analysis of future capability requirements for our patrolling activities. That is being prepared for submission to government.

**Senator ABETZ**—What about the ACV *Triton*?

**Mr Carmody**—You know that that was extended, I think, at the start of this year. What we are doing is sort of stepping back from the particular vessels we have now, looking to the 2010-on environment and saying: what are the capabilities of the vessels you need for that? Once we have got government agreement to the capabilities, then we will turn to the specific vessels that we need.

**Senator ABETZ**—So the *Triton* was seen as being worth while, but you are still deciding on the *Oceanic Viking*. Is that a fair summary?

**Mr Carmody**—Certainly we believe that we need at least a vessel for the southern patrols. As I say, we are looking at the capabilities of 2010 onwards and we will put to government the best solution in terms of vessels to meet those requirements.

**Senator ABETZ**—Can I take you to the whale watch episode. Last time we were told \$1.3 million was the cost of that.

**Mr Carmody**—No, it was 271.

**Senator ABETZ**—Or \$1.271 million. If I recall the Senate estimates correctly, she had not returned to port at that time.

**Mr Carmody**—That would be correct.

**Ms Grant**—Yes.

**Senator ABETZ**—I am wondering whether that figure should in any way be updated, given the fact that she had not completed her voyage by the stage of the last estimates.

**Mr Carmody**—An analysis has been done post the event because the estimate was put in beforehand. I will correct this if I am reading incorrectly, but we believe the total additional cost was \$1.47 million.

**Senator ABETZ**—So it went up about another \$200,000?

**Mr Carmody**—Yes.

**Senator ABETZ**—So it is now—

**Mr Carmody**—Sorry. Excuse me, Senator.

**Senator ABETZ**—You are not going to tell me it was less, surely? So what is the increase?

**Mr Carmody**—No, but we are just looking at the breakdown and the additional cost seems to be mainly relating to the aircraft surveillance aspects.

**Senator ABETZ**—Which was part of the whale watch exercise.

**Mr Carmody**—Yes, but not the *Oceanic Viking* costings.

**Senator ABETZ**—All right. So what was the total *Oceanic Viking* cost for the whale watch exercise?

**Mr Carmody**—Well, we might have the additional costs with us. According to this spreadsheet, if we are reading it correctly—Marion is putting on her glasses to help me out—the additional patrol cost for the *Oceanic Viking* looks like being \$1.291703 million.

**Senator ABETZ**—And how many cents?

**Mr Carmody**—Thirty-two, according to the spreadsheet. We are very precise! We have got a table here which includes a number of minor details—

**Senator ABETZ**—We are now a lot closer to \$1.3 million than we were before.

**Mr Carmody**—Yes, and we are looking at what are termed ‘surveillance costs’ and they look like they are more surveillance from the *Oceanic Viking*. I will give you this figure, and we will correct it if it is wrong, but it does look like it is \$1.474 million.

**Senator ABETZ**—So, in round figures, \$1.5 million would be a fair estimate?

**Mr Carmody**—On the basis that I rounded up 1.27 to 1.3, I guess that is permissible.

**Senator ABETZ**—Last time around I do not think I was aware—and nobody volunteered the information—that there was an extra surveillance cost. So are we talking about aerial surveillance here?

**Mr Carmody**—No. That was our misreading. What it has to do with is surveillance from the vessel. We had our crews out with cameras and all those sorts of issues. It is surveillance associated with the vessel.

**Senator ABETZ**—Right, so the whale watch exercise was \$1.474 million and there is no aerial surveillance associated with that?

**Ms Grant**—No, there is no aerial surveillance associated with that. That is the cost of extending the *Oceanic Viking*’s normal 40-day patrol to a 53-day patrol, and then these specific additional costs that we have called the ‘additional costs for surveillance’.

**Senator ABETZ**—You have called the additional costs the ‘additional costs’—fair enough.

**Mr Carmody**—For surveillance.

**Ms Grant**—For surveillance from the water. The largest component of that additional cost is \$60,000 for floodlighting ice operations—so we could get the footage.

**Senator ABETZ**—For something which will now never appear in court, but that might be a bracket of questions later on. Can we have a copy of the exact route that the *Oceanic Viking* took from port, whilst she was whale watching and coming back? You might have to take that on notice.

**Mr Carmody**—We will certainly have to take that on notice, and I will have to take on notice whether we can appropriately provide it. Normally we do not provide operational issues but seeing as it is already—

**Senator ABETZ**—But this was a one-off.

**Mr Carmody**—As I said, seeing as this has already been conducted we will review what we can provide to you.

**Senator ABETZ**—It was a one-off and it is very doubtful that it would be repeated, given the government has now acknowledged that the legal advice we had for 11½ years is the same legal advice that they are going to be mugged with, but we will deal with that at a later stage. Can I ask, in relation to the *Oceanic Viking's* involvement with people from the *Sea Shepherd*, what extra costs, if any, were incurred in getting people off one of the Japanese whaling ships and onto the *Oceanic Viking*?

**Mr Carmody**—I do not think we would be able to provide you the specific costs of that occurring. They were included in the total cost. That was conducted as part of the general mission, so we did not—

**Senator ABETZ**—It was an unexpected part, I would trust.

**Mr Carmody**—We did not expect when we took on the mission that we would be doing that. That is correct.

**Senator ABETZ**—What is Customs's knowledge about the potential for legal action being taken against the *Sea Shepherd* activists?

**Mr Carmody**—I am not sure that I can help you with that. I am not in that position.

**Senator ABETZ**—Given the close proximity of the *Oceanic Viking*—and witnessing some of these events—did we not potentially place Customs officers and other people on the *Oceanic Viking* in the invidious position of potentially having to give evidence against Australian citizens in an international court?

**Mr Carmody**—We have not had any suggestion that that would occur. We have had no approaches on that.

**Senator ABETZ**—When activists or other people behave in ways that may be against international law and we then send in our equipment to assist those that are allegedly breaking the law, does the government have a policy position on that, Minister? It seems an invidious position to place officials in.

**Senator Ludwig**—I can seek some advice from the Minister for Home Affairs to see whether or not he had any comment in respect of that. The position you are putting is supposition—it did not happen, as we well know—but I am certain that I can ask him to make a comment on it and provide it to the committee in due course.

**Senator ABETZ**—Are you suggesting that the uninvited boarding of a vessel on the high seas in the manner undertaken by the *Sea Shepherd* activists could in any way be seen as within the law?

**Senator Ludwig**—What I said was I would take it on notice and ask the relevant minister if he wanted to provide any information on it. I am not going to comment on what the law is or is not in respect of the high sea; it is not my area of expertise. If you want me to seek some advice on that, I will.

**Senator ABETZ**—Yes, I would indeed. Spraying or lobbing on another vessel certain substances which can debilitate the seamen on a ship, I would have thought, is prima facie an illegal activity on the high seas—even not on the high seas. There was, I would have thought, the real potential for this, and I am interested in knowing what the circumstances would be if charges were to have been brought. Are the surveillance flights in the northern seas being maintained in our fight against illegal fishing up in the northern waters?

**Mr Carmody**—Certainly surveillance flights are continuing, yes.

**Senator ABETZ**—But are they being maintained at the level they used to be? What was that level as in number of hours per month?

**Mr Carmody**—Rather than hours, we tend to talk about square nautical mile coverage of surveillance flights. I am hesitating because we now have new arrangements with our providers. We now have an all Dash 8 fleet and sophisticated new surveillance technology on that, and we can now more accurately determine the actual surveillance. If we do them on the same measurement as was done prior to that, then certainly it has been well maintained.

**Senator ABETZ**—What you are saying is we now have aircraft undertaking the surveillance that can do the same job quicker?

**Mr Carmody**—We can more accurately measure the areas that they have been surveilling. We report in here what we project for the coming period, and if you look over the previous estimates they will suggest a lower square nautical mile coverage. The point is: the reason that appears lower is that we now can more accurately measure the surveillance than we could under the previous arrangements. To try to get a comparable measure, I had asked our people to calculate the current surveillance under the old measure. Are you still with me?

**Senator ABETZ**—I am not sure I am, but keep going.

**Mr Carmody**—Under the old measure we are at least maintaining the square nautical mile coverage.

**Senator ABETZ**—Maintaining the square nautical mile coverage on a daily basis, on a weekly basis, on a monthly basis? How regularly are we undertaking surveillance in the square nautical mile area that you are talking about?

**Mr Carmody**—There are daily surveillance flights, and the particular areas that they fly in are determined. I think Admiral Goldrick explained to this committee how they go through a rating process to determine the particular areas that should be subject to surveillance, based on risk analysis—and that surveillance is undertaken daily.

**Senator ABETZ**—I am sorry if I am a bit obtuse, but I do not necessarily get from the answers provided, and I am not saying that you are deliberately avoiding the question—

**Mr Carmody**—I am not.

**Senator ABETZ**—Thank you. I just want to get a proper handle on this. In the past we used to measure it by the hours of surveillance flights. Is that generally correct?

**Mr Carmody**—That was a measure we used, but we have adopted for a while now the more pertinent measure, which is the square nautical mile—

**Senator ABETZ**—You say that is the more pertinent measure. Since when?

**Mr Carmody**—I think we have reported it for some time. We used to report both, and I would say in the last 12 months or so we have moved towards reporting the square nautical miles. The reason is quite simple. A surveillance area might be some distance from where the plane takes off. So the actual flying time to that area of surveillance does not help with your understanding of how much surveillance we are doing. That is why we have moved to the square nautical mile surveillance as the measure.

**Senator ABETZ**—Albeit, I understand, when these things started off, we had illegal fishing vessels actually on our shores on occasion—I think in one year there were 30 of them confirmed—and therefore the surveillance flights, as I understood, were undertaking surveillance as soon as they crossed the post line. I accept that they are now no longer penetrating as deep and therefore it makes sense that we fly out further. But what I am trying to get a proper handle on is the square nautical miles that have been surveilled. Is that the word, as opposed to ‘surveyed’?

**Mr Carmody**—It sounds good. We are not surveying but we are surveilling.

**Senator ABETZ**—Is that commensurate or similar to that which used to be surveilled in the past?

**Mr Marshall**—I might just go back for a moment to why we stopped reporting hours and missions and started concentrating on square nautical miles. In the previous fleet of aircraft, we had four different types of aircraft, including helicopters. So, if you just compared hours of a helicopter against hours of a very high-performance Dash 8, you were not getting a meaningful performance measure at all. So we looked at all of our aircraft types and we worked out how many square nautical miles the particular ones could cover. In a particular year we said, ‘From now on, we will concentrate on the area covered rather than the hours flown or the missions covered.’ So we have used square nautical miles for the last couple of years.

In terms of coverage, in 2004-05, when the foreign fishing problem was particularly severe, in the high threat areas in the north we flew some 99 million square nautical miles. As our compliance effort that was initiated at that time started to evolve we wanted to make sure that we were not just reporting less vessels but also covering more square nautical miles at the time so that it was a meaningful figure. So we purposely stepped up our surveillance as the sightings went down. The next financial year we moved from 99 million square nautical miles up to 109 million square nautical miles. In the next financial year, when we were actually getting very few sightings at all, we went right up to 119 million square nautical miles.

**Senator ABETZ**—What was the 2005-06 figure?

**Mr Marshall**—The figure for 2004-05 was 99 million square nautical miles and the figure for 2005-06 was about 109 to 110 million square nautical miles.

**Senator ABETZ**—Oh, 109. I had 190—sorry, my mistake.

**Mr Marshall**—Then we went up to 119 million square nautical miles. Then for the reasons that Mr Carmody just said—that is, that we have changed the way we calculate square nautical miles—

**Senator ABETZ**—Wait a minute! How do we change the way we calculate square nautical miles? I would have thought that would be standard.

**Mr Carmody**—That is probably not a completely accurate statement. As I unexplained before, our surveillance equipment now enables—

**Senator ABETZ**—I think you are testing to see if I was still awake—and I am!

**Mr Marshall**—Notwithstanding that, it does not make operational sense to keep flying more and more square nautical miles each year when we are seeing fewer and fewer illegal fishing vessels. It is not a proof of anything operational to just keep flying more square nautical miles. Now that we have got the fishing problem pretty well off our shores, it is time to think about where the most appropriate place is to fly, and it does not make sense to fly more and more square nautical miles in the north. We are considering where the threats are and what we will do in that respect.

**Senator ABETZ**—All these flights were not only for illegal fishing; they were also for illegal immigration, border protection et cetera. You are now saying that that has been scaled down. How many square nautical miles has it been scaled down to now? We were up to 119.

**Mr Marshall**—As we are only up to April, I cannot give you a comparative figure. If we keep going—

**Senator ABETZ**—You must have figures to date.

**Mr Marshall**—The figures to date till April 2008 are 89 million square nautical miles.

**Mr Carmody**—We have refined our method of measurement of the square nautical mile coverage because we have more accurate surveillance and technology on the new fleet. The figures that are being quoted there—the 88 to 89 million square nautical miles—have, from 1 January at least, been calculated on a refined basis. The refined basis is proving more accurate and, as such, is showing a lower square nautical mile coverage for that particular period because it is a more refined measurement. We used a formula for the previous calculation of how many square nautical miles were covered. So there is a combination of factors going on here.

**Senator ABETZ**—Are you able to advise us of the number of sightings of illegal fishing vessels in the period up to April 2008?

**Mr Carmody**—Yes. We have a total number of 638 sightings which, compared to 2004-05, is a 91 per cent reduction. Compared to 2005-06, it is a 91 per cent reduction and compared to 2006-07—where we had already started to see reductions—even over that, it is an 81 per cent reduction in sightings.

**Senator ABETZ**—How many apprehensions were there out of those 638 sightings?

**Mr Carmody**—We do have to be careful about sightings because they can be the same vessel.

**Senator ABETZ**—Multiple. Yes, that is understood.

**Mr Carmody**—We had 154 apprehensions.

**Senator ABETZ**—How many legislative forfeitures?



**Mr Carmody**—We do not do too many legislative forfeitures.

**Senator ABETZ**—They are mainly with the banana boats, as I understand it, from Papua New Guinea.

**Mr Marshall**—That is right. I would say there would be less than a dozen. We will get the number for you. But, as you say, they are banana boats in the Torres Strait.

**Senator ABETZ**—Can you confirm that, other than banana boats in the Torres Strait, there were no legislative forfeitures?

**Mr Marshall**—We will check that.

**Senator ABETZ**—If you take that on notice, that is fine. I do not need the exact answer on that. Out of the 638 sightings, are you able to tell us how many banana boats are included in that figure?

**Mr Marshall**—That figure excludes banana boats.

**Mr Carmody**—That is actually type 3 and type 4.

**Senator ABETZ**—Banana boats were an emerging problem, as I left the ministry. However, it has been six long months since. What is the situation with the banana boats in the Torres Strait? Are we getting on top of it or is that something I should be asking AFMA about tomorrow?

**Mr Marshall**—Certainly, the number of sightings are decreasing, but it is an ongoing issue for us and for AFMA.

**Senator ABETZ**—What are our protocols with Papua New Guinea in relation to returning these banana boats and repatriating the crews? As I understand it, we do not prosecute them; we expect the Papua New Guinean authorities to do that. Or should that be asked of AFMA?

**Mr Marshall**—It is probably better asked of AFMA, but I can tell—

**Senator ABETZ**—Because they would do the prosecutions rather than Customs?

**Mr Marshall**—Yes, AFMA is in charge of all Fisheries prosecutions.

**Mr Carmody**—Senator, I have a figure here for legislative forfeitures of 11, up to April 2008.

**Senator ABETZ**—Can you confirm whether they are all banana boats?

**Mr Carmody**—I cannot confirm that.

**Senator ABETZ**—Could you take that on notice. I must say that 154 apprehensions out of 638 is a pretty good percentage.

**Mr Carmody**—I would not like to leave any impression that we are diminishing our surveillance efforts. As I said, it is well known that there are issues with pirates. It is an industry-wide issue. We are seeking to at least maintain that surveillance. Our answer has been complicated by the change in the accuracy of the figures, but I would not like there to be any suggestion that we are decreasing our surveillance effort.

**Senator ABETZ**—In anybody's language, what does 154 out of 638 relate to? Is somebody good at maths? About 20 per cent, is it? Is that about right?

**Mr Carmody**—It is not far off.

**Senator ABETZ**—Our advice used to be: if you got 10 per cent it made it uneconomic. So at 20 per cent, we are still sending a very loud message.

**Mr Marshall**—In 2004-05, at the same time, there were 183 apprehensions against 7,145 sightings so the situation has improved considerably.

**Mr Carmody**—I want to assure you, Senator, that since you left the ministry that we maintain this presence as a high priority. We are certainly very conscious that, while very significant inroads have been made, if we are seen to back away as a result then there is a high risk of a return of the problems that we had in the past. So we are very conscious of maintaining a deterrent presence and surveillance.

**Senator ABETZ**—That is reassuring to hear. Thank you very much. Mr Burke seems to be building on the excellent work that Senator Macdonald started, which I was then able to continue with, in getting rid of this scourge.

**Senator IAN MACDONALD**—My first question is to the minister. I read from a transcript of Mr Rudd, dated 2 May, where he said, 'Labor's policy is to have a coastguard on patrol 24 hours a day, seven days a week. The Howard government simply nods and genuflects at the problem and, frankly, does very little about it. We think practical action needs to be taken and that a coastguard is the best way of doing this.' Where are we going with the coastguard, Minister?

**Senator Ludwig**—Is that 2 May this year or last year?

**Senator IAN MACDONALD**—2006.

**Senator Ludwig**—The current information that I can provide you with is that there is a review of the homeland and border security arrangements and that is with PM&C. So you can seek information on that review from that committee. It will report, as I understand it, by the middle of the year.

**Senator IAN MACDONALD**—But there was an election commitment to have a coastguard for Australia.

**Senator Ludwig**—What I have said is that there is currently a review of the homeland and border security arrangements with a view to making recommendations about how best to progress the issue of a coastguard.

**Senator IAN MACDONALD**—The election commitment was not about having a review; it was about having a coastguard. So I am wondering what your government is doing about your election commitment to a coastguard.

**Senator Ludwig**—It will encompass that. That is what I have said.

**Senator IAN MACDONALD**—So when would we expect to see the coastguard formed?

**Senator Ludwig**—As I have said, the report will be provided by the middle of the year, and that will inform us as to the direction the government will take.

**Senator IAN MACDONALD**—But we will have a coastguard, I take it?

**Senator Ludwig**—That review will inform us of the direction we will have to take.

**Senator IAN MACDONALD**—But it was an election promise to have a coastguard. You and your predecessors on your side of the fence spent years promoting a coastguard, so I assume that you have all the plans in place. I am surprised it has not been announced in this year's budget.

**Senator Ludwig**—You will have to wait until the middle of the year for the report that I have mentioned to be dealt with.

In **Senator IAN MACDONALD**—So we can expect a coastguard to be announced?

**Senator Ludwig**—I do not know what will be in the report. But I am certain that, like me, you would agree that the best possible homeland protection and border security arrangements should be achieved—within available resources, of course.

**Senator IAN MACDONALD**—Who is the minister responsible for Customs?

**Senator Ludwig**—Minister Debus.

**Senator IAN MACDONALD**—What is his title?

**Senator Ludwig**—Minister for Home Affairs.

**Senator IAN MACDONALD**—Is there a Department of Home Affairs?

**Senator Ludwig**—There is a Minister for Home Affairs.

**Senator IAN MACDONALD**—But there is no department?

**Senator Ludwig**—That is the department. It falls within the portfolio of the Attorney-General.

**Mr Cornall**—The Minister for Justice and Customs has been replaced by the Minister for Home Affairs, which has slightly different duties, including responsibility for external territories.

**Senator IAN MACDONALD**—And it also has responsibility for Customs?

**Senator Ludwig**—That is right—that is under the administrative orders.

**Senator BARNETT**—There is no separate department?

**Mr Cornall**—No. It is the same as before. The Minister for Home Affairs is the non-cabinet minister in this portfolio.

**Senator IAN MACDONALD**—How did Customs fare in the budget? Did you get an increase in your operating expenses?

**Mr Carmody**—The total of resources provided to us is \$1.303 million.

**Senator IAN MACDONALD**—It is up from \$1.295 million.

**Mr Carmody**—That is correct.

**Senator IAN MACDONALD**—I notice that the forward estimates show you dropping back next year to \$1.291 million.

**Mr Carmody**—There is a combination of programs that will be ceasing. The programs change according to decisions each budget.

**Senator IAN MACDONALD**—At the last estimates we spoke about the impact of the efficiency dividend. You kindly provided answers to questions on notice about a series of contracts to which Customs was committed, which meant that you could not seek any efficiency dividends from those. From recollection, it was a fairly substantial sum. Is the efficiency dividend tied up in those figures that we have just spoken about?

**Mr Carmody**—Yes, that would include the impact of the efficiency dividend.

**Senator IAN MACDONALD**—We have all heard ad infinitum about the huge galloping inflation we had prior to the budget of anywhere from three per cent to upwards of four per cent. If you factor that into your forward estimates, they are looking pretty grim for you. You are going to have to make savings somewhere.

**Mr Carmody**—I do not know about ‘pretty grim’. We do get a price adjustment of 2.5 per cent.

**Senator IAN MACDONALD**—So it is the amount of the efficiency dividend? That is my commentary, not your commentary.

**Mr Carmody**—That is your commentary. We get a price adjustment of 2.5 per cent and that would be included, I assume, in those figures. Your budget figures are affected by programs—that is, whether they are continued, whether there are new programs, whether a program is ceasing and so on. But, while there has been a fair bit of focus on the two per cent efficiency dividend, we should also remember there has been a longstanding 1.25 per cent efficiency dividend which also is included in that. We are also impacted, like all agencies, by the longstanding rule that any pay rises have to be paid through efficiencies—in other words, you do not get additional funding for them. So all those things affect budgets.

**Senator IAN MACDONALD**—I do not want you to enter into the political debate, but we have been warned and threatened with galloping inflation. So it does mean that, whatever figures are shown here, you really take four per cent off for the inflation.

**Mr Carmody**—All I can say is that what we get for price adjustment—and this is determined by the department of finance and—what are they called now?

**Senator IAN MACDONALD**—They were criticising me for not knowing who your minister was! I am only a part-timer at this.

**Mr Carmody**—What I was pointing out is that the price adjustment is 2.5 per cent and that is determined by the approach adopted by the Department of Finance and Deregulation. I do not know the intricacies of their basis for calculation.

**Senator IAN MACDONALD**—I will make the commentary and I will not put that on to you. One thing that very greatly concerns me is that there were savings of \$3.3 million in the Department of Defence portfolio under the heading ‘Illegal foreign fishing—intelligence support’, where the Australian Customs Service is shown as dropping \$300,000 for the next four years. I appreciate that we do not want to talk too much about what the intelligence support means for illegal fishing, but it does concern me that between yourselves, Defence, ONA and ASIS, there is a cutback in intelligence funding over the next four years. Without being too specific, how will that impact upon the very significant, very essential and very professional work that the intelligence community give to the fight against illegal fishing?

**Ms Grant**—The reduction that you have detected in the Customs' figures is funding that has lapsed as at the end of this financial year and that Customs is absorbing in the future years. There was a submission that reflects continuation of funding for some of the partner agencies. Customs has made the decision to maintain the funding of the relevant analyst positions covered by that \$300,000, so we are finding that from within our resources. The way the portfolio budget statements operate, it is continuation of an initiative with no new money coming in.

**Senator IAN MACDONALD**—According to the budget papers, the same applies for the Department of Defence, the ONA, the ASIS and yourselves: you are all going to somehow absorb these funds you have been cut back on for intelligence support for illegal fishing. You are going to absorb it from somewhere else but, on top of the efficiency dividend and the inflation price, you are going to have to cut back somewhere else. You cannot keep doing everything you have always done and absorb these costs that the government has taken from you, absorb inflation and get pretty mean funding in the out years.

**Mr Carmody**—As Marion explained, it was a lapsing program within our priorities. We saw that the best basis on which to commit our funds was to maintain those analyst positions. This year, for example, we need to look at the totality of our operations and the totality of the risks we face and cut our budget to reflect that. There are a compound number of decisions and risk based analyses that go into the final allocation of funding within our budget.

**Senator IAN MACDONALD**—You would be aware that some of the great inroads we have made against illegal fishing over the last several years were as a result of excellent work done by intelligence agencies—perhaps a fraction before your time.

**Mr Carmody**—No, I am fully conscious of those. I cannot speak for the other agencies, but Marion has explained that we are keeping those analyst positions.

**Senator IAN MACDONALD**—It is all done together. I notice you say it is a lapsing program. Can someone tell me why it has shown as minus \$0.3 million over the next four years if it is a lapsing program this year?

**Ms Grant**—That was an error in the forward estimates. The funding had only been agreed until June 2008 but it had inadvertently been included in our forward estimates. The figures in the statements correct that error.

**Senator IAN MACDONALD**—Where do I see that explained?

**Ms Grant**—It is explained by the fact that the minus \$300,000 is removed from our forward estimates.

**Senator IAN MACDONALD**—With due respect to you—and I am sure you are telling me the truth—you are saying me it was an error from previous budgets and yet that is not mentioned anywhere. Instead it says that the government will get savings of \$3.3 million from this initiative. How is the government going to get savings if what you are saying is that they were never really allocated anyhow?

**Ms Grant**—Perhaps our chief financial officer can use the correct terminology to explain this issue.

**Mr Ramsden**—The \$300,000 is included in our forward estimates because until told otherwise we assume that program would be ongoing. Therefore, at the conclusion of the discussions, when no funding was available, we took the funding out of our forward estimates.

**Senator IAN MACDONALD**—So it was there for the next four years? It was not an error?

**Mr Ramsden**—It would have been there for the next four years because we would have assumed at that time that it was ongoing.

**Senator IAN MACDONALD**—So it has been an effective cutback to you, which I have been told you will absorb from other sources.

**Mr Ramsden**—That is correct.

**Senator IAN MACDONALD**—Thank you for clarifying that. My colleagues have been through the *Oceanic Viking* deployment and we have all noted that it is a \$1.3million commitment this year with nothing in the out years. The poor old whales are not in danger after this year, I assume.

Referring to the surveillance in northern Australian waters: despite what I heard before about not using hours, I see the budget papers say that you will ‘continue providing 2,200 hours of aerial surveillance in Australia’s northern waters to deter unauthorised arrivals’. Again, that is curious in that it is funding for 2008-09 but there is nothing in the out years, from which I can only assume that in the out years you are not going to do the surveillance or are not planning to do it—financially, anyhow.

**Mr Carmody**—I think that was funding for additional flying hours; it was an additional element to the program.

**Ms Grant**—That funding was originally provided for the deterrence of unauthorised boat arrivals from Papua New Guinea, as is explained on page 108 of the portfolio budget statement. We had that funding for a limited period of time and we have secured another 12 months worth of that funding, subject to future budget review.

**Senator IAN MACDONALD**—Is that the 2008-09 figure you are talking about?

**Ms Grant**—Yes.

**Senator IAN MACDONALD**—So you are saying you also got it in 2007-08, although that does not show in my set of budget papers.

**Ms Grant**—I think we originally got the funding for two years, so it would have first appeared in the 2006-07 budget papers.

**Senator IAN MACDONALD**—But not in the 2007-08 budget papers, according to what I have here. Unfortunately I have a photocopy so I cannot give you the page number, but it is headed ‘Measures delivered on the government’s election commitment’. The commitment, I guess, is that stupid one they put in about responsible financial management, which makes everyone laugh.

**Ms Grant**—To clarify: the funding, as I said, was provided for two years, so it shows in the 2006-07 portfolio budget statements, but the second year of funding does not particularly

get highlighted as a stand-alone item in the second year of the program. Because the funding lapsed at the end of 2007-08, it shows again as new funding provided in 2008-09.

**Senator IAN MACDONALD**—I do not want to have an argument with you on the way the budget papers are done, but that just is nonsensical. You are saying it was there in 2006-07 and, because it is a continuing program, it is not there in 2007-08—but it has popped up again in 2008-09.

**Ms Grant**—It was included in the 2006-07 papers and forward estimates for 2007-08.

**Senator IAN MACDONALD**—So why doesn't it show here in 2007-08? I do not want to have an argument with you over that, but it seems fairly clear to me that the government has popped \$1.1 million in this year without any thought to the future. With respect to you, Ms Grant, that would seem to be the reasonable interpretation of that.

**Mr Carmody**—I think the funding was provided for a specific period. It will be subject to review, and further continuation of funding will depend on that review. That is a perfectly reasonable way to assess and review the effectiveness and need for something. I think that is the basis of the argument.

**Senator IAN MACDONALD**—So you are not planning to continue that sort of work as part of your forward planning on border protection?

**Mr Carmody**—We are saying that we understand a review will be conducted in the coming year and funding decisions will be based on that.

**Senator IAN MACDONALD**—Perhaps that is where the coastguard takes over, and the funding will be in the coastguard.

**Mr Carmody**—I think it is just a matter of ensuring and reviewing the appropriate programs.

**Senator IAN MACDONALD**—On the patrol vessel in northern waters, the *Triton*, \$35.7 million was provided by the previous government from 2007-08 to retain that vessel up in Northern Australia. That does not seem to have been extended beyond 2007-08.

**Mr Carmody**—The *Triton* contract has been extended.

**Senator IAN MACDONALD**—I am looking at page 94 of Budget Paper No. 2, which has a series of blanks. Again, according to the commentary, the previous government provided funding for two years, but it seems like the current government has made no commitments beyond the previous year's budget.

**Ms Grant**—The *Triton* was funded for a 12-month period in the original northern waters package. That contract was up in January this year and we have had a contract extension until 30 June 2009.

**Senator IAN MACDONALD**—Where do I see the funding for that? With respect, these budget papers seem to be typical of the new government. There is lots of rhetoric but, when you look down to find where the figures are, they just do not happen to be there.

**Mr Ramsden**—The funding for the *Triton* was provide in the 2007-08 year, so it would be reflected in the 2007-08 budget papers.

**Senator IAN MACDONALD**—I appreciate that. I have just spent five minutes lauding the previous government for funding it. My point to you is that there is no extension of it.

**Mr Ramsden**—There is no extension beyond the 2008-09 year at this point in time.

**Senator IAN MACDONALD**—That is right; that is my point. So there are no forward plans to keep the *Triton* up there.

**Mr Ramsden**—That would be considered in the 2009-10 budget.

**Mr Carmody**—The plan does extend the contract to then. I am not sure whether you were here, but I explained to Senator Abetz—

**Senator IAN MACDONALD**—Yes, I was here.

**Mr Carmody**—that these arrangements are in place now. We are currently doing a program for government that is looking to the future patrol capability we need—short of a coastguard. Government will determine whether they accept that that capability is needed, and then the craft and vessels that are necessary will be developed from there.

**Senator IAN MACDONALD**—I am conscious that you have been looking at the right vessels for the right job for a long period of time. A lot of money has been spent. I am just concerned that I cannot see anything in the budget figures taking us beyond next year. Obviously, there will be new appropriations next year.

**Mr Carmody**—It will be based on this assessment that we are providing for government.

**Senator IAN MACDONALD**—We can just cross our fingers and hope that the forward funding is there, because there is no indication in this budget that anyone is giving any thought to it for the out years. I am not saying that it is Customs so much as the people who pay your way. Just finally, I have a couple of very quick questions. I think was Customs that was funding an officer in Indonesia to help with the fight against illegal fishing and doing a lot of things on the Indonesian mainland, with the approval of the Indonesian government. Is that program still continuing?

**Mr Carmody**—That officer is still there, yes.

**Senator IAN MACDONALD**—And it is a Customs officer?

**Mr Carmody**—Yes. Customs was part of that program, yes.

**Senator IAN MACDONALD**—The incidence of illegal fishing in the Southern Ocean has dropped to zero, as I understand it. Is that correct?

**Mr Carmody**—Not zero, but it has certainly dropped dramatically by sightings. I am sorry—you said the Southern Ocean. Yes.

**Senator IAN MACDONALD**—You had me worried there. Clearly that is the case because of good work by Customs and Fisheries over the last few years. I am conscious that some of this is government policy and government action, but for how long is funding currently available for that activity? I heard what you said about the *Oceanic Viking*, but that is not the only cost. There are other costs that are borne by you. Have you planned to continue funding that sort of surveillance into the years ahead?



**Mr Carmody**—I think the current charter goes through to 2010, and that is reflected in our funding base for that. The future will be determined, as I said, by this program of capability that we are putting to government.

**Senator IAN MACDONALD**—In relation to that activity, you work in concert with AFMA, the Department of the Prime Minister and Cabinet and intelligence agencies. Is that correct?

**Ms Grant**—Yes.

**Senator IAN MACDONALD**—We used to have different working groups, which I never could follow. Are those combined operations still current?

**Ms Grant**—Yes, all of those governance arrangements you will recall still operate as required. We have a Strategic Maritime Management Committee chaired by the Department of Prime Minister and Cabinet that brings together all of the operational agencies, intelligence collection agencies and central agencies—that is, any agency that has an interest in the illegal foreign fishing issue. That group provides the strategic and policy direction for the particular efforts in relation to all maritime threats, illegal foreign fishing being a key component of the matters considered by that group. The operational working parties still convene when there is an operational requirement to do so. The whole of government effort is still alive and well.

**Senator IAN MACDONALD**—Thank you very much for that.

**Mr Carmody**—If I could just provide some figures for Senator Abetz, who is not here now. These figures, about surveillance coverage, have been made available to me. I mentioned to Senator Abetz that we have refined and improved the basis for calculating the square nautical mile coverage, but up until December 2007 it was calculated on the same basis. That shows square nautical mile coverage. While, as I explained, there are pilot issues that have impacted slightly, the 2007-08 coverage compared to 2006-07 was down slightly by 3.8 per cent; however, coverage in 2007-08 compared to 2005-06 is up by 6.78 per cent. The coverage in 2007-08 compared to 2004-05 is up by 18.6 per cent, showing the emphasis that we continue to place on that.

**Senator BRANDIS**—Let me take you back, Mr Carmody, to where you began, with your correction to page 112 of budget related paper 1.2. The full-time equivalent staff positions in Customs should be, in 2007-08, 5,864 and, in 2008-09, 5,875. Is that right?

**Mr Carmody**—They are the average figures and, of course, on the projection for 2008-09 we are continuing to refine our budgeting position. But that is a projection.

**Senator BRANDIS**—That shows, basically, a static staffing position—that is, for all practical purposes, no increase in staff.

**Mr Carmody**—No. I explained this in my introductory comments, and I might have been too brief. They reflect average staffing levels. The 2007-08 figures are the average of an increase in staffing numbers. Our staff numbers increased over the period of 2007-08 and the average FTE was 5,864. The actual number of FTEs at 30 June 2008 will be above that, so the average staffing level of 5,875—which, again, is an average for the year—reflects a decrease in staff over the 2008-09 year.

**Senator BRANDIS**—All right. That is slightly worse than I thought. We are going to have a decrease in staff in the coming financial year. Does that reflect economies forced upon Customs by the budget cutbacks?

**Mr Carmody**—It reflects a combination of some programs receiving small amounts of additional funding, some insourcing of staffing in our IT service desk area and—as I was explaining to Senator MacDonald—the 2.5 per cent price adjustment, as a positive, the 1.25 per cent efficiency dividend, the two per cent one-year efficiency dividend and the requirement under longstanding policy to fund pay rises from efficiencies.

**Senator BRANDIS**—Going to page 23 of Budget Paper No. 4, under ‘Agency Resourcing’: the total resourcing for Customs in 2008-09 is \$1,475,609,000, compared with total resourcing in the prior year of \$1,479,061,000. So there has been, by my calculations, a slight fall of about half a per cent in your resourcing. But, if we factor in the assumption which appears in Budget Paper No. 1 of 3.25 per cent inflation in the coming financial year, what we actually get in real terms is a projected reduction in funding to Customs of a little over 3.25 per cent, getting on to 3½ per cent. Is that right?

**Mr Carmody**—I hesitate because, as I said, we receive a price adjustment—and you are talking about an inflation factor, but we do receive a price adjustment—of 2.5 per cent.

**Senator BRANDIS**—These figures on page 23 of Budget Paper No. 4 do not reflect that adjustment, do they? We have the 2007-08 estimated actuals and the 2008-09 budgeted figures.

**Mr Carmody**—The budgeted figures would include the appropriation for the price adjustment of 2.5 per cent.

**Senator BRANDIS**—So are you saying that factors in a 3.25 per cent rate of inflation?

**Mr Carmody**—No, sorry—a 2.5 per cent appropriation for price adjustments. The price adjustment, as I was saying before, was formally adopted by the Department of Finance and Deregulation.

**Senator BRANDIS**—I understand what you are saying now. But you know, don’t you, that in Budget Paper No. 1 the estimate for the change in the value of money over 2008-09 is 3.25 per cent? So, even if we allow for an in-built price adjustment of 2.5 per cent, there is still a reduction in funding in real terms, isn’t there?

**Mr Carmody**—I would have to ask you to discuss with the Department of Finance and Deregulation the basis for their calculation, because I am sure they have a particular basis for calculating that which they believe reflects the pricing adjustments.

**Senator BRANDIS**—For goodness sake, the budget is ultimately the Treasury’s document—they are the lead agency here. The budget—we are told by the new government—is prepared on the assumption of a change in the value of money over the budget period of 3.25 percent. So, if you are saying that the Department of Finance and Deregulation has undertaken a somewhat similar exercise on the basis of a different figure, that is very interesting. But I am entitled, surely—and the Australian public are entitled—to assume the government knows what it is talking about. That might be a large leap of faith. When the budget is premised on a 3.25 per cent inflation rate, what I am putting to you—even allowing

for the price adjustment issue that you directed our attention to—is that there has actually been a relatively small reduction of funding to Customs in real terms.

**Mr Carmody**—There is a difference in those two figures; I am just hesitating because I do not understand the calculation of either. I think it is fair to say the fact that the pricing adjustment is less than the published inflation figure has been consistently the case for a number of years.

**Senator BRANDIS**—Be that as it may, if you take Treasury's inflation figure and look at the bottom-line figures of the budget papers, your agency has suffered a reduction in funding in real terms; and you have already told us that the staff establishment over 2008-09 is falling. Are those two phenomena related?

**Mr Carmody**—The staffing position reflects whether there are any lapsing programs or any new programs combined with the effect of efficiency dividends and paying for staffing increases. If it can be shown that 2.5 per cent is less than what is fair—and I cannot say that is the case because this is determined by the department of finance—that would be a factor, but I cannot answer that.

**Senator BRANDIS**—Come on, Mr Carmody. You are surely in a position to know the basis upon which this fiscal discipline imposed upon your agency by the Department of Finance and Deregulation has been arrived at.

**Mr Carmody**—All I can tell you is that we are given that this figure and for many years that figure has been less than the published inflation figure. That is all I can tell you.

**Senator BRANDIS**—But are you saying that you are not in a position to comment on the derivation of the 2.5 per cent figure?

**Mr Carmody**—I do not know the detail of it.

**Senator BRANDIS**—Are any of your officers, particularly officers in the accounting sections of Customs, in a position to speak to the issue of the derivation of the 2.5 per cent figure?

**Mr Ramsden**—I do not know how Finance devise it exactly. It is a published figure. It is called the wage and cost index. It is derived by the Department of Finance and Deregulation. That is the adjustment that is provided to us to increase our appropriation from one year to the next.

**Senator BRANDIS**—In what areas will Customs be cutting back programs, please?

**Mr Carmody**—First of all, I need to explain that we have not completed our budgeting process yet. That has been going on and that will be completed in the next few weeks. I cannot give you a definitive answer.

**Senator BRANDIS**—Nevertheless, when your minister went before the ERC for the preparation of the last budget he must have had—informed by you and your officers—a pretty good idea of what programs you wanted to expand and which were lapsing programs. You must have had a pretty good idea of where you might need to make cuts in the event of a reduction in funding, as it appears has occurred.

**Mr Carmody**—The two per cent dividend was actually announced during the election period so those processes were not in place. However, the position we are at is that I can express to you the broad direction for our funding decisions.

**Senator BRANDIS**—Well, you express the broad direction, Mr Carmody, but do not hold it against me if I then ask you more specific questions.

**Mr Carmody**—I certainly would not hold it against you, Senator, but do not hold it against me if I have to explain that the final details will be determined as part of our final budgeting position.

**Senator BRANDIS**—All right, let us press on. You make whatever general statement you want to make and then I will ask you about more particular matters.

**Mr Carmody**—Okay. We have undertaken a number of steps in approaching our planning and budgeting for the coming year. The impact of any particular efficiency dividend and whatever else will be determined by things like the mix between our support functions and our front-line and operational functions. It will be determined by the level of effectiveness and efficiency of our targeting and risk management approaches. It will be determined by the level of technology support and the efficiencies that we provide through that, for example, in a range of those programs. What we are looking at doing is this. We have had a review of our corporate support staffing, human resources staffing and other related areas. We can expect to see a reduction in those levels over the coming year and a reasonably substantial reduction in those in our intelligence and targeting areas. There may be some overall reduction but the actual targeting component and expertise is being enhanced as part of that. We are looking at better technology support for simple things like detained goods management. The efficiency of our present systems could be much improved.

For example, we are also looking for further efficiencies in our IT area. Having just transitioned and consolidated our major applications to a new environment—in the new contract with IBM—we can see opportunities to consolidate the particular systems and licences that we have in place. Our overall objective is to reduce where we can efficiently do it in our support functions and enhance our operational functions by improved risk approaches and systems support.

**Senator BRANDIS**—Thank you, Mr Carmody. Let us go through each of those particular topics with more particularity. You said that we can expect ‘reasonably substantial’—that was your phrase—reductions in corporate support. What does that mean specifically?

**Mr Carmody**—You are putting me in a difficult position because we have not finalised these and I would prefer to discuss these with our staff and others. However, you are—

**Senator BRANDIS**—This is estimates. Seriously, Mr Carmody—

**Mr Carmody**—No. I just want to explain something to you before answering. I am going to answer, Senator.

**Senator BRANDIS**—You appropriately caveated the answers you propose to give by indicating that there are no final figures because the budget is still being prepared, in effect. I understand that. I am not asking you about confidential communications between governments, matters of commercial confidentiality or any of those areas about which an

officer might, with proper circumspection, decline to answer. It is core business for an estimates committee to find out where the money is being spent and, when there are cutbacks, where they are being made. It is core business for this committee.

**Mr Carmody**—I do understand that, Senator. I was merely sharing my hesitations, but that was not going to prevent me from answering your question.

**Senator BRANDIS**—Thank you. All right, let us go to corporate support.

**Mr Carmody**—In the corporate support area we have had a review and that indicates that there are significant efficiencies that could come from more properly managing that as a national operation. To put it in round figures, there could be around 80 or more reductions in that area.

**Senator BRANDIS**—Eighty or more staff positions?

**Mr Carmody**—Yes.

**Senator BRANDIS**—That is equivalent full-time staff positions?

**Mr Carmody**—Yes.

**Senator BRANDIS**—When you say ‘managing it more efficiently as a national operation’, that sounds to me suspiciously like centralising the operation and cutting back on regional activities. Is that a fair assumption?

**Mr Carmody**—Let me explain what it means without saying yes or no. We have very regionally based operations and most of our operations will continue to be regionally based. However—

**Senator BRANDIS**—But there are some that will not?

**Mr Carmody**—There will be a reduction in some regional positions and some positions here in head office. When I said a national operation, I meant that the corporate support areas are almost solely regionally based and we believe that there has been some duplication. More importantly, having looked at benchmarks across other organisations and seeking advice from the consultants engaged, we believe there is adequate room to operate our corporate support more efficiently—which leads to those figures.

**Senator BRANDIS**—I will come back to that in a moment. Who are the consultants?

**Mr Carmody**—Accenture.

**Senator BRANDIS**—When were they engaged?

**Ms L Smith**—They were engaged in late February 2008.

**Senator BRANDIS**—Presumably there was a letter of engagement.

**Ms L Smith**—Yes, that is correct.

**Senator BRANDIS**—May it be produced, please?

**Ms L Smith**—I have not got that with me.

**Senator BRANDIS**—Will you take it on notice? I would like the letter of engagement to the consultants, which I assume sets out the terms of their task, to be produced.

**Ms L Smith**—Yes, that is correct.

**Senator BRANDIS**—The report has been received, has it? Or has only an interim report been received?

**Ms L Smith**—The report has been received and we are finalising it with Accenture to see what the impact is and what the implication is.

**Senator BRANDIS**—When was the report received?

**Ms L Smith**—The report was received in about the third week in April.

**Senator BRANDIS**—I would like a copy of it to be produced, please.

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

**Senator BRANDIS**—Thank you. When you say that you are in discussions with Accenture in relation to the implementation of the report, are you awaiting a supplementary report on implementation issues or are you merely in a dialogue with them seeking their guidance about how the recommendations embodied in the written report can best be accomplished?

**Ms L Smith**—Probably the latter, and we also just wanted it in a format that was suitable to be used to discuss within the organisation and so that we knew specifically what needed to happen and over what period of time.

**Senator BRANDIS**—How many meetings have there been with Accenture of that character?

**Ms L Smith**—There have been several meetings—probably four or five meetings—plus phone calls.

**Senator BRANDIS**—Have those meetings been minuted?

**Ms L Smith**—No, they have not been minuted.

**Senator BRANDIS**—Has there been a form of documentary record prepared of the meetings which notes the decisions taken by, or the advice given at, those meetings?

**Ms L Smith**—On one or two occasions there may have been an email but not for every occasion.

**Senator BRANDIS**—So for one or two occasions there is some form of record of the transactions of the meeting in an email. Is that what you are telling me?

**Ms L Smith**—As far as I remember, yes.

**Senator BRANDIS**—Could you check please to see in respect of how many of the meetings there is some form of documentary record? I would like each of those documentary records produced, please.

**Ms L Smith**—Yes, I will take that on notice.

**Senator BRANDIS**—Mr Carmody, coming back to this estimate of about 80 or more: I take it ‘80 or more’ means that, if there are more than 80, it is not many more than 80. So ‘80 or more’ does not mean 80 or 150; it means 80 or 90, I suppose.

**Mr Carmody**—The report suggests around 80, I believe.

**Senator BRANDIS**—Okay. Regionally based operations—

**Mr Carmody**—and here in Canberra.

**Senator BRANDIS**—I am just reading my note about what you said—‘Reduction in some regional positions and some in head office.’

**Mr Carmody**—That is right.

**Senator BRANDIS**—Approximately how many are regionally based and how many are Canberra based?

**Ms L Smith**—I would have to take that on notice.

**Mr Carmody**—I do not have that detail.

**Senator BRANDIS**—You must be able to tell us approximately.

**Mr Carmody**—I do not have that detail—

**Senator BRANDIS**—Is there an officer at the table who has read the Accenture report?

**Ms L Smith**—Yes, I have read the Accenture report.

**Senator BRANDIS**—Well, then I will ask you. About how many?

**Ms L Smith**—I am sorry, but honestly I cannot remember.

**Senator BRANDIS**—Approximately?

**Ms L Smith**—I honestly cannot remember. I am sorry.

**Senator BRANDIS**—Are more than half of the positions regional positions?

**Ms L Smith**—No, they would not be.

**Senator BRANDIS**—So it is fewer than half? Or not more than half?

**Mr Carmody**—We do not want to mislead the Senate—

**Senator BRANDIS**—I am sure you do not.

**Mr Carmody**—We have already committed to providing what detail we can. We just do not want to mislead—

**Senator BRANDIS**—Of course you do not, Mr Carmody. I would not think for a moment that you would. But I am rather keen to tie down the answers with as much specificity as I am able to.

**Mr Carmody**—And we are attempting to provide that.

**Senator BRANDIS**—Of course, if you give me the Accenture report, I could find out for myself.

**Mr Carmody**—We have agreed to take that on notice.

**Senator BRANDIS**—Yes. Can you give me an example of some of the cities or regional towns where it is proposed to cut back on the regional positions? I am not expecting you to be able to give me a comprehensive list, but just give me a few.

**Ms L Smith**—The main cities where there would be a change would be Brisbane, Sydney, Melbourne and Canberra.

**Senator BRANDIS**—Just pausing there. Two things: I am not interested in Canberra for the moment because I am interested in the out-of-Canberra operations—what I understood Mr Carmody to mean when he said ‘regional operations’ as opposed to head office operations—

**Ms L Smith**—Yes, that is correct.

**Senator BRANDIS**—When you say ‘there would be a change’, I take it that is a euphemism for ‘there would be a reduction’?

**Ms L Smith**—Yes, that is correct.

**Senator BRANDIS**—Outside the capital cities what regional centres, as opposed to capital city centres, will suffer a reduction in positions, please?

**Ms L Smith**—None.

**Senator BRANDIS**—Will the regional offices in all capital cities suffer a reduction?

**Ms L Smith**—No.

**Senator BRANDIS**—Which ones will not? You have told me that Melbourne, Sydney, Brisbane will.

**Ms L Smith**—Tasmania and the Northern Territory will not. I believe South Australia will not and I believe there is just one position in WA.

**Senator BRANDIS**—Thank you. Do you have an indication of the costs that will be saved by the elimination of these 80 or more staff positions?

**Ms L Smith**—Approximately \$4.5 million.

**Senator BRANDIS**—Per annum?

**Ms L Smith**—That is correct.

**Senator BRANDIS**—Will that saving be accomplished by the retrenchment of existing staff? In other words, will there be any involuntary retirements?

**Mr Carmody**—There are no plans for any involuntary retirements.

**Senator BRANDIS**—All right. That is very helpful. Mr Carmody, the second category you mentioned was intelligence and targeting and you said there would be some reductions. Could you, or whoever is the appropriate officer, please elaborate for us a little more fully as to what are the particular functions comprehended by the category ‘intelligence and targeting’?

**Mr Buckpitt**—The Intelligence and Targeting Division, as the name implies, involves two components. The targeting function, which is about two-thirds of the division, is that part that selects cargo and passengers for further examination. Intelligence is much as you would expect it to be.

**Senator BRANDIS**—What is the staff establishment of the respective subdivisions?

**Mr Buckpitt**—It is currently about 480 in total across the division.

**Senator BRANDIS**—So two-thirds is about 320-odd in targeting?

**Mr Buckpitt**—It is about 270.

**Senator BRANDIS**—In targeting.



**Mr Buckpitt**—The intelligence function is about 170 and there is a third branch which is much smaller.

**Senator BRANDIS**—What is that?

**Mr Buckpitt**—That looks after expansion of our capability. It is called the Strategic Development Branch.

**Senator BRANDIS**—What is the staff establishment of that?

**Mr Buckpitt**—It is about 35.

**Senator BRANDIS**—And that gets you up to 475. Where is it proposed to make the reductions?

**Mr Buckpitt**—We will be making reductions of the order of about 20 staff.

**Senator BRANDIS**—Over the entire intelligence and targeting branch?

**Mr Buckpitt**—That is correct.

**Senator BRANDIS**—And from which of those three subdivisions will the 20 staff reductions come, please?

**Mr Buckpitt**—There will be reductions across all three branches. Predominantly they will be in the Intelligence Branch. We will achieve that in several areas. The liaison function, which is responsible for liaison with other agencies regarding intelligence, is a group of about 25 officers. We will reduce that by about four.

**Senator BRANDIS**—Twenty-five to 21?

**Mr Buckpitt**—Yes. We have the front-line program, which involves about 14 officers. We will be reducing that by two.

**Senator BRANDIS**—Fourteen to 12.

**Mr Buckpitt**—We have analysts who write analytical reports on intelligence across the organisation. They will reduce from 55 to 50.

**Senator BRANDIS**—Yes.

**Mr Buckpitt**—I think we are losing two administrative staff across the division.

**Senator BRANDIS**—We are still in the intelligence subdivision?

**Mr Buckpitt**—Correct.

**Senator BRANDIS**—From what to what?

**Mr Buckpitt**—I do not have that figure in front of me.

**Senator BRANDIS**—You told us that there are approximately 170 officers in intelligence. So far—and this is before the cutbacks—you have accounted for 94 of them, other than the unspecified figure in administration. So we are looking for about another 70. What other branches of the intelligence subdivision are there that are being cut back?

**Mr Buckpitt**—The areas that I have mentioned are the areas where the main reductions are occurring. The balance between the 170 total and the number I have given you so far is largely unaffected.

**Senator BRANDIS**—What are those other areas that are unaffected, please?

**Mr Buckpitt**—There would be the officers who are involved with the evaluation of intelligence material.

**Senator BRANDIS**—They are different from the analysts, are they?

**Mr Buckpitt**—That is correct. They are the officers who initially receive the information reports, do some checks on them—in terms of additional information that we can bring to bear—and forward the information on to the areas that would have an interest in that information.

**Senator BRANDIS**—They not being reduced at all. Is that right? Or are they being reduced slightly?

**Mr Buckpitt**—They are not being reduced.

**Senator BRANDIS**—How many are there?

**Mr Buckpitt**—From recollection it is of the order of 16 staff.

**Senator BRANDIS**—Who else? What other branches are there of the intelligence subdivision?

**Mr Buckpitt**—There are the officers who do the work of actually going out collecting the information.

**Senator BRANDIS**—What do you call them?

**Mr Buckpitt**—Collection and liaison. I mentioned previously the liaison role but then there is the actual collection role, which is a little different.

**Senator BRANDIS**—So there is the collection function. Is that being reduced at all?

**Mr Buckpitt**—No.

**Senator BRANDIS**—How many officers are in the collection branch?

**Mr Buckpitt**—I would have to take that question on notice but I think it is of the order of 25.

**Senator BRANDIS**—Are there any other branches?

**Mr Buckpitt**—I think that is as many as I can remember off the top of my head.

**Senator BRANDIS**—You are being genuinely helpful, Sir, and I appreciate that. But you are the manager of the targeting and intelligence branch. Surely you must know, off the top of your head, what the branches are in one of the two principal divisions for which you have responsibility.

**Mr Buckpitt**—Yes. If you wished, I could give you a breakdown of the totals by a different means.

**Senator BRANDIS**—That would be very helpful. Thank you.

**Mr Buckpitt**—There are a number of areas in central office; the first is called clients and current intelligence.

**Senator BRANDIS**—This is within intelligence. Is that correct?

**Mr Buckpitt**—Yes. That has five staff. Intelligence collection and liaison in Canberra has eight staff. Analysis and production has 13 staff. Knowledge management and enhancement has 11 staff. In total in central office you are looking at 37.

**Senator BRANDIS**—How many of those will be cut?

**Mr Buckpitt**—The reductions in the central office component would be of the order of three or four. Intelligence in New South Wales is 38 staff.

**Senator BRANDIS**—I see what you are doing. You are now dealing with this regionally rather than functionally.

**Mr Buckpitt**—Yes.

**Senator BRANDIS**—I understand. That is good. Thank you.

**Mr Buckpitt**—Intelligence in Victoria has 31 staff.

**Senator BRANDIS**—Give me the figure for New South Wales again, please.

**Mr Buckpitt**—Thirty-eight.

**Senator BRANDIS**—And by how many is that being reduced?

**Mr Buckpitt**—I have not previously done this calculation by region, but it would be of the order of four or five.

**Senator BRANDIS**—Victoria?

**Mr Buckpitt**—Intelligence Victoria, 31.

**Senator BRANDIS**—The reduction?

**Mr Buckpitt**—Of the order of two or three. Intelligence Queensland, 22.

**Senator BRANDIS**—The reduction?

**Mr Buckpitt**—One. Intelligence South Australia, six.

**Senator BRANDIS**—And no reduction I think you told us before.

**Mr Buckpitt**—Correct. Intelligence WA, 15.

**Senator BRANDIS**—The reduction was one, I think Mr Carmody said or perhaps you said before.

**Mr Buckpitt**—I think it is one in WA, but I have to admit that that is a vague recollection for me. It is either one or none.

**Senator BRANDIS**—Tasmania?

**Mr Buckpitt**—Intelligence Tasmania, six staff.

**Senator BRANDIS**—No reductions?

**Mr Buckpitt**—Correct. Intelligence NT, seven staff.

**Senator BRANDIS**—Any reductions?

**Mr Buckpitt**—Not that I can recall.

**Senator BRANDIS**—You will confirm all those figures on notice, won't you?

**Mr Buckpitt**—Okay. I can do that, Senator.

**Senator BRANDIS**—Thank you. That is very helpful. That is the intelligence section. What about the targeting section? Would it be more efficient to do this by functional category or by region? Perhaps we should do both.

**Mr Carmody**—Why not!

**Senator BRANDIS**—I have to tell you, Mr Carmody, that I was so inspired by a speech I heard Senator John Faulkner give recently about how the Rudd government was going to be responsible for a new dawn of freedom of information, and he used this wonderful phrase: ‘a culture of disclosure’. So I am doing my modest little bit to encourage in a bipartisan fashion this culture of disclosure. Let us deal with the targeting section, please, first of all by function.

**Mr Buckpitt**—The first four groups relate to central office staffing. Target Development is a group of 15.

**Senator BRANDIS**—What does that do? Identifies targets, I suppose.

**Mr Buckpitt**—It mostly comprises analysts who do further work in developing up information that would help us identify specific operational targets. Typically it takes information and turns it into specific entities and what we know about them.

**Senator BRANDIS**—All right. That sounds very important. How many staff did you say there were?

**Mr Buckpitt**—It is actually FTEs, so 15.

**Senator BRANDIS**—Okay, 15 FTEs. How many of those are being chopped?

**Mr Buckpitt**—I am not aware that there is any reduction in that group.

**Senator BRANDIS**—No reduction, okay. Next branch of targeting?

**Mr Buckpitt**—Targeting Operations in central office is six.

**Senator BRANDIS**—What do they do?

**Mr Buckpitt**—Targeting Operations in central office largely oversees and coordinates a much larger group in the states. It is typically these people in the states who would do the work of what we call match evaluation or cargo targeters. They would deal with assessments about consignments or people for whom we have a particular interest in further examination activity.

**Senator BRANDIS**—Are any of the Targeting Operations central office being reduced?

**Mr Buckpitt**—From recollection, I do not think so. There might be one; it is of that order. Targeting Strategies is the third section.

**Senator BRANDIS**—That is a central office branch?

**Mr Buckpitt**—Yes. That is a group of five and that is not being affected. Targeting Systems—and by systems we mean IT systems, basically—is a group of 9.5 FTE.

**Senator BRANDIS**—Are there any reductions to that one?

**Mr Buckpitt**—No. I will go through the targeting in the states. I might say that we are making some changes to targeting which reflect changes that we have already had in train

nationally to increase the efficiency of our operations and change some of the ways in which we have worked. For example, there has been a variation in the number of consignments that each cargo targeter has dealt with.

**Senator BRANDIS**—When you say ‘variation’, do you mean a reduction?

**Mr Buckpitt**—No. There has been a variation in the past, in that one cargo targeter might have got through X thousand a week, whereas another might have got through 2X in a week. What we have done is to review our processes and we are issuing much more detailed guidance to cargo targeters so that, based on best practice, we think that we will get a better result and a more consistent result in terms of throughput. So that will deliver some savings for us nationally.

**Senator BRANDIS**—I just want to get the raw data out, if I may.

**Mr Buckpitt**—All right. Targeting New South Wales, 64.

**Senator BRANDIS**—And how many reductions?

**Mr Buckpitt**—I do not have the exact figure, but it is of the order of three.

**Senator BRANDIS**—Victoria?

**Mr Buckpitt**—Targeting Victoria, 66; and the reductions there are of the order of six.

**Senator BRANDIS**—Queensland?

**Mr Buckpitt**—Thirty-eight.

**Senator BRANDIS**—Reductions?

**Mr Buckpitt**—Of the order of two.

**Senator BRANDIS**—South Australia?

**Mr Buckpitt**—Nineteen.

**Senator BRANDIS**—Reductions?

**Mr Buckpitt**—I do not think there are any reductions in South Australia.

**Senator BRANDIS**—Western Australia?

**Mr Buckpitt**—Thirty-one, and in the order of two reductions.

**Senator BRANDIS**—Tasmania?

**Mr Buckpitt**—Two.

**Senator BRANDIS**—Any reductions?

**Mr Buckpitt**—Not that I recall, Senator.

**Senator BRANDIS**—You would be sure to recall if there was a reduction of one or two in Tasmania.

**Mr Buckpitt**—Yes, exactly.

**Senator BRANDIS**—And the Northern Territory?

**Mr Buckpitt**—Six.

**Senator BRANDIS**—Reductions?

**Mr Buckpitt**—None.

**Senator BRANDIS**—All right. So you have very properly allowed for the fact that you do not have the precise data there, and you will of course take all these questions on notice and confirm them. But your best assessment is that, in the states, the targeting staff are being reduced by 13.

**Mr Buckpitt**—It is about that, yes.

**Senator BRANDIS**—If I may express this question in layman's language, the targeting staff are the people who, at the various points of entry of cargo into the country, are actually responsible for inspecting, whether by X-ray, electronic process or visual inspection. These are the people who actually look at the cargo, aren't they?

**Mr Buckpitt**—No. These are the staff who deal with the electronic profile match—so they would be making judgements based upon information as to whether or not another Customs officer should actually be doing a physical inspection of some sort.

**Senator BRANDIS**—Who are the staff then, at the various ports and points of entry, who do the actual inspection, whether by X-ray or by the naked eye—

**Mr Buckpitt**—They would be officers of either the Cargo Division or the Enforcement and Investigations Division, depending upon the location.

**Senator BRANDIS**—So they are not in the Intelligence and Targeting Division.

**Mr Buckpitt**—No, they are not.

**Senator BRANDIS**—All right. I will ask someone else about them. That is very helpful. Thank you very much for that.

**Mr Carmody**—I just want to reinforce that, as explained by Mr Buckpitt, these are coming about because we are finding improved efficiencies for the operations of our targeting. So we are not reducing the effectiveness of our targeting.

**Senator BRANDIS**—You remind me of the famous remark of Christine Keeler about Mr Profumo when you say that, Mr Carmody.

**Mr Carmody**—That is a curious analogy.

**Senator BRANDIS**—You would say that, wouldn't you?

**Mr Carmody**—I just want to reinforce that Mr Buckpitt explained that we have been looking at the efficiency of our operations and benchmarking performance, and these savings reflect that.

**Senator BRANDIS**—Thank you, Mr Carmody. I hear what you say. The next area of operation, Mr Carmody, that you identified as suffering reductions or—as you would no doubt put it—enjoying efficiencies, was technology support. Can the officer who knows about that come to the table, please?

**Mr Carmody**—What I explained there, Senator, was that we moved our operations to a new supplier, IBM, and that has opened up possibilities. I do not know that we will be able to give you too much more detail. It opened up possibilities of consolidating some of the tools of

licences that we pay for at the moment. There probably will not be a whole lot more detail on that at this stage.

**Senator BRANDIS**—And this is a tender or a subcontract to IBM?

**Mr Carmody**—No. EDS used to be our supplier and we have now transitioned to IBM as a result of a contract review—a new contract.

**Senator BRANDIS**—Will there be any reduction in the number of staff positions?

**Mr Carmody**—The first point I need to make is that there are savings overall as a result of this new contract, which helps with the issues we are talking about at the moment. They are significant over the life of the contract. As to staffing, the chief information officer can help you there.

**Mr Harrison**—There is no specific staff reduction. There has been a staff increase in the IT area as a result of those contract arrangements where we decided to insource our service desk arrangements. I think that was mentioned earlier. We are looking to save money by employing staff rather than contractors over the course of the year. We expect the staff numbers overall to go up.

**Senator BRANDIS**—Thank you. The next category you mentioned, Mr Carmody, was IT.

**Mr Carmody**—I said that we are looking—

**Senator BRANDIS**—You are looking for efficiencies and opportunities for consolidation.

**Mr Carmody**—Yes. That is what I mentioned about the licences and products that we have at the moment.

**Senator BRANDIS**—Pardon my ignorance, but what does ‘opportunities for consolidation’ mean?

**Mr Carmody**—It means that we suspect, having consolidated, that we will have a few suppliers of products that can be consolidated into a single licence or product and that perhaps an expert will help.

**Senator BRANDIS**—Do you mean that you will get more of your services from fewer suppliers in larger packages?

**Mr Harrison**—Senator, the reference is in relation to the fact that, like any large IT shop, we have quite a variety of products and services—specifically hardware and software. We have just spent the last six months moving all of our equipment and our applications from one place to another. So we are in the reasonably unique position of having examined that in some detail. We have discovered that over time, as these multiple products and services have grown up, there are a number of software packages in particular that potentially do the same job. Equally, we have a number of different vendors of relational databases et cetera. We believe there are opportunities for rationalisation of those types of products and services that will, in effect, save money.

**Senator BRANDIS**—I understand that; thank you. Mr Buckpitt before told me that the people who do the inspection of cargoes at the various points of entry are the intelligence and enforcement division. What are they called?

**Mr Carmody**—Cargo and enforcement investigations are involved in those areas.

**Senator BRANDIS**—Will there be any cutbacks in cargo and enforcement?

**Mr Carmody**—We are getting into territory now where we have really not finalised some of these figures.

**Senator BRANDIS**—Then I will not ask you for definitive answers; I will just ask you for estimates.

**Mr Carmody**—I certainly cannot give you cargo at the moment. We have not settled that budget because there are issues we continue to work through. There will be some—

**Senator BRANDIS**—Pausing there—stay with cargo for the moment, and I hear what you say. Tell me what the current full-time equivalent staff positions in cargo are?

**Mr Carmody**—I do not have those—

**Senator BRANDIS**—I am sure one of your officers will be able to assist.

**Ms Fisher**—As at March 2008 our FTE is 952.5.

**Senator BRANDIS**—The FTE is 952.5 officers.

**Ms Fisher**—It is 952.5 FTE, full-time equivalent.

**Senator BRANDIS**—Let me just make sure I am following you. These are all FTE positions located at points of entry into the country?

**Ms Fisher**—Those FTE are split between some in Canberra and some in points of entry around Australia. The majority are located in regional offices doing operational, facing cargo duties.

**Senator BRANDIS**—I understand that. What is the split between the Canberra based FTE positions—

**Ms Fisher**—Approximately 12 per cent of those staff are located in Canberra.

**Senator BRANDIS**—So 838.2, or thereabouts, FTE are at entry points. Is that right? That is 88 per cent.

**Ms Fisher**—I would need to just check those figures for you, but that is approximately the split.

**Senator BRANDIS**—About 840-odd. Let us just concentrate for the moment on the 840-odd non-Canberra based positions. By approximately how many FTE is it expected that that number will be reduced?

**Mr Carmody**—I am afraid that that cannot be answered because this is one area where we have not resolved the funding position. We are just not in that position at the moment.

**Senator BRANDIS**—So it is possible that none will be reduced?

**Mr Carmody**—I suspect there will be reductions, and we will be looking for efficiencies in the processes. This is one area where we are really working diligently, but we are a long way from finalising those positions.



**Senator BRANDIS**—Nobody is doubting your diligence, Mr Carmody. I do not know why you would say that. Nobody is doubting your diligence.

**Mr Carmody**—I am just sharing with you, Senator!

**Senator BRANDIS**—I am sure that you are working under tremendous handicaps with the cutbacks that the new government has imposed on your agency. But, anyway, you are not in a position to tell me now because, although you think there are going to be some, it is just too early in the process to put a meaningful figure on that.

**Mr Carmody**—We have not resolved that particular area of the organisation.

**Senator BRANDIS**—By when do you expect to resolve it?

**Mr Carmody**—We are planning to be in a position to resolve this within the next two to three weeks.

**Senator BRANDIS**—The next two to three weeks?

**Mr Carmody**—Yes.

**Senator BRANDIS**—So, within probably three weeks hence, you will know what number of FTE positions in cargo will be going?

**Mr Carmody**—We will know the number of FTE positions that will be funded for the coming year not only for cargo but for the total organisation.

**Senator BRANDIS**—Mr Secretary, Mr Hallihan, can you remind me please what the date is for answers to questions taken on notice?

*Secretary interjecting—*

**Senator BRANDIS**—Well, Mr Carmody, you will know this by the time you have to answer these questions. So you will take that on notice, won't you?

**Mr Carmody**—It would be helpful to explain that, with respect to Mr Buckpitt's answers, they have not been signed off as final figures.

**Senator BRANDIS**—He made that perfectly clear.

**Mr Carmody**—We are working through the process in addition to staffing. We are working through supplier expenses and there will be savings that we will be targeting in those operations. We will be in a position within three weeks to finalise our budget. That is our expectation. We will share that with the organisation and we will be happy to share it with the committee, if you would like us to.

**Senator BRANDIS**—I have made it very obvious that I want this information.

**Mr Carmody**—That is right, and that is why I am offering to assist you by providing the answer when we have concluded our deliberations.

**Senator BRANDIS**—If I may say so, both you and your officers have been very careful to appropriately caveat your answers. It is perfectly obvious to me and, I am sure, to everyone listening to these proceedings that your officers have not said that this is necessarily the definitive number of reductions. But they, particularly Mr Buckpitt, have been as helpful as they can given that we have not finalised the position yet. Nevertheless, there will be, you

expect, some reductions in the cargo FTE positions—in at least the 88 per cent of them that are in regional offices—and you will be in a position to tell us within three weeks what that reduction will be. Is that correct?

**Mr Carmody**—That is our plan. To help you, Senator, in most areas of the organisation, there will be some reductions in staffing. We will be able to provide details once we—

**Senator BRANDIS**—You will take that on notice. You will also take on notice, won't you, please, Mr Carmody, where the reductions in the staff positions in the cargo inspection area of the operation will take place?

**Mr Carmody**—Yes.

**Senator BRANDIS**—Beyond the corporate support, intelligence targeting, technology support, IT and cargo areas of Customs, are there any other areas of Customs that we have not discussed where cutbacks are being contemplated at the moment?

**Mr Carmody**—I think I indicated that almost all areas of Customs will have some reduction. Perhaps the only one, at the moment—and I stress 'at the moment', because we have not finalised these—that I doubt will have a reduction is our airport operations, because of the particular funding arrangements associated with them.

**Senator BRANDIS**—And no doubt you would have been chastened by the report in this morning's Sydney *Daily Telegraph* which tells its readers of gaping holes in security at Sydney airport.

**Mr Carmody**—I am suitably chastened! I saw the headlines.

**Senator BRANDIS**—I am not vouching for the accuracy of the report in the Sydney *Daily Telegraph*, but you would no doubt be aware of the sensitivity of the issue of cutbacks in airport security, Mr Carmody?

**Mr Carmody**—That is correct.

**Senator BRANDIS**—Would you please take this on notice in an omnibus fashion, if I can ask you to do so. I would like to know every reduction in all areas of the operations, classified both by function and by the locality at which the position to be eliminated was hitherto based.

**Mr Carmody**—We will share that with you, as we will with our staff, when it is finalised. I would just make a couple of observations. We will share with you, as Mr Buckpitt has said, the particular strategies we are employing to make sure that we achieve our objectives for the community in terms of border security. I would just reinforce that nowhere in our plans do we have plans for compulsory redundancies.

**Senator TROOD**—The passenger movement charge will increase by \$9 from 1 July 2008. Is that right?

**Mr Mann**—From 1 July 2008 the government will increase the passenger movement charge from \$38 to \$47 per liable passenger.

**Senator TROOD**—Can you tell us when that passenger charge was last increased?

**Mr Mann**—I think it was last increased by \$8 to \$38 per passenger in the 2001-02 budget.

**Senator TROOD**—In 2001?

**Mr Mann**—In the 2001-02 year.

**Senator TROOD**—And that was an \$8 increase that year?

**Mr Mann**—That is correct.

**Senator TROOD**—And the anticipated revenue raised over four years is \$459 million approximately. Is that correct?

**Mr Mann**—Yes; \$459.3 million.

**Senator TROOD**—I am just trying to understand the costs that this charge is intended to recover. Budget Paper No. 2 says at page 7 under 'Revenue measures':

The Passenger Movement Charge also recovers the costs of processing international passengers at international airports and maritime ports, and the cost of issuing short-term visas overseas.

Is that correct?

**Mr Mann**—Yes. It was basically to offset the costs of the Customs, Immigration and Quarantine processing and the cost of issuing short-term visas.

**Senator TROOD**—Did the charge recover all of those costs?

**Mr Mann**—The charge is not directly disbursed to agencies for covering the costs. It was intended to offset the cost of the Customs, Immigration and Quarantine processing. It was increased in the 1998-99 budget to help meet additional costs arising from the Sydney 2000 Games and was last increased to offset the increased costs of inspecting passengers, mail and cargo in 2001-02. I would have to take on notice the extent to which that is seen as a full cost recovery.

**Senator TROOD**—Could you do that for me, Mr Mann?

**Mr Mann**—Yes.

**Senator TROOD**—The statement in the budget papers seems to be inaccurate, then, because, as I read it, it says that it 'recovers the cost of processing international passengers at international airports and maritime ports, and the cost of issuing short-term visas overseas'. But you are saying that there are other costs that it seeks to recover.

**Mr Mann**—No; that there have been other costs associated with the processing of passengers—in particular, there has been a range of aviation security measures in recent years.

**Senator TROOD**—I have not got to that yet. I realise that. Do you have any figures on the cost of issuing short-term visas overseas?

**Mr Mann**—That would be a question for the Department of Immigration and Citizenship.

**Senator TROOD**—So you are saying that I should go to another agency for that answer?

**Mr Mann**—We collect the charge from airlines. That is provided to—

**Senator TROOD**—So you are the collecting agency?

**Mr Mann**—That is correct. It is to cover costs that are incurred by a range of agencies—not just Customs but also Immigration, AQIS—

**Senator TROOD**—So what you are saying is that you are the collection agency?

**Mr Mann**—Yes.

**Senator TROOD**—For other agencies?

**Mr Mann**—Not for other agencies, but to collect the charge. The amounts are not disbursed to agencies; they are paid into consolidated revenue to offset those costs that we and other agencies incur.

**Senator TROOD**—There have been costs to which this charge has been attributed in the past and you are now adding, as I read the budget papers, the cost of a range of aviation security initiatives as well. Is that right?

**Mr Mann**—The measure is to partially offset the costs of aviation security measures.

**Senator TROOD**—Yes, the cost of a range of aviation measures. Could you just elaborate for us what this range of aviation security initiatives might be?

**Mr Mann**—There have been a range of measures in relation to enhanced aviation security over recent years, including the upgrading of security at airports, implementation of the Air Security Officer Program, application of security regulation regime at all airports, promoting industry awareness and compliance and placing trained officers on domestic and international flights. There are a range of other measures, including improved data access for border control agencies, expanding the detector dog program, improving security and crime information exchange arrangements for aviation, funding counterterrorism first response teams to a terrorist incident or threat in the airport environment, community policing at airports, enhanced CCTV monitoring and analysis capability at international airports, funding trial X-ray inspection technology and deployment of explosive trace detection equipment, funding increased air cargo security and purchase of mobile X-ray screening vans.

**Senator TROOD**—That sounds like a large number of initiatives for which you are seeking to recover costs. Do you have a figure as to the value of those?

**Mr Mann**—No. Customs was not—

**Senator Ludwig**—As I understand it, I am advised that the national security aviation initiatives implemented since the 2001-02 budget are expected to cost approximately \$2,249.3 million to 2011-12. Currently the costs are not recovered as part of the passenger movement charge. The measure itself is estimated to raise about \$459.3 million over four years. It was, as I think you have heard, last increased in the 2001-02 budget by \$8 million to offset the increased cost of inspecting passengers, mail and cargo at Australia's international airports. Since 2001 the government has implemented a significant number of aviation security measures, including improving data access for border control agencies, increasing airside border control, increasing cargo security, funding counterterrorism first response teams and the unified policing model—if that helps.

**Senator TROOD**—Somewhat, Minister. It helps me to understand that there are a large number of aviation security initiatives of considerable expense. It does not quite help me understand why a decision has now been made to try and recover some of those costs through the passenger movement charge. Can you explain that to me, please?

**Senator Ludwig**—It was in order to partially offset the cost of the national security aviation initiatives. The government said it would, and it did, increase the PMC from 1 July 2008, by \$9, from \$38 to \$47.

**Senator TROOD**—I see that. That is a budget measure but, at some stage, a decision must have been made to try and recover some of those costs via this charge. Is that right?

**Senator Ludwig**—It does, as you have already heard, get paid into consolidated revenue. It is not an offset, as you would directly attribute it. It is to partially offset in the sense that it goes to consolidated revenue as an income. Along with all of the national security aviation initiatives and the range of other work, it recovers the costs of the Australian Customs Service, the Department of Immigration and Citizenship and the Australian Quarantine and Inspection Service in processing international passengers at international airports and maritime ports and the issuing of short-term visitor visas.

**Senator TROOD**—Minister, you seem to be saying that—

**Senator Ludwig**—This is the advice that I have that I am happy to help you with. If there is any other further detailed information then either Customs or I can seek to find an answer.

**Senator TROOD**—The proposition that you seem to be putting to the committee is that there are a large number of charges related to aviation security et cetera and that a decision has been made to try to increase the recovery of those associated costs and that this charge has been increased in part to help to recover some of those costs.

**Senator Ludwig**—Yes. The PMC is a cost recovery levy imposed under a tax act rather than a fee-for-service levy, if that helps. It is not a fee-for-service levy.

**Senator TROOD**—But this is only a partial recovery of those costs. Is that correct?

**Senator Ludwig**—Yes, clearly it is. The approximate costs are significantly more than the 459. I think I said in the response that I have given that it is sought to partially cover those costs

**Senator TROOD**—Clearly that seems to be the case. I suppose that leads to the question, Minister or Mr Mann, as to how long one might expect these charges to continue to expand without there being a further increase in the passenger movement charge.

**Senator Ludwig**—That would be a budget question. But I can put it in this context: if the PMC had been indexed to, for argument's sake, the consumer price index since 2001, it would be about 46.45c now. As to where it might move from there, given the price it is now, that is a budget matter. It is really impossible to answer that from a Customs perspective.

**Senator TROOD**—So there has not been a decision not to further increase it?

**Senator Ludwig**—We have only had the recent budget, where it was increased from 1 July 2008. I am unaware of any other information that might suggest anything else.

**Senator TROOD**—I refer to the list that I have been given, Mr Mann. Is that of all of the items that you quickly read through just a moment ago?

**Mr Mann**—I think there are over 100 measures, and that was a large but not complete list of them.

**Senator TROOD**—Perhaps you would be good enough, if I could put it on notice, to list those items that this is attributable to for the purposes of the committee. You said there were over 100. Is that right? Perhaps you would take that question on notice.

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

**Senator TROOD**—Thank you, Mr Mann. Do you have a cost that is attributable to Customs processing those arriving and departing from airports? I am conscious that Mr Carmody said that one of the areas where it was unlikely there would be any cuts in the overall Customs Service was likely to be airports. Is that right, Mr Carmody? Did I hear you correctly in that respect?

**Mr Carmody**—That is correct.

**Senator TROOD**—I assume that reflects the emphasis that is being placed on airport security and the responsibilities that Customs has at airports. Do you have a figure as to the cost for each of the movements? Is there an attributable figure for those movements?

**Mr Carmody**—We would have to take it on notice as to what we could do. I do not have it to hand. If you are asking for the total cost of our airport operations divided by the number of passengers, we can provide something like that for you.

**Senator TROOD**—I suppose I am interested in determining whether or not you make, for the purposes of your budget, a calculation as to the number of movements et cetera and whether or not that is related to the number of officers you have on duty.

**Mr Carmody**—That is certainly a factor that is taken into account in our staffing: projections of movements of passengers at international airports.

**Senator TROOD**—And they presumably are increasing? Is that correct?

**Mr Carmody**—That is correct. That is the projection at this stage.

**Senator TROOD**—Is that what I am seeing in these projections for the increases over the next four years? There is an increase of 106 million to 124 million movements in the forward estimates.

**Mr Mann**—Yes, there is an impact that flows through to the passenger movement charge that comes from the expected increase in passenger numbers departing. That is in calculating the passenger movement charge estimates. Customs itself receives a workload funding adjustment. That is also based on the marginal cost of additional passengers. At this stage of the estimates it is something like 4.9 per cent growth per annum.

**Senator TROOD**—So you are expecting something like a 4.9 per cent increase in movements. Is that correct?

**Mr Mann**—In international movements, yes.

**Senator TROOD**—And that is for all airports across the country. Is that right?

**Mr Mann**—It is averaged out. Certainly the distribution would differ per airport but, as national forecasts go, it averages out at 4.9 per cent.

**Senator TROOD**—Do you have any figures in relation to particular airports—

**Mr Mann**—Not with me.

**Senator TROOD**—or to the increase in movements at particular airports?

**Mr Mann**—We could give you historical information.

**Senator TROOD**—Do you have projections?

**Mr Mann**—Customs would not create such estimates. They are based on tourism forecasts, which would be publicly available, I believe. We can certainly see if we can identify those for you.

**Senator TROOD**—That would be helpful; thank you. You have mentioned tourism and I am wondering whether or not there has been any consultation with the tourism industry about the increase in this passenger movement charge.

**Mr Mann**—Not by Customs.

**Senator TROOD**—Are you aware of any consultation that took place prior to the announcement of the increase?

**Mr Mann**—I am not aware.

**Senator TROOD**—Mr Carmody, are you—

**Mr Carmody**—No; I am not aware.

**Senator TROOD**—Where might I go to clarify that matter?

**Mr Carmody**—I suspect the Department of Finance and Deregulation would be your best port of call.

**Senator TROOD**—Are you suggesting that it would not be normal to make inquiries on this line?

**Mr Carmody**—No. I am just suggesting that they would be best positioned to answer those questions.

**Senator TROOD**—Has the Customs Service had any reaction to this increase announcement?

**Ms Dorrington**—Yes. We have had some inquiries by industry about the increase to the passenger movement charge. I am the chair of the national passenger facilitation task force. We have a meeting with industry in June and I will be outlining the measures and the way the measures will work into the future.

**Senator TROOD**—You put that in fairly neutral terms—that is, that you have had some inquiries about it. But have you had any reaction from industry to the increase in the charge?

**Ms Dorrington**—I can assure you that industry has not been positive in their reaction. However, neither have they been overly negative.

**Senator TROOD**—How ‘unpositive’ have they been? Let me put it the other way. How critical have they been?

**Ms Dorrington**—They have been critical in the sense that industry, particularly tourism bodies, have a view that passengers are already paying enough money in taxes and charges through ticket fares.

**Senator TROOD**—That is a reasonable proposition, isn’t it?

**Ms Dorrington**—So, of course, they are critical of any increase in taxes and charges that comes through passenger fares because they have a view that this would have an impact on tourism.

**Senator TROOD**—Do you not share that view, or do you have no view on that view?

**Ms Dorrington**—I do not have any evidence before me.

**Senator Ludwig**—Chair, it does seem that we are moving into an expression of an opinion by a witness in this area.

**Senator TROOD**—Actually, Minister, I was seeking Ms Dorrington's view on the reaction from industry to this increase in charge, which she was being very helpful about.

**Senator Ludwig**—Witnesses are still not required to give opinions. That has not changed. That would be an opinion.

**Senator TROOD**—I acknowledge the undesirability of seeking that information but I was seeking the industry's reaction to the increase in charge.

**Mr Carmody**—She has provided the understanding of that reaction and we cannot do any more than that, I think.

**Senator TROOD**—I see. Ms Dorrington, is it from travel agents in particular or is it from across the industry that you have had this reaction?

**Ms Dorrington**—From the tourism industry.

**Senator TROOD**—I see. Through the peak body?

**Ms Dorrington**—Yes.

**Senator TROOD**—Have they sought any discussions with you? You are going to meet with them next month—is that right?

**Ms Dorrington**—That is correct.

**Senator TROOD**—You intend to explain more completely the intention behind this increase?

**Ms Dorrington**—That is correct.

**Senator BARNETT**—When and where will you meet them?

**Ms Dorrington**—I am meeting them on—I might be corrected if the date is wrong—I think it is 23 June in Cairns.

**Senator BARNETT**—Can you provide further and better particulars?

**Ms Dorrington**—I can, on notice. I can confirm the date.

**Senator TROOD**—Thank you. That concludes the questions I have on this subject.

**Senator BRANDIS**—Arising out of the line of questioning that Senator Trood was pursuing, Ms Dorrington, had there been consultations with industry in advance of the increase in the passenger movement charge? You would be aware of that, wouldn't you, in your role?

**Ms Dorrington**—I may be aware of it, but—



**Senator BRANDIS**—You would expect to be, wouldn't you?

**Ms Dorrington**—I am not aware of any consultation that did take place.

**Senator BRANDIS**—No, that is not the question I asked you. Had there been consultations, in the ordinary course of your work, in your role, you would know about it, wouldn't you?

**Ms Dorrington**—I expect that I would know, but not necessarily so.

**Senator BRANDIS**—Given that you are unaware of any such consultations, it seems likely that there were none.

**Ms Dorrington**—It does seem that way.

**Senator BRANDIS**—You would know about it too, Mr Carmody, wouldn't you?

**Mr Carmody**—Not necessarily.

**Senator BRANDIS**—Though probably.

**Mr Carmody**—Not necessarily at that level. I have already reported that I am not aware of those.

**Senator BRANDIS**—You have told us that you are not aware. But let us not leave it—

**Mr Carmody**—Ms Dorrington would be the one who conducts on behalf of Customs, as she has explained, in her position, the ongoing discussions.

**Senator BRANDIS**—Ms Dorrington has told us that she would expect to be aware if there were any and she is not aware that there were. You have told us that you are not aware of any consultations—

**Mr Carmody**—That is correct.

**Senator BRANDIS**—and as the head of Customs you would expect to be aware too, wouldn't you, had there been?

**Mr Carmody**—Probably but not necessarily was the answer.

**Senator BRANDIS**—So the fact that neither of you are aware of any such consultations happening would lead to the fair inference that there were none?

**Mr Carmody**—I cannot make that conclusion. We are not aware of any.

**Senator BRANDIS**—I know Senator Barnett has a question about Customs as well. I promise, Senator Barnett, you will have time to ask it before 11 o'clock. Customs prepares, does it not, historical data which records the number of items of cargo inspected in each year?

**Mr Carmody**—Yes.

**Senator BRANDIS**—Those data are broken up, are they not, by reference to shipping cargo, air cargo, air freight, shipping freight, passenger shipping cargo—or, in other words, baggage—and airline passenger baggage. Are those the full categories?

**Mr Carmody**—There is also post.

**Senator BRANDIS**—Of course.

**Mr Carmody**—I am not sure about passenger.

**Mr Mann**—A distinction we would make is detections in sea cargo, air cargo and postal, and finds in passenger baggage.

**Senator BRANDIS**—Sea cargo, air cargo, post and passenger baggage. What is the last year for which there were complete data assembled? Do we know the data for 2006-07 yet?

**Mr Carmody**—It should be in our annual report.

**Mr Mann**—We should have data for 2006-07.

**Mr Carmody**—2006-07 in the annual report.

**Senator BRANDIS**—Does Customs also set targets for each year as to the number of items of cargo in each of the categories it proposes to inspect?

**Mr Carmody**—If you look at the portfolio budget statements, page 114 includes a range of those details. For example: sea cargo, number of 20-foot equivalent units inspected, 134,000; air cargo consignments, 6.2 million; and so on.

**Senator BRANDIS**—Thank you, Mr Carmody, for directing me to that. That is exactly what I was looking for. How do the 2008-09 targets or forecasts compare? We do not have the 2007-08 figures yet, do we?

**Mr Carmody**—No.

**Senator BRANDIS**—Do we have provisional figures for 2007-08?

**Mr Carmody**—The portfolio budget statements would have targets for those.

**Senator BRANDIS**—But the last year for which we have actuals is 2006-07, correct?

**Mr Carmody**—I assume that would be the case.

**Senator BRANDIS**—Taking sea cargo, air cargo and mail one by one, are the targeted or forecasted number of items or units inspected in each category in 2008-09 greater or fewer than the actuals for 2006-07?

Robert **Mr Mann**—For sea container inspection, we have consistently had a target in recent years of 133,000 20-foot equivalent units. Shipping containers come in 20 or 40 feet, so to standardise the target we use 20-foot equivalents.

**Senator BRANDIS**—What was the actual figure in 2006-07 for that category?

**Mr Mann**—The actual figure was 140,539.

**Senator BRANDIS**—And the target for that category in 2008-09 is fewer?

**Mr Mann**—It was 133,000.

**Mr Carmody**—The target to 2006-07 was 133,000—

**Senator BRANDIS**—That is not what I asked.

**Mr Carmody**—If I can just go through it: the target was 133,000. We over achieved, but we have maintained the target and the actual results hopefully will over achieve.

**Senator BRANDIS**—I understand that, Mr Carmody. It might be helpful if you just answer the questions I am asking. In relation to air cargo, what were the actual figures in 2006-07, for the number of consignments inspected?

**Mr Mann**—Our target was 6.2—

**Senator BRANDIS**—No, I am only interested in the actuals. How many were inspected?

**Mr Mann**—For 2006-07 the actual amount of cargo physically screened was 6.418834, so 6.4 million.

**Senator BRANDIS**—There is a distinction between ‘inspected’ and ‘examined’. I take it ‘examined’ means a closer scrutiny. What were the actuals in 2006-07 of the number of air cargo consignments examined?

**Mr Mann**—We have tried to make our targets consistent. You might see the difference between the words ‘physically screened’ or ‘inspected’ and ‘examined’. We have tried to align for our sea, air and postal examinations the same terminology to measure our performance.

**Senator BRANDIS**—I think it might be faster if you answered the question I asked you and confine yourself to it. I want to know the number of air cargo consignments examined in 2006-07—that is all.

**Ms Fisher**—We do not have that information available. What we have is: 6.418 million were inspected. I do not have the amount actually examined at that time. We differentiate between inspection and examination.

**Senator BRANDIS**—Yes, I know. That is clear from the table that Mr Carmody helpfully directed me to. In 2006-07, what were the number of EMS registered items inspected?

**Ms Fisher**—We do not actually have the exact number inspected.

**Senator BRANDIS**—Do you have an estimate?

**Ms Fisher**—Because of the counting methodology that is used by Australia Post to separate the different categories of postal items, we do not have the accurate figures.

**Senator BRANDIS**—Do you have figures that are not accurate?

**Ms Fisher**—No.

**Senator BRANDIS**—Do you have some figures?

**Ms Fisher**—I can get for you the information that we have regarding the number of items that we examined in the post.

**Senator BRANDIS**—That is what I am after.

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

**Senator BRANDIS**—Thank you. There is one I omitted to ask you about: the actuals in 2006-07, under the sea cargo category, of the number of 20-foot equivalent units examined as opposed to inspected. What was that, please?

**Ms Fisher**—The number examined in 2006-07 was 15,062.

**Senator BRANDIS**—Thank you. I think Senator Barnett has some questions.

**Senator BARNETT**—On page 107 of the agency resource statement it says:

The port security measure will double examination capacity at four regional ports. For 2008–09 the additional resourcing comprises \$3.687m for operating expenses and \$3.264m for capital. The

examination facilities are to be located at four key regional seaports: Launceston, Townsville, Newcastle and Darwin.

Vis-a-vis Launceston, can you provide better and further particulars as to what is planned?

**Mr Mann**—Key elements of the commitment are to include the establishment of dedicated and secure facilities for sea cargo examination in that location in a suitable property with appropriate security for examination activities to occur.

**Senator BARNETT**—Leasing of property or purchasing of property?

**Ms Fisher**—It is more likely that we would be leasing property.

**Senator BARNETT**—Over what period? Do we know?

**Ms Fisher**—The measures are for four years.

**Mr Mann**—Key elements also include new X-ray devices to inspect smaller consignments unpacked from containers—cabinet type X-ray—the introduction of a range of substance identification and trace detection equipment already available at larger container examination facilities, and additional staff to support targeting and examination activity.

**Senator BARNETT**—And the reason you have chosen Launceston?

**Mr Mann**—Launceston, Townsville and Newcastle are the ports with the next highest volume following Darwin.

**Senator BARNETT**—So they are growing, getting bigger, and there is more volume, and therefore this type of examination is needed. Is that the purpose of the commitment?

**Mr Mann**—In addition to the examination of high-risk containers that are already targeted and examined in all ports, including Launceston, this provides us a capability to do additional risk-based sampling to ensure that we keep up to date with emerging trends at these next volume ports. I think the import volume at Launceston is something like 7,415 20-foot equivalents per annum. In Darwin, for example, it is 6,417. So it in fact has a slightly higher volume than Darwin.

**Senator BARNETT**—And the reasons the resources are not being committed to Burnie, Hobart or Devonport?

**Mr Mann**—The volume and the risk profile would not warrant that level of investment.

**Senator BARNETT**—The volume is not as high as in Launceston?

**Mr Mann**—I do not know that there are containers discharged at Burnie. These are for containerised cargo, not bulk or break-bulk cargo.

**Senator BARNETT**—When will this commence?

**Mr Mann**—That will be contingent in Launceston's case on obtaining appropriate lease arrangements, so I cannot give you a definite date.

**Senator BARNETT**—But in this financial year—the 2008-09 financial year?

**Mr Mann**—That is certainly our intention, yes.

**Senator BARNETT**—The second half of this year?

**Mr Mann**—I could not give you a definite date at this stage.

**Senator BARNETT**—Thank you.

**Committee adjourned at 11.00 pm**