



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates)

TUESDAY, 25 MAY 2004

CANBERRA

BY AUTHORITY OF THE SENATE

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SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

Tuesday, 25 May 2004

Members: Senator Payne (*Chair*), Senator Bolkus (*Deputy Chair*), Senators Greig, Ludwig, Mason and Scullion

Senators in attendance: Senators Bolkus, Greig, Kirk, Ludwig, Payne and Scullion

Committee met at 9.03 a.m.

ATTORNEY-GENERAL'S PORTFOLIO

Consideration resumed from 24 May.

In Attendance

Senator Ellison, Minister for Justice and Customs

Attorney-General's Portfolio

Federal Court of Australia

Mr Warwick Soden, Registrar
Mr Philip Kellow, Deputy Registrar
Ms Anne Hicking, Chief Finance Officer

Federal Magistrates Court

Mr Peter May, Chief Executive Officer

High Court of Australia

Mr Christopher Doogan, Chief Executive and Principal Registrar
Ms Carolyn Rogers, Senior Registrar
Mr Lex Howard, Marshal

Family Court of Australia

Mr Richard Foster, Chief Executive Officer
Mr Bruce Hunter, Chief Finance Officer
Ms Angela Filippello, Principal Registrar

Family Law Council

Prof. John Dewar, Chairperson, Family Law Council

Australian Transaction Reports and Analysis Centre

Mr Neil Jensen PSM, Director
Mr Alf Mazzitelli, Senior Manager, Corporate Resources

Office of Film and Literature Classification

Mr Des Clark, Director
Mr Paul Hunt, Deputy Director
Mr John Robinson, Business Manager.

Human Rights and Equal Opportunity Commission

The Hon John von Doussa QC, President
Ms Pru Goward, Sex Discrimination Commissioner

Dr Sev Ozdowski, Human Rights Commissioner and Acting Disability Discrimination Commissioner

Ms Diana Temby, Executive Director

Mr Stephen Duffield, Director, Human Rights Unit

Ms Vanessa Lesnie, Policy Officer, Human Rights Unit

Ms Rocky Clifford, Director, Complaint Handling

Mr Craig Lenehan, Acting Director, Legal Services

Ms Melissa Stutsel, Senior Policy Research Officer, Sex Discrimination

Attorney-General's Department

Management and Accountability

Mr Robert Cornall, Secretary

Mr Peter Ford, Acting Deputy Secretary Criminal Justice and Security

Mr Ian Govey, Deputy Secretary Civil Justice and Legal Services

Mr Richard Oliver, General Manager, Corporate Services

Mr Graham Fry, Acting General Manager, Information and Knowledge Services

Mr Trevor Kennedy, Chief Finance Officer

Outcome 1: An equitable and accessible system of federal civil justice

Output 1.1

Ms Kathy Leigh, First Assistant Secretary, Civil Justice Division

Output 1.2

Mr Iain Anderson, First Assistant Secretary, Legal Services and Native Title Division

Mr James Faulkner, Assistant Secretary, Constitutional Policy Unit

Ms Karen Moore, Acting Assistant Secretary, Office of Legal Services Coordination

Output 1.3

Ms Philippa Lynch, First Assistant Secretary, Family Law and Legal Assistance

Ms Sue Pidgeon, Assistant Secretary, Family Pathways

Mr Kym Duggan, Assistant Secretary, Family Law Branch

Mr Paul Griffiths, Assistant Secretary, Legal Assistance Branch

Output 1.4

Ms Renee Leon, First Assistant Secretary, Office of International Law

Mr Bill Campbell QC, General Counsel (International Law)

Output 1.5

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

Output 1.6

Ms Joan Sheedy, Acting First Assistant Secretary, Information and Security Law Division

Ms Helen Daniels, Assistant Secretary, Copyright Law

Output 1.7

Mr Iain Anderson, First Assistant Secretary, Legal Services and Native Title Division

Ms Katherine Jones, Acting Assistant Secretary, Native Title Unit

Mr Steven Marshall, Assistant Secretary, Native Title Unit

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

Mr Geoff McDonald, Assistant Secretary, Criminal Law Branch
Ms Robyn Warner, Assistant Secretary, International Crime Branch
Dr Dianne Heriot, Assistant Secretary, Crime Prevention Branch
Ms Robyn Frost, Principal Legal Officer, International Crime Branch
Ms Belinda Barry, Principal Legal Officer, International Crime Branch
Mr Richard Fairbrother, Principal Legal Officer, International Crime Branch

Output 2.2

Ms Joan Sheedy, Acting First Assistant Secretary, Information and Security Law Division
Mr Trevor Clement, Assistant Secretary, Critical Infrastructure Protection Branch
Ms Catherine Smith, Acting Assistant Secretary, Security Law and Justice Branch
Ms Annette Willing, Principal Legal Officer, Security Law and Justice Branch

Output 2.3

Mr David Templeman, Director General, Emergency Management Australia

Output 2.4

Mr Ed Tyrie, Executive Director, Protective Security Coordination Centre
Ms Leonie Mack, Assistant Secretary Information Coordination Branch PSCC
Ms Susie van den Heuvel, Director, Public Affairs

Output 2.5

Mr Ed Tyrie, Executive Director, Protective Security Coordination Centre

Australian Security Intelligence Organisation

Mr Dennis Richardson, Director-General

Australian Federal Police

Mr Mick Keelty, Commissioner
Mr John Lawler, Acting Deputy Commissioner
Ms Audrey Fagan, Chief of Staff
Mr Trevor Van Dam, Chief Operating Officer
Ms Dianne Carlos, Chief Financial Officer

Australian Institute of Criminology and Criminology Research Council

Dr Toni Makkai, Acting Director

CrimTrac Agency

Mr John Mobbs, Chief executive Officer
Ms Nicole McLay, Chief Financial Officer

Commonwealth Director of Public Prosecutions

Mr Damian Bugg QC, Director of Public Prosecutions
Mr John Thornton, Acting First Deputy Director
Mr Ian Bermingham, Acting Deputy Director Legal and Practice Management
Ms Stela Walker, Deputy Director Corporate Management

Insolvency and Trustee Service Australia

Mr Terry Gallagher, Chief Executive and Inspector-General in Bankruptcy
Mr Peter Lowe, Executive Director
Mr David Bergman, Policy Advisor

Office of the Federal Privacy Commissioner

Mr Timothy Pilgrim, Acting Federal Privacy Commissioner
Mr Paul Armstrong, Acting Deputy Federal Privacy Commissioner

Australian Customs Service

Mr Lionel Woodward, Chief Executive Officer
Mr John Drury, Deputy Chief Executive Officer
Mr John Jeffery, Deputy Chief Executive Officer
Rear Admiral Russ Crane, Director-General Coastwatch
Mr Tom Marshall, Deputy Director-General Coastwatch
Ms Marion Grant, National Director Border Compliance and Enforcement
Mr Phil Burns, National Director Cargo and Trade
Mr Jon Brocklehurst, Chief Financial Officer
Ms Gail Batman, National Director Border Intelligence and Passengers
Ms Jenny Peachey, National Director Office of Business Systems
Mr Murray Harrison, Chief Information Officer
Ms Sue Pitman, National Manager Trade Measures

Observers**Attorney-General's Department**

Mr Stephen Fox
Ms Annette Willing
Mr Marc Hess
Ms Chris Freudenstein
Ms Ruth Treyde
Ms Helen Lewis
Ms May Levantis
Ms Sally-Ann McLean
Mr Noel Bugeia
Mr Craig Maconachie
Mr Andrew Caird
Mr Geoff Conn
Mr Chris Barron
Ms Rachel Jackson
Ms Rachel Weatherby
Ms Rebecca Healey

Australian Federal Police

Mr Graham Ashton
Mr Tony Negus
Mr Michael Phelan
Mr Richard Stanford
Mr Grant Wardlaw

Family Court of Australia

Ms Dianne Gibson
Ms Ann Smith
Mr James Cotta
Ms Virginia Buring

High Court

Ms Fiona Hamilton

Ms Vicki Cuskelly

Human Rights and Equal Opportunity Commission

Ms Jan Payne

Ms Evelyn Scott

Ms Karen Tooley

Office of the Privacy Commissioner

Ms Evelyn Scott

Ms Fiona Ciceran

Office of Film and Literature Classification

Ms Patricia Flanagan

Mr Paul McCarthy

Customs

Ms Christine Marsden-Smedley

Mr John Stephenson

High Court

Ms Fiona Hamilton

Ms Victoria Cuskelly

Director of Public Prosecutions

Mr Jeff Smart

Mr Thomas Leffers

CHAIR—I declare open this public meeting of the Senate Legal and Constitutional Legislation Committee. On 11 May 2004 the Senate referred to the committee the particulars of proposed expenditure in respect of the year ending 30 June 2005 and particulars of certain proposed expenditure in respect of the year ending on 30 June 2005 for the Attorney-General's and Immigration and Multicultural and Indigenous Affairs portfolios. The committee will continue proceedings today with the department itself, beginning with the Australian Security Intelligence Organisation. The committee has authorised the recording and rebroadcasting of its proceedings in accordance with the rules contained in the order of the Senate dated 31 August 1999. The committee has agreed to the date of 16 July 2004 for receipt of answers to questions taken on notice and additional information.

I welcome Senator the Hon. Chris Ellison, the Minister for Justice and Customs, representing the Attorney-General; Mr Cornall; and officers of the Attorney-General's Department and associated agencies. 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 a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise.

I also remind officers that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. I would also remind you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. Minister or Mr Cornall, do you wish to make an opening statement this morning?

Senator Ellison—I do not have an opening statement.

Mr Cornall—There is just one thing reflecting on yesterday's evidence that I want to clarify. In discussing when Australian officials first interviewed Mr Hicks I need to be clear that the interview took place after he was captured in Afghanistan and on the warship. I am not entirely sure that my evidence on that point yesterday was completely clear. I think I talked about it being in Afghanistan, but it was after he was captured in Afghanistan and on the warship.

Senator BOLKUS—It came out yesterday that there is a plea bargaining process that is apparently going on at the moment. Do we have any details about that and when it started?

Mr Cornall—No, I do not have the details. The conduct of the defence has been undertaken, as you know, by Mr Kenny, Major Mori and Mr Dratel. As we understood the process, there was always the opportunity for plea bargaining to be undertaken. The details of those matters have not been provided to us by Mr Kenny so I am unable to provide you with any details about it.

Senator BOLKUS—But obviously the foreign affairs department have some knowledge about them. Have they passed them on to you?

Mr Cornall—No, not that I am aware.

Senator BOLKUS—I say that because the foreign minister seems to know about it. I do not suppose we need to presume that, because he knows, the foreign affairs department knows, but it is a fair presumption to make. So it has not been passed on by him?

Mr Cornall—As I say, we always understood that part of the process would involve the possibility of plea bargaining. That was one of the issues that we anticipated the lawyers involved would discuss with the prosecution authorities when they were appointed. What has been offered and what has been discussed is not something I have the details of.

CHAIR—We will begin this morning with questions relating to ASIO.

[9.08 a.m.]

Australian Security Intelligence Organisation

Senator BOLKUS—Despite my promise not to ask you any questions, Mr Richardson, I do have a few. On 2 April the foreign minister made some comments in respect of threat levels and security risk related to the Athens Olympics. To what extent was ASIO engaged in consultations before those comments?

Mr Richardson—In respect of Greece and the Athens Olympics the assessed threat level by ASIO is medium. That has not moved over the last few months. Following the small bombings in Athens a month or so ago, the department of foreign affairs reviewed their travel advisory—which it is perfectly proper for them to do. They consulted with us in the context of that. We were aware of the change in wording that they were going to propose for the travel advisory. So while the wording of the travel advisory has been changed, the actual threat level for Australian interests in Greece has not changed.

Senator BOLKUS—When do you say you introduced that threat level? It has been around for some time.

Mr Richardson—Yes, it has. I cannot tell you precisely when, but the assessed level of threat to Australian interests in Greece has been at medium for quite some time, since well before those small bombings.

Senator BOLKUS—Since those bombings, has there been consideration as to whether we should upgrade that level?

Mr Richardson—Yes, and we took a judgment that, on the basis of information available to ASIO, there was not a case to vary the threat level from medium to high. However, that in no way is inconsistent with the Department of Foreign Affairs and Trade considering a change to the wording of the travel advisory. As I said, they consulted with us on the change to that wording.

Senator BOLKUS—Are you aware of any other country that raised their advisory or threat levels as a consequence of those bombings?

Mr Richardson—I am not. As I was listening to *AM* this morning, the foreign minister made two points which I think are relevant. One is that most countries do not have formal travel advisories. The second involved a comment that suggested that the Canadian and Australian travel advisories were in fact very similar.

Senator BOLKUS—So the shorthand of that is that we are not aware of any other country that raised its threat or advisory level?

Mr Richardson—We did not raise our threat level, and I am not aware of other countries that did. As Mr Downer said, and it is absolutely right, very few countries have formal travel advisories; and, of those small number of countries that do have formal travel advisories, he suggested that the wording for the Canadian and Australian travel advisories is very similar. But equally, when we assess threats to Australian interests in a foreign country, we are making a judgment from our perspective. We are not relying on what other countries judge the threat to their interest to be. We are making an independent call.

Senator BOLKUS—My recollection is that when he said that the Canadian level is similar he did not indicate whether it had been raised recently. It might have been similar for quite some time.

Mr Richardson—Yes. You would need to pursue that with Foreign Affairs.

Senator LUDWIG—I have an additional matter that arises out of that. As I understand it, you have a general threat level, but I think, in explanation to this committee before—I am happy to be corrected about it—you indicated that, within the general threat level, there are different levels that you might use for a particular area, for a particular reason or for a particular type of infrastructure. Was anything raised in relation to Athens or Greece?

Mr Richardson—No.

Senator LUDWIG—Yesterday in Senate estimates, Parliamentary Services confirmed that there was a serious water leak in Parliament House. Can you confirm ASIO's role in the installation of what I think was called a perspex viewing port in a water pipe in the roof of the cabinet room?

Mr Richardson—During the construction of Parliament House, ASIO was consulted, as you would expect, in respect of certain protective security measures that might be taken, both for the construction of the parliament itself and also for particular areas of the parliament. We did make a recommendation that that perspex piece should be put in. However, contrary to what was stated, we did not install it ourselves and we are not responsible for the maintenance of Parliament House. That is the responsibility of the various departments here, not us.

Senator LUDWIG—Are you aware of when it was installed and who installed it?

Mr Richardson—I am not aware of who installed it. It was installed during the construction of Parliament House, so it would have been installed prior to the opening on 9 May 1988.

Senator LUDWIG—And that was at ASIO's request?

Mr Richardson—That is right.

Senator LUDWIG—What was the purpose of the viewing perspex?

Mr Richardson—I cannot say that publicly.

Senator LUDWIG—Do you have any information about what caused the leak subsequently?

Mr Richardson—No, I do not. They are questions that should be directed to the people responsible for the maintenance of facilities in Parliament House. We do not carry that responsibility.

Senator LUDWIG—In relation to the perspex viewing port, are you aware of whether any others exist in Parliament House?

Mr Richardson—No, I am not.

Senator LUDWIG—So in relation to the perspex viewing port, there was one recommendation from ASIO—prior to the construction—that it be installed in this particular location?

Mr Richardson—I would need to have that checked and confirmed, but that is certainly my understanding.

Senator LUDWIG—At that time, were there any other recommendations for other buildings in Australia to have perspex viewing ports installed?

Mr Richardson—I do not know, but there were particular reasons why it was recommended in this particular instance.

Senator LUDWIG—If there were recommendations for others, it begs the question as to whether they exist and whether they can potentially cause the same problem. Following from that, does ASIO have any plans to advise or check their records as to whether they have made any recommendations along those lines to ensure that it will not happen again?

Mr Richardson—I am not aware of another building in the country which has the particular requirements of this building when it comes to the cabinet room.

Senator LUDWIG—Let me ask the question another way. You are not aware of any other recommendation by ASIO?

Mr Richardson—No, I am not. There were very particular reasons why that was recommended, and there were very proper reasons, which the parliamentary authorities ought to be aware of.

Senator LUDWIG—Then I should ask the maintenance people.

Mr Richardson—You most certainly should ask the maintenance people about their maintenance of this building, for which we do not carry any responsibility.

Senator LUDWIG—Do you know whether ASIO have been requested to check the perspex?

Mr Richardson—I am not aware of that, no.

Senator LUDWIG—When the recommendation was made to install it, was there any ongoing consideration given to ensuring that its use was still relevant?

Mr Richardson—You are talking here about files that would go back to the mid-1980s. Since this issue was raised yesterday, we have not had the opportunity to go back and look at the detail of files that are now 20-odd years old. In order to give you a confident answer to your question, I would need to have someone do that.

Senator LUDWIG—I might leave it at that. Thank you. Was ASIO consulted by DFAT in the process of writing the terrorism white paper announced on 29 March this year?

Mr Richardson—My understanding is that the white paper is still in preparation. We have certainly been consulted during the course of the preparation of it.

Senator LUDWIG—Yesterday I asked Attorney-General's about the particular white paper, and it appeared that there was a synopsis, with paragraph headings and perhaps a small overview of what the white paper would include, and then more recently a draft. Could we just separate that out for a second. Were you consulted in relation to the synopsis and the draft?

Mr Richardson—Yes.

Senator LUDWIG—Both?

Mr Richardson—Yes.

Senator LUDWIG—When did you receive the synopsis?

Mr Richardson—I cannot recall the precise date, but we were consulted in both instances.

Senator LUDWIG—Perhaps you could check your records as to when the synopsis was provided.

Mr Richardson—Sure.

Senator LUDWIG—And then subsequently the draft.

Mr Richardson—Okay.

Senator LUDWIG—Did ASIO have a role in preparing the synopsis in the first instance?

Mr Richardson—I do not believe that we had a role. We do have an officer seconded to Foreign Affairs to the team that is preparing the white paper. That officer, in the context of the white paper, is not responsible to ASIO. That officer is responsible to DFAT and the people in

charge of preparing the white paper. In the sense that we have an officer seconded, yes, we had a role in the actual preparation of the synopsis, but, as an organisation, we did not. As an organisation we were consulted.

Senator LUDWIG—Did ASIO make any comments or recommendations to DFAT in respect of both the synopsis and then subsequently the draft?

Mr Richardson—Yes.

Senator LUDWIG—Are you able to say what the substance of those comments or recommendations were?

Mr Richardson—No.

Senator LUDWIG—Did you receive any response from the Attorney-General in relation to the comments that you made in relation to first of all the synopsis and then subsequently—

Mr Richardson—They did not go via the Attorney-General. It is a matter being dealt with at this point at officials' level. The communication is between ASIO as an organisation and DFAT as an organisation.

Senator LUDWIG—So there was not a roundtable discussion or a working group set up?

Mr Richardson—There have been roundtable meetings involving officials. Our comments on the white paper go directly to Foreign Affairs; they do not go via the Attorney-General.

Senator LUDWIG—Did they go straight to DFAT or through the working group or through the roundtable?

Mr Richardson—They went straight to the relevant area in Foreign Affairs.

Senator LUDWIG—With the recommendations, the suggestions or the information that you might have been providing to DFAT in response to both the synopsis and the draft, was there a process where you could accept or reject recommendations or was it simply to provide input into the process?

Mr Richardson—It is almost a daily process. There is a lot of interaction between the working group in Foreign Affairs, which is drafting the white paper, and different agencies, which have an interest in the white paper. That is almost a daily interaction. There are points of formality when people might sit around the table together. However, in between those points of formality, there is a lot of exchange going on on a daily basis. Again, the final say, in terms of what goes forward to ministers, will very much be that of Foreign Affairs as it is their white paper.

Senator LUDWIG—Have discussions or consultations concluded by now in relation to the draft?

Mr Richardson—No.

Senator LUDWIG—They are still ongoing?

Mr Richardson—They are still continuing and have not yet been considered by senior officials.

Senator LUDWIG—We have moved from the synopsis to the draft now?

Mr Richardson—Yes.

Senator LUDWIG—Do you recall when that was provided to you?

Mr Richardson—No, I cannot provide the exact date. Some of the questions of the kind that you are asking are probably best directed to Foreign Affairs, which is in charge of the process.

Senator LUDWIG—I will probably do that as well. What I was trying to ascertain from you—and it seems you are not going to tell me—is what recommendations you might have made in relation to both the synopsis and the draft and whether they were picked up or not.

Mr Richardson—It would be quite inappropriate for me to comment publicly on what recommendations we do or do not make in a process like that. If the process is working properly, there is not always going to be agreement between agencies. If the process is working properly, some of our recommendations will be picked up and others will not be.

Senator LUDWIG—Yes, that is part of the reason I am asking you the question about whether some were picked up and some were not. But I seem to have hit a brick wall there. Are you able to say whether or not there was a reasonable agreement in relation to the synopsis from your agency?

Mr Richardson—I would use the words ‘broad agreement’.

Senator LUDWIG—Are you able to say whether or not there was some disagreement in relation to the synopsis and then between ASIO and DFAT?

Mr Richardson—We had some suggestions.

Senator LUDWIG—Were they then subsequently reflected in the draft or are they still outstanding?

Mr Richardson—Some have been reflected; others have not, but that is the nature of a process like this.

Senator LUDWIG—I guess that is all we are left to talk about really, isn’t it?

Mr Richardson—Absolutely.

Senator LUDWIG—Is there a final date for a conclusion, for your comments to be made?

Mr Richardson—No, not at this point.

Senator LUDWIG—So there is a draft that is continuing to be discussed between yourself and DFAT?

Mr Richardson—It is a living draft.

Senator LUDWIG—In respect of the draft, do you talk about threat levels and those sorts of issues—if they are contained in it? I am burrowing for as much as I can.

Mr Richardson—I do not believe threat levels, that sort of specific detail, is a central part of the white paper. The white paper is broader in scope than that sort of specific detail.

Senator LUDWIG—So you would not necessarily express any concerns about the perception of threat levels to Australia that might be produced in the white paper?

Mr Richardson—It depends upon the final draft and the final version. I would need to keep my counsel until then.

Senator LUDWIG—Is there anything else you can tell us about it other than about the process itself? I am not going to force the issue and ask you too specifically; I think we have tried as much as we can to elicit some comment from you. I think the public are entitled to know that there is a synopsis—a draft—and that ASIO might have a view about the draft. They would expect ASIO to discuss in part that if there were concerns or a disagreement about it they were taken on board by DFAT.

Mr Richardson—So far, I believe it has been an unexceptional process. It is unexceptional in that drafts have been prepared as you would expect; there have been agreements and disagreements, and some of those disagreements are quite robust at times. But that is what you would expect if you were going to put together something of any reasonable quality.

Senator LUDWIG—We might move on then. In mid-April, the media reported that two Israeli citizens had been arrested in New Zealand for passport fraud. The report conjectured that they were undeclared spies. One, Mr Cara, was reported to be a Sydney travel agent. Can you confirm whether ASIO is investigating these allegations?

Mr Richardson—As a matter of routine we investigate all allegations of that kind.

Senator LUDWIG—So you are investigating the allegation regarding the Sydney travel agent?

Mr Richardson—Yes, the allegation appeared in the media, so as a matter of routine we pick that up.

Senator LUDWIG—Are you able to say when these allegations were first brought to ASIO's attention?

Mr Richardson—No.

Senator LUDWIG—Did you first see them in the newspaper?

Mr Richardson—No.

Senator LUDWIG—And you are not able to tell us when these allegations were first brought to your attention?

Mr Richardson—That is right.

Senator LUDWIG—It is going to be a long morning, isn't it?

Mr Richardson—You are going to an issue which I cannot possibly discuss publicly.

Senator LUDWIG—It is a current investigation, is it?

Mr Richardson—That is right.

Senator LUDWIG—Are you aware of the current status of the court proceedings in New Zealand?

Mr Richardson—Yes, only in broad terms.

Senator LUDWIG—And what is that?

Mr Richardson—I am not quite sure where they are at in terms of what people have been formally charged with, what the verdict has been and what sentences might have been imposed. They are somewhere in that process.

Senator LUDWIG—Has ASIO sought to access these individuals?

Mr Richardson—I will not comment publicly on a current investigation of this kind. I cannot.

Senator LUDWIG—What can you tell me?

Mr Richardson—I can tell you there is a current investigation. I am not prepared to go into the details of that investigation. I think that is consistent with longstanding practice going back many years.

Senator LUDWIG—I will turn to another matter then. If the United States State Department was to make a request for information about a person of interest in relation to their movements in Australia, would they contact ASIO? This is a general question about operational procedures.

Mr Richardson—If it was the State Department, not necessarily. It would depend upon the nature of their interest in that person and it would depend upon the way they work through their own bureaucracy. They would have several choices. They could elect to go via the foreign affairs channel in the Australian embassy in Washington. They could elect to go via another US agency or directly to the relevant Australian agency depending upon the nature of their interest. So they would have options available to them.

Senator LUDWIG—So effectively ASIO may or may not be involved in that process?

Mr Richardson—That is right.

Senator LUDWIG—It is not always the case that you would be involved?

Mr Richardson—That is right.

Senator LUDWIG—Are there circumstances that would trigger your involvement if you became aware of them?

Mr Richardson—Our involvement would more likely be triggered when there was a matter relevant to security, such as terrorism, espionage and the like.

Senator LUDWIG—We spoke before about Omar Abdi Mohamed. I am happy for you to correct me, but I think the last time we were speaking about him you indicated that ASIO first became aware of this person through media reports on about 30 January.

Mr Richardson—That is right.

Senator LUDWIG—Does that mean that ASIO was never contacted about Omar Abdi Mohamed prior to 30 January 2004?

Mr Richardson—That is right.

Senator LUDWIG—And ASIO has no information about any request to any Australian government authority for information by United States authorities regarding Omar Abdi Mohamed?

Mr Richardson—That is right.

Senator LUDWIG—Prior to 30 January 2004.

Mr Richardson—That is right. Again, I do not know what the nature of the United States State Department interest was at the time—

Senator LUDWIG—Prior to 30 January 2004?

Mr Richardson—Yes.

Senator LUDWIG—Based on all the information that has come to your attention since 30 January 2004 about Omar Abdi Mohamed, are you now satisfied that no US government authority contacted any Australian authority requesting information about Omar Abdi Mohamed prior to 30 January 2004?

Mr Richardson—I am aware of the evidence given in Senate estimates by an officer from Immigration some months ago. I am aware of the press reports relating to possible State Department interest prior to that time. I am aware of press reports which claim that an inquiry of some sort had been made prior via the US embassy. But apart from that I have not made myself familiar with the detail of that because what transpired before that date was not particularly relevant to us.

Senator LUDWIG—Have you seen the *Sydney Morning Herald* article? The article in the *Sydney Morning Herald* on Saturday, 20 March 2004 was headed ‘Somali accused of terrorism may face more charges in US’. Is that the earlier press release or press report—

Mr Richardson—I think there was more than just that one. I think there were a number. I cannot remember the specific newspaper and the specific article in which I read it but I am aware that those broad issues have been canvassed publicly. I certainly would have read that article because I read them all, but I cannot recall the detail right now.

Senator LUDWIG—Perhaps if I just take you through part of it. In the article the journalist claims:

... the US State Department had sought information from authorities about Mohamed’s movements in Australia one to two years earlier than January when ASIO, through a media report, became aware of Mohamed.

Did you tell that journalist that the State Department had made such a request?

Mr Richardson—I do not believe so. I am not going to go to issues of that kind.

CHAIR—If Mr Richardson does not have the material to which you are referring, Senator, that makes it even more difficult.

Senator LUDWIG—I just did not want to give my copy away.

Senator Ellison—Madam Chair, when questioning witnesses it does help if the witnesses can be given a copy of the document that is being referred to.

CHAIR—Perhaps we could send out a search party.

Senator LUDWIG—I might come back to that anyway.

CHAIR—If you do that, will you have a copy for Mr Richardson?

Senator LUDWIG—Yes. If I come back to it I will have a copy.

CHAIR—And for the rest of the committee, for that matter?

Senator LUDWIG—I have just about every other one that we have got.

CHAIR—I have today's clips, if that is any help, Senator.

Senator LUDWIG—It is probably in there too. We seem to have found a copy, miraculously, in multiples. I thought it was worthwhile giving you time to read the whole article. You can see in the last paragraph, or in the second-last paragraph if you take the indent, what I was heading towards. It says:

The ASIO director-general, Dennis Richardson, said this month that the US State Department had sought information from authorities about Mohamed's movements in Australia one to two years earlier than January when ASIO, through a media report, became aware of Mohamed.

It just seems inconsistent with the questioning that we had effected earlier in additional estimates and now.

Mr Richardson—Every answer I have given to this committee has been totally accurate at all times. Where this comes from I do not know. I may well have said that. It may be sitting somewhere here in a record of some sort—I do not know. This is a particular case that has moved around. When the case first became public and ASIO first became aware of it, we were advised by the US authorities that they were not investigating this person on terrorism related issues. That is why the minister for justice is quoted in this article as saying that his presence in Australia was immaterial, because it was immaterial.

Following the press articles in January and in our initial inquiries of the Americans, the American officials we spoke to said that they were not investigating this person for terrorism related purposes. It was precisely because of that that the minister stated publicly that his presence in Australia was immaterial in that context. That was totally true. Subsequently, the Americans conducted further inquiries and advised us that their investigations had moved in the direction of possible funding and terrorism links. There has been no inconsistency in that; it is just that the information we have been dealing with has varied at different points in time.

Senator LUDWIG—You can understand why I have raised it—in the sense that it turned up after additional estimates. I thought we established it at the last additional estimates and that I would not have needed to come back to it today. I thought we had established that ASIO had no knowledge of Omar prior to 30 January.

Mr Richardson—We didn't.

Senator LUDWIG—Then there was this article. Do you expressly reject this article or the comments that were attributed to you?

Mr Richardson—No.

Senator LUDWIG—Well, they do say—

Mr Richardson—It ain't that simple. And I am sure in your life that it ain't that simple. I am not sure where I am being reported as having said it, but I do not rule out the possibility of having said that after the Senate estimates. Knowledge is not a static entity. We now know more than we did at the Senate estimates last time.

Senator LUDWIG—All right. But we just did it two minutes ago as well. We asked whether or not you had had any knowledge of Omar Abdi Mohamed prior to 30 January.

Mr Richardson—That is right—I didn't.

Senator LUDWIG—If it has moved on, why wouldn't you then tell me it has moved on and you now know you did have contact at ASIO?

Senator Ellison—I think that is what Mr Richardson has been saying for some time now, Madam Chair.

Mr Richardson—I am quite happy to sit down with you with every damn bit of paper I have got and go through it word for word, if you have got the time. However, I would need to go back to ASIO and go back through every bit of paper to get it. But at no point have I misled you—at no point.

Senator LUDWIG—All right. If we just draw breath for a second, can we go back and say, as far as you are aware, ASIO did not have any contact with Omar Abdi Mohamed prior to 30 January?

Mr Richardson—I can tell you that, prior to the press articles in the Australian media in late January of this year, we were unaware of that case full stop.

Senator LUDWIG—So you had not sought information from the US State Department—

Mr Richardson—Not prior to January.

Senator LUDWIG—from authorities about Mohamed's movements in Australia one to two years earlier?

Mr Richardson—Not prior to January. Our knowledge—

Senator LUDWIG—Just let me finish, so that we get this clear. That is what you are reported as having said by Freya Petersen and Cynthia Banham in the *Sydney Morning Herald*. You say that is not right.

Mr Richardson—I would suggest that you go to the journalists, ask them where they got that from and then work it through from there. I cannot—

Senator LUDWIG—I am entitled to ask you as the person who has been reported so that at least we can rule out whether you had any knowledge or whether ASIO had asked the US State Department about this person.

Mr Richardson—Not prior to January. Our knowledge of the claim that the State Department had made an inquiry of Australian authorities two years earlier arose after January of this year.

Senator LUDWIG—All right. I will turn to a budget related matter: the funding for the initiatives that have been outlined. Have they been set in train at this point in time? I am going to the overview in the PBS which starts on page 199 and the appropriations of \$152.74 million, reflected in table 1.1. Tables 1.2.1 and 1.2.2 provide summaries of those measures. There has been an \$18.011 million departmental equity injection. The measures are \$14.783 million as a result of increased funding to intelligence agencies by the government and \$0.56 million to strengthen border control measures. Are they initiatives that are going to run from

1 July or are they matters that were announced prior to 1 July that are ongoing or are they targeted for specific work that ASIO will do?

Mr Richardson—The funds are available from 1 July this year, but our preparation and work on those initiatives have already started.

Senator LUDWIG—Can you outline what they are?

Mr Richardson—As per the budget documentation, they relate to enhanced analytical capabilities, which go to both IT systems and staffing levels. They are increased operational capability which goes to both technical capability and staffing. They are some funding for our responsibilities in respect of the Commonwealth Games to be held in Melbourne in 2006. In broad terms that is what it is.

Senator LUDWIG—So, in total, the \$18.011 million is a one-off?

Mr Richardson—No, I think you will find that the government has announced funding increases for ASIO which go over the life of the forward estimates.

Senator LUDWIG—It will be for this year and the out years?

Mr Richardson—It goes over the life. The budget papers actually outline our foreshadowed budget figures over the next three or so years.

Senator LUDWIG—That is in table 1.2.1?

Mr Richardson—That is right.

Senator LUDWIG—What we then have is the summary in 1.2.2.

Mr Richardson—Yes.

Senator LUDWIG—They are capital measures disclosed in the 2004 budget. When ASIO provides these tables, in other words it inputs this information into the PBS, is there a way of breaking that down further? One of the criticisms that we have had from this side of the table is that it seems to gross up a lot of the outputs into investing in Australia's security and increased funding to intelligence agencies. One of the difficulties is trying to then question you further about some of those specific items that might come under that particular output, because, of course, what we have is an output 1 which is in my words 'grossed up' and then under that it includes a whole range of other initiatives. That is why we start with what might be considered a bland sum, but the more bland are the questions to try to dissect part of it and to understand how you will spend the money in the coming 12 months and in the out years. Is it the way that you report or is it the way the corporate world has asked you to report?

Mr Richardson—No, it is the way that we report. We are probably one of the most open security intelligence organisations in the world in the way in which we report publicly. We only report down to a particular level in public documents, which is fairly general. It is my understanding that that is why the parliament decided in the mid-1980s to establish an oversight committee for ASIO. It is my understanding that that is why the parliament broadened the remit of that committee a couple of years ago to give it specific responsibility for 'finance and administration of ASIO'. That committee can pursue the issues that you might want to pursue here. In public evidence, it is unfortunately not possible to go into the detail of that funding.

Senator LUDWIG—You are saying that Finance and Public Administration is the place where I might be able to—

Mr Richardson—No, it is the parliamentary Joint Committee on ASIO, ASIS and DSD.

Senator LUDWIG—I think I am going to have trouble getting on that one! It seemed to be full up when last I heard. Are they able to dissect your budget a little bit more?

Mr Richardson—They most certainly are.

Senator LUDWIG—I have one last matter which comes, upon reflection, from the questions that we had about Omar. We knew that the Department of Immigration and Multicultural and Indigenous Affairs had contacted them. I think it came out at the last estimates that they had made some inquiries some time ago and they detailed that to us at that time. Then we knew about your statement, which was on the public record, about the contact post the 30 January news article and your subsequent investigation.

What I am not sure about is whether ASIO was aware of any contact by other Australian agencies with the US State Department. We are aware that ASIO did not have any request or contact with the US State Department—as you have said, but which seems to be contrary to the report, but I will go back and talk to those media people if I am able to—but I am not aware of whether there was any contact between the State Department and another Australian agency that you are aware of.

Mr Richardson—We were unaware of the issue until the media reports in late January. Precisely when we became aware of the State Department's claim about having pursued an interest two years before is something I would need to check. My memory of this—and I stand to be corrected—is that the State Department made that claim but the department of immigration said it had no record of an approach having been made, but it did not exclude the possibility of an approach having been made.

Senator LUDWIG—Yes, I think from recollection the evidence was a little bit confusing but I think that can be distilled from it. I read the transcript again but it still did not help me distil any more than what we have just said. Have you had a subsequent look at this issue or would you mind having a subsequent look to determine what US state authority is claimed to have contacted Australia? It would seem relevant in that what we have is a clear picture from you about what happened in relation to ASIO. What we do not have is a decision about whether it requires further investigation with US authorities as to what US agency is alleged to have contacted Australia about this individual. It would seem a level of inquiry that should be looked at.

Mr Richardson—I can give you follow-up advice in respect of what we are aware of. It is my understanding and I think you will also find that at the time the US State Department claims to have made its inquiry—of which it is my understanding Australian agencies do not have a record but they do not exclude the possibility that that contact was made—that it was not in a terrorist context. I think you will find that at different points along the way Omar Mohamed has been of interest to the US authorities for different reasons. It is false to assume that their interest today is what their interest was six months ago, is what their interest was two years ago. You need to be very careful in jumping to a conclusion that because they now have a particular interest, that was the interest they had six months ago and that was the

interest they had two years ago, if indeed they made the contact with the Australian authorities that they claim.

Senator LUDWIG—I accept that and I did not want to jump to a conclusion. I was trying to elicit information from ASIO. I have tried to elicit information from the department of immigration—you have probably read the transcript as well some time ago. I am probably limited as to what I can do in relation to US authorities but they claim, as far as I can make out, that they had contacted us, but there is no record of that contact. Although the immigration department have said that contact may have been made—I cannot recall exactly what they said, but it did not satisfy me at the time that they could rule out that the US authorities had not contacted them about Mr Mohamed nor could they say what it was about, from my recollection—it would seem relevant if you could have a look at your records to establish where we are at. We can then put it to bed, I suspect.

Mr Richardson—Okay.

Senator LUDWIG—That would be helpful, thank you. Are you in the same position as the department of immigration where you could not rule out that there was contact—or can you say categorically that there was not contact?

Mr Richardson—I am not aware of any US authority that has made a claim that it came anywhere near ASIO prior to that date. I do not see what the issue is. You have no claim from any US authority that they contacted ASIO; now you are asking me whether I can rule out that they ever contacted. It is an irrational question, with due respect.

Senator LUDWIG—I am happy to withdraw it on the basis that it is a bit early in the morning. And you have no record of any other department?

Mr Richardson—No.

Senator LUDWIG—I have finished with ASIO, thank you.

CHAIR—Thank you for assisting the committee, Mr Richardson. We will now move on to the Australian Federal Police.

[10.01 a.m.]

Australian Federal Police

CHAIR—I welcome Commissioner Keelty, Ms Fagan and Mr Lawler.

Senator KIRK—I have a media release of 19 May from the justice minister saying that the government announces that two AFP officers will be deployed to Jordan to train Iraqi police. I understand that the text of the announcement mentions that Australia initially received a request from the United Kingdom in October last year to provide police trainers. Can you confirm that that is correct?

Mr Keelty—That is correct.

Senator KIRK—So the request was made from the United Kingdom in October 2003? Was a response to that request provided by the government or by the AFP?

Mr Keelty—I am not sure whether the government made a response, but as a result of the request there was consideration given to establishing a training team to go over. We had a person in Jordan for most of the early part of this month. That person has been doing an

advance to see what the conditions and training would be. The two people who have been selected will fly out on Friday and start work in Jordan on Sunday as part of an international group that will be providing the training. There are 400 police from 13 countries that they will be contributing to.

Senator KIRK—Was the initial request that was made in October last year by the UK the one and only request that was made? Was there any follow-up?

Mr Keelty—It is the only one I am aware of.

Senator KIRK—I might just ask the minister. Was that the only request—the one made in October?

Senator Ellison—I will take that on notice. You will notice that in that release I said that it was supported by the CPA. The question of whether any other countries joined in the request is something I will check on. If you give me a moment, I can give you a definitive answer on that.

Senator KIRK—Thank you. The announcement also mentions that the deployment will be funded by AusAID. Is somebody able to tell me what amount has been budgeted for this deployment in the current financial year and in each year over the forward estimates?

Mr Keelty—From the AFP's perspective—I cannot comment on AusAID's budget—the budget is still being prepared for consideration by AusAID.

Senator KIRK—So that is something I should ask AusAID about?

Mr Keelty—Yes.

Senator KIRK—Minister, do you have any further information as to the budget for this deployment or is that something that I need to ask AusAID officials about?

Senator Ellison—We will take that on notice and I will see if I can get you a quick answer. It could well be AusAID. That press release was a joint one, I think, with the Minister for Defence.

Senator KIRK—No.

Senator Ellison—Sorry, that was the East Timor one. I am confusing that one with the East Timor release, which I think was on the same day. I will take that on notice and get the information to you.

Senator KIRK—Thank you. Finally, are you able to tell me whether the deployment is for a period or whether it is for an indefinite period?

Mr Keelty—The initial deployment will be for four months. During that four months, it will be assessed as to whether a further contribution can be made.

Senator KIRK—Who makes that assessment?

Mr Keelty—We will do that in consultation with the two people we are deploying.

Senator KIRK—You mentioned that they are leaving on Friday to begin their work. Do they begin on Monday?

Mr Keelty—They will actually start on Sunday. Just to correct something on that four-month assessment, it is anticipated that the deployment will be up to 12 months, but we are going to reassess it after the first four months.

Senator KIRK—So the conclusion of the four months will be four months from this Sunday?

Mr Keelty—That is correct.

Senator KIRK—Did the AFP officers who are being sent have to receive specific training before they left or were they already trained to a level where they would be able to pass on their—

Mr Keelty—I met both of them yesterday. Both of them have had previous overseas deployment experience. They have received training specifically preparing them for the deployment to Jordan. In addition to that, I mentioned that we had a third officer who had been in Jordan already to do an advance on the training. They have obviously met that person and been debriefed by that person.

Senator KIRK—So effectively there will be three AFP officers involved in the deployment—or are there only two?

Mr Keelty—Only two.

Senator KIRK—You said that the officers had previous experience, plus they received additional training. How much additional training did they receive?

Mr Keelty—They received specific briefings on Jordan and they also received the generic international deployment group training, which is 12 days of preparation.

Senator KIRK—Thank you. I think I will wait to see if the minister is able to provide me with any information on the other issues. I will move on to another area—deployment of AFP officers to Papua New Guinea. I notice from the statements that \$65.5 million has been allocated for 2003-04 for 230 AFP officers to be deployed to Papua New Guinea. Can you advise the committee on the current status of negotiations with PNG over the application of criminal law to these deployed officers?

Mr Keelty—It still has not been agreed. The current situation is that the New Zealand police have immunity to be part of an intervention force in Bougainville but that immunity does not extend to Australian police officers. The Australian police officers are seeking full immunity prior to deployment for a number of reasons. One of those reasons is that our experience in the Solomon Islands is that we have had to deal with entrenched corruption both within the police and in some sectors of government. It is our experience that, without immunity from prosecution, it is going to be difficult for us to involve ourselves in the sort of work we intend to involve ourselves in in Papua New Guinea. That is not to say that we are seeking some sort of immunity from prosecution if our people transgress when they are deployed, but it will enable them to carry out their duties without being unduly threatened because of the nature of the work that they are doing.

Senator KIRK—You say that negotiations are ongoing. When did the negotiations begin? How far have they progressed? Who are you speaking to about this?

Mr Keelty—That is a matter for government.

Senator KIRK—Perhaps I can ask you then, Minister. What progress has been made in the negotiations with the Papua New Guinea government?

Senator Ellison—That is being handled by the Minister for Foreign Affairs. It would be best if the question were directed to the Minister for Foreign Affairs. You will get the big picture, if you like, not just part of it. In fact, I have not been involved in the negotiations. It is best to ask the Minister for Foreign Affairs.

Senator KIRK—So you and the Attorney have not had any involvement at all in the negotiations?

Senator Ellison—We are being kept informed. Of course there has been some discussion in relation to the requirements as to immunity and legal opinion. There have been discussions across the board, naturally. We are very concerned that our personnel have sufficient immunity and that the legal status of Australian law enforcement officers is clearly defined. We have public officials up in New Guinea at the moment. They come under different provisions. Of course, that has been the subject of a prior agreement. I think the best thing is to address those questions to the Minister for Foreign Affairs.

Senator KIRK—Perhaps then I can just ask, given that there is this \$65½ million allocated: if the officers are not deployed by the end of the financial year what is going to happen to that money?

Mr Keelty—The total allocation for 2003-04 was \$95.3 million. We will spend \$3 million in start-up training. We have been working with the state police to try to get the numbers together because, once the Papua New Guinea government passes the legislation for immunity, it will be an almost immediate deployment. We stand ready to deploy. Some of the balance of funds will be returned to the Department of Finance and Administration. It is yet to be determined how much we will spend before the end of the year on salaries et cetera for police who have been identified to go. I will be in a position to give you a more complete answer at the end of the financial year but we have been discussing with the department of finance the return of funds that are unspent to the department.

Senator KIRK—Will the AFP retain any of the funds or will they be returned to—

Mr Keelty—We will retain a quantum that will cover the establishment costs and ongoing salaries. There is a start-up cost involved in these projects that we are actually spending. We have to equip the people and we have to purchase equipment because they need to be ready to go once the legislation is passed.

Senator KIRK—So you have officers who are ready to go who are being paid currently but who are unable to go because there is no immunity?

Mr Keelty—That is correct. We are in negotiations with the states to bring more officers on, because we cannot, from within the numbers of the AFP, meet the full contingent costs. Just to give you a more complete picture on that previous answer, we did get immunity from prosecution in the treaty that was agreed between Australia and the Solomon Islands government. When we deploy to places like East Timor and Cyprus we are actually under the

authority of the United Nations. So this immunity from prosecution is not an unusual request, and it has been a part of the previous deployments that we have been involved in.

Senator KIRK—But this one is not under the auspices of the United Nations; it is different.

Mr Keelty—No, it is very similar to the Solomon Islands, where the government treaty arrangement will provide the overarching framework for immunity from prosecution.

Senator KIRK—So that will be contained in the treaty. Is that what you are saying?

Mr Keelty—Yes, that is correct.

Senator KIRK—And then passed through the Papua New Guinea parliament.

Mr Keelty—That is correct.

Senator KIRK—And there is no need for any legislation in Australia, is there, to give effect to that?

Mr Keelty—No.

Senator KIRK—I notice also that the budget provides \$20.3 million over four years for AFP support to Melanesian countries. It says in the papers that the program currently funds eight AFP officers in Suva, Port Vila, Honiara, Port Moresby and Canberra. Is that program referred to as the Law Enforcement Cooperation Program? Is that the same program?

Mr Keelty—Yes, it is part of it. It is actually rollover funding for an existing program in Melanesia and to continue the funding of the work that is already going on in the South Pacific.

Senator KIRK—So it is just a continuation to keep those eight AFP officers in their positions and doing their work?

Mr Keelty—That is correct. That is \$20.3 million over four years, with \$5 million in this next financial year.

Senator KIRK—So there is no increase in the number of officers? It is just the eight who are currently there?

Mr Keelty—That is correct.

Senator KIRK—How long will that program continue? Is it definite, ongoing?

Mr Keelty—We are funded for four years. No doubt the government will review that with us at the end of four years.

Senator KIRK—Air security officers have \$15.7 million over four years. Can you advise the committee how many additional officers will be funded under this measure of \$15.7 million?

Mr Keelty—We have not publicised the number of staff. I am not sure whether the government wants to make a comment. The air security officer program is a covert operation, so we have tried to minimise the publicity we give it. Suffice to say that that funding, which is \$15.7 million over four years and \$3.9 million this financial year, will provide us with additional capacity to take on some of the international deployments we are now doing.

Senator KIRK—So you are unable to advise the committee of any more details in relation to that?

Mr Keelty—I do not think I can. It is not that I do not want to. My advice is that we, the AFP, have not publicised the numbers.

Senator Ellison—We will just take that on notice. The money is there; it has been mentioned. We certainly do not go into the deployment of personnel, flights, the number of flights and which ones they are. We have announced previously the program's number. I will just take some advice on that and we will come back to the committee.

Senator KIRK—Thank you very much, Minister.

Senator LUDWIG—I have a couple of questions in this area, too. The *Sunday Telegraph* reported that the air security officers had secured a 45 per cent pay rise, a 200 per cent increase in overtime allowance, a \$7,000 flying allowance, employer funded mobile phones for personal and work calls, and five weeks annual leave. I make an observation about that. It seems to me that that is an industrial matter between either the department or the AFP and the employees concerned. What is the total that that is going to cost? I think that is a legitimate question I can ask. Where in the budget is that provided for?

Mr Keelty—It is within budget. It is still under negotiation, as you rightly point out. What we are trying to do is negotiate an AWA within the limits of the budget that we have.

Senator LUDWIG—Do you know what the proposed total cost is or expected to be?

Mr Keelty—I have not got it but I can provide it for you.

Senator LUDWIG—Is that to be absorbed in the increased funding that has been provided to the department or is that to be absorbed within the present budget?

Mr Keelty—That is correct. Because I have not negotiated successfully the AWA, I cannot give you the cost. Once it is negotiated, with the consent of government I am happy to provide it.

Senator LUDWIG—When is that likely to be? Is there a date that you hope to have it finalised by?

Mr Keelty—It is close to finalisation—that is the advice that I have got. I can tell you that the rough cost of it—and I do not want to do anything that might upset the negotiations—would be around the \$350,000 figure.

Senator LUDWIG—As you have indicated, that will be funded out of your existing budget. Where from your existing budget will it come from? Will it mean fewer AFP officers or a lesser refit?

Mr Keelty—No. It is part of the budget that we have for the ASO program.

Senator LUDWIG—So it will be funded out of that budget?

Mr Keelty—That is correct.

Senator LUDWIG—So will it mean fewer sky marshals?

Mr Keelty—No, it will not mean fewer sky marshals. We are doing it within budget.

Senator LUDWIG—You do not want to tell me how you will deal with it in the budget? Did you have that much of an excess?

Mr Keelty—When we put the budget bit in for staff, we considered these terms and conditions as part of that budget.

Senator LUDWIG—I refer to the National Missing Persons Unit. Is that now part of the Australian Federal Police responsibility?

Mr Keelty—That is correct.

Senator LUDWIG—Whereabouts is that located?

Mr Keelty—It is in our head office.

Senator LUDWIG—It was transferred in 2003?

Mr Keelty—That is correct. The National Missing Persons Unit was initially part of the Australian Bureau of Criminal Intelligence. The Australian Bureau of Criminal Intelligence was absorbed into the Australian Crime Commission and the National Missing Persons Unit was not a neat fit into the ACC, so I agreed to take the National Missing Persons Unit into the AFP. It sits with our National Manager, Economic and Special Operations.

Senator LUDWIG—Does the Attorney-General's Department still fund that section or is it now funded out of your budget?

Mr Lawler—That is funded out of our budget.

Senator LUDWIG—You must have a lot of slack in your budget if you are picking up the sky marshals and now the National Missing Persons Unit. Don't tell the APS!

Mr Lawler—It is a relatively modest amount of money.

Senator LUDWIG—How much is it?

Mr Keelty—I think there are only two persons involved. If that is not right, I will correct the record.

Senator LUDWIG—What is the annual budget? How much do you provide?

Mr Keelty—If I may, I will take that on notice.

Senator LUDWIG—Right.

Mr Keelty—It arose two years ago. I remember looking at it at the time and there seemed to be no issue. I spoke to the other commissioners, because it is a National Missing Persons Unit, and people seemed comfortable with the arrangements. As I recall, I spoke to the then deputy secretary of the department, Ian Carnell, and we came to this arrangement, but I cannot recall the detail of it at the moment.

Senator LUDWIG—Are the current functions of the unit the same or have they changed since becoming part of the AFP?

Mr Keelty—As I understand it, they are exactly the same. I have just been advised that it is of the order of \$200,000, but I will give you the correct figure later.

Senator LUDWIG—So far A-G's have been able to squeeze about \$500,000 out of your budget?

Mr Keelty—I will give you the total arrangement.

Senator LUDWIG—Do you measure the performance of the unit? It is a critical unit in the sense that they provide a national register of missing persons. Is there a way that you monitor their performance?

Mr Lawler—The management of the National Missing Persons Unit is done in conjunction and close consultation with the states, as the commissioner has mentioned, as the central repository. I would need to take advice on the specific performance indicators of that program. I can advise the committee that recently the officer in charge of the National Missing Persons Unit presented the national managers group with an overview of its activities and with some strategies to further enhance that capacity. So there are some discussions occurring and some work being undertaken to further enhance that program.

Senator LUDWIG—That leads me to the next area I want to explore with you. It seems to me that you are in discussions to develop a plan or a strategic direction for the unit. Is that under way?

Mr Lawler—Yes, it is.

Senator LUDWIG—You do not have one at the moment?

Mr Lawler—A plan has been submitted to the national managers group along with a detailed briefing of the work in the National Missing Persons Unit. That particular proposal is under consideration.

Senator LUDWIG—When is that likely to be approved?

Mr Lawler—I would think within the next two months or so.

Senator LUDWIG—There was not one before? I just want to put it in context. Was it part of the development when it came into the AFP?

Mr Lawler—It was part of the development when it came into the AFP and how it might be best integrated. We are taking a fresh look at the activities of the unit to make sure it is performing to maximum effect and providing best possible service to the states and to the community of Australia.

Senator LUDWIG—It has taken a little time, hasn't it? The unit came in in 2003.

Mr Lawler—I do not know that I would altogether agree with that. It is a process of evolution. The centre is being staffed and we are working on the strategic plan.

Senator LUDWIG—Are the clients the state police departments and the like? Who are they?

Mr Lawler—There is a range of stakeholders in respect of the National Missing Persons Unit. The states and territories are integral in that process, along with a range of other non-government organisations and, in a broader context, the Australian community and those families who, unfortunately, have missing persons.

Senator LUDWIG—Thank you.

Senator KIRK—I have a press release here from Senator Minchin dated 11 May talking about a relocation to the parliamentary zone of the AFP premises. I understand that the

intention is that the AFP will be relocated to Anzac Park West by 2006. Which of the operations of the AFP will be moved to these new premises?

Mr Keelty—We have not got the detailed plan of that yet. My understanding is that the premises will be increased in size from its current size of about 12,000 square metres to 15,000 square metres. With the decision that has just been announced the planning will be under way to finalise what areas will go in there—what areas will be complementary. The AFP, through integration with the APS, currently occupies 10 properties in Canberra. This is a move to try to consolidate into particularly two areas: one at Majura, which we have just started developing, and this initiative in Anzac Park West.

Senator KIRK—The intention is to have the entire operation in two locations eventually?

Mr Keelty—Eventually, that is correct.

Senator KIRK—By mid-2006 or thereabouts.

Mr Keelty—That is what we are aiming for. Whether that is practical in terms of where our forensic laboratories are currently located at Weston remains to be seen. You may be unaware that we lost our indoor firing range during the Canberra bushfires; we have had to relocate that. The building at Weston was originally built as a police college, but it has not been used as a police college since the early eighties so it has been made to fit some various functions that are not really suitable for a modern work environment. Principally, the operational areas that are currently housed in our headquarters will move across to the new headquarters.

Senator KIRK—So, currently, you say that 10 properties are being occupied, reducing down to two. What will happen to the remaining eight properties? Are they on leases which will come to an end?

Mr Keelty—They are all on leases. The only property we own is the Majura property.

Senator KIRK—Will the relocation cost that will inevitably be involved be absorbed within your current budget?

Mr Keelty—As I understand it, it is \$22 million and has been included in our capital base.

Senator KIRK—Will the \$22 million be the total amount of the relocation cost?

Mr Keelty—That is correct.

Senator KIRK—So you do not have any detail about when the relocation will commence? You say it is still in the planning stages as to—

Mr Keelty—We have to go through the Public Works Committee with this proposal. As I understand it—I do not have the date in my head—their next meeting is in New Zealand, and we are trying to make the deadline for that meeting, which is in August.

Senator LUDWIG—There are a couple of matters. I was following up the white paper with ASIO and the A-G's department earlier, although, to be fair, I did not get very far with ASIO in respect of it. We might try with the AFP and see how we go. Was the AFP consulted by DFAT in the process of writing the terrorism white paper? I will preface my remarks by saying that, as I understand it, there was a synopsis—perhaps that is a way of describing it—which included headings, then descriptors of what the paragraphs might contain and then

subsequently a draft. So I use the words ‘synopsis’ and ‘draft’ as meaning separate documents. Were you consulted in relation to both the synopsis and the draft?

Mr Keelty—If you do not mind, the acting deputy commissioner, John Lawler, is across this issue in more detail than I am. As I understand it, we have had an officer sitting on the IDC that has been looking at this.

Mr Lawler—That is the position, Senator. We have been involved in the interdepartmental committee in relation to the white paper.

Senator LUDWIG—And that included both the synopsis and the draft?

Mr Lawler—I understand that to be the case, yes.

Senator LUDWIG—When was the synopsis forwarded to the AFP for consideration?

Mr Lawler—I cannot tell you a specific date in relation to that.

Senator LUDWIG—Perhaps you could take that on notice—

Mr Lawler—Yes.

Senator LUDWIG—and when the draft was forwarded to the AFP for consideration.

Mr Lawler—In relation to that, I do not have specific detail that either of those two documents was forwarded to the AFP, but I can tell the committee that the AFP was represented at the interdepartmental committee where these matters, I understand, were discussed.

Senator LUDWIG—Who sat on the interdepartmental committee?

Mr Lawler—I understand it was our national manager of counterterrorism.

Senator LUDWIG—Was that with DFAT and other agencies, as far as you are aware? Can you help me understand that process.

Mr Lawler—Yes, it was.

Senator LUDWIG—Who else do you know was there?

Mr Lawler—I understand that the Department of Foreign Affairs and Trade and the Australian Security Intelligence Organisation were there. But there are others who are better placed to give a full list, given that this particular program and project was being led by the Department of Foreign Affairs and Trade.

Senator LUDWIG—So DFAT was the lead agency in relation to the interdepartmental committee and the synopsis and draft?

Mr Lawler—Certainly.

Senator LUDWIG—Do you know what form the consultations took? Was it only confined to the officer from the AFP in the interdepartmental committee or were the synopsis and, subsequently, the draft forwarded to other officers within the AFP for consideration?

Mr Lawler—I would have to get specific advice as to what track those two documents either took or did not take within the organisation.

Senator LUDWIG—While you are having a look at that issue and flowing from it, could you take on notice to look at whether the AFP committed staff other than the one officer you indicated to both the synopsis and the draft in dealing with the consultative process or whether it was confined just to the interdepartmental committee? Your further inquiries might help the committee understand that process.

Mr Lawler—Indeed. By way of further assistance, in the normal course of events for such matters, advice and guidance and input would be received from other areas within the organisation. I just cannot say whether on this particular occasion that occurred and if so to what extent.

Senator LUDWIG—Are you able to say what the AFP recommended or suggested in relation to, firstly, the synopsis and, secondly, the draft?

Mr Lawler—No, I am not.

Senator LUDWIG—Is it that you are not aware of it or are unable to say?

Mr Lawler—I do not have the detail on that.

Senator LUDWIG—Perhaps you can see what you can find out for the committee. I am specifically interested in whether or not the AFP made any substantive recommendations or suggestions to the synopsis, whether or not they were picked up in the draft, whether you subsequently made any substantive suggestions or recommendations to the draft and whether they were picked up or not in the final draft, if there is one? That goes back to the earlier question as to whether or not we have come to the conclusion of the process or whether it is still ongoing within the AFP. I know that was a long question.

Mr Lawler—It certainly was.

Senator LUDWIG—You can track that on the transcript.

Mr Lawler—I will do the best I can.

Senator LUDWIG—You do not know whether that consultative process has come to a conclusion, do you?

Mr Lawler—No, I do not.

Senator LUDWIG—Is the officer who sat on the interdepartmental committee available?

Mr Lawler—I dare say the officer would be available, yes.

Senator LUDWIG—Is he here today?

Mr Lawler—I understand he is, yes.

Senator LUDWIG—Would it be unusual to ask him to the table to provide any additional information or would you prefer to take those on notice?

Mr Lawler—We would prefer to take those on notice.

Senator LUDWIG—As tempting as it might seem, I will agree to that.

Mr Lawler—Thank you.

Senator LUDWIG—When you have a look at that, I would be also interested in whether or not there were any concerns that the AFP expressed in relation to the DFAT document. I

guess to put it into context: whether or not it was either too banal or too bland or whether it was alarmist, whether the AFP made any comments about that and whether they were picked up. I guess that is the nub of the issue.

The other matter is the investigation of Mr Ruddock. On 31 March 2004 Senator Ellison issued a media release stating that the AFP had investigated two allegations of improper influence of Mr Philip Ruddock as immigration minister and had identified no criminality. When was each of those investigations completed? I take it they are completed?

Mr Keelty—That is correct. There were three referrals. The first was a referral from DIMIA received on 11 June 2003 regarding the alleged unauthorised disclosure of DIMIA migration related information. The second one was an investigation referred from Ms Julia Gillard, the member of parliament, on 15 July 2003 regarding a \$220,000 payment made by Mr Dante Tan to Mr Karim Kisrwani in order for Mr Kisrwani to influence the then minister for immigration. The third one was a referral from DIMIA on 19 July 2003 regarding \$50,000 worth of stamps given to Mr Ruddock, the then minister for immigration. The investigations are all closed and there were no prosecutions. They were finalised last month. I will get the dates for those, Senator, if you would like.

Senator LUDWIG—Yes. Was a report of each investigation provided to the minister?

Mr Lawler—Yes, I understand the minister has been briefed in relation to the finalisation of the investigation.

Senator LUDWIG—When was that?

Mr Lawler—To be accurate I will need to get a specific date. It was within the last month but I will need to be specific on that.

Senator LUDWIG—If you would not mind taking that on notice that would be helpful. I think it was Ellison's statement that I earlier mentioned was issued on 31 March, so was that issued prior to the matter being concluded by the AFP? We are now in May. That was 31 March. Last month was not March.

Mr Keelty—I do not have Senator Ellison's media release but I can assure you that—

Senator LUDWIG—I can provide it for you.

Mr Keelty—What I am saying is I can assure you that we would not have briefed him to issue that release prior to the finalisation of the investigation. If you could bear with me, we will get the dates of the finalisation of the investigation.

Senator LUDWIG—That would be helpful. There was a statement issued by the AFP on 15 May headed 'Man arrested for in-flight incident'. Do you recall that?

Mr Lawler—If you have the document there, Senator, that would be useful.

Senator LUDWIG—No, I do not, but I suspect it is on the Web.

CHAIR—That is not much help to the witnesses, Senator Ludwig.

Senator LUDWIG—No. We do not allow them to bring computers, do we?

CHAIR—They should not be expected to have to search the Web to respond to your questions in the context of an estimates discussion either.

Senator LUDWIG—No, but I would have thought they would have at least recalled a statement that was released by the AFP on 15 May without me having to bring all the statements along. I can bring all the statements that I want to question the AFP on in relation to matters, but one would expect in relation to something as recent as 15 May that they would have some recollection of the information they are putting out.

CHAIR—At the same time I do not expect the witnesses to rely only on memory when you have the advantage, Senator Ludwig, of referring to a written copy or at least to prepared information in relation thereto.

Senator LUDWIG—It is only a brief part. I will ask the AFP if they have any recollection. They can say yes or no. That is quite legitimate. Do they have any recollection of a statement issued on 15 May?

Senator Ellison—What is the incident?

Senator LUDWIG—A man arrested for an in-flight incident.

CHAIR—It is a release of 15 May.

Senator Ellison—I think that was a Thai Airways—

CHAIR—I understand that, Minister, but I am actually trying to establish a process here. I think if we continue to raise questions of witnesses that pertain to documentation that members of the committee have and to which witnesses do not have access when the questions are being pursued, that does make it difficult for the witnesses.

Senator Ellison—I agree entirely.

Senator LUDWIG—Well, I will not refer to the statement at all. Was a man arrested around 15 May? That is simple; I do not need the statement. You can tell me that one.

Mr Keelty—I apologise, Madam Chair, for the confusion here because two of us were away last week. On 15 May, if this is the matter you are referring to, Senator—

Senator LUDWIG—Was a man arrested around 15 May?

Mr Keelty—A person was arrested for endangering the safety of an aircraft, under section 22 of the Crimes (Aviation) Act 1991, and for offensive and disorderly behaviour, under section 256AA of the Civil Aviation Regulations 1988. The alleged offender was granted bail to appear before the Perth Court of Petty Sessions on Thursday, 20 May 2004. As I recall, there were some press reports around the investigation prior to charging. If it is the Thai Airways issue, which I think it may be, there was a delay in the referral from Thai Airways to the AFP on the matter. We were not notified by Thai Airways about the alleged incident until we initiated contact on Monday, 10 May and Thai Airways officials advised the AFP that the company would not be referring the matter to us. It was only after some negotiation with the airline that the matter was finally resolved, and the charges are now before the court.

Senator LUDWIG—In respect of the statement made by you on 16 March and which was produced and released, was that called a retracting statement? Perhaps you could clarify what it was referred to as.

Mr Keelty—You have called it a retracting statement, Senator. I issued a media statement.

Senator LUDWIG—What was the purpose of the media statement?

Mr Keelty—To clarify the views that I had expressed on the *Sunday* program on 14 March.

Senator LUDWIG—Who produced the media statement?

Mr Keelty—It was my statement that was released. It was an iterative process. I was in Sydney attending the commissioners conference, and I was doing it through my media people in Sydney liaising with my media people here in Canberra.

Senator LUDWIG—When you say it was an iterative process, is one draft prepared and then you have a look at it? I assume you were not close to the media person that you indicated was assisting you in the process. Was there a fax? How did the iterative process develop during the course of the day?

Mr Keelty—I had a media person from my office with me in Sydney. I was attending the conference so we collaborated on the initial draft and I went back into the conference. That draft was sent to Canberra. As I say, it was an iterative process and a final draft came back to me late that afternoon or early that evening. I was happy with that draft and that is the statement that went out.

Senator LUDWIG—The statement effectively started as a draft and then there were various finalisations of that and then a final one that was then approved by you?

Mr Keelty—That is correct. That is not an unusual circumstance, particularly when I am away from my office.

Senator LUDWIG—No. So it was done in contact with the media office. Was anyone else in the media office or anyone else in the AFP brought into the loop in relation to the statement? Were they questioned or asked about it? Were they asked to provide input into it?

Mr Keelty—It went from the business centre at the Westin Hotel where I was staying in Sydney to my media centre here in Canberra.

Senator LUDWIG—Was it then forwarded by you or the media centre to other AFP officers that you are aware of for their consideration or input?

Mr Keelty—It was sent to PM&C and also to Federal Agent Fagan, who is doing my chief of staff role.

Senator LUDWIG—Why was it sent to PM&C?

Mr Keelty—I had had some discussions with the secretary of PM&C earlier that day and when I said that I was issuing a statement of clarification we agreed that it would be good sense to allow his department to have a look at the statement before I released it. That is not unusual, particularly in joint matters or matters where more than one department has an interest.

Senator LUDWIG—Who was that from PM&C?

Mr Keelty—I am not sure. I initially spoke to Dr Shergold but I am not sure that Dr Shergold had direct input after that. I have not discussed it with Dr Shergold since.

Senator LUDWIG—So you are not sure of the contact in PM&C as to whom you sent it to?

Mr Keelty—I am not sure whom my media people were dealing with—whether they were dealing directly with Dr Shergold or someone in Dr Shergold's office. As part of the collaborative process and the iterative process, the final draft that came back to me was consistent with the message I wanted to send and so I sent it.

Senator LUDWIG—Perhaps we might just step back a fraction. I am unclear, and perhaps you can help me with this, as to whether the process was started by you. Or was it PM&C that contacted you and suggested that you make a statement? Or was it part of your consideration that they should be involved subsequent to you making the clarifying statement, or the media statement?

Mr Keelty—To put some context to it, the *Sunday* program—strangely enough!—was on the Sunday. Monday was a public holiday in Canberra. The matter had gained some momentum in the press between the Sunday and the Monday. By the Tuesday I had my own concerns about the way the matter was being reported. I had a discussion with Dr Shergold, who until that point in time, as I recall, had not been fully across the issue because he had been away—and I obviously was in Sydney. We decided that it would be a good idea to put out a clarification statement.

Senator LUDWIG—Was that conversation with Dr Shergold initiated by you or did Dr Shergold ring you?

Mr Keelty—He rang me.

Senator LUDWIG—Was that on the Sunday or the Monday?

Mr Keelty—It was on the Tuesday.

Senator LUDWIG—Was it in the morning?

Mr Keelty—Yes.

Senator LUDWIG—And after that you decided to issue a clarifying statement. Was that on his suggestion?

Mr Keelty—It was not necessarily on his suggestion. By that time I was concerned myself about the amount of attention the matter was receiving. As I say in the statement of clarification, one of the things that was concerning me was the focus on one particular part of what I said, which in full context was not consistent with statements I had made and speeches I had given. To me it was important to put out a clarification statement that dealt with the issue more appropriately. It was on my mind to do that much earlier. In fact I thought of doing it on the Sunday, but none of us expected at that point in time just how much the issue would take off.

Senator LUDWIG—So, when Dr Shergold rang you on the Tuesday, at that point time you had only considered issuing a clarifying statement. What was the conversation that Dr Shergold had with you that led you to conclude that you should issue a clarifying statement? Am I putting that the right way around?

Mr Keelty—My concern about putting out a clarification statement started on the Sunday. I do not think anyone thought the matter would still be going by the Tuesday. When it was, it was a mutual decision. Certainly it was not at the direction of Dr Shergold that the statement was issued. I was just as keen to have the matter stopped and put behind me, because it had just taken off in the media.

Senator LUDWIG—Does Dr Shergold often ring you about these issues?

Mr Keelty—Not often, but it is not unusual for me to receive a call from the Secretary of PM&C on an issue. Dr Shergold's predecessor has contacted me previously, and Dr Shergold and I have spoken on other issues.

Senator LUDWIG—In the conversation you then had, did he suggest that you should issue a clarifying statement? I know it is hard to recollect the exact words, but I think this is one of those issues that did seem to get air and requires some clarification as to the process that took place.

Mr Keelty—It was a mutual decision. It was not a direction from Dr Shergold. It was something, as I say, that I was happy to do and keen to do because of the way that the matter had taken off and the momentum that it had gathered.

Senator LUDWIG—Did you subsequently contact your media centre or Ms Fagan to work out how you would undertake the task?

Mr Keelty—Ms Fagan was here in Canberra. I had a media person with me in Sydney. I sat with that media person in Sydney and drafted something up and left her to communicate that back down to the office here in Canberra. I obviously was trying to, at that time, focus on the commissioners conference. Then I came back out during the breaks in the commissioners conference to see what progress had been made on the draft.

Senator LUDWIG—Did Dr Shergold ask you to send him a draft at the conversation you had with him, or ring him back about the draft that you had developed?

Mr Keelty—It was agreed between Dr Shergold and me that his office would receive a copy of the draft and that we would collaborate on the final document that went out. That, as I say, is not unusual when two or more agencies have an interest in a matter.

Senator LUDWIG—Can you recollect whether PM&C supplied you with any form of words or statements in relation to the draft?

Mr Keelty—The first draft was my draft, written by me and my media person. The iterative process was from comments, I imagine, from a number of people who saw the first draft. The final draft came back to me late that day, which was not inconsistent with my initial draft.

Senator LUDWIG—Are you aware of whether PM&C made any amendments to the initial draft that you had developed?

Mr Keelty—I think they did, but what they were I do not know. They were not in material difference to what I had intended to put out anyway.

Senator LUDWIG—At what point did you then send it back to Dr Shergold, or was their office involved in the process?

Mr Keelty—As I understand, their office was involved in the process with my media person, and then the final draft came to me late that day, because it did not go out until late that evening.

Senator LUDWIG—So you are not aware of whether PM&C included any additional words, changed any words or made any amendment?

Mr Keelty—It was different to my original draft but not a material difference in the sense that I was still very happy with the final draft. I would not have put it out if I was not happy with it.

Senator LUDWIG—Did the final draft come from PM&C?

Mr Keelty—No, it was largely my draft with some suggestions from PM&C. It came back to me from my office here in Canberra.

Senator LUDWIG—When it came back to you was it from PM&C or was it from your media centre?

Mr Keelty—My media centre here in Canberra.

Senator LUDWIG—So the media centre was in contact, as far as you are aware with—

Mr Keelty—PM&C.

Senator LUDWIG—During the week of 15 March did you have any discussion with any minister or ministerial staff about—to put it sensitively—your future with the AFP?

Ms Fagan—We will take that on notice for a short moment. We are just revising the chronology at the moment.

Senator LUDWIG—All right. To go back to an earlier issue: you indicated that you had thought on the Sunday about issuing the clarifying statement. Was there anything that prompted you on the Sunday?

Ms Fagan—In relation to the statements on the Sunday, it was not presented that there would be any statement put out until it was discussed on the Tuesday by the commissioner, as he earlier said.

Senator LUDWIG—Was there anyone who contacted you, or did you contact Mr Keelty, on the Sunday and suggest it?

Senator Ellison—Madam Chair, it may be useful if we have a short break. We can get that detail, and I think it will assist the committee.

Proceedings suspended from 11.00 a.m. to 11.20 a.m.

Senator Ellison—I have a copy of the Commonwealth fraud control guidelines.

CHAIR—Excellent, we have been waiting for that.

Senator Ellison—That is May 2002, and if I table those it might be a good start. We should have the details on AusAID for Iraq and those other details I took on notice to the committee shortly.

CHAIR—Thank you very much for that. I will have the document given to Senator Ludwig, who has the greatest interest in this matter at the moment.

Senator LUDWIG—Is that the latest document—the May 2002 guidelines?

Senator Ellison—They were given to me as such.

Senator LUDWIG—I just thought I would ask, to make sure.

Senator Ellison—If there is anything else we can give you ahead of that appearance, we will do so to assist in the expedition of the matter.

CHAIR—Thanks very much, Minister. Is that acceptable, Senator Ludwig?

Senator LUDWIG—Yes, thanks.

Senator Ellison—They are the latest.

CHAIR—That clarifies that point, at least.

Senator LUDWIG—Mr Keelty, we will go back to the clarifying statement. I used the word earlier ‘retraction’ and I think you disagreed with that. What would you call it? I have since then used the word ‘clarifying’ but I am not sure whether they are my words or your words.

Mr Keelty—They are my words. In fact, I used those words in a statement because I was particularly careful not to resile from what I had said on the *Sunday* program.

Senator LUDWIG—My recollection of what you said on the Sunday was that you reflected upon those things. Did anyone contact you about that or was that something you reflected upon yourself—about then issuing a clarifying statement?

Mr Keelty—I had spoken to a number of people on the Sunday after the program and, as I mentioned, it was a public holiday here on the Monday, so there seemed to be a gap in some people’s understanding of what had occurred. By the Tuesday it had gathered significant momentum and, to be honest with you, I thought a lot of it would have been over by the Sunday night if not the Monday. But when it was still going on the Tuesday it seemed sensible to me—and, as I said, I discussed it with Dr Shergold—to put out what I said was a clarification statement. I had been on the public record speaking about issues other than Iraq in terms of why Australia might have been a target for terrorism. It was only the week before that I gave a speech, which was the Commonwealth Day address in the New South Wales parliament, where I outlined my considered views that I believed I was in a position to state about why terrorism was going to be an ongoing problem for us. In a sense, there is no news in a lot of that. It is very much on the public record from other agencies as well as our own.

Senator LUDWIG—It is my recollection that on the *Sunday* program you were asked about whether you would retract the statement and you stood by the statement you made in relation to the risk. It does not seem to flow, but did you call someone on the Sunday or after the program did someone call you? Did the chief of staff from PM&C call you and ask you about the issue?

Mr Keelty—I was contacted by the Prime Minister’s chief of staff after the interview on the *Sunday* program.

Senator LUDWIG—What was the nature of that conversation?

Mr Keelty—I have a lot of conversations with a lot of staff to ministers and I am not sure that I should be giving the details of those conversations. Obviously I have to work with the government of the day, and I am quite happy to work with the government of the day. I think the conversations I have with any minister or their advisers should be treated in confidence.

Senator LUDWIG—Was the nature of the conversation to ask you to retract the statement that you made on the *Sunday* program, or to otherwise revise it or to put out a clarifying or retraction statement?

Mr Keelty—I think I just said, Senator—I am not sure if I am going to be overruled here—that I do not think it is appropriate for me to be describing my conversations with chiefs of staff or ministers for that matter without the consent of the minister involved.

Senator Ellison—Madam Chair, I think this is an issue which is much like advice to government where you have discussions between government and senior officials and, of course, officers such as Mr Keelty in relation to an agency such as the AFP. I have said on many occasions that I will not divulge the content of conversations. For instance, the Police Commissioner and I discuss many matters and I will simply say, ‘I have discussed the matter with the commissioner and that is it.’ Or I may not have. The situation that we have had over a long period of time is that it really is a question of these sorts of discussions between senior officials and government—ministers, senior members of staff—are really that: they are conversations between those people and they are not the subject of disclosure.

CHAIR—Thank you, Minister.

Senator LUDWIG—I will go on. Do you still stand by the statement that you made on the *Sunday* program?

Mr Keelty—I do. There was a lot that I said on the *Sunday* program that was unfortunately overlooked. One was about the enormity of the task facing intelligence agencies and the need to have a lot of balance about our approach to this. I do not resile from the fact that, in answer to the question about the bombings in Madrid, I was very equivocal. I did not say it was definitely for one reason or another. I was deliberately equivocal. I do not see how I should resile from that if I was so equivocal, because, as I pointed out, it was in the early stage of investigation, so the outcome was at that time unknown.

Senator LUDWIG—If we then jump forward to the statement that was issued, are there copies of the drafts available from the time of the first draft—the one that you say you prepared—and the final draft?

Mr Keelty—I did not retain any drafts because we were at a business centre in a very public place in Sydney, a hotel. Whether other departments have, I do not know.

Senator LUDWIG—Did you want to add something, Ms Fagan? Did the media centre retain any drafts?

Ms Fagan—We received a faxed copy from the commissioner’s media person on the Tuesday, which we typed into the computer. That was sent back and there were some amendments to that. That became the final media statement, which is the statement that we have.

Senator LUDWIG—Was there a document that was sent by PM&C?

Ms Fagan—I am not aware of one. I have not seen one from PM&C to us.

Senator LUDWIG—As far as you are aware, or you, Mr Keelty, there is no statement from PM&C or a revision—perhaps we might use that word—in relation to the media statement that you prepared and that was then faxed to the media centre.

Ms Fagan—The only statement that left from the media office within my area of control, that I am aware of, was a final amended version that the commissioner had cleared that went over on the Tuesday afternoon before it was released at about 6.10 p.m. on that evening.

Senator LUDWIG—Mr Keelty, as I understand, your earlier evidence was that that was not materially different from your first draft that you prepared.

Mr Keelty—That is correct, Senator. I would not have put it out if it was.

Senator LUDWIG—There was no document from PM&C in relation to the media statement, or amendments that were suggested by PM&C in relation to the final draft that was put out—I am just trying to get this as right as I can—between the first draft that was prepared in Sydney and the final draft that was then put out, that you are aware of?

Ms Fagan—We do not hold one in the Canberra office that I am aware of.

Senator BOLKUS—Can I just clarify that? There was a document that you sent to PM&C at, I think you said, six o'clock in the afternoon.

Mr Keelty—No, the six o'clock in the afternoon was the final version. This was earlier in the morning.

Senator BOLKUS—Roughly what time would it have been in the morning? While you are trying to find that, was it before or after the conversation with Dr Shergold?

Mr Keelty—There was an initial conversation with Dr Shergold on that morning. It was after that that I sat with my media person to draft the original draft. I basically then left that draft to go down to Canberra whilst I went back into the commissioners conference. I do not know how many iterations there might have been or changes to the document during the day. Essentially the document that I finally put out and was very happy with largely reflected what I had written earlier in the day.

Senator BOLKUS—When was the first transmission of your document to PM&C?

Mr Keelty—As I recall, it would have been mid morning.

Senator BOLKUS—And that was after the one conversation with Dr Shergold?

Mr Keelty—That is correct. From my memory, I think I spoke with Dr Shergold only once that day.

Senator BOLKUS—After you faxed or emailed that document to PM&C they sent a revised document back?

Mr Keelty—I do not know that they sent a revised document back but I cannot say because it was out of my hands.

Senator BOLKUS—Does Ms Fagan know?

Ms Fagan—I understand there were some revisions given to our media person who was with the commissioner in Sydney. Later that afternoon that statement came to the Canberra office.

Senator BOLKUS—Came from where?

Ms Fagan—From the Sydney office—from our media person to our media person here. The reason it was sent to us was so that we could badge it and put it out electronically to the media. We got that statement and typed it up. I think there were a couple of words that were changed. It went back to the commissioner, who was in an all-day conference, awaited his clearance and then we distributed it around 6.10 p.m.

Senator BOLKUS—We are trying to identify whether PM&C sent back a revision of your first document.

Senator LUDWIG—And where they sent it to.

Mr Keelty—Can we take that on notice? Neither federal agent Fagan nor I are familiar with that.

Senator LUDWIG—It seems to me that the area could be whether the Sydney media person who was with you at that time had direct contact with PM&C in relation to the amendment and that that may have been unknown to the media centre, or whether that had contact with the PM&C. Can we look at those two parts to ascertain the flow of documents? Although we have described an iterative process, it seems that there is a four-way link involved. I am interested in understanding that process and how it travelled. Are there copies available of the first draft that was faxed through and copies of any amendments that were made by PM&C, if there were such amendments? Where were they sent and are there copies available of those? Is there a copy of the final draft or the changes that might have been effected by the Canberra media centre? I think that covers it.

CHAIR—I think that is another one of your long questions, Senator Ludwig, but we will ensure that the *Hansard* is provided and reflects the issues you want raised.

Senator LUDWIG—Thank you.

Senator BOLKUS—You say there is no material difference between the drafts and the final document. Can you make those drafts available to us?

Senator Ellison—This is much like when you have, with government—

Senator BOLKUS—There will be an answer coming up here, I think!

CHAIR—I do not think you are in position to comment actually, Senator Bolkus.

Senator Ellison—I think it is a principle that working documents are not disclosed, for very good reasons which have stood the test of time. The fact is that a statement was made. The commissioner has made it very clear that that was his statement. Working drafts are not relevant. As they are in relation to any other area of government, the working documents behind the policy document that is developed or the statement that is made are not disclosed—and nor have they ever been.

Senator BOLKUS—Do we take that as being the answer from the commissioner as well?

CHAIR—I think that is the answer, Senator Bolkus.

Senator Ellison—I think that enunciates the principle.

Senator LUDWIG—You are aware of Mr Downer's comments on the *Sunday* program on 14 March where he stated, and I quote:

I mean, I think he is just expressing a view which reflects a lot of the propaganda we're getting from al-Qaeda. I think what the bottom line of all this is, is that they, al-Qaeda, are out there running this line on Iraq.

Did these comments have any potential to impact on the morale of the AFP officers, especially senior AFP officers?

Ms Fagan—It is fair to say that Commissioner Keelty has had numerous supportive emails internally. I think the morale of our organisation remains as it was and as it is. We have staff surveys that do cover that. I would be happy to give you some of that information if you wish.

Senator LUDWIG—If they cover those particular issues, yes, that would be helpful to the committee.

Ms Fagan—The last survey was some months ago so it will not cover that particular issue. We do them every couple of years.

Senator LUDWIG—I think I have got those before from you.

CHAIR—Yes, the committee has received those before.

Senator LUDWIG—Are you aware of whether or not those comments have potentially undermined the public confidence in the office of the Commissioner of the Australian Federal Police?

Senator Ellison—I wonder if that is really a fair question to ask Ms Fagan or the commissioner.

Senator LUDWIG—I will withdraw it then.

Senator Ellison—It is a question you can put to the minister. You can normally put anything to the minister.

CHAIR—Would you like to put that to the minister, Senator Ludwig?

Senator LUDWIG—You are quite right, Minister. I was thinking of withdrawing it from the Australian Federal Police Commissioner and Ms Fagan and asking you then.

Senator Ellison—Now you are on solid ground. My view is that the Australian Federal Police continues to be an extremely fine police force—and it is internationally regarded as such. The work that it continues to do overseas and here is a manifestation of that. I have dealt with a lot of Australian Federal Police officers around the country. I deal with the AFP on a daily basis. I have not detected in any way, shape or manner any diminution of morale in the organisation. In fact the AFP continues to be an organisation which is highly motivated and focused. I do not think this matter that has been raised by Senator Ludwig has affected it in any way. I was just in the Solomons and Vanuatu the other day. I saw the extremely good work the AFP is doing in difficult conditions. I see that good work in my home state and I see it in other states as I travel. I think that answers the question pretty squarely.

CHAIR—I think that certainly will assist Senator Ludwig.

Senator LUDWIG—I think that is right, Minister. The opposition supports the work of the AFP and values its contribution to national security, internal security and those other matters as well. I think that goes without saying. There is confidence from this side in the AFP. I have been here for five years now asking questions of both the AFP and other security agencies. In that five years they have demonstrated professionalism. I have actually passed on to others my impressions about the way they have conducted themselves and the way they have addressed fighting crime. I do not think there is a better organisation around, quite frankly.

Senator Ellison—Internally, as well, it should be noted that we recently had the integration of the APS with the AFP, which is perhaps one of the biggest things to happen organisationally to either of them in a very long time. That has gone very well. There was a whole approach to that including the union and others. It is a tribute to the two organisations that it was done in that manner. Also, an award was issued recently to the AFP. The AFP received a gold award for combining work with family life and for the pastoral care that is given to the men and women of the AFP. That is a testament to the organisation and the commissioner.

CHAIR—The committee has of course considered the first matter you referred to of the APS and AFP merger in its legislation committee capacity.

Senator Ellison—It has.

CHAIR—Previously I had the benefit of a large range of evidence on that and the committee's report reflects that.

Senator Ellison—I might say that the government is grateful to the committee for the assistance it received in that regard.

Senator LUDWIG—While we are on this topic, there is a view—and I think it is a correct view—that we are required to ensure that the AFP is independent and that it can act completely in its task and undertake its role without fear or favour. I am not going to explain the questions but they go to these central issues. I only have two remaining so we should not be too long on this subject. Then we will be able to move on to other areas that the federal police are involved in that I have an interest in. The question I wanted to come back to is whether there were any other suggestions by ministers or ministerial staff about other job offers that might have been made to the Australian Federal Police Commissioner in this period. Were any made to you, Mr Keelty?

Mr Keelty—No.

Senator LUDWIG—The only other question is: in respect of the public statements by the AFP, you continue to act independently and without fear or favour in your role and free of any interference?

Mr Keelty—That is correct.

Senator LUDWIG—I understand that in the 2002-03 budget measures, \$1.5 million for five boats—they could not have been very big boats—was given to the Indonesian police.

Senator Ellison—They were built in Western Australia. They were very good boats.

CHAIR—I do not think there is any doubt about that. I think it is just a size issue.

Senator Ellison—I will not touch that comment.

CHAIR—I am leaving it to the boys, myself.

Senator LUDWIG—I did not say anything. I was just wondering when they were provided.

Mr Keelty—I do not have the date but they were provided last year in a handing over ceremony. My memory is that it was around the middle of last year—in June last year.

Senator LUDWIG—What was the cost of each boat? Was there a market value or was there a depreciated cost? How was that worked out?

Mr Keelty—It is best that I take that on notice. There are issues about the cost of each of the boats. I think there is some provision for ongoing maintenance and for additional engines et cetera. If I could, I will take that on notice.

Senator LUDWIG—Is that ongoing maintenance engineering work that would be undertaken in Australia, or was it a matter that was then encapsulated in the sale or transfer, if I can use that phrase?

Mr Keelty—As I understand it, it was to be undertaken within Indonesia. The boats were freighted up in the middle of last year, as I said. They were deployed to various parts of Indonesia. I did have the detail here before but I do not have it before me today.

Senator LUDWIG—I am happy for you to take that on notice. I guess, as the chair has raised it, due consideration should be given as to the size of each boat, so we could establish that too.

Senator Ellison—Both the commissioner and I were at the handing over and certainly the Indonesian officials there were of a view that these boats would be of very good use for their operational requirements—speedy, ocean-going, but also for close proximity to shore, ideal for an archipelago situation and with swift response capability. With respect to the size, it has to be borne in mind that these vessels were for inshore quick response and were ideal for that purpose. Certainly the officials and the police whom we spoke to on the day were of a view that these vessels were ideal for the situations they required them for.

Senator LUDWIG—You mentioned that they were for inshore use—were they ocean-going? How far out do they go?

Senator Ellison—We took them out on Gage Roads—I do not know whether you are familiar with Gage Roads in Fremantle.

Senator LUDWIG—I would have to say no.

Senator Ellison—The tank limits how far they can go. Senator Scullion could tell you a lot more about the requirements—

Senator LUDWIG—I do not think that he wants to go there either.

Senator Ellison—They are vessels which are well-equipped for rough conditions albeit inshore because they do not have the range to go too far out.

Senator LUDWIG—Perhaps you could take it on notice as to whether they are equipped for ocean-going—I am not a nautical person particularly—

Senator Ellison—Much like the Shark Cat.

Senator LUDWIG—How far out can they go and what is their range?

Mr Keelty—I will do that, Senator. I can tell you that we negotiated to some degree with the Indonesians about the specifications. They were largely for estuary work but because of the nature of the Indonesian archipelago obviously they had to have some ocean-going capacity. But I will get you the absolute details. I apologise; I have had that briefing here on previous occasions but since nearly 12 months has gone past I have not got it with me.

Senator LUDWIG—I think that someone on your side of the table said that they were ocean-going but we can establish what they are. I guess there is a difference between estuary and ocean-going in the sense that to me the latter would mean high seas but that may not be what you mean. So I am happy for it to be clarified.

Senator Ellison—They are much like the Shark Cats I mentioned. They can go out but not too far because they do not have the range. But they can take a decent swell and are very good in those conditions just as they are in an estuary or river condition.

Ms Fagan—They are designed for and have the specifications to go out about 12 nautical miles.

Senator LUDWIG—Perhaps you could include that in the answer—the specifications, who built them, how old they are and the size. They will usually tell you whether they have got a marine survey and what they are capable of doing within that specification, and you have probably got that in your file as well.

Ms Fagan—Certainly, Senator.

Senator LUDWIG—In respect of terrorism financing and the AFP's work under the Charter of the United Nations (Terrorism and Dealing with Assets) Regulations 2002, has a request for assistance been received by the AFP under these regulations? If there has been, perhaps you could provide us with how many requests there have been and during what periods in the last couple of financial years.

Mr Lawler—I can help in relation to part of that answer. The AFP joint counterterrorism teams are conducting a number of investigations into suspected terrorist financing in Australia. These investigations have all impacted upon domestic and international partnerships. Where appropriate, these investigations utilise intelligence from a range of sources and are conducted in partnership with agencies including AUSTRAC and the Australian Security Intelligence Organisation. Additionally, the AFP works closely with the terrorist financing section of the Federal Bureau of Investigation on matters relating to JI financing structures in South-East Asia, inclusive of the Bali bombing operation. This cooperation has so far resulted in four members of the FBI travelling to Australia to share intelligence and investigative practices in respect of JI financing activities.

Senator LUDWIG—Can you detail how much has been sought and how many times that has happened over the last couple of financial years?

Mr Lawler—I do not have that specific detailed information before me but I would be happy to provide that.

Senator LUDWIG—In endeavouring to procure that information, can you advise whether or not you have detected a trend in the data going up or down as to those requests, or are you able to say that now?

Mr Lawler—No, I am not able to say that now.

Senator LUDWIG—Are you able to say how many hours might be attributable to the AFP handling these requests in each financial year?

Mr Lawler—We certainly would be able to provide that from our data in relation to terrorism and, with some closer examination, also in relation to terrorist financing matters, but that would take some time to do and may involve a detailed analysis of our information systems.

Senator LUDWIG—If it is not going to cause you too great a difficulty, I am happy for you to take it on notice and I am happy for you to look at the trends on the number of requests and how many trends there have been under the regulations. If it is going to take a significant amount of resources, perhaps you could come back to the committee and let me know.

Mr Lawler—As you would be aware, the AFP information systems break up the various crime types into incident codes. There are certainly incident codes in respect of terrorism but, as for specifically in relation to terrorist financing, I will need to make some further inquiries about that. I will provide that information if I possibly can.

CHAIR—We will move to the Australian Institute of Criminology and the Criminology Research Council.

[11.53 a.m.]

**Australian Institute of Criminology
Criminology Research Council**

Senator KIRK—I have some questions about the National Community Crime Prevention Program. I understand that under the old program, the NCPP, the AIC was funded to manage a number of projects, such as the farm victimisation surveys, the small business crime prevention project and crime against small business surveys. Is that correct?

Dr Makkai—That is correct.

Senator KIRK—I am wondering whether or not the AIC will be able to apply for funding for those research projects through the new program, the NCCPP.

Dr Makkai—Those projects, as they currently stand, are coming to an end. We have done all of the research that we would want to do on those. We are just finishing up a number of reports and we would not be seeking any further funding because we have already done the research for them.

Senator KIRK—Over what time period were those projects?

Dr Makkai—They varied. The farm crime survey, for example, was a project that went over three years. Crimes against small business also went over about the same period of time. I think those are the two main projects.

Senator KIRK—Yes—crime against small business and small business crime prevention project.

Dr Makkai—They were bundled up together.

Senator KIRK—Will the AIC be able to apply for funding for research at all?

Dr Makkai—I am afraid I am not across the detail of how that fund is being administered by the department.

Senator Ellison—I will answer that. The AIC per se is funded for its operations quite separate and apart. I think there is NIDS funding for the DUMA program. Also the AIC, I think, is given funding from, in some cases, state governments for particular programs or research. So the AIC does get funding from other sources. Funding from this particular program would not be essential for its ongoing work—quite the contrary. I suppose you could not rule out a situation where, if someone were in partnership with the AIC doing some work on crime prevention, that application would not be considered. As I said yesterday, the criteria in relation to crime prevention really are quite broad. Certainly the applicant has to be an incorporated body and has to meet the criteria concerned. If that were the case then local government or local community groups—the AIC in partnership with some entity—might be able to apply.

Senator KIRK—I am just trying to establish it, because under the old program, the NCPP, clearly it was the case that the AIC was able to get funding for the projects that I mentioned. But I understand, from what you are saying now, that the AIC will not be able to apply in its own right as a single entity under the new program. Isn't it the case that it has to be a community based organisation that applies?

Senator Ellison—Yes, but that does not rule out people like local government working with the AIC or a university working with a group in the community. The focus of this is entirely different now. What we are looking at are community based solutions to crime. The AIC is a research body which provides both discrete and comprehensive assessments as to trends of criminal behaviour and a whole range of issues nationally and also, in partnership with some people, on a local basis. So I do not see that the AIC would be ruled out from applying for funding, but I would suggest that it would need to do it with a community based approach, and that would require a partnership with a local university, local group or something of that sort.

Senator KIRK—So it would have to be in collaboration with another group, which is what you are saying.

Senator Ellison—Community based is the big issue here; that is what this is all about. It has changed the emphasis of the program. That is the issue here.

Senator KIRK—I understand that the specific programs that I mentioned are coming to an end, and that is that. But isn't it fair to say that, if a similar initiative were to be undertaken,

the AIC would not be able to get funding for such projects as the farm victimisation survey or the small business crime prevention project? Is that your understanding?

Senator Ellison—No, I do not think so. I think that it would depend how the application was put forward and if there was a partnership. You have got to remember that I am the decision maker here, and I am giving people advice on how to get their grants up. What if you had the AIC with the Small Business Association developing a pilot program which would assist in particular areas to prevent crime being committed on small business? If you could use that and replicate it around the country, that would be a very good program. The very point that Senator Ludwig made yesterday, which was a good one, was that you want to know where something works and then, if you can duplicate it and replicate it elsewhere, you do so. I see no reason why the AIC could not be involved in a group such as the Small Business Association or maybe even a rural group. There might be some rural action group to prevent crime in small communities in regional Australia. That would be a classic.

Senator KIRK—There are some good tips there as to how to write your crime application.

Senator Ellison—That is how I see it anyway; that is how I would do it.

Senator KIRK—Can you tell me whether or not the AIC was consulted on the development of the new NCCPP.

Dr Makkai—No, we were not.

Senator KIRK—Were you surprised by that? Were you expecting to be, given that, under the old program, you had applied for, and been successful in getting, some research moneys?

Dr Makkai—I think those sorts of initiatives are done internally, within the department.

Senator KIRK—Perhaps I will ask the department: was there consultation with groups other than the AIC?

Mr Cornall—I am not aware of the answer to that question without referring to other officers. The position is that the National Crime Prevention Program was a terminating program. My recollection is that a year ago we got funding for this year, as an extension for one year, while the future of the program was considered. The government decided which way it wanted to go with this program in future and that is where we are going with the program from 1 July. I would not necessarily have expected people who had received grants from the old program to be consulted, no.

Senator KIRK—Would it be fair to say that the AIC does have expertise in community based crime prevention?

Dr Makkai—We have a number of analysts who work on a range of research topics, and those research topics range from the local area up to the national area.

Senator KIRK—From what we have heard today, do you think that there will be potential for the AIC to apply for funding under the new program?

Dr Makkai—We are always keen to look for more money.

Senator Ellison—An example of where the AIC gets money is, I think, from Ageing. There was something there; they have given money to the AIC.

Dr Makkai—And the Office of the Status of Women as well.

Senator Ellison—What I am saying is that these areas can be funded from other areas as well. There is also some money to continue the publication of the identity fraud kit, the crime prevention for seniors kit and a couple of others which escape me at the moment—the printing of those. DUMA will continue, but that is NIDS funding.

Mr Cornall—It is funding for the AIC.

Senator Ellison—It is funding for the AIC, but the DUMA funding is where we assess prisoners who are arrested at the various watch-houses around Australia and have a urinalysis for the presence of illicit drugs. That is an extremely good program which is funded by NIDS. Really, the AIC has a range of areas of funding.

Senator KIRK—I understand there is an advisory group for the NCCPP. Has the AIC been invited to participate in that?

Dr Makkai—We have been invited to sit on an advisory panel. I do not know whether it is that particular one or whether it is another initiative. I would have to check and get back to you with that.

Senator KIRK—So you are not sure whether the advisory panel is the same thing as the advisory group?

Dr Makkai—No, we have just had a phone call about it and we will follow up on the details and so on.

Senator KIRK—Minister, could you perhaps clarify whether or not—

Senator Ellison—Madam Chair, this was the subject of questions yesterday by Senator Ludwig as to the advisory panel for the new community crime prevention grants. I indicated yesterday that this was under consideration and that we were considering a number of people at the moment. I indicated that as soon as it was in place I would advise the committee. I anticipate that would be very soon, because in our advertisement last Saturday we said that from 1 July onwards we would be considering applications.

The range of people we are looking at on this advisory committee are from a variety of backgrounds—crime prevention, law and order, academia, the Indigenous community. There really is a mix. There are both officials and private sector people. I cannot go further than that because a number of approaches have been made and it would be inappropriate to reveal that at this stage.

CHAIR—I understand that, and we did canvass this at some length yesterday.

Senator KIRK—I think Dr Makkai said that you in fact received a phone call.

Dr Makkai—I do not know if it was that advisory committee. It was something that was happening and I cannot recall the detail of it. I would just like to add, though, that we do have to be careful. Obviously we cannot sit in an advisory committee if we are then going to apply for money. We have to weigh these things up.

Senator KIRK—You received a phone call from—

Dr Makkai—From an officer in NCP. I can get back to you with the exact advisory committee.

Senator KIRK—Yes, could you take that on notice.

Dr Makkai—I am not sure if it was that one or another project that they were doing it for.

Senator KIRK—That would be helpful. As to the date of the phone call, who called you and all that, could you take that on notice, please. They are all the questions I have for the AIC.

CHAIR—Thank you, Dr Makkai. We will move to CrimTrac.

[12.06 p.m.]

CrimTrac Agency

Senator KIRK—I want to clarify something with you. Looking at the budget papers, there appear to be some discrepancies in the staffing levels for this coming year. Budget Paper No. 1 says that the average CrimTrac staffing will remain at 44 in 2004-05, which means no change from the current year. But when you look at the PBS, it says that the CrimTrac staffing will be 63 in the same period, an increase of almost 50 per cent. I am unclear as to which one is correct.

Mr Mobbs—We noticed that this morning while we were sitting in preparation. The only explanation I can give right now is anticipation of approval by the board of management for a substantial increase in our staffing, particularly in the IT area. That may have been picked up through the PBS process. It is a notable artefact.

Senator KIRK—You are waiting for approval by the board of management?

Mr Mobbs—We have had approval for part of the staffing increase we asked for. It is less than was asked for.

Senator KIRK—What did you ask for and what have you received?

Mr Mobbs—In one area of our operations we asked for an increase of nine. We have been given approval for four. In other areas no increase has been approved.

Senator KIRK—So the increase of 19 has not occurred. There has been an increase only of four. Is that correct?

Mr Mobbs—At this stage, yes—approved.

Senator KIRK—And you are still waiting for approval from the board of management in relation to the balance of 10?

Mr Mobbs—Yes. Any further approvals for an increase to our staffing are subject to resources becoming available—I am speaking of recurrent resources.

Senator KIRK—Over what period of time are we looking for this approval to take place? Is this an ongoing process or is there a pending decision? Where are we at?

Mr Mobbs—We are looking for increases over time as we expand our services. That is principally the reason we have asked for the increases to date—in particular in the area of national criminal history record checking. As the number of agencies requesting the service increases I have to increase the number of officers to service that demand. In other areas—

particularly in the IT area—I consider we have been running on fairly strict and meagre levels of person power. That is becoming evident in the way staff are now looking for a little bit of relief in terms of the amount of work they do and the number of jobs they each have. I have taken the case to the board and they are very sympathetic to that, but it all comes down to the available recurrent resources. I will continue to push for that in 2004-05 and beyond.

Senator KIRK—Are you saying that neither the budget paper nor the PBS is accurate in terms of your staffing figures?

Mr Mobbs—May I just have a moment to refer to the paper you are speaking about?

Senator KIRK—Certainly.

Mr Mobbs—I have it now; it is on page 252. I note that the first column is headed ‘Estimated actual 2003-04’. That would have anticipated the approvals for increased staffing initially at our February board meeting and most recently at the May board meeting—and only part of that was granted.

Senator KIRK—So does the 44 staff include the four?

Mr Mobbs—That would probably have included the nine staff, of which four have been approved. Our ongoing staff prior to that meeting was 40. We have had approval for four more, so I think you will find that 44 is close to the mark.

Senator KIRK—So 44 is accurate whereas 63 is—

Mr Mobbs—I was a bit optimistic it seems about that—or hopeful.

Senator KIRK—So we have established that there are 44 staff.

Mr Mobbs—That is ongoing staff.

Senator KIRK—You mentioned that there is always a need for increased staff, and it seems from the way you describe it that the fact that the staffing levels are not as high as you would like is having some effect on your operations. Is that correct? You mentioned IT, for example.

Mr Mobbs—The work levels are high for my existing staff at the moment. I consider it my responsibility to try to improve that but I am also conscious that both capital and recurrent funding only go so far. I am making every attempt to do that without impacting on programs, so I would not agree that it is having an effect on programs. Perhaps we could go a bit faster with more staff; that is one obvious conclusion.

Senator KIRK—You mentioned that the IT area in particular is an area of need. I would have thought that was pretty essential to your operations.

Mr Mobbs—It is; we are pretty much an IT shop. I am aware that some of my staff consider that they have a little bit too much on their plates in being asked to address many IT areas and do many evaluations on new products, services and applications. In striving for a better work-life balance, one solution would be to provide more staff and share the load more equitably. They are terribly good staff. They are extremely committed and so far they are bearing up. But I am sensitive—through the feedback that I get through staff surveys and through constant presence in the office—that more staff would make life easier for them.

Senator KIRK—So if you were to get an increase in staff, many of those new people would go into the IT area? Is that where you would be diverting the resources?

Mr Mobbs—Principally, yes.

Senator KIRK—Chair, I have only just realised that I have a couple more questions. I will put them on notice to avoid any inconvenience.

[12.15 p.m.]

Commonwealth Director of Public Prosecutions

CHAIR—Welcome, Mr Bugg.

Senator KIRK—I want to ask you about the Proceeds of Crime Act 2002. I understand that \$5 million is estimated in the budget to be recovered under the new act in this current financial year. How did you come up with that estimate of \$5 million?

Mr Bugg—Is that proceeds recovered or funds allocated to make recovery?

Senator KIRK—I understand that it is proceeds recovered. I am confused because the budget estimates mention that the actual proceeds will only be \$2½ million, so I do not understand this discrepancy.

Mr Bugg—Could you direct me to where that is in the papers.

Senator KIRK—It is on page 355.

Mr Bugg—That is the insolvency trustee.

Senator KIRK—The two figures I have are on pages 355 and 393.

Mr Bugg—That is where we start.

Senator LUDWIG—It is really a case of people making an objection in 2003 about how much the proceeds of crime legislation would recover. Did A-G's—

Mr Bugg—No, we did not in the sense that obviously we were moving into new territory with the amendments to the act in part 2-2 and we started approximately in mid-January 2003 with the new civil proceeds regime. It was an unknown quantity in that sense and I doubt whether we would have given an estimate of the likely recovery of proceeds in those circumstances. We were really moving into quite uncharted waters.

Senator LUDWIG—Perhaps you could have a look at that. The current return is \$2.5 million.

Mr Bugg—Yes.

Senator LUDWIG—How is that made up? Is that serious crime or drug related? Is there a breakdown of the \$2.5 million?

Mr Bugg—I do not have a breakdown for you; I could obtain that. Obviously it would be serious crime.

Senator LUDWIG—The reason I ask is not to put you to too great a trouble but, when the bill came before us, there was a concern about the operation of it. One of the concerns that was in the back of my mind was how it would operate on the ground and that those people who were in your sights were only those that should be in your sights. One way of checking

that is to see where the money is being recovered from. It is one of those small things that gives you an indication of how operationally effective the Proceeds of Crime Act is. My recollection is that it was one of those bills that was needed by the AFP and by yourselves and that it was well supported by everyone. The amount of 2.5 seems a little short, given Western Australia gave evidence to the inquiry—I am happy to be corrected—that theirs was in the order of something like 20—

Mr Bugg—Sixty.

Senator LUDWIG—A lot of money. I think \$20 million rings a bell.

Mr Bugg—Since they have been operating I think in WA—I was speaking to the WA DPP about a fortnight ago—they have restrained \$50 million to \$60 million but, obviously, property under restraint still has to go through a process. That is the very situation we have here. We have had something like \$82 million under restraint since mid-January last year. Then either you are awaiting a conviction, if it is being restrained under the conviction based regime, or you are still processing it and awaiting the outcome of either appeals or the expiration of appeal periods and then the time limits under the legislation. We are seeing quite a lag between the act of restraint and the recovery into a position where we can say that it is actually recovered, it is not just restrained, which is really an insurance to prevent it being frittered or taken away.

Senator LUDWIG—How long is that period generally, from your experience?

Mr Bugg—Our experience varies depending, obviously, on the court hearing times and matters of that nature. If you are waiting for a conviction, that could be quite some sizeable time because you have to go through a committal process, the trial process and then any appeals process that flows from that. So it is such a variable that I really could not give you any real assistance. What we are seeing is a picture. Clearly it is working successfully at the restraint end and we have obviously got the slow process of then moving it from restraint to recovered assets.

Senator LUDWIG—How much is currently in the restraint area now?

Mr Bugg—It is approximately \$80 million.

Senator LUDWIG—Of that, in the last financial year 2.5 was then left.

Mr Bugg—Was recovered.

Senator LUDWIG—Was recovered. I did not want to use the wrong term. Is there an expectation of how much of the \$80 million—I guess that is asking how much is in a barrel?

Mr Bugg—No. We could be optimistic and then be disappointed. It is better to just wait and see. In there, there are a variety of restraints, some of which, obviously, there will be an argument about and others where there may not be.

Senator LUDWIG—Perhaps we could come back next year and ask about how much ongoing there is. What I was trying to do was to get a comparison of your effectiveness in being able to restrain and restrain appropriately and that which is left, which is then recoverable. I was trying to ensure that you are not just restraining people ad hoc and then

they are put to some expense to get it unrestrained. If they are successful at it, one would question whether or not your technique in the first place was right.

Mr Bugg—One of the difficulties, you could well understand, if you are working from a civil based starting point is where, if there is a reasonable suspicion or the property is reasonably suspected to be the proceeds of crime, you have to move quickly. If you do not, just the electronic facility to move funds around means that you could miss it. In a sense, you have to jump quickly and, obviously, there will be occasions when you have jumped and a plausible explanation is forthcoming and you have to back away. It is not a question of us roaming the country looking for money to restrain just for the sake of it.

Senator LUDWIG—I was not meaning to suggest that. It was a question of the time lines between a restraint and an outcome, be it a return or a recovery. It has also helped me to understand the process that you have adopted too. Perhaps we can look at those next time we are here. When you are generating your data, keep in mind that some of those figures might be helpful to the committee to understand the process involved.

Mr Bugg—This legislation is under a program of three-yearly review anyway. So by this time next year we will be starting to generate some useful information from your perspective.

Senator LUDWIG—I am aware of the review. I think it was one of the recommendations that was made. It was always in my mind that these were some of the tests that might be applied to be able to tell how effective the legislation is and how fairly it might operate. Secondly, has there been any restraint in relation to literary proceeds?

Mr Bugg—Not that I am aware of. I do not think so, but if there is any different position to that I will let you know.

Senator KIRK—Moving on to your performance targets, on page 400 of the PBS, I notice that you have a success rate target of 90 per cent in applications for proceeds of crime orders. I wonder if you can tell the committee whether or not you are on track to meet this target during this financial year.

Mr Bugg—I cannot off the top of my head.

Senator KIRK—Perhaps you can let us know—you might need to take this on notice—how many applications have been made, how many have been refused by the courts and whether or not you are on track to meet the 90 per cent target.

Mr Bugg—Yes, we will take that on notice.

Senator KIRK—Have the costs of those prosecutions remained within your budget?

Mr Bugg—The proceeds matters?

Senator KIRK—Yes.

Mr Bugg—Yes, they have. As I was saying earlier, because we are moving into the use of new legislation we have stayed within the budget allocation for that work. We have resourced as the work has come in so that we have gradually built up staff over the period. I know from a recent national meeting in relation to this aspect of the office's work that there are some areas—that is, geographic locations—where there is a need for more staff as, obviously, the

workload is increasing. We are within budget and we are comfortable with the way that has developed.

Senator KIRK—You mentioned to Senator Ludwig that there is a three-year time period until there is a review. Will that take us to midway through next year?

Mr Bugg—It should be midway through next year that we will be starting to get things together, but this legislation started in mid-January 2003 so we are looking at 2006 as the shut-off point.

Senator KIRK—What will be the nature of that review?

Mr Bugg—I have not been given any indication but I suspect it will be examining the effectiveness of it. We are already trying, I guess, to determine areas of effectiveness beyond just the mere money bottom line outcome because, as an evidence and information gathering process as well, it is already starting to show certain side issues. We are not definite that they are demonstrating a pattern but they may be useful information to whoever undertakes the review.

Senator KIRK—Who is likely to undertake the review?

Mr Cornall—That would be a matter that the department will turn its mind to in due course. The review of legislation of this nature is a relatively common thing to undertake to ascertain that it is achieving its objectives, working effectively and, generally speaking, meeting the parliament's and the government's expectations. But, given the time frame for this review, to the best of my knowledge we would not yet have looked at terms of reference or an appropriate reviewer.

Senator KIRK—Thank you.

CHAIR—Thank you, Mr Bugg and your officers, for assisting the committee.

[12.29 p.m.]

Insolvency and Trustee Service Australia

CHAIR—We are moving to the Insolvency and Trustee Service. There was more than one message on this issue yesterday, so if there has been a communication which has resulted in ITSA not being present the committee understands that.

Mr Oliver—I was told yesterday that ITSA was not required so I rang the head of ITSA and said they were not required. I am sorry.

CHAIR—There is no need to apologise. The message was revised but the revision obviously did not get to you. That is no issue at all, Mr Oliver. Do not worry; there is no need for an apology.

Mr Cornall—Can we put any questions to ITSA on notice?

CHAIR—I am sure we can.

[12.31 p.m.]

Office of the Federal Privacy Commissioner

CHAIR—Welcome, Mr Pilgrim and Mr Armstrong.

Senator LUDWIG—I have been consistently asking about the number of complaints you receive. Do you have the latest figures available to the committee?

Mr Pilgrim—Yes, I do. The figures for the current financial year to date are that the office has received 1,015 complaints. That is to 30 April this year.

Senator LUDWIG—Is that trending upwards or downwards? Is that an increase over the last financial year?

Mr Pilgrim—If we extrapolate that figure out, it would mean that by the end of the financial year we could estimate that we would receive 1,217 complaints, which would be above the 1,090 we received in the last financial year.

Senator LUDWIG—I thought that last time we were here there was an indication that the number of complaints was starting to trend down. Has that changed?

Mr Pilgrim—I do not think it was a matter of trending down. It might have been an issue where it was appearing at the time to have reached a plateau. At the moment, the monthly number of complaints is between 90 and 100. That has been the same for the last few months. We still think there is a plateau at that figure.

Senator LUDWIG—There was no new money in the budget to deal with complaints handling?

Mr Pilgrim—We did not receive additional funding, no.

Senator LUDWIG—Did you ask for additional funding?

Mr Pilgrim—We put in a request for additional funding, yes.

Senator LUDWIG—There was a change to Comcare payments which impacted upon your bottom line figure. How much did that impact upon it?

Mr Pilgrim—I will have to check that but I believe there was an adjustment of around \$57,000.

Senator LUDWIG—Will that have an effect on the operational budget for the next financial year?

Mr Pilgrim—That was an addition to our budget; it was not a reduction in our budget.

Senator LUDWIG—That is to deal with Comcare payments.

Mr Pilgrim—That is correct.

Senator LUDWIG—It is not available to you to use.

Mr Pilgrim—No. It is specifically to recognise the costs for Comcare payments.

Senator LUDWIG—I think on 16 February 2004 I asked whether the OFPC had asked for extra funding to deal with complaints handling or to do credit audits. I asked, if so, when the request was made and how much was requested. We glossed over it at this point. At the time the answer you gave me was that, since the commencement of the private sector provisions of the Privacy Act on 21 December 2001, the OFPC had sought additional funding to address its increasing workload. And in September 2002, as part of the 2003-04 budget process, the

OFPC sought approximately \$1.3 million per annum in additional funding. Again, the office sought additional funding in the budget process. Nothing has come of any of that, has it?

Mr Pilgrim—No. As I said, we have not received additional funding.

Senator LUDWIG—How has it impacted upon your work? Has the time of dealing with complaints blown out or what have been the consequences? You have been asking for more money so there must be a give somewhere. Has the number of audits decreased?

Mr Pilgrim—As I think we have mentioned in previous hearings, we have reallocated our resources internally within the office in a number of areas. One of those, as you mentioned, has been a reduction in the number of audits we are undertaking, and we have put those resources—those staff—into complaints handling.

Senator LUDWIG—How many staff are in complaints handling now?

Mr Pilgrim—In the compliance section, which deals with complaints handling and also with the hotline for inquiries, we have 17 staff.

Senator LUDWIG—How many staff do you have in total?

Mr Pilgrim—In total we have 35 staff.

Senator LUDWIG—So a significant part of your staffing is in complaints handling?

Mr Pilgrim—That is correct.

Senator LUDWIG—How many staff do audits and how many audits have you done in the last 12 months?

Mr Pilgrim—The only audits the office is undertaking are three that we get funding for from external bodies. Two of those audits are done for ACT government agencies and one has been done in recent years through an understanding with Customs. We would probably have at any one time up to three staff dealing with those audits. They would be staff who would otherwise be engaged in handling complaints.

Senator LUDWIG—When was the last time that you undertook an audit that was not funded—in other words, an audit out of your own budget?

Mr Pilgrim—In the 2002-03 financial year we undertook five credit audits.

Senator LUDWIG—Since then there have been none?

Mr Pilgrim—That is correct. We have not done any since then.

Senator LUDWIG—Why is that? You do not have the staff or the funding to do it?

Mr Pilgrim—We have made decisions about dealing with priority issues in the organisation. With the onset of the new private sector provisions and the growth in complaints with that, as we have discussed, we made an internal decision that the resources were best applied to dealing with the immediate issues that people were bringing to us by way of complaints.

Senator LUDWIG—So it is unlikely that you will do audits again?

Mr Pilgrim—I could not answer that categorically. At this point in time we are only going to do the three audits we are funded for because we are trying to work on ensuring that the backlog of complaints does not increase significantly.

Senator LUDWIG—Is the review of the credit reporting guidelines something that you would undertake?

Mr Pilgrim—I think you are referring to the credit code of conduct?

Senator LUDWIG—Yes.

Mr Pilgrim—It is something that our office would undertake. We do not have a review of it scheduled at this point in time, but it is a matter that would be discussed with a new commissioner when one is appointed.

Senator LUDWIG—Are there terms of reference or anything like that or is it one of those matters that is waiting for the new commissioner before you would commence work on it?

Mr Pilgrim—A review of the credit code of conduct is a matter that would be up to the commissioner to decide if we were going to do a review of that particular document. It is not something that necessarily would fall within part of the intended broader review of the private sector provisions.

Senator LUDWIG—It is not due at the moment?

Mr Pilgrim—No, it is not due at the moment.

Senator LUDWIG—How are you going in terms of filling the Federal Privacy Commissioner's position?

Mr Pilgrim—That is a question best addressed by the Attorney-General's Department.

Mr Cornall—That is a matter that is under consideration by the Attorney-General.

Senator LUDWIG—How long has it been now since the position was vacated?

Mr Cornall—Mr Crompton finished in mid-April.

Mr Pilgrim—It was 19 April.

Senator LUDWIG—Then there was an advertisement placed in the newspapers?

Mr Cornall—Yes, there has been a process of advertisements, interviews and so forth and recommendations have been made to the Attorney and the Attorney has the matter under consideration.

Senator LUDWIG—Do we have a shortlist? I do not want to put words in your mouth, but can you explain—as much as you can—where we are in relation to the process?

Mr Cornall—We have gone through a process where we have interviewed candidates and made recommendations to the Attorney-General as to the candidates who meet the criteria.

Senator LUDWIG—So it is likely that we will have someone in place in the foreseeable future?

Mr Cornall—That would be my expectation.

Senator LUDWIG—I think we have asked before about the time it takes to deal with each individual complaint, but they fall under different types of headings as well. You may wish to take this on notice. Some of the data we have asked for before, that I am now seeking again, relates to the time it has taken to finalise a complaint. It deals with months and then types of complaints. You can break it down. I cannot recall the way your table has been expressed in the past. Different areas generate different complaints—business, consumers and those sorts of areas. Do you have statistics that reflect that?

Mr Pilgrim—We can certainly break down complaints under a series of categories and how long it has taken to resolve them. For example, the simplistic breakdown would be under the private sector provisions, under the information privacy principles that cover Commonwealth government agencies, and under credit provisions. They would be the three main categories that we could break those figures down by. We could probably break down the private sector provisions into a few key categories under that, but that is an issue I would have to look at more closely, with assistance.

Senator LUDWIG—Only if you are able to without putting the office under any strain. I was just curious as to where the complaints were being generated from, the length of time it has taken to finalise each individual complaint and the long tail, if there is any—that is, how long it takes to address some of them and which area they are coming from in particular. That is the long question, as the chair would say, and gives you the flavour of the information I was seeking. In respect of the review of the Privacy Act, are you waiting for a new commissioner before you might undertake that?

Mr Pilgrim—Yes. My understanding is that once a new commissioner is appointed they will hold discussions with the Attorney-General and the department about the form that review will take.

Senator LUDWIG—Has the OFPC received a submission from the Australian Food and Grocery Council in relation to the use of RFIDs, radiofrequency identification devices?

Mr Pilgrim—I am not aware that we have received a submission at all from that organisation.

Senator LUDWIG—Has your organisation been involved in complaints by consumers about them?

Mr Pilgrim—Again, to the best of my knowledge we have not received a complaint about them. We have had a number of media inquiries where we have been called on to comment about our views on RFIDs.

Senator LUDWIG—Do you have a view on RFIDs?

Mr Pilgrim—My early view would be to say that it is fairly early days for their application at the moment. Our advice from informal conversations with a couple of the larger organisations who may be considering using them is that their main aim at this point is stock control processes as opposed to methods of collecting personal information—as has been the case, I believe, in the United States. So at this stage we are reminding organisations, in a general way through the media, to make sure that if they are looking at introducing the use of RFIDs they need to ensure that they are compliant with the national privacy principles.

Senator LUDWIG—Are we aware of whether TICA has complied with the determination of the OFPC and rectified its information-handling practices?

Mr Pilgrim—TICA has actually been in the process of meeting quite regularly with our staff, since the determination was brought down, to work through each of those issues. As you can appreciate, they are fairly complex issues for them and will require them to change a number of internal practices. But they are working positively with us to make those changes as quickly as practicable.

Senator LUDWIG—Is TICA reviewing their information-handling processes or are you assisting them in reviewing their information-handling processes?

Mr Pilgrim—TICA is reviewing their information-handling processes in the light of the determinations issued by the office. We are assisting them in further, if you like, discussing those issues and making clear our understanding of how we believe they should apply the determination.

Senator LUDWIG—Is TICA being cooperative in that process?

Mr Pilgrim—TICA has been cooperative in that process, yes.

Senator LUDWIG—When is that likely to be finalised?

Mr Pilgrim—My understanding is that some changes have already been made with regard to costs of access to information. There are some further changes that are being made, and we hope that they will be completed by, at the latest, the end of June, if not earlier than that.

Senator LUDWIG—Will that finalise your issues with TICA? In other words, will you be satisfied with the outcome at the conclusion of the process if it goes according to the direction in which it is now heading?

Mr Pilgrim—We can never write off altogether issues that may come up from a sector such as tenancy database issues. What we were dealing with was a determination in respect of some specific complaints from a group of individuals and the outcome of the determination dealt with those specific issues. It will not stop other individuals who may have a complaint about privacy that may relate to TICA bringing those issues to us. We would have to look at those on a case by case basis.

CHAIR—As there are no further questions, that brings us to the end of the agencies that were listed for this morning.

Proceedings suspended from 12.47 p.m. to 2.16 p.m.

Australian Customs Service

CHAIR—We are now dealing with the Australian Customs Service.

Senator Ellison—Mr Woodward, the CEO of the Australian Customs Service, has an opening statement in relation to some amendments to the budget portfolio statements.

CHAIR—Welcome, Mr Woodward. Please begin with your opening statement and then Senator Ludwig will ask some questions.

Mr Woodward—There are a couple of changes where errors were discovered in the PBS that I would like to correct if I can. We will table the corrections. The first is on page 118,

table 3.1. There is a figure of 591,455. That is a typographical error; it should read 591,554. On page 124 there is a reference to the sale of goods and services in relation to the tax office. There is a fairly important transposition of a decimal point. It shows \$4.1 million; it should read \$41 million. There are other references to it in the PBS. The third one is on page 106 under the heading 'Aviation Security—Enhancement: Air Cargo Scanner'. The total figure provided of \$8.4 million over two years is correct but the break-up underneath it is not correct. The amount for operating expenses should read \$2.5 million instead of \$3.7 million. The amount for depreciation should read \$1.3 million and not \$0.1 million. The total adds up to the same figure: \$8.4 million. I table these amendments.

CHAIR—Thank you, Mr Woodward.

Senator LUDWIG—If I inadvertently traverse those I hope you will pull me up. I have done some of my preparation based on the figures that have now been corrected so we will see how we go. I refer to the PBS, page 117. Who was selected to provide the consultancy advice as a result of the DOFA inquiry into Customs' budget?

Mr Woodward—Are you referring to the major inquiry into the budget?

Senator LUDWIG—Yes.

Mr Woodward—Ernst and Young.

Senator LUDWIG—What was the estimated cost of that consultancy? Has it been finalised or is it ongoing?

Mr Woodward—They have only just started. In fact I have not even met the consultants yet. They have only been going for a couple of days. The rough figure we think could be in the order of \$300,000 but we are not 100 per cent sure.

Senator LUDWIG—I guess there would have been a call for tender, a tender process and then a winning of the tender. You would have had some idea of the amount of money in that.

Mr Woodward—I go back to the previous meeting where we discussed the fact that this consultancy would take place. Terms of reference were agreed between Senator Ellison and the Minister for Finance and Administration. The control of it—I am not sure if that is the right word—is actually with the department of finance. We were involved in the selection process but the mastermind of all of that was the department of finance. We indicated that we had no objections to Ernst and Young. There was a normal process which narrowed down a field of four to, in the end, one.

Senator LUDWIG—So what was the suggested figure at that time of how much it would cost? There would have been a ballpark figure, I suspect.

Mr Woodward—To the best of my knowledge there was no figure actually stipulated. It is our assessment that it would be of the order of \$300,000.

Senator LUDWIG—This is not a comment directed at you, Mr Woodward, but I find it surprising that someone would enter into a contract with a consultant without an idea of how much it is likely to cost. So I suspect it is there somewhere, and you might want to take it on notice.

Mr Jeffery—Sorry, I misunderstood your earlier question. The tender that has been accepted is about \$300,000. We can give you the exact amount, but my memory is that it is \$300,000 or thereabouts.

Senator LUDWIG—Is there a date for when it is to be finalised?

Mr Woodward—The expectation is that it will be completed at the end of August.

Senator LUDWIG—My next question is in respect of the cost recovery model. There are no increases this year to the cost recovery that you use. Is there a reason for that?

Mr Woodward—Are you referring to the import processing charge?

Senator LUDWIG—Yes.

Mr Woodward—The import processing charge is at its maximum level. The legislation puts a ceiling on it so it is at the maximum level now.

Senator LUDWIG—So is there scope for it to increase after that?

Mr Woodward—There is scope if the parliament provides for it. It is at its statutory limit at the moment.

Senator LUDWIG—How can it increase other than through that? What are the variables?

Mr Woodward—The only way that it can increase is if we put a submission to the government. Obviously it will be something that is taken into account by the consultant in the review of our finances. The government would form a view and then, if it agreed, legislation would be put forward.

Senator LUDWIG—But at this stage you have not put a submission forward?

Mr Woodward—No, there are a whole series of things that are referred to in the PBSs which would be subject to reconsideration in the light of the outcome of the consultant's report.

Senator LUDWIG—Are the terms of reference available for the consultancy? You may have already provided them.

Mr Woodward—I think we have already passed them to the committee. I am sure that we have.

Mr Jeffery—The answer to question on notice No. 68 from the last estimates period, which I think was provided in the last couple of days, provides the terms of reference.

Senator LUDWIG—In relation to the PBS there is a new capital injection for financing of the Bay class vessels of \$3.63 million.

Mr Woodward—That is for the existing vessels.

Senator LUDWIG—The existing vessels?

Mr Woodward—I will get our chief financial officer to answer, in case I have misunderstood.

Mr Brocklehurst—That capital injection funding has been in place for a number of years and it relates to finance lease payments for the boats.

Senator LUDWIG—And it is for what exactly?

Mr Brocklehurst—The lease payments for the boats.

Senator LUDWIG—It was originally part of the financial deal or the leasing arrangement and that is just the amount that goes through each time after that?

Mr Brocklehurst—That is correct.

Senator LUDWIG—For administered capital and departmental equity injections and loans you will receive an injection of \$19.471 million—that is the maritime vessels finance lease which is \$3.638 million. Is there an end-date on that? How long is the lease for?

Mr Brocklehurst—It is a 10-year lease.

Senator LUDWIG—Have the Bay class vessels been depreciated to zero value or their sale value?

Mr Woodward—I have a recollection that we might be able to buy them for a dollar but I will get an expert to confirm that.

Mr Jeffery—The answer is that we will own them and we are depreciating them over 10 years. So at the end of the 10th year we will own the vessels.

Senator LUDWIG—So it is effectively a zero value. I was wondering whether there was any residual but you have answered that one.

Mr Jeffery—I do not think so. If there is we will let you know.

Senator LUDWIG—In respect of the trialling of an automated biometric border processing system, there is \$1.234 million for that. Is that ongoing or is that a one-off injection?

Mr Woodward—It is a one-off payment.

Senator LUDWIG—Perhaps you could explain that. Last time, as I recollect, we were told that the biometric border processing system was for some sort of improved pass—

Mr Woodward—We have obtained one-year funding in relation to the possible application of biometric techniques at the border. We are working in close cooperation with the foreign affairs department, which has also received some funding, and the Department of Immigration and Multicultural and Indigenous Affairs, which has also received some funding for biometrics at the border. But you probably heard the reference to SmartGate—you may have even seen SmartGate. It is to extend the current application perhaps into a second airport with a bit of trialling going beyond Qantas aircrew. It is the next stage in the evolution of biometrics at the border.

Senator LUDWIG—Has there been any evaluation of that program to date?

Mr Woodward—There has been an evaluation.

Ms Batman—Yes, the evaluation was completed and we may have already given you some results.

Senator LUDWIG—I suspect that you would normally be answering questions from Senator Bishop. Unfortunately, I do not quite look like Senator Bishop but you will have to

assume for the process that I am. There is a bit of a gap between when I last had an opportunity to question you at estimates and now. I think I have missed you by a year or so. I also have some recollection but, by all means, if it has already been provided please let me know and I will move on.

Ms Batman—I have a feeling that we have provided it to the committee but, if not, I will certainly provide the results. We had quite a comprehensive evaluation.

Senator LUDWIG—I think that the last time I was speaking to you it had not been evaluated at that time but it was proposed to be evaluated. You had finished the Qantas trials or had progressed through the Qantas trials where there was a low error rate.

Ms Batman—The system is still operating but we concluded the evaluation based on data within the first six months. But it has been ongoing since then so it did not stop at that point.

Senator LUDWIG—Has it extended beyond the one airline as yet?

Ms Batman—Not as yet. The funding provided in the budget will enable us to put it into another airport and to work with another airline and also, perhaps, with passengers. The aim is to trial it with the new Australian passport that the Passports Office is developing that would have a biometric chip in place. We need to have the technology to be able to read that chip at the Australian border.

Senator LUDWIG—And that is in conjunction with SmartGate, so that when they put the passport on the stand—as it was—the electronic device will then read the data chip as well, take the photograph and ‘read’ the photograph and then scan the biometric measures.

Ms Batman—That is very close to what will happen.

Senator LUDWIG—It is a layman’s interpretation—forgive me.

Ms Batman—At the moment you enrol in SmartGate and the photo of you is held in a database. That is called up when you present to the kiosk, and the comparison is of the live face with the photo in the database. In the next iteration of it, the aim would be that you do not have to enrol; that you carry your passport, the passport has a chip in it that contains a digital photo of you, and the comparison is made between the digital photo in the passport and the live image of you standing there. So no enrolment is necessary—you carry your photo in a digital form inside the passport.

Senator LUDWIG—That seems a better leap forward, doesn’t it.

Ms Batman—It certainly is. It is also using RF technology, which means that you do not have to put your passport in exactly the right spot, you can just hold it close to the kiosk.

Senator LUDWIG—All right—but don’t talk to the Privacy Commissioner about RF technology! Where is the next place of utilisation of the SmartGate going to be? Have you decided on a venue yet?

Ms Batman—No, we have not quite concluded that. We are still in that phase. We are trying to get the most use with another airline and also with Qantas, who have got so many enrolled. We are still going through the criteria to make that decision.

Senator LUDWIG—I want to move now to page 96 and get an overview of the equity injections, but if I am traversing too broad an area I can try to narrow it down. In relation to

the Melbourne Commonwealth Games, the M2006, there is \$0.099 million for ‘staging’, for ‘non-security support’ for that. What is that about?

Mr Woodward—This is a non-security related initiative. Ms Peachey will be able to give you a bit more information on that.

Ms Peachey—The capital injection of the \$0.099 is a small amount. The total non-security over the coming years is \$2.3 million. The capital actually relates to just the provision of cabling and things like additional workstations.

Senator LUDWIG—For the ‘surveillance and enforcement program to provide for the protection of Australia’s Southern Ocean waters and resources’, there is a small amount, \$1.079 million. Just generally or briefly, what is that for?

Mr Woodward—The total amount for the Southern Ocean during the year will be about \$45 million. The capital component of it, as you can see, is an extremely small proportion.

Ms Grant—The small amount of that funding that is for capital relates to equipment that we will need and some fitting out of operational rooms back here in Canberra.

Senator LUDWIG—Isn’t that provided for in the original \$45 million program?

Mr Jeffery—That is part of it.

Senator LUDWIG—There is \$1.2 million set aside for the purchase of the pallet X-ray machines. The last time I was speaking to you you had not finished the purchase of all the pallet X-rays. Is that the final—

Ms Grant—We have not quite finalised that purchase yet. We have placed the order and are just waiting on delivery of those machines now.

Senator LUDWIG—How many machines are to be purchased?

Ms Grant—We have a machine for Adelaide, a machine for Brisbane and one other for Fremantle.

Senator LUDWIG—Does that then complete all the locations where you are going to employ pallet X-rays?

Ms Grant—It will.

Senator LUDWIG—That still leaves smaller ports like Bundaberg, Mackay and, correct me if I am wrong, Townsville without pallet X-rays. Do they have pallet X-rays in Queensland?

Ms Grant—None of those smaller ports you have mentioned will have a pallet X-ray. We do have the capacity in those particular ports to either deploy mobile X-ray equipment there if needed or do physical examinations of the high-risk cargo that we would select for examination in those locations.

Senator LUDWIG—Where would be the nearest public X-ray machine to Gladstone if it is a mobile one? Where would it be located?

Ms Grant—I am sorry; the pallet X-rays would not be mobilised. We have either static machines that we can relocate around the countryside as needed or X-ray vans that literally

drive X-rays in vehicles. There is equipment like that in Cairns. The mobile van is in Cairns. Other X-rays are in Brisbane as well.

Senator LUDWIG—Are there likely to be any further purchases of pallet X-ray machines or is that the final group that is going to be purchased and put into use?

Mr Woodward—This is the end of the current program but obviously the government continues to look at security and other risks in the maritime environment. It is possible that the government may want to have a look at pressures in other ports.

Senator LUDWIG—Perhaps you can tell me what the item is that is contained in container examination facilities. Have you finalised all the X-ray facilities—that is, the fixed or static X-ray facilities? I think there was one in Sydney that became operational. There was one proposed for Brisbane, if my memory serves me right.

Mr Woodward—This was again discussed at the last meeting. There was a shortfall in relation to the identification of containers at ports, the movement to the four large container examination facilities and their return. We had obtained funds for about three-quarters of the cost. There was about a quarter missing. The shortfall was then discussed.

Mr Jeffery—I am sorry; we were jumping onto another item. The \$3 million is a final year payment for the container X-rays.

Mr Woodward—I apologise for that.

Mr Jeffery—It is a capital component.

Senator LUDWIG—Of the container X-rays?

Ms Grant—It was just the timing in which the funding was provided. The final \$3 million of the capital funding for the container examination facilities is being provided this financial year.

Senator LUDWIG—That is what I thought it was. That was the fixed cargo container X-rays?

Ms Grant—Yes; the ones in Sydney, Melbourne, Brisbane and Fremantle.

Senator LUDWIG—I was not sure where you were going, Mr Woodward, but we will come back to that. Are they now all operational?

Mr Woodward—They are all operational and all producing results.

Senator LUDWIG—The last thing I want to deal with is the neutron scanner program. I do not recall that so it must be a new one. Can you tell me a little bit about that, please?

Mr Woodward—It is close to home for you, Senator Ludwig.

Senator LUDWIG—I am open to an invitation to go and visit it, then.

Mr Woodward—It is not there yet. We have been working with the CSIRO for a couple of years in relation to one of the deficiencies that we have seen in the examination of cargo. We think we have reasonable arrangements now—and they could certainly be improved—in relation to sea cargo. A lot of effort and a lot of money has been spent on sea cargo but we currently have a deficiency—and I stress there are small-scale X-ray facilities available for air

cargo—because of the need to have a penetrating mechanism to look at ULDs, the air cargo containers, as they come off aircraft and before they go into depots at the airport.

We have been working with the CSIRO to see if there is a different technology available which would also be able to process those containers in less than about two minutes, because there is a need to get containers very quickly out of aircraft and into the depot arrangements. The CSIRO has done a lot of work and has come up with an approach which involves neutron radiography as distinct from X-ray or gamma-ray technologies. And there are some other elements which I do not want to go into because there are patents, so far as CSIRO are concerned.

Senator LUDWIG—I am not asking you to go into proprietary matters.

Mr Woodward—The aim is to use Brisbane airport as a trial airport to finalise the work that CSIRO has been doing and to build a small facility at Brisbane airport to see whether what works in theory actually works in practice. That is what this is about. If it does work—and at this stage we are as confident as we can be—then it has massive potential, not only for Australia but for the rest of the world. And there has been a lot of international interest in it.

Senator LUDWIG—A neutron scanner would not have the problems associated with it that ionising radiation has, would it?

Mr Woodward—CSIRO and Customs—we have our own radiological adviser—are working closely with ARPANSA, the relevant regulatory agency, to ensure that what we do with the airport and CSIRO has all of the necessary protections. The latest I hear is that there is the possibility that we will not need the massive buildings that we currently have at the CEFs, the container examination facilities, but we will learn more about that over the next three or four weeks.

Senator LUDWIG—Perhaps you could keep the committee apprised at some future point about the success or otherwise of that project. It would be interesting and I would like to take an interest in it.

Mr Woodward—Yes.

Senator LUDWIG—I have seen a number of gamma-ray facilities in use in various locations and I have seen your cargo X-ray facility but it would be interesting to see what resolution you achieve with a neutron scanner and what you can detect as a consequence.

Senator SCULLION—I can recall that a bit over year ago there was a fair bit of criticism in the media with regard to what I suppose I can call the Tomson case. They made some comparisons with the Milford inquiry and the downside of that was economically quite substantial. Could you give us an update on exactly where we have gone from there?

Mr Woodward—It is probably useful if I recount what happened and provide a little bit of background. The *Sydney Morning Herald* ran an article about an old Customs prosecution that took place in the 1980s. That article appeared in the press in April last year. A couple of months later the Nine Network ran a story on *60 Minutes* titled ‘Stitched up’ which dealt with the Customs investigation of Mr Tomson in the late 1980s. We were quite concerned about the quality of the reporting. We wrote to the director of programming for the Nine Network to express our concerns about the poor standard of journalism reflected in the *60 Minutes*

program. In essence, our concerns related to inaccuracy and unfairness. We subsequently lodged a formal written complaint with the Australian Broadcasting Authority asserting that the program had breached the commercial television code of practice. The ABA has not yet responded.

Customs briefed independent counsel, a Mr Bellew, seeking advice about whether there was substance to the allegations and whether further examination was warranted. On the information made available and in the absence of further particulars and information requested several years ago, counsel concluded that the allegations were baseless and incapable of being particularised. The same allegations against Customs were made in submissions to an inquiry being conducted by the House of Representatives Legal and Constitutional Affairs Committee. Customs referred this material and all relevant files in relation to the Tomson investigation and prosecution to Mr Bellew for further advice. Mr Bellew concluded that he could find no evidence to establish the allegations of malicious prosecution or conspiracy to pervert the course of justice. In his view, the material supports the conclusion that, generally speaking, Customs adopted a proper approach to Mr Tomson's investigation and prosecution.

Of particular concern is the allegation made in the *60 Minutes* program that Customs bankrupted Mr Tomson. Publicly available information indicates that, in fact, the petitioning creditor was a Mr Bounpraseuth. A person of the same name and address has a long history of convictions, including malicious wounding. Most notably, he was convicted in 1996 of supplying a prohibited drug and was sentenced to two years imprisonment. We believe the drug concerned was heroin. The Australian Law Reform Commission reported on averments in its report No. 95, 2002. The commission recognised the continuing requirement for an averment provision but made some recommendations to tighten its operation. The Minister for Justice and Customs has signalled his agreement to implementing these recommendations as far as Customs legislation is concerned.

Customs also sought advice from the Solicitor-General as to the role that averments played in the Tomson case. The advice from the acting Solicitor-General was, in essence, that averments played very little role in establishing the key elements of the prosecution case. Rather, the case is an example of the limited role averments can play in Customs prosecutions of this kind. The acting Solicitor-General advised that this advice could be made public, and waived legal privilege. Customs provided the advice to the House of Representatives committee inquiring into averments. The committee classified our submission as confidential even though we did not lodge it on that basis.

Senator SCULLION—Two things, Madam Chair. Mr Woodward, I come from a fishing background rather than a legal background. Could you give me a basic understanding of the term 'averment'?

Mr Woodward—In essence it is an affirmation that an event or a fact actually occurred which is only available in matters that do not involve criminal prosecutions. It is averring that a fact is a fact.

Senator SCULLION—Would it be possible, Mr Woodward, to provide the committee with the advice from the Solicitor-General?

Senator Ellison—I have some advice here, Madam Chair. It is an opinion in relation to averments, which may be of great interest to the Senate Legal and Constitutional Legislation Committee.

CHAIR—Is it on averments generally, Minister?

Senator Ellison—It is on averments generally and, in particular, in reference to the Tomson case, but it does relate to the use of averments by Customs. Of course, we saw the High Court decision on the Labrador case. I seek to table that opinion and I believe it will be of great assistance.

Senator SCULLION—Thank you, Minister. Is that the advice that was referred to by Mr Woodward?

Senator Ellison—Yes, it is.

Senator SCULLION—Mr Woodward, would it also be possible for you to be able to provide the committee with any advice that was provided to you by Mr Bellew?

Mr Woodward—The Bellew advice is quite substantial. We have provided it to the other committee. There have been two sets of advice. The first set of advice we can make available to the committee.

Senator Ellison—Madam Chair, the question of averments is an important issue, and customs prosecutions in particular. In the Tomson case, which achieved some publicity last year, there were matters which Customs stated very clearly were misrepresentations of its position. It is important that Customs makes these statements for the record and clarifies the record indeed.

Senator LUDWIG—In this matter, were those allegations made here, by this committee?

Senator Ellison—No.

Senator LUDWIG—I am not sure why you want to use this forum to air them. There are obviously other ways you can do it.

Senator Ellison—The question has been raised by Senator Scullion and Customs has, of course, answered that question. The Senate Legal and Constitutional Legislation Committee is certainly a committee which would be looking at any averments questions which might arise in the future in relation to changes of legislation.

Senator LUDWIG—I hope not.

Senator Ellison—For instance, I have mentioned the Australian Law Reform Commission, which I am minded to take on board. I think it is a more than appropriate committee to consider these questions. I think the matter is fairly well covered there and we can move on.

Senator LUDWIG—The portfolio budget statement of page 106 has a figure of \$10.6 million at the top of the page and states:

The Government will provide additional funding of \$10.6m over two years to the Australian Customs Service. This funding will meet additional logistics costs resulting from increased levels of cargo container examinations—

at a number of locations. Is that a total cost?

Mr Woodward—That was the question I started to answer before. I was caught in midstream.

Senator LUDWIG—I thought that might have been it. Did you want to finish it? I did not give you the opportunity of concluding it.

Mr Woodward—It is just a reminder that we had funding that would have covered about three-quarters of the costs of identifying sea containers and moving them to the facility and back again, but there was a shortfall. After consideration of our submissions, the government has agreed to pick up funding of that for two years.

Senator LUDWIG—Is that for the next two years?

Mr Woodward—It is for this year and next.

Senator LUDWIG—Does that include running costs?

Mr Woodward—It covers those parts that I mentioned: the identification, which is on the part of the relevant stevedoring authorities; the transport, which is handled by different companies—in Sydney, for example, it is handled by Patricks; the transport of those containers; and the return of those containers to the port.

Senator LUDWIG—I see. This is the perennial argument about who pays for the transportation between the—

Mr Woodward—The identification and transportation of—

Senator LUDWIG—So the \$10.6 million is for the transportation for this year and next year. Is it fair to say, because you still have not been able to sort out who should pay that amount, whether it should be Customs or the stevedoring companies themselves—or have you sorted that out?

Mr Woodward—No. If we had the ability to increase the import processing charge, there would be an argument that suggests that the import processing charge would cover it—in other words, that that amount should be picked up in increased import processing charges. The government has chosen not to go down that route, at least at this stage, but has chosen to go down the route of funding the logistics expenses.

Senator LUDWIG—So, rather than you funding it out of your existing budget, the government has decided to give you a two-year grace?

Mr Woodward—Yes.

Senator LUDWIG—What happens at the end of two years?

Mr Woodward—I am sure that between now and then the matter will be resolved.

Senator LUDWIG—I guess I will find out. How can it be resolved? Or are you relying on a rise in the import processing charge or the stevedoring companies? How is the resolution being worked through?

Mr Woodward—There are various ways in which you can do it. One is—and this has been debated, including with the industry—that the actual cost of identification and movement is about \$280 a container. You could charge the owners, the brokers or the forwarders involved with each container that we identify and move \$280. That is an option

that was discussed with the industry, and the view was that it would be better to spread the costs rather than impose a large charge. That is one way of doing it. We have the authority to do that but the government is not inclined to go down that route.

Senator LUDWIG—Was a paper prepared in relation to that?

Mr Woodward—I would have to check. My recollection is that it was raised through the cabinet processes.

Senator LUDWIG—There may have been but it is not available.

Mr Woodward—No.

Senator LUDWIG—I will not persist. So it does not mean that there will be additional hours of operation of those cargo container examination centres—their hours are now relatively fixed and stable?

Mr Woodward—The hours are relatively fixed but they are long. There has been some misinformation.

Senator LUDWIG—There were two shifts, weren't there?

Mr Woodward—The longest worked for 16 hours a day, from memory, and the others for around 12 to 13 hours for five days a week.

Senator LUDWIG—If we have not already asked that, perhaps you could take it on notice to provide the answer for operation—

Mr Woodward—At the moment, weekend work is done, if necessary, but it is not on a regular basis.

Senator LUDWIG—and the throughput of each in terms of the containers that are X-rayed. I will move on to the \$4.9 million for the security upgrade.

Mr Woodward—In large part, it flowed from another discussion we had at the last meeting, which was the theft of computers from Customs facilities. As a result of that we instituted a review of security at every Customs site, and I think about 100 individual Customs sites were reviewed. We looked at security requirements in those sites and tried to look generically, as well, to ensure that events of that kind would not happen again. We raised the issue through the cabinet processes, and we achieved funding to allow us to implement changes in relation to security, with a particular focus on security related to our IT equipment.

Senator LUDWIG—So it is basically to ensure that you keep your laptops safe?

Mr Woodward—We have large numbers of servers. Our mainframe is in a very secure facility which the firm involved in the review of our IT confirmed was secure. We have a large number of sites. We are also at the moment looking at the way in which we will be handling IT of that kind in the future. Out of both of those reviews will come an answer which will inevitably involve the physical aspects—in other words, the security of rooms—and other ways we might improve security of all of our IT equipment.

Senator LUDWIG—So is the \$4.9 million to be spent on the process, hardware or security personnel?

Mr Woodward—The \$3.3 million is for capital.

Senator LUDWIG—So what will that be? Lockable rooms? Perhaps you could give me an explanation.

Mr Woodward—They are just examples.

Senator LUDWIG—I do not need much of an explanation, but just something to get an understanding of it.

Mr Woodward—Rooms, racks and other security devices.

Ms Batman—Access control, racks, lockable storage cabinets, alarms and that sort of thing.

Senator LUDWIG—That is all I really needed, Mr Woodward, just to understand the process of what you are embarking upon. That is an ongoing process?

Ms Batman—It is a one-off.

Senator LUDWIG—So what happens in two or three years time when they get old?

Mr Woodward—We have the safeguard of having a major financial review which is about to get under way. The financial review is looking at Customs' funding, as you can see from the terms of reference, not just this year but in relation to commitments into the future. I am quite confident that, if the consultants thought that more was needed to be done in relation to IT security in the future, they would cover that in their report.

Senator LUDWIG—I am happy to be checkmated; that is an excellent answer. According to page 108 it seems the revenues from other sources at outputs 1 through to 3 are all decreasing. Are there reasons for that?

Mr Woodward—The biggest single component is the civil maritime surveillance and response figure, which has reduced from \$156,909,000 to \$128,565,000. I think we may have provided an explanation. This was another area where we got into a little bit of difficulty last time. The \$128,565,000 figure is almost a mathematical calculation based on the number of sea days, so far as patrol boats are concerned, and the number of flying hours for P3s, multiplied by hourly rates—65,000, roughly. I have forgotten the other figure for the P3s. That produces the \$128 million figure. The other figure, as I recall, was incorrect.

Mr Jeffery—In answer to question No. 69 to the last committee we provided an explanation of the mistake we had made in the previous PBS, which led to this one being corrected from \$156,909,000 down to \$128,565,000. We provided a full explanation in the answer to question No. 69.

Senator LUDWIG—I will find that; thanks very much. So there has not been a reduction in the sea days or the air hours; it is just the way of expressing it?

Mr Jeffery—Not a reduction in the commitment. We made an error in the way we calculated it.

Mr Brocklehurst—In respect of outputs 1 and 2—

Senator LUDWIG—They are negligible but you can cover them.

Mr Brocklehurst—in the current financial year 2003-04, we received some additional one-off revenues. One of them was a diesel fuel rebate that was backdated for a couple of

years. The other was a contribution towards a fit-out of Melbourne airport. They are one-off revenues that we received this year that will not be repeated next year, and that explains the reduction.

Senator LUDWIG—So the normal revenue from other sources in outputs 1 and 2 would be at about the four and the one of output 5?

Mr Brocklehurst—Yes.

Senator LUDWIG—So there is a one-off in the 2003-04 years.

Mr Brocklehurst—That is correct.

Senator LUDWIG—At previous estimates in February it was indicated that as part of the quarantine initiative Customs was to receive \$238 million with which 460 staff were to be recruited. Were those staff recruited?

Mr Woodward—Yes.

Senator LUDWIG—Where have they been distributed to?

Mr Woodward—The major distribution areas are airports, the postal facilities, I think air cargo. They would be the major areas. There may have been a small distribution into the sea port environment as well.

Senator LUDWIG—Is that a fixed funding initiative or is that ongoing?

Mr Woodward—It terminates. My recollection is that the forward estimates indicate that it expires in 2007-08. Is that correct?

Mr Brocklehurst—That is correct. The funding is in our appropriation revenue up to and including 2006-07.

Senator LUDWIG—What happens past that date?

Mr Brocklehurst—It is subject to review for the continuation of that funding.

Senator LUDWIG—So it is too early to ask exactly what will happen should that funding expire, really, isn't it?

Mr Brocklehurst—Yes. The review has not been completed.

Senator LUDWIG—Has the review started? That is the major review. Will it also be rolled into that, or will it be a separate one?

Mr Woodward—I think there has been discussion in another committee. The genesis of it was foot-and-mouth disease and related issues. There were a number of questions in another committee to the agriculture department, and I think it may have been indicated that there is to be a review initiated in the next six or 12 months.

Senator LUDWIG—That will not be from your section?

Mr Woodward—We obviously are involved. It does impact on us significantly, as you can see.

Senator LUDWIG—These staff are basically dealing with quarantine and—

Mr Woodward—These are Customs staff.

Senator LUDWIG—They are Customs staff to deal with quarantine matters—is that right?

Mr Woodward—There was a decision taken that produced, over four years, about \$590 million spread largely between Customs and Quarantine. There was also money provided to Australia Post and also funding provided in relation to improvements in airport infrastructure. Of that roughly \$590 million, if my memory is right, about \$238 million went to Customs. So obviously we have a very keen interest and will be actively involved in the review.

Senator LUDWIG—Has the review started?

Mr Woodward—No.

Senator LUDWIG—Who will be the lead agency in relation to the review?

Mr Woodward—I would expect AQIS would be the lead agency and they will be consulting closely with us. I have no doubt the two ministers will be heavily involved and interested in it as well.

Senator LUDWIG—And, I expect, the staff as well. Of the funds invested in the CMR from savings made throughout Customs, is it intended that the funding levels will return to their previous state once the project is operational?

Mr Woodward—Can you just go a little bit further in that question? I just want to be sure I understand the import.

Senator LUDWIG—The savings that have been indicated that will be derived from CMR once it is operational—that was my understanding.

Mr Woodward—CMR was not designed as a cost saving mechanism.

Senator LUDWIG—Are you sure?

Mr Woodward—No, that was not the genesis of it. It is one of the projects I have been involved in since it was first designed.

Senator LUDWIG—Perhaps I will put it another way. You have invested significant funds in CMR—is that right?

Mr Woodward—Yes. We have invested significant funds for a couple of reasons.

Senator LUDWIG—And those funds came from where?

Mr Woodward—The funds until now have come from savings which we have achieved in relation to other IT projects and in other parts of Customs. It has been self-funded until this point.

Senator LUDWIG—Those funds, then, have been generated from other areas, but I do not know whether you have identified those in the past for the committee; I think you have indicated they are from savings more generally.

Mr Woodward—That is right. As I say, we have prioritised our IT projects and said that CMR has a higher priority than most—not all—other projects. Some has come from there and some has come from other savings which we have been able to achieve within Customs.

Senator LUDWIG—At some point, though, it will be increasingly difficult to identify savings to invest in CMR?

Mr Woodward—We have reached that point now.

Senator LUDWIG—It seemed to me that you had. Does CMR require any additional money and where will that come from?

Mr Woodward—That is where the \$43 million figure came in at our last discussion.

Senator LUDWIG—Yes, that was the last injection, but that was only a one-off. There is no new money in this one.

Mr Woodward—That is right. There are pressures in a number of areas, including the integrated cargo system and the Customs connect facility, and there are other pressures that have arisen in relation to other things that we have been asked to do by the government without additional funding. The aggregate of all of that in our view would require additional funding of about \$43 million. We put that view to our minister, it was considered by ministers and we gained the ability to tap into additional funds to enable us to manage for the rest of the current financial year. The consultant's review will look at our funding position for this year and for future years in the light of those pressures.

Senator LUDWIG—There is no new money identified in this budget for CMR?

Mr Woodward—When you say 'identified', do you mean have we been provided with any specific funding in 2004-05 for CMR?

Senator LUDWIG—Yes.

Mr Woodward—I think the answer to that is no. We will examine it and we will be putting it to the consultant that additional funding will be required for next year. We will need to convince the consultant, and eventually ministers, of our needs.

Senator LUDWIG—What has occurred, effectively—and correct me if am wrong—is this: the investment in CMR, aside from the \$43 million that was a one-off, came from savings from within Customs. You have now come to breaking point, but you are hopeful that the review will come forward with mechanisms to provide for funding for CMR. That leaves the question of where you identified those funds from within Customs originally. Those areas have obviously been without the funding they would otherwise have had, so it is creating pressures in those areas. What happens this year or next year when those areas are also cash-strapped and require additional funds?

Mr Woodward—We are trying to string all of that together. We are trying to deal, firstly, with the additional capital funding requirements, particularly CMR, but there are other capital funding requirements; and secondly, we are attempting to deal with a number of initiatives, including port security, increased air cargo screening capability and a whole series of other initiatives. We will be using access to the \$43 million to cope with all of that and then having the consultant's review to establish whether our assessment of the requirement was correct, but also to come up with a figure for next year.

There is no doubt that there are pressure points within Customs. The fact, as we have indicated in last year's PBS and again in this year's PBS, that our staffing numbers are

reducing is a pressure point for us. There will be pressures in other areas but, as I said last time, this is nothing new to Customs. Over the last 12 or 13 years we have had far more years in which there have been very significant staffing reductions and pressure points on us than there have been years in which manna has come from heaven.

Senator LUDWIG—Is there a final figure on how much has been invested in CMR?

Mr Woodward—To this year it is about \$145 million to \$146 million.

Senator LUDWIG—Is that including the one-off \$43 million?

Mr Woodward—No, not all the \$43 million would go there. The answer to the question is \$145 million to \$146 million. That will include any funds that are provided out of their own fund, but the actual cost is \$145 million to \$146 million.

Senator LUDWIG—How much is attributable to that which has been funded out of Customs?

Mr Woodward—Until this year I think the amount we had made available was \$80 million to \$85 million. That was before this financial year. In other words, we had found savings of \$80 million to \$85 million which we had invested in CMR.

Senator LUDWIG—When is that likely to be finalised?

Mr Woodward—As for the timetable, remember that there are a couple of important phases, and on the exports phase we have had consultation with the software developers. The system itself has been built—I stress that.

Senator LUDWIG—Yes. I have got some more detailed questions for later about that, so we might leave it till then. I was really after a ballpark figure.

Mr Woodward—We are confident the first phase will get going in October with the cutover commencing in mid-September for exports.

Senator LUDWIG—I might come back to that. There was a matter—I do not normally deal with these issues but it is one that stood out and it is more indicative than individual—involving a case for wrongful dismissal. I will not mention the person's name now, although it may have been mentioned earlier. Are you aware of that case? I think it was heard in Brisbane in May.

Mr Woodward—I am aware of a case that is before the Industrial Relations Commission where the person concerned has appealed against dismissal from Customs.

Senator LUDWIG—So it is ongoing?

Mr Jeffery—It is being heard yesterday, today and tomorrow, I believe, if it is the same case. It commenced yesterday and I believe it is ongoing.

Senator LUDWIG—I do not think I will deal with it if it is ongoing.

Mr Jeffery—I am assuming it is the same case. It is a Queensland related case. Is it a person from Cairns?

Senator LUDWIG—Yes.

Mr Jeffery—It is before the tribunal.

Senator LUDWIG—That is even more than I want to put on the record. If it is ongoing I will not deal with it.

Mr Jeffery—It is before the tribunal today.

Senator LUDWIG—I was not aware of that. I thought it had been finalised. Is that the appeal?

Mr Jeffery—Yes.

Senator LUDWIG—My information was short of that, so I was unaware that it had been on appeal.

Mr Jeffery—Sorry, when you say ‘on appeal’ the person concerned—and I may not be using the correct word—has protested, or has appealed, to the Industrial Relations Commission and it is that which is being heard. It is not an appeal against an Industrial Relations Commission decision; it is an appeal against our decision, for wrongful dismissal. We have taken the decision, the person has gone to the Industrial Relations Commission and that is being heard by the Industrial Relations Commission at the moment.

Senator LUDWIG—However we put it, it is on foot.

Mr Jeffery—Yes.

Senator LUDWIG—I will come back to it when it is no longer on foot and ask a bit more about it then. More generally, given the industrial relations that you administer, you have a rehabilitation section and those sorts of things within Customs—is that right?

Mr Woodward—Within our staffing area if you are talking about occupational health and safety generally, yes.

Senator LUDWIG—Yes, I am. I guess Comcare is the way you deal with your occupational health and safety issues.

Mr Woodward—It involves both of us. We have a responsibility and they have a responsibility.

Senator LUDWIG—Is there a complaints handling process that you use if people have a grievance?

Mr Woodward—Yes.

Senator LUDWIG—Could you take me through that process?

Mr Woodward—I am not sure that I have all the expertise. The person who is probably most expert is not here. I can say categorically, because I have seen the papers coming and going where you get—

Senator LUDWIG—I might leave that. I indicate that I may put it on notice to get a little bit more information about it. I am keen to look at not particularly the individual circumstances of a particular matter—that has its own life—but the processes that Customs have in place to ensure that they deal with employees fairly on occupational health and safety issues, through Comcare, and, in relation to any disputes they might have with their employer, to ensure that there is a proper grievance handling process in place. I would like to come back and explore those issues with you.

Mr Woodward—I am happy to do that.

Senator LUDWIG—Has Customs been referred to the Ombudsman? Has the Ombudsman dealt with complaints that have been raised in Customs? What are they likely to be?

Mr Woodward—In terms of numbers?

Senator LUDWIG—Both.

Mr Woodward—There is an array of circumstances. I do not have the figures before me, but my recollection is that the numbers have certainly declined. There have been a number of cases of tension over the years, but, to be quite honest, I have not myself had to personally deal with the Ombudsman over the last couple of years. There have not been events of such magnitude that the Ombudsman has contacted me and said that he wanted to talk. In 2002-03 the number of complaints was 70.

Senator LUDWIG—Have you looked to see how that compares with other agencies of your size?

Mr Woodward—I am sure we have looked at it, but—

Senator LUDWIG—I am happy for you to take it on notice. Some of these things are indicative of how you interface with the public and how the public perceive you.

Mr Woodward—I take them seriously. I recall that about four or five years ago I had a number of cases put to me which involved my discussion personally with the Ombudsman—the then Ombudsman expressing views in some of these cases on the way in which we went about handling them. I have not had that sort of involvement for the last few years. I am as confident as I can be that we are up with the pack of good performers, but I will do that comparison.

Senator LUDWIG—Perhaps you could look at that. The same thing applies to the issue I talked about earlier—staffing—and whether, if you have a complaints process or a complaints handling process, there is a way staff can deal with their grievances. Do you have statistics on those?

Mr Woodward—We can outline that. We can certainly get some statistics.

Senator LUDWIG—That might be better.

Mr Woodward—But can I stress that with those statistics—as distinct from the general Ombudsman statistics—you have to bear in mind the particular work environment. A lot of our people work in a physical environment and therefore are more subject to back strains, breaks and everything else than is a person who works solely in an office environment. But we will provide those statistics for you.

Senator LUDWIG—I understand that. But there are also mechanisms you can put in place to mitigate that and deal with some of those issues. You are not the only workplace that has physical work associated with it. However, 70 seems a lot in relation to the Ombudsman. I would not mind if you look at that.

Mr Jeffery—Can I just comment that it is in a table in our annual report. Quickly looking at that, the Ombudsman exercised discretion not to investigate 62.

Senator LUDWIG—That makes it look a bit better.

Mr Jeffery—There will be some flowing over years, and he actually finalised 82 complaints in that year. Over the last three years, there were 83 in 2000-01, 80 in 2001-02 and 70 in 2002-03. So over the last three years it has gone down a bit. But we can get you figures for some earlier years. As Mr Woodward said, eight to 10 years ago we were the subject of some very significant Ombudsman inquiries.

Senator LUDWIG—I do not need to go back that far. I am only looking at the current performance. I do not require you to go to that length. That employee matter raised in my mind a number of other issues, and that is what I am interested in. Some of the indicia as to how you perform are Ombudsman complaints, grievances by staff, grievances handed to you by the public at first instance, and how you deal with them. And then there is the bigger question of morale within the organisation. That is really the last question. It goes to staffing levels, funding and all of those issues. More generally, how do you find the morale currently?

Mr Woodward—It is almost an impossible question to answer. If you ask a dozen different people in any organisation you will probably get a dozen different answers. There is certainly a lot of confidence and satisfaction in the role we currently have to perform and the way in which we discharge it. There is no doubt that some areas feel under pressure; some feel under considerable pressure. There is some uncertainty that is inevitable as we move into areas that we have not moved into as vigorously in the past. Maritime security is an example of this. There is certainly unease about staffing reductions which have been in the PBS, and we have certified agreement negotiations starting now which will produce another array of knowledge on our part and maybe a few more tensions as well. But I hate to use expressions like 'excellent', 'very good', 'good' et cetera because I am just not sure—I think the broad descriptions are more meaningful than those sorts of terms.

Senator LUDWIG—Have you done any staff surveys on some of these issues?

Mr Woodward—We do do staff surveys. We do a number of surveys. We have done one staff survey which has identified areas in which we could get better.

Mr Jeffery—A copy of the last staff survey was provided to the committee.

Senator LUDWIG—When was that? I may have asked for that.

Mr Jeffery—Yes, you did.

Senator LUDWIG—That is the last one that you have done?

Mr Jeffery—There has not been another one since then.

Senator LUDWIG—Have you given consideration to doing a staff survey or some such way of measuring—

Mr Woodward—We do them on a regular basis—I might be reminded as to the frequency, but it is every couple of years. We also do industry surveys so that we not only get the feel of our staff about what we do and how well we do it, we also get the views of industry. We try and put the results in some sort of trend analysis, which is fairly difficult if you have different firms undertaking the staff surveys. I think we do it quite systematically.

Mr Jeffery—Senator, there was one due this year but we deferred it until next year because we did not think it was appropriate to run one in the middle of certified agreement negotiations—that might introduce some biases into it. But it was due during this year and we will probably run it during next year.

Senator Ellison—This might be an opportunity for me to add that my dealings with Customs officers around the country have been numerous over the three years I have been the minister. I have certainly been impressed by the commitment of Customs officers and their dedication to the job, and with that has to come a strong morale. Of course, in some areas of Customs there are pressures because it is not an easy job. But I have come across people in Customs from all walks of life—pharmacists, people with tertiary education, people from other services who have joined Customs because of the interest in the job—and that is quite significant. I think it is a matter for significant praise that when the service advertises a job it is oversubscribed many times over.

CHAIR—Thank you very much, Minister. Senator Ludwig, will you be continuing now?

Senator LUDWIG—Yes, unfortunately. Perhaps a general position on where you are now financially would not hurt either. I am looking at the outcomes and outputs map on page 103. Does that express what I think it does in that there is a total price of outputs of \$879.9 million and a departmental outcome appropriation of \$702.619 million? Does that mean that the price of your output—in other words, the price to run your department, if I am right—is \$879.9 million? Is that right?

Mr Brocklehurst—Yes.

Senator LUDWIG—You do not have that amount? It says that the departmental outcome appropriation is \$702 million. So you add those two together?

Mr Brocklehurst—Yes, if I could just clarify that. There are three components to the \$879 million, in essence. There are appropriations that we receive from the government, which is the \$702 million; there are the resources we receive free of charge from the Department of Defence in respect of the civil maritime surveillance program, and that is \$128 million; and there is various other revenue that we get of \$48 million, the bulk of which is money that we get from the ATO in respect of GST administration activities.

Senator LUDWIG—That is those kiosks that are run—

Mr Brocklehurst—That is under other activities, yes. That was \$48 million.

Senator LUDWIG—What then is your total expenditure—in other words, the cost of running the department—in comparison to that? It seems that we have been talking this afternoon about cost pressures. Is there a sum total of how much you need to balance your budget? I understand that the review is going to try to identify some of those, as well.

Mr Woodward—The capital side is where we are under real pressure. That is the \$43 million capital injection that we have been talking about. We are still six weeks out from the end of the year. The last figuring that I saw would suggest that we will probably call on about \$30 million of that \$43 million capital injection.

Mr Brocklehurst—That is our current estimate.

Mr Woodward—That might change a bit but we may not need to call on the whole \$43 million.

Senator LUDWIG—You are hopeful, if I can use that expression, that the review will then identify—

Mr Woodward—We are hopeful that the review will confirm that and, secondly, it has been tasked with looking at our requirements for future years. The report will cover both.

Senator LUDWIG—We will look forward to that. Are there any planned or proposed public relations advertising projects in the coming 12 months on the board?

Mr Woodward—There is one for which we are not paying anything. One of the TV channels—

Senator LUDWIG—That is a helpful one. Minister, are you funding that one?

Mr Woodward—One of the TV channels has expressed interest in the sorts of things that we do and may well produce a series on Customs at work. We are cooperating in that but we are not paying for anything.

Senator LUDWIG—Can you tell me about that?

Mr Woodward—I cannot say any more than if it comes off—and there are commercial realities; it might prove to be a dud—there could be 10 or 12 episodes of a series dealing with everyday Customs activities.

Senator LUDWIG—Like ‘Reality Customs’.

Mr Woodward—Yes, like ‘Reality Customs’. It might be a dud, in which case you will not see it.

Senator LUDWIG—I do not want to sink your boat before it sails. I was just trying to understand. You have sparked my interest.

Mr Woodward—If you are talking about large-scale advertising, I am not aware of any that we are going to do. But we do things like publicising phone numbers—hotline type things—

Senator LUDWIG—I was really looking at major advertising contracts and whether you have any consultants who have been selected to tender for information kits or that kind of thing. I am not talking about the bags of trinkets or things like that that you put out—although they sometimes can amount to significant amounts of money. I know that you have those. You have your Coastwatch program, your numbers and things like that.

Mr Woodward—The Frontline program and those sorts of things.

Senator LUDWIG—That is part of your ongoing operation in support of the good work you do. I was more interested in whether there were any major consultancies for projects or advertising budgets that have been proposed for the next 12 months.

Mr Woodward—I am not aware of any. If we have to correct that, we will certainly do that.

Senator LUDWIG—I am talking about any major contracts that have been let, or may be let, in the next 12 months. If there is, you could perhaps tell me their cost and what they intend to do.

Mr Woodward—Do you mean contracts generally—contracts unrelated to advertising?

Senator LUDWIG—No, I mean contracts related to advertising.

Mr Woodward—We will get back to you in relation to advertising, but I am not aware of any large-scale advertising envisaged of the kind you have spoken about.

Senator LUDWIG—Contracts, as you know, should appear on your web site.

Mr Woodward—They do.

Senator LUDWIG—And in your annual report if they are over—

Mr Woodward—All of the big things we are talking about have been discussed in this committee in the past.

Senator LUDWIG—I think there is a finance and public administration requirement for that to be dealt with, so I do not need to go there; it will be there for me if I wish to have a look at it. I am only interested in this in relation to advertising. I would not mind asking about the show. Is it a show? What can you tell me? Is it subject to commercial-in-confidence?

Mr Woodward—I do not want to say too much because of the commercial interest of one of the channels in the show, and they are trying to gazump some of the other channels.

Senator LUDWIG—So there is competition for ‘Reality Customs’.

Mr Woodward—The closest thing I can think of is the comparable New Zealand program which was run in New Zealand a couple of years ago and in Australia within the last 12 months.

Senator LUDWIG—I mustn’t watch enough television!

CHAIR—We will just have to make sure that we go home early tonight, Senator Ludwig, and you can get all the television viewing you want.

Senator LUDWIG—I had one in mind but I decided not to mention it.

CHAIR—No, best not to go there.

Senator LUDWIG—No, I am not going to go there. Perhaps you could take this on notice and if there is anything to add or if it comes to pass, we usually have a return date for when questions on notice are due back.

CHAIR—That is 16 July.

Senator LUDWIG—If something happens between now and then that you can tell us about that might be helpful to the committee, please let us know.

Mr Woodward—Yes.

Senator LUDWIG—Otherwise we will leave it alone. I turn now to the container inspection area. Has Singapore now implemented a high-volume X-ray inspection at particular terminals?

Mr Woodward—I have a feeling that they have, but I am not sure there is anyone else here who can confirm that with absolute certainty.

Senator LUDWIG—Perhaps you could take it on notice.

Mr Woodward—We will take it on notice. We know that China, Hong Kong, the United States, Canada and Singapore have—I am pretty sure, although I have not visited it myself. We will check.

Senator LUDWIG—The area that I was interested in was the type of technology utilised, the processing capacity and those sorts of issues that surround it. Has anyone from the ACS inspected the installation? You indicated that you have not been there.

Mr Woodward—I personally have not been there. I think what might lie behind your question is that, as part of the US security initiative, there was a program involving the identification of the 20 top ports in the world.

Senator LUDWIG—Yes.

Mr Woodward—Singapore was one of those and there are special requirements flowing from the agreement between Singapore and the United States in relation to placement. In most ports it involves placing—I cannot say so categorically—US officials in that country.

Senator LUDWIG—Yes, they have an outreach program.

Mr Woodward—There is then the provision of information back to the United States. Singapore is part of that program. As to what particular equipment it has got, I do not know; but we will find out for you.

Senator LUDWIG—And you were not involved in any of that anyway as Australian Customs, were you? Did they come and ask for help?

Mr Woodward—It is not for help.

Senator LUDWIG—I will rephrase it then: for assistance.

Mr Woodward—There has been discussion between the US commissioner and me. I stress that the aim was for CSI to be applied in the large ports of export to the United States. We are very small in comparison with the rest of the world so far as containerised sea cargo exports to the US are concerned.

Senator LUDWIG—I might leave that. It is a matter I can come back to another time or I can put my questions about it on notice if I need to. The CEF facilities in Sydney and Melbourne do not operate 24 hours, do they?

Mr Woodward—No. From memory it is 16 hours in Sydney and Melbourne. As I said before, the others—Brisbane and Fremantle—operate around 12 to 13 hours a day, five days a week, with the ability to do further work at the weekend if particular circumstances arise.

Senator LUDWIG—Has any consideration been given to extending that to 24/7?

Mr Woodward—There has been consideration given to closer matching of the hours of work of the stevedores in each of those cities and when Customs operates. That issue has been picked up as part of the current review of maritime security. I am sure that that will be considered by the government.

Senator LUDWIG—Is the review of maritime security a report? Has that been made available or is that one to cabinet?

Mr Woodward—The review is still continuing. It has not been completed. To the best of my knowledge there is no report. The hours are 15½ in Melbourne, 15½ in Sydney, 10.5 in Brisbane and 13.5 in Fremantle.

Senator LUDWIG—I think you indicated earlier that the cost for each container was about the \$280 mark for handling.

Mr Woodward—That is the logistics component of it. The real cost is about \$280.

Senator LUDWIG—The real cost is \$280 and the logistics—

Mr Woodward—What we have done is spread it. Our approach so far has been to spread it through the import charging mechanism. From recollection, the \$23 million was about \$14 extra. It was a bit over \$14, which has been spread rather than imposing \$280 through the forwarders or brokers on the owners of the containers.

Senator LUDWIG—So the cost would be \$280 if you charged each individual user of the container?

Mr Woodward—Approximately \$280.

Senator LUDWIG—If you then spread it throughout the industry it amounts to about \$14 per container extra.

Mr Woodward—About \$14 extra for the processing charge. But that only recovers a certain amount. As we said on the last occasion, if we were to recover the additional amounts we have spoken about before—that is, the \$10 million or the seven plus three—that would add another \$5 to the charge.

Mr Jeffery—To clarify, it is not \$14 per container; it is \$14 per import entry. Rather than charge per container we put it across entries and charged the whole of the importing community on an entry.

Mr Woodward—It is a consignment. In other words, a consignment could be two containers or there could be 10 consignments in a container.

Senator LUDWIG—Is that fair? Is that a fair way of doing it? Why not per container rather than—

Mr Woodward—It was the subject of robust discussion with industry. Various views were expressed. More people were inclined to support spreading it than to say, ‘We’ll hit the individual owners with \$280.’

Senator LUDWIG—No. I meant per container across all containers as distinct from per consignment. Or was that too hard to identify?

Mr Woodward—We are trying to think of the practicalities of actually administering it. We administer charges at the moment on a consignment basis. It would be imposing a totally new mechanism with, I think, quite significant overheads, which would not make sense.

Senator LUDWIG—I just needed to clarify that in my own mind. Thank you. In terms of the cartage—do you call it cartage?—between the containers—

Mr Woodward—The logistics charge.

Senator LUDWIG—There are different contractors at different ports that do the cartage or the logistics transport—is that right?

Mr Woodward—Yes. From memory, it is Patrick in Sydney and Melbourne and a smaller firm in Brisbane, the name of which I cannot remember. We can provide that to you.

Senator LUDWIG—Yes, please, could you take it on notice. I was after the payment made in the last year or last financial year to the various firms, and which firms they are, for logistics support in X-ray. That amount is isolated and budgeted. Is that the total amount? You have to find it for the next financial year.

Mr Woodward—Others may be able to explain it more simply than I can, but what we have said is that we aim to move about 80,600 containers a year. That is what we aim to do. We work out the cost of movement per container and then work backwards from that to say, ‘Okay, how much of an increase in the import processing charge would be necessary to recover the contract prices that have been agreed in each of the various ports against the background of a requirement for just over 80,000 containers and the average cost of moving in each of the various ports?’ When I said 280, I think I am right in saying that that is probably an average figure. There may be slight differences between the four facilities because of location and everything else.

Senator LUDWIG—Is that amount for the next financial year out of your current budget or is that the 10-odd—

Mr Woodward—That is the 10. In other words, we have three-quarters of it in round terms now, which we are recovering through the import processing charge, but we cannot recover the rest because of the ceiling that is applied so the government has appropriated funds for that.

Senator LUDWIG—What is the total amount?

Mr Woodward—Roughly \$23 million.

Senator LUDWIG—The 80,000 containers represent what percentage of the total container movements?

Mr Woodward—About five per cent.

Senator LUDWIG—The total is?

Mr Woodward—Twenty times 80,000.

Senator LUDWIG—I thought I would put you to the test rather than me at this time of the day.

Mr Woodward—It adds up to about \$1.6 million.

Senator LUDWIG—About one-third of what San Francisco does in a year.

Mr Woodward—You have a better knowledge of San Francisco than I do.

Senator LUDWIG—It is a lot, isn't it? While on that topic, I did appreciate that Customs was very helpful in that too and I want to put on record that I was appreciative of Customs' support in allowing us to be able to undertake some of the work that we did over there.

Mr Woodward—Thank you.

Senator LUDWIG—My compliments to your staff based overseas. They are of an excellent and high quality. I can only concur with what the minister indicated earlier about Customs. I have always found them to be that and I have also utilised, as I think Ms Batman knows, inspections in other places within Queensland and Sydney and found the same. That is an aside but it is an important thing to put on the record.

Mr Woodward—Thank you.

Senator LUDWIG—The X-ray drive through portals at the major ports are for full containers, so we are only checking full containers at the moment, aren't we?

Mr Woodward—There is the potential to look at empty containers, but at the moment I think I am right in saying—

Ms Batman—We do a range of empties as well. Empties go through as well. The percentage is very low.

Mr Woodward—There are some empties that go through but the numbers are not great.

Senator LUDWIG—And the reason is that it may not be empty?

Mr Woodward—There have been quite significant drug related seizures where the drugs have been found in the structure of the container as distinct from within the container itself.

Senator LUDWIG—And in the figure of five per cent that you indicated, do you benchmark that according to overseas requirements or to what the US will require or Europe?

Mr Woodward—We do not benchmark it. We know that with Canada the comparable figure is something like three per cent and about five per cent for the US. I think that the five per cent for the US is an increase on what they were doing. I think they were doing about two per cent or three per cent a couple of years ago. We think we have a lot more information in relation to cargo, its movement, importers, exporters and forwarders than many other countries do, and we are going to have more when CMR comes on stream. We have a fairly sophisticated intelligence system—I think better than some other countries—which enables us to identify the containers in which we are interested and therefore focus on those most likely to produce results rather than adopt a random approach. The CEF is obviously capable of doing more but at the moment I could not advance a strong argument to say that if our intelligence systems operate well enough there is justification for examining more than five per cent.

Senator LUDWIG—You indicated that the US does about five per cent. Where is that figure taken from? The figures I have, which were from a US Senate committee, seemed to indicate that it was much higher than that—unless we are not comparing apples with apples.

Mr Woodward—It depends where you look. I have got a paper from the Center for Trade Policy Studies, *Protection without protectionism*, by Aaron Lukas of the Cato Institute, which said that for sea containers the increase has been from two per cent to 5.2 per cent.

Senator LUDWIG—Yes, but if you look at movement by land, sea or rail the figure is now about 12.1 per cent.

Mr Woodward—We can really only compare it with sea. They have got a more complex border than we have with the rail and—

Senator LUDWIG—Yes, with Canada and Mexico.

Senator Ellison—I think that you will find that if you bring in those two the rate changes because the land borders are easier—

Senator LUDWIG—They seemed to suggest they are very porous.

Mr Woodward—Then they had special arrangements which involved precertification of firms, carriers and, indeed, drivers of vehicles. But I think the comparison is best with sea container figures and the best figure that we can come up with is about five per cent. If there are other figures that are better than ours then we will certainly take those into account.

Senator LUDWIG—That was my recollection. I think that when you then introduce rail and land it becomes a difficult comparison to make.

Mr Woodward—It is.

Senator LUDWIG—It is one that I guess can be made but I do not know whether it is quite valid in this instance. Rather than having that argument, I was more interested in whether you benchmark and what you use as your benchmark figure. It does appear that you do that.

Mr Woodward—We did not start that way. We believe that the information we have, the systems we have and the intelligence we have are better than most other countries that we would be benchmarking against. So we have said: what is the most appropriate figure within financial restraints in the Australian environment? Obviously we have regard to what others do but if the US increased it to 10 per cent or 15 per cent we would not automatically say that we need 10 per cent or 15 per cent because the circumstances are different.

Senator LUDWIG—That is not what a benchmarking exercise does either. It tries to identify a range of what would be comparable. But I will not go into what a benchmarking exercise is; I am sure that you can find out for yourself. What was the complete capital cost of installing the four current machines?

Mr Woodward—I think it is about \$190 million, but we will correct that if necessary.

Senator LUDWIG—And the operational costs?

Mr Woodward—That was the amount that was budgeted by the government for a four-year period, from memory.

Ms Grant—I will give you the breakdown of that. The \$190 million was the total cost for the four years. The operating cost is \$81.1 million, the capital cost is \$29.2 million and the logistics cost is \$80 million. That should add up to about \$190.3 million, and that is over four years.

Senator LUDWIG—Does that include depreciation?

Ms Grant—The depreciation amount is included in the operating cost.

Senator LUDWIG—Is that depreciation to zero over the four years or is it a depreciation of a fixed percentage over the four years?

Mr Woodward—Could we take that on notice?

Senator LUDWIG—Yes, I am happy for you to take that on notice.

Mr Woodward—We would expect that they would have a life longer than four years. I would be surprised if it depreciates to zero over four years.

Senator LUDWIG—I used that as a bad example. They would seem to have a longer tail; they would be residual and they would be carried forward.

Mr Woodward—We can provide that for you.

Senator LUDWIG—Has the recent ASIO assessment of risk for port security been provided to Customs?

Ms Grant—Yes, it has. We have a copy of that report.

Senator LUDWIG—Is that available?

Mr Woodward—I am sure it would not be available.

Senator LUDWIG—I did not think it would be but I had to ask. How will it be used and what will come of it? It seems that a lot of reports and assessments are made, and it is very difficult for this committee to gauge what the outcomes of those assessments are, what is put in place by way of what was recommended in those reports and what was followed up by government in taking heed of the relevant assessment and doing something about it. We get left with a gap where an assessment is confidential and cannot be provided. Nothing might come of it, for all we know, but it might have made significant recommendations for port security or other issues. Is there something with which you can help me regarding that?

Mr Woodward—The first thing to bear in mind is that the driver for maritime security is not customers; the driver for maritime security is the transport department. They have the prime carriage of the implementation of the new international maritime organisation requirements for both ports and vessels. They carry the legislation through. We have been identified as a law enforcement agency for the purposes of that legislation, but the driver is not this body. We will be heavily involved but it is the transport department that drives it.

Senator LUDWIG—I was not asking more generally; it was only what involvement you will have. You will not be the lead agency.

Mr Woodward—We are a law enforcement agency. We have a heavy physical presence. We are present at about 35 of the 65 ports throughout Australia—more than anyone else. We will be heavily involved in relation to first port boarding of vessels, to the extent that our resources permit, working on behalf of the immigration department in the checking of passports, the identity of seafarers and in the assessment of cargo. We will have a role, obviously, in relation to a whole array of potential Commonwealth offences that might be committed, but as a law enforcement agency under the maritime security legislation.

Senator LUDWIG—One of the major threats, as I understand it, is what could come through in containers which are, effectively, currently screened by you. It is partly your job to look after the process of bringing them ashore and releasing them. What I am trying to do is elicit information that you can provide to the committee without divulging the content of the assessment, so you will have to bear with me. Are there recommendations for augmented

inspection programs or the like as a result of the assessment that you will put in place? What are you capable of telling the committee about?

Mr Woodward—I mentioned before that there is a review of all aspects of maritime security which is under way. There is an interdepartmental committee which is looking at it. I am not a member of the committee, but I am sure they would have taken into account the ASIO threat assessments. That committee has not yet reported.

Ms Grant—No, the process is still being worked through. All the relevant agencies on that IDC have made a contribution, as has Customs. But the reporting time line for the work of the IDC is June, and then it will be going for further government consideration.

Senator LUDWIG—Has the 24-hour rule that the US has implemented for cargo manifest been considered by Customs?

Mr Woodward—The period in advance of loading of vessels?

Senator LUDWIG—Yes.

Mr Woodward—Yes, we have considered it. We are certainly not applying it at the moment, because of the better information and better intelligence that we have. We do not believe at the moment that there is a need for that sort of information to be provided 24 hours in advance of loading, as the Americans have required. There is a set of statutory requirements now: 48 hours or 24 hours depending on how far the vessel is from arrival in port. Customs believe, at the moment at least, that we get the information we want in a timely way to enable us to risk assess the vessel and the cargo on the vessel.

Senator LUDWIG—Are there any Customs offices which are open the same hours as ports? It was a question you answered earlier, in that the stevedoring industry is not in sync with the cargo hours that you operate—two shifts of 16 hours in one location. You indicated in answer to that—

Mr Woodward—There are some ports where some stevedores currently work on Saturdays, and we do not as a regular rule work on Saturdays. If there are urgent inspections required of us then we have got the ability to actually do it. But we do not as a routine work beyond the hours that I have mentioned to you. As to whether we should do any more than that, that would be an issue that, I am sure, would be picked up in the review. There would be a whole host of priorities, I am sure, and where it would fit in the priorities I do not know.

Senator LUDWIG—So of the five per cent that are sampled they will not be sampled from a Saturday.

Mr Woodward—They would be sampled from a Saturday but they would be picked up and looked at on the following Monday.

Ms Grant—If it were a particularly red-hot target, it would be dealt with on the Saturday; it would not be held over until the Monday.

Senator LUDWIG—I was more after the ordinary processes. I expect that if it were a red flag one—

Mr Woodward—If it were red-hot, we would take it off. But we would not let too many people know that we had.

Senator LUDWIG—Of the narcotic or other finds in containers this year, how many were the result of prior intelligence? It is probably a difficult issue to tell. What I am trying to gain is: which ones were picked up by the X-ray? I do not know whether you can provide that detail.

Mr Woodward—I honestly do not think we can. What we have said is that intelligence underpins everything that Customs does. To a very significant extent we are heavily dependent on AFP intelligence. They have got the overseas network; they have got something like 35 or more posts overseas. We work very closely with them. We get intelligence from them. In some cases it could be specific intelligence and in other cases it could be very general intelligence. In other cases the AFP, the Crime Commission and other agencies have no involvement at all. Some of the most interesting seizures we have had have emanated from people coming through airports. Our people have asked questions and looked at documents that have led us and other law enforcement agencies to explore cargo movements, but that has come from completely unrelated circumstances.

Senator LUDWIG—With respect to the containers on the wharves there is a three-day free-storage limit. Do you work with the stevedoring companies to ensure that those containers that are caught in that inspection do not create a breach of the three-day limit?

Mr Woodward—I know the problem you are talking about.

Senator LUDWIG—Nobody wants to incur a breach.

Mr Woodward—We have been involved in a number of discussions with brokers, forwarders and stevedores in an attempt to see if we can reduce the number of circumstances in which the three-day limit is exceeded and a charge imposed for an extra day or more. We have been working very closely with stevedores and others in an attempt to reduce that. I think the number of complaints has reduced significantly. Ms Grant has been involved in some of those negotiations and she might have more information.

Senator LUDWIG—I was also looking at whether industry advised you of what the cost is to them when the three-day limit is breached and they are required to contribute.

Ms Grant—We have all of that information. In the first instance we work with the stevedores so that the order in which they deliver boxes to our container examination facilities minimises complications with the free storage days on the wharf. They work closely with us in the management of the movement of those containers. So if we have selected a container that has less storage time available to it than another container, they will deliver the box that is going to run out of free storage before something that has a lot of storage left on it. The stevedores do that in conjunction with us.

There can be a range of costs to industry. If they have booked a truck and contract labour to unpack the container when it is delivered, but when the truck turns up to collect the box it is not ready because it has not come back from the Customs examination facility, they will incur the costs of the truck, the downstream contract labour and the additional storage charges while the box is on the wharf.

Senator LUDWIG—Obviously, it is a matter that you have looked at. I wonder if you could take it on notice unless you have those figures there. Have you spoken to the

stevedoring companies and have they indicated what it costs them? Have they told you what the problem is and how it might be resolved—firstly, where they incur breaches and, secondly, how much those breaches might amount to? I would be surprised if they had not told you the costs that they had incurred as a consequence of not being able to get the box inspected within the three days. What are the outcomes, if any, that you are currently canvassing to resolve some of those outstanding issues with stevedoring companies?

Ms Grant—I can certainly take the question on notice. We have done the statistics and found that 96 per cent of all containers inspected by Customs are returned to the wharf with free storage days remaining. Of those containers, 81 per cent have two or more days of free storage and four per cent of containers are being returned to the wharf with no free storage days. That represents 0.2 per cent of the total loaded containers coming into Australia.

We have also found that late reporting of the cargo influences some of those boxes that go back with no free storage days, because by the time the cargo is reported to us they have already cut into their free storage days. So we take the position that that is more the result of the cargo reporter not meeting the requirements of the Customs Act rather than our process causing additional costs that could have otherwise been avoided.

I think the costs of the storage charges were provided in response to a question on notice from the last hearings, but I have some of those details here. Patrick Corporation charge for the first three days beyond the free-storage period at \$49.50 a day for a 20-foot container or \$99 a day for a 40-foot container. On the fourth day and thereafter it rises to \$121 a day for a 20-foot container and \$242 a day for a 40-foot container. P&O have similar figures. For the first three days beyond the free-storage period it is \$44 for a 20-foot container and \$88 for a 40-foot container. For the fourth day and thereafter it is \$110 for a 20-foot container and \$220 for a 40-foot container.

In our discussions with the stevedores we have found some interesting statistics that indicate some of the containers that have been through our examination facility and are returned to the wharf within the free-storage days are still incurring storage charges because the owners of those boxes are not organising their removal from the wharf. We tend to get complaints about that but we can show that has not been impacted by the sojourn in the Customs facility. There is quite a range of factors impacting on this whole storage charge issue. The stevedores have been very cooperative with us in trying to streamline the process and minimise any storage charges resulting from this process.

Senator LUDWIG—Isn't there a 24-hour requirement by the act as to notifying the port of the manifest information?

Ms Grant—The Customs Act requires 48 hours prior to a vessel's arrival in which the cargo is to be reported.

Senator LUDWIG—So that will tell you that the box will turn up in 48 hours and that gives you the ability to be able to select it and return it within the three days. Is that how it works?

Ms Grant—We should be able to select which boxes we would like to go through the container examination facility as soon as we have that cargo report in our system, so that when the cargo is actually being discharged from the vessel the stevedore can put the boxes

selected by Customs in our stack, the Customs stack, which is part of the agreement they have with us. Then those boxes can be moved to the container examination facility as soon as they are off that vessel.

Senator LUDWIG—So any of those in breach of those requirements would then eat into their available time because you still might want to apply an inspection to some of those boxes?

Ms Grant—That is correct.

Senator LUDWIG—Do you know what percentage that is?

Ms Grant—Yes. I have a two per cent incidence of late reporting in Melbourne, a 10 per cent one in Sydney and a nine per cent one in Brisbane and Fremantle of those boxes that we have selected for examination.

Senator LUDWIG—What about a total for those that breach the 48-hour rule? I am happy for you to take that on notice.

Ms Grant—I actually have the figure. We have got about a 90 per cent compliance rate nationally for cargo reports being lodged on time with Customs.

Senator LUDWIG—Is there a program to ensure that you can increase that to whatever the target might be? Have you benchmarked that figure to ensure that you are doing as well as you can?

Ms Grant—The cargo report is a fairly key component for us in our risk assessment process, so we would aim to have as close to all cargo reports as possible reported within the time frames that we require. The compliance part of Customs has been undertaking a cargo reporting compliance exercise to lift the compliance rate for cargo reporting—a few years back the reporting was around a 50 per cent compliance rate—and that program has given us the result of lifting it to about 89 or 90 per cent.

I think that program has been a program of educating the cargo reporters and working with them to find the impediments—why they cannot report to us. I think it is a reasonable assessment to say we have probably plateaued at around that point with an education program, but we continue to monitor the situation and work with individual companies to make sure that there are no issues impeding our better compliance.

Senator LUDWIG—So there is no current investigation to improve that figure?

Ms Grant—The cargo reporting compliance regime is an ongoing program. What I am saying is that the amount of effort we are going to have to put in to get that last 10 per cent is probably quite large, and we are working on it.

Senator LUDWIG—It might exceed the amount of effort you need to put into it.

Mr Woodward—Senator Ludwig, can we correct two things that we have told you?

Senator LUDWIG—By all means.

Mr Woodward—You mentioned the ASIO threat assessment. I imagine we are talking about the same thing. I have just been provided with a news release from the Deputy Prime Minister and the Attorney-General in which they released a comprehensive assessment of the

threat to Australia's shipping and port infrastructure from terrorism. It was released on 30 April. That is all that we have. I have no other information in relation to threat assessments. There is one other point, which Mr Jeffery will deal with.

Mr Jeffery—In my comment on the revenue from other sources under output 3, I think I confused two issues. The reduction from \$156,000 to \$129,000 reflects the movement into our base budgeting of the money we had previously received from DIMIA for Coastwatch, which is referred to on page 107, which is about \$27 million a year. That is now not reflected in revenue from other sources; it is reflected in part of our total appropriation. DIMIA transferred that money to us. Previously we had got it on an annual basis—about \$27 million a year.

Senator LUDWIG—So DIMIA are still transferring that money to you?

Mr Jeffery—They were; it has now been taken out of their base appropriation and put into ours. It is in our appropriation to Customs and it does not appear under the—

Senator LUDWIG—I see.

Mr Jeffery—My confusion was with revenue from other sources. I think I confused the issue. The reference to the transfer is on page 107, where it indicates that some \$114.4 million over four years has been transferred from DIMIA to Customs.

Senator LUDWIG—I was going to get to that; now I understand it. Perhaps that is a bold statement to make. You have helped to clarify it a little. So there was no mistake in relation to the calculation of the hours?

Mr Jeffery—There actually was, in any event, and we corrected that. The numbers are not all that different, and that is where I got confused. We had answered the question on the one I referred you to.

Senator LUDWIG—We dealt with the neutron scanner earlier. You are still a little way off knowing how much it might cost, because it is only in a feasibility stage—that is right, isn't it? That is my understanding from what you said earlier.

Mr Woodward—The money that has been appropriated will enable us to complete the trial at Brisbane airport, including the payments we will need to make to CSIRO in relation to that equipment.

Senator LUDWIG—What about ordinary air cargo that is placed in containers and put in aeroplanes. How is that currently being dealt with? You are developing the neutron to deal with that. How is it dealt with now?

Mr Woodward—At the moment—to describe it in non-technical terms, because I do not know the technical ones myself—the individual parcels, boxes or whatever which make up these ULDs are put through our small X-ray facilities in depots. We currently X-ray about 70 per cent of them, but it is pretty labour intensive. A lot of X-rays are involved, and it means that screening of them occurs a long time after they actually leave the plane. There are certain risks in that.

Senator LUDWIG—And that is why you have been examining other ways of trying to do it prior to loading.

Mr Woodward—That is right. Mass screening closer to the point of arrival in case there is anything in those consignments that we would not want to leave the airport.

Senator LUDWIG—In the last 12 months have ships' masters provided all the information that they are required to in advance, like crew lists and things? I suspect there are statistics on that, Ms Grant.

Ms Grant—We do have good compliance with ships providing the ship's crew list to us prior to their arrival.

Senator LUDWIG—What is the compliance rate over the last 12 months?

Ms Grant—I cannot give you an exact percentage, but it is not an area of noncompliance.

Senator LUDWIG—So you do get all the lists from the masters or you do not know whether you do?

Ms Grant—Yes, we certainly get all the lists from the ships' masters; I am just not sure if they are all precisely within the 48 hours prior to arrival. But we certainly have them by the time the vessel is alongside and we need to have the information.

Senator LUDWIG—How many ships are boarded to check the crew list? As I understand it, the way it works is that the ship's crew list should turn up 48 hours before the boat arrives, and you have then got it to check. It might go to Immigration and you would also look at it. When the ship arrives, how many do you board to check the crew list?

Ms Grant—The national average at the moment is about 70 per cent of all first port arrival vessels.

Senator LUDWIG—How many of those will indicate discrepancies between the crew lists provided 48 hours in advance and what your ship boarding shows?

Ms Grant—We do not have a very high incidence of discrepancy between crew lists and those people present. I do not have a statistic I could give you here. I would have to take that on notice.

Senator LUDWIG—By all means—anything like that. If you do not have it here, I am happy for you to take it on notice and get back to me.

Ms Grant—I will certainly take it on notice.

Senator LUDWIG—Do you have what might be called absconder rates? How many people do not return to their ship?

Ms Grant—In a sense, Customs only knows about deserters, as we refer to them, if the ship's master reports to us that some crew have been found to be missing on departure. I think there has been some media reporting recently that it was around 103.

Senator LUDWIG—I am happy for you to take that on notice and get back to me. What I was looking for was the process involved. If the ship's master advises you that someone has absconded, how many were there in the last two years who did not return to their vessel when it sailed?

Ms Grant—The particular figures we have got refer to an article that was in the *Courier-Mail* earlier this month, which reported that there were 103 deserters. It reflects a question on

notice to which the department of immigration provided some figures for a Department of Transport and Regional Services question on notice. They have given us the information that of the 103, 39 have since departed Australia, 46 have visas to remain or await decisions on their visa applications and 18 remain unlawfully in Australia.

Senator LUDWIG—And that is information provided by DIMIA? It certainly sounds like it.

Ms Grant—That is 0.015 per cent of all sea crew arrivals during the period, or about one in every 6,700 crew arrivals.

Senator LUDWIG—I understand that passports have now become compulsory for crews—is that right?

Ms Grant—Yes, from November last year.

Senator LUDWIG—Is there any failure to provide passports when crews arrive that you have detected? If you board a ship, do you check for passports as well?

Ms Grant—We do. The compliance rate has been very good. Since the requirement came in the majority of crew have had the necessary identity document and passport to present.

Senator LUDWIG—Do you have the statistics of the 70 per cent that you inspect and check the crew list and then check for discrepancies between the crew list and the crew on board? You say there is a very low incidence of variations or discrepancies between those lists. What about the discrepancies in those having a passport—do all of them have passports? How many, on those 70 per cent of vessels you have inspected, do not?

Ms Grant—I will need to take that on notice to get the precise figures.

Senator LUDWIG—Thank you. You might not be able to answer this but how do you select which vessel will be boarded? Is there a preference given to FOCs, or is there a particular threat assessment you might use to determine that, or is it random?

Ms Grant—We have a range of risk indicators that, in combination, will determine whether we consider a vessel to be of high risk and in need of a boarding, although with the current environment and the Migration Act requirements for as many people as possible coming to Australia it is desirable that we can do that migration clearance on their behalf.

Senator LUDWIG—So is preference given to FOCs as part of your risk assessment?

Ms Grant—I am sorry?

Senator LUDWIG—Foreign owned. I am sorry, I did not know whether I had to explain an acronym to Customs!

Ms Grant—The details about the vessel can be fed into the risk assessment.

Senator LUDWIG—So it is a computer model that you use? If it is secret don't tell me—not that you would anyway.

Ms Grant—We have developed profiles and there is a range of parameters within those profiles.

Senator LUDWIG—That is a computer based profile that you feed the number of ships into, it spits out who fits the profile, you do an examination to see whether or not it has got a

reasonable fit to what you expect and then you go and do the inspection. I know I am telling you this but is that about right?

Ms Grant—That is a reasonable understanding, yes. Can I just clarify the information I provided about the 103 deserters. That was actually for the period 1 July 2001 to January 2004. It is quite a lengthy period of time.

Senator LUDWIG—Yes. That was helpful. On the accredited client program, or ACP: what has Treasury done in relation to the bid for deferral of duty?

Mr Woodward—I think we can say, in short, that there was no immediate attraction on the part of the government to it. But there was an acceptance that the issues involved were such that it ought to be picked up as part of the consultant's review. So a final decision will be taken following the report of the consultant.

Senator LUDWIG—I guess it is asking the reverse, but is it worth asking questions in this area or am I likely to get the response that it is part of the review? The area I am interested in is whether there is a resolution forthcoming, and I suspect the answer to that is: it is part of the review now.

Mr Woodward—The final decision will be taken in the light of the review.

Senator LUDWIG—Have companies indicated whether, without this incentive, they would see little value in the scheme, or is that still going to be picked up by the review?

Mr Woodward—There are some companies and some consultants acting on behalf of companies who have expressed that view. There are others who have got a particular focus on exports and for whom that is not particularly relevant who have got an interest. There are CSI processes as well where the speeding up of international trade is facilitated by the speedy movement of information between exporting countries and importing countries, so there could be a commercial advantage for an individual company that has some sort of accreditation, say, in getting its cargo into the United States.

Senator LUDWIG—What happens to companies—PriceWaterhouse might be one of them—who have assisted ACP clients to meet audit requirements of the scheme? If it does not proceed, they may have wasted their money. Has any consideration been given to that position by Customs?

Mr Woodward—The view we have taken is that the right decision ought to be taken by the government and we should not pre-empt that. It could be that your concern does not come to fruition.

Senator LUDWIG—That is why I prefaced my remarks by saying that it may now be rolled up as part of that process. The question might be a bit early in the overall scheme of things. Is there any idea as to how many companies are currently accredited or how many are awaiting accreditation? Perhaps if we get some of that data down, we can compare it in the future.

Ms Grant—We currently have no accredited clients. We have one company that is an exporter and is very close to being able to sign up the necessary documentation. The exporters are slightly different from importers who may become accredited clients. For the accredited clients to be able to actually start operating as an accredited client, they are dependent on the

new integrated cargo system. It is a little premature for anybody to be actually operating as an accredited client until that system is fully rolled out.

Senator LUDWIG—Is there an annual fee attached to it?

Ms Grant—The only fees will be the cost recovery regime that applies across all importers.

Senator LUDWIG—Some of that might change, depending on the review and what the findings are. Is that a fair assessment?

Mr Woodward—There is legislation in relation to fees for accredited clients. The charges are on the books now.

Senator LUDWIG—Will that fall under the review process as well? Minister, you could probably tell me that.

Mr Woodward—I cannot rule that possibility out. I would have thought that the whole area would be looked at as part of the review.

Senator Ellison—I would think so. I think that the CEO has it right. I would envisage it being incorporated in the review.

Senator LUDWIG—I might leave that area in the sense that there are questions there but we might wait for the review process. I want to turn to CMR. I knew we would get there eventually. I think we dealt with some issues earlier. Perhaps we can have a progress report on the different modules. We spoke about phase 1 and the date and the estimated cost. Do we want to now deal with it in a little more detail? In relation to both the export and import modules, I have a whole series of questions, but perhaps you could update the committee as to where it is and I might be able to rule some of them out as we go.

Ms Peachey—At the last estimates committee hearing, we indicated that the ICS—the integrated cargo system—was built in terms of all code being cut and the IT development taking place. There are two principal areas—the exports and the imports—as Mr Woodward said earlier. With the exports module, the announcement of the date for cut over to exports was 13 May. That is for 6 October, with transition arrangements where both systems—the current legacy systems and the export system ICS—will run for two weeks prior to that. On the import side, as I said—

Senator LUDWIG—When is it going to go live?

Ms Peachey—On 6 October.

Senator LUDWIG—That is the exports on the 6th.

Ms Peachey—Yes. In fact, 2 a.m. eastern standard time on 6 October.

Senator LUDWIG—Is that the high or the low season for exports?

Ms Peachey—It is an average peak period. The peak period for exports can vary. There are different peaks and troughs. Certainly industry have indicated that they would not like to see the rollover in the November-December period or in the January period.

Senator LUDWIG—So have industry agreed that 2 a.m. on 6 October is a fine date to start?

Ms Peachey—They have, yes.

Senator LUDWIG—So you do not believe it clashes with the beginning of the import season?

Ms Peachey—No. The current import system—the legacy system—will continue to run through that period.

Senator LUDWIG—I am sorry, I may have interrupted you. I just thought I would clear that up.

Ms Peachey—No, that is fine. On the import side, there have been two phases of development: the cargo reporting side and the import declaration side. As I said earlier, all the system functionality is built. The import declaration site was the last part of that. It has gone through a phase of testing and is currently in our own testing environment. So Customs is testing it. At the last committee meeting I said that we would be looking to complete that in May. We will actually complete our own testing of that part of the functionality in June this year. The reason for that is that in previous phases we have tested and then done the integration with the CCF, the gateway. This time we have actually decided to do the integration first and then run the testing. So it has extended that testing period but has provided an outcome that will give us a better indication of the system running connected with a gateway. That will be made available to industry for testing sometime during July. That is a test phase. We will not roll out that system, as we have agreed with software developers on the export side, until the system in test is reliable and robust. We have said to industry that that is likely to be in the early part of 2005.

Senator LUDWIG—When October comes around you will have two systems operating in tandem.

Ms Peachey—Yes, that is right.

Senator LUDWIG—Has there been any concern expressed by industry about dealing with that?

Ms Peachey—Insofar as the exports and the imports systems are now quite separate systems, no. But the area of interest for industry is the phasing and the ability for them to be able to take the new exports functionality into production or into an operating environment and also to be ready to adopt the imports sometime in the early part of 2005. We are working with them on that.

Senator LUDWIG—Is the imports tested by all of the industry participants when it is rolled out at that point—rolled out might not be the right phrase—or is it tested with a select audience until it works?

Ms Peachey—There are two sides of the development. One is EDI messages and the other is Customs Interactive. The bulk of users obviously used EDI messages to Customs. The software developing community developed the software that industry uses. They roll it out to their industry clients. The bulk of the testers are the software developers or the in-house developers within companies. Progressively it will be the broader industry that will be looking to use the Customs Interactive.

Senator LUDWIG—Is there any testing still left to be done on the export module or is that right to go?

Ms Peachey—That is in industry testing at the moment.

Senator LUDWIG—When will it come out of industry testing?

Ms Peachey—When it is ready to go. When we cut over.

Senator LUDWIG—So before 6 October.

Ms Peachey—It is continuing. I might get Mr Harrison from the IT side to explain how industry are doing their testing.

Senator LUDWIG—You were going very well.

Ms Peachey—Thank you.

Senator LUDWIG—If we get too technical you will lose me, unfortunately.

Mr Harrison—There will be ongoing testing of sorts but, by the same token, we have agreed with the software developers that there will be a period of stability during the next four months. They have a number of things that they have to do in terms of rolling out their product to industry itself. So it is a yes/no answer, if you like, in the sense that we will be doing work in the background that will not have an effect on the product that the software developers will be working with in terms of their task. By the same token, we will get to the end point together.

Senator LUDWIG—And there will be an evaluation of that?

Mr Harrison—There will certainly be an evaluation of the whole exercise, yes.

Senator LUDWIG—What you are referring to is effectively ensuring that the software glitches, or the tweaking that is required, will be done after the four months unless it radically requires your stepping in.

Mr Harrison—No, I do not mean to give that impression. We will continue to do that tweaking or tuning work, or optimisation of code—however you want to refer to it.

Senator LUDWIG—There is a whole range of phrases that the IT industry uses, I think.

Mr Harrison—There is indeed. But that will continue throughout the period and after implementation.

Senator LUDWIG—Have the software developers been able to give their clients guarantees that they will be able to work with the export side?

Mr Harrison—No, the discussions that we have had with the software developers have led to an agreement whereby we both agree that it is sensible to go live in October, as we have discussed, but that agreement was based on some work that still needed to be done and is currently being done. We are revisiting that work in meetings with the software developers that are now scheduled for June and July. So we are yet to confirm that all of the loose ends have been tied.

Senator LUDWIG—If—to use the simple term—faults arise at the software end, it is one of those issues that the software developers will be called on to fix. If it is a problem at the

Customs end, what happens then? Is there a liability to Customs if there is a pause in the system which causes customer loss? Where does the negligence lie?

Mr Harrison—The first point is that there are no guarantees in a system of this size and complexity that we will not discover problems between now and when we wish to go live. The software developers understand that, as we do. The reality is that if they are significant we need to revisit the decisions we have made.

Senator LUDWIG—Is there a maximum load capacity for simultaneous users of the system? If so, what is it?

Mr Harrison—There are a number of metrics which it may be better to provide to you on notice.

Senator LUDWIG—By all means.

Mr Harrison—As we have discussed, different methods of communication, different transactions and different systems have different metrics, and we can provide as much of those as we have. We have agreed on the exit criteria, if you like, with the software developers, about where that level of performance should be in order to be able to go live. Our current testing has led us to be very confident that we will be able to achieve the levels we need to. As I say, I think it is probably better to give you, on notice, the detail of the metrics we have in that area.

Senator LUDWIG—There are limits, of course, to all systems, and I am looking at the variation between the points of load and whether or not there is a sufficient margin, given the number of users who might be using the system. You might include some of that so that I can understand it. Also, I heard earlier today of a fault having occurred in a line—it was a telecommunications issue—but it did not signal to the users of the system that there was a problem: it remained blank. At some point in time the system users had to work out for themselves that the system had gone off line. All these sorts of things had been taken into consideration in the use of this.

Mr Harrison—Yes, it is a complicated answer, I am sorry, Senator. The system itself is reasonably sophisticated in terms of the messages that go back but there are other components. For example, there is what we call the high availability of the system, which incorporates such things as high redundancy of machinery. In other words, if one box breaks there is another box ready to kick in to replace it. If one box breaks there are hot spares available to plug in to replace it. We try to reduce as much as we can the single points of failure within this particular system. At the other end of the scale, if the system itself is not available for whatever reason—somebody cuts a cable on the Internet or somewhere—then there are business continuity planning arrangements that we are currently negotiating with industry to cover that contingency, as well. We think we have the bases covered.

Senator LUDWIG—What about response times? Would you include some of that data in the answer to the question on notice?

Mr Harrison—That is, as I understood it, what the question was.

Senator LUDWIG—I am interested in more than that. That is why I wanted to include response time. I tried to encompass a broad—

Mr Harrison—The throughput that is required?

Senator LUDWIG—Yes. Not only the throughput that is required, which then generates the response time, but also how often the system might go offline and the contingencies that you have for that—those sorts of issues. If the current number of users exceeds the limit, what happens? Does the system crash out or does their response time become very long and then they get frustrated and lose their data and get annoyed with you—those general issues?

Mr Harrison—The sorts of numbers I can give you, for example—

Senator LUDWIG—I am happy for you to take it on notice. If you have them there, that is fine.

Mr Harrison—I have some. For example, we have a target of 4,800 messages per hour to be processed through the system. In our testing so far we have achieved 6,000 messages per hour. The availability of the system over the 10 months has been, in industry tests, 99.16 per cent. Our target is 99.5 per cent, so we are a bit short on that.

Senator LUDWIG—I was also interested in comparisons with what industry is likely to use it at, in other words, is 6,000, which is what you might run at, 50 per cent of what you expect industry to use it at? Does it have a life and a certain growth, or is that at five per cent-plus max?

Mr Harrison—Our target, as I said, is 4,800 messages; we have actually been able to run it at 6,000. The 4,800 is generous compared to what we expect industry to use. In other words, the target itself is more than what we expect to happen. And we have exceeded the target in performance testing so far. Just for the record, we did some response time testing just yesterday which showed some very good results. We have a target turnaround time for the different messages of roughly three minutes. Our testing yesterday showed that the critical transactions were turned around in various components within one minute, which again was exceeding our target.

Senator LUDWIG—One minute from what? There will be a field and you will input data and then press the button.

Mr Harrison—When you send a message to us two things happen. The first thing is that the gateway that receives the message sends a message back to say that it has got it. The second thing that happens is the response to the message. Both of those transactions were turned around within one minute. The tests we ran yesterday were internal tests, that is, if you were sitting at your Internet terminal and sent it to us, the Internet lag was not involved in that. We are running various tests in various scenarios. One of our software developers routinely sends us messages that we are doing performance testing as well. They have a direct connection to us rather than having to go through the Internet. So there are a number of different components that we are testing. We have not cracked all of our targets in all of the areas but we are headed in the right direction.

Senator LUDWIG—What about likely training for users of the system? Has that been undertaken or started to be undertaken?

Ms Peachey—It certainly has. At the last estimates committee hearing I gave an outline of the number of industry users of the system that we have already provided training for.

Because we have had some delay in the actual cutover to exports, Customs has made a commitment to provide refresher training for all industry users as well. That involves training and running sessions in all capital cities and major regional centres around Australia before exports goes live. These are at no cost to industry.

Senator LUDWIG—How many are planned?

Ms Peachey—I think it is 65 but I will just check my notes and come back if I can before trying to locate the piece of paper right now. They are certainly run in all capital cities and major regional centres. On top of that, we have—and we will be putting on our Internet this week—quick reference guides of the major features of the export system together with facts sheets and manuals plus interactive tutorials. So if industry participants cannot actually get to sessions there is a wealth of material that can be downloaded from our Internet site along with interactive tutorials that can be done at any time.

Senator LUDWIG—Are you sending out CDs to the various users?

Ms Peachey—CDs are available. When people ring our 1800 number if they cannot access it through the Internet we can certainly provide that material.

Senator LUDWIG—How much is that costing? Are the funds put aside for that?

Ms Peachey—Yes.

Senator LUDWIG—Or have we already asked for that?

Ms Peachey—We provided information in answer to a question on notice.

Senator LUDWIG—I am happy for you to take that on notice and perhaps update it.

Ms Peachey—That would be fine. We have a significant budget to be able to do the publications and other material going forward to support the transition.

Senator LUDWIG—There would be a travel component in that for the—

Ms Peachey—There is. In answer to the question on notice we said that running the refresher courses was costing around \$250,000. That is expected to involve 3,000 industry participants at the 65 workshops that I mentioned. The total cost is \$250,000, and that includes conducting sessions, our staff costs and travel costs.

Senator LUDWIG—We have already asked what the total cost of CMR is. I think that the last time we asked it was \$146 million and it is now a bit more than that.

Mr Woodward—Given that there may never be an end because there is no system yet developed that anyone can ever say is completed, I think our assessment of the development costs would involve an increase of about \$38 million on that, which would take it to about \$184 million.

Senator LUDWIG—Has any consideration been given to making it available to other countries or other users?

Mr Woodward—There has been a lot of interest in this system. I am fairly heavily involved in work in our region and in recent times we have had discussions with China, Japan, Korea, Hong Kong, Indonesia and Thailand, and all of them are keenly interested in what we are doing, as of course are those who are involved in the commercial development

processes of it. I think there is the potential once it has all settled down to explore the possibility of export either of the system, or components of it, in conjunction with those who have been involved in developing the program.

Senator LUDWIG—Has any of that work started? For instance, have there been recent trips to China—

Mr Woodward—The focus is on getting a working system rather than on selling it but there has been a lot of interest and people have been coming out and having a look at where we are going. The US, which is spending probably more than 10 times what we are spending to develop a comparable system, is keenly interested. We already have arrangements whereby we have people who inform the US as to where we are going and how far we have reached, and we get information from them.

Senator LUDWIG—Did you recently go to China?

Mr Woodward—Yes.

Senator LUDWIG—Was that part of the program? I do not want to use the words ‘hawking the wares’ or ‘how good the model was’. They are my words, and I am happy for you to explain it differently.

Mr Woodward—The principal purpose of my visit was to sign a memorandum of understanding with my Chinese counterpart for exchange of information and intelligence—basically the Customs wherewithal. It gave me the opportunity to actually see what they are doing in Beijing and Shanghai and also to talk to people that had been involved in the building and development of the container X-ray facilities, which are, as you know, Chinese.

Senator LUDWIG—Was this model mentioned as well?

Mr Woodward—It was certainly mentioned. The Chinese have continued to show an interest in it. In fact we have another Chinese vice-minister who will be in Australia in a couple of weeks time, and I would be surprised if this is not on the agenda.

Senator Ellison—Madam Chair, while we are on the CMR, it is my intention to have a CMR roundtable next week. I had one earlier this year with industry stakeholders. The CEO and I will be meeting with those stakeholders in Sydney next week to get feedback on how they see the program going, how we can move things along and whether any improvement is needed.

CHAIR—Didn’t you talk about that roundtable with Senator Bishop at the last estimates?

Senator Ellison—Yes.

Senator LUDWIG—Did you invite Senator Bishop to come along?

CHAIR—He is not here.

Senator LUDWIG—We will move on, then. I have just put some questions on notice in another area.

Proceedings suspended from 4.57 p.m. to 5.08 p.m.

CHAIR—I would like to welcome Rear Admiral Russ Crane, who is appearing for the first time at estimates.

Mr Woodward—Can I emphasise that Admiral Crane started last Friday, and we have the deputy director-general here as well, so between all three of us we will do our best to answer your questions.

Senator LUDWIG—Welcome to this wild world of Customs! What is the current status of tenders for the new Coastwatch contracts? I probably started asking this, some time ago, a bit early but now I suspect we are getting closer to the mark.

Mr Woodward—We have gone out with a draft RFT, and our aim is to have a final request for tender available by the end of June or, at the very latest, early July. We are getting reactions to the draft; they will be incorporated in the final RFT document.

Senator LUDWIG—Is there a document yet or is it in the process of being developed?

Mr Woodward—There is a draft that has been circulated to the potential tenderers and then that will be finalised in the light of the reactions we get to it.

Senator LUDWIG—Is that a commercial document? Is that available to the committee or is it in a draft stage?

Mr Marshall—It is publicly available.

Senator LUDWIG—If it is not too hefty, can you make a copy available to the committee?

Mr Woodward—It is hefty—it would be three inches.

Senator LUDWIG—Then no; if I want it I will ask for it again. If I do think I need to read it, I will make a separate inquiry through the committee.

Mr Marshall—It is accessible through the Internet site.

Senator LUDWIG—If it is that big, I will come and ask you, if that is okay. There is only so much printing we can do in our office, I am told. Are any extensions of existing contracts being considered as part of the open tender for new ones? Is it going to be that the existing contracts will finish on a particular date and then you expect the new contracts to take over or are there transitionals arrangement?

Mr Woodward—I will get some additional information from my colleagues. Our current intention is to have a new contractor in place by the middle of 2007. There are differing termination dates for the current tasks. In one case we have agreed to continue the contract until mid-2005. We are in discussion in relation to two other contracts. One relates to the Dash 8s and the other relates to the Reims. We will need to be taking decisions on those progressively over the next couple of months, but there should be no assumption that the existing contractor will be successful in getting a contract for that extra couple of years period.

Senator LUDWIG—So the short answer is that there might be an extension in relation to those two?

Mr Woodward—Yes, there might be an extension, but we are not saying that there is necessarily only one contractor who can discharge those two responsibilities between now and then. There may well be others. We would be looking at exploring whether the same or a

better level of service can be provided cheaper than the existing contractor provides it, and I think that is reasonable.

Senator LUDWIG—Yes. Are the existing contractors aware of that?

Mr Woodward—I would be surprised if they are not aware.

Mr Marshall—In speaking with the contractors over a period of time it has been evident to all parties that there is no automatic right for them to have the contracts extended to 2007. I feel certain that they are well aware that we are able to go to the market and test.

Senator LUDWIG—Are you doing that at the moment?

Mr Marshall—We have already extended two contracts. Reef Helicopters, which is now Australian Helicopters, have had their contract extended to 2007 and we have extended one of the SAPL contracts until 2007. We are currently considering what we might do in respect of the three Reims aircraft, and then we will have to have further consideration about the others, but we are only at the consideration stage.

Senator LUDWIG—Is there a date by which you have to make a decision?

Mr Marshall—In relation to the Reims contract—the three aircraft—that expires in December this year. We will be required to have made our decision by the end of June this year on whether to go forward with that contract or to seek the services of somebody else.

Senator LUDWIG—By 30 June?

Mr Marshall—Yes.

Senator LUDWIG—Perhaps you could take on notice to give me the various dates for the decisions.

Mr Marshall—There are two other contracts and the decisions on those need to be made by the end of this year. One of the contracts is for the five Dash 8s that Mr Woodward mentioned and the other contract is for the 412 helicopter that is operated in the Torres Strait by Australian Helicopters.

Senator LUDWIG—And is the extension that could occur as a consequence of that for all of them for 2007-08 or does it vary as to the extension?

Mr Marshall—We have to maintain the service until the new contracts come in, but we would be looking at all options, so long as we have the surveillance area covered. It does not necessarily mean that we would do it in exactly the same manner as we are doing it today.

Senator LUDWIG—I think I may have asked that badly. If those extensions are agreed to, when would the contract then conclude?

Mr Marshall—The current contracts say that we can extend up to five years.

Senator LUDWIG—I see. It is up to five years, so you could extend it by one, two, three or four years.

Mr Marshall—Yes.

Senator LUDWIG—So hypothetically you could extend it for one year because you have decided to have a new contractor and so you could have that as the transitional period.

Mr Marshall—That is a possibility, yes.

Senator LUDWIG—All of those are possibilities—I do not mean to constrain you in that way. Is there consideration for any new technology to be deployed to effect the outcomes that you envisage by the contracts?

Mr Woodward—The original intention was to look at what are emerging opportunities for us in relation to coastal surveillance. The existing combination of fixed-wing aircraft and helicopters, and the continuation of that, is a possibility. We wanted to explore satellites, and we are using satellites now. We are working both with Defence and separately in relation to unmanned aerial vehicles. We are also looking at ‘under the sea’ type options in relation to vessels. The other obvious one that I forgot to mention, and we have covered it in Senate estimates before, is high-frequency surface wave radar, which will have a vector of about 9,000 square nautical miles. It is subject to the finalisation of one or two minor remaining problems in the Torres Strait.

Senator LUDWIG—They are only possibilities being canvassed at the moment—is that right?

Mr Woodward—They are the most obvious ones. My colleagues might have others.

Senator LUDWIG—I was not particularly after a fulsome listing. They seem to be further out technologies in the sense that if the contracts come up at the end of this year and have to be renegotiated, they seem to be, at least given those descriptors, a little further off.

Mr Woodward—I want to stress that what we are talking about is what might be implemented in 2007 not what might be implemented this year.

Senator LUDWIG—Yes, that is helpful for me to understand.

Rear Adm. Crane—I think the other important issue is that what we would be looking to contract for would define a level of service for an outcome we would be seeking that a range of technologies might provide a solution to, either in whole or in part. So, rather than being specific about a particular technology, we would be seeking an optimum mix.

Senator LUDWIG—That may have some effect on how you draw up the tenders to determine what might be the outcomes in 2007?

Mr Woodward—The tender documentation contemplates a range of options coming back. It may be that a firm comes back saying, ‘Well, I’ll have a mix of fixed-wing aircraft, rotary-wing aircraft, satellites and various other things.’ That option is there.

Senator LUDWIG—So you can set the outcomes and the tenderers will then provide a mix of solutions for you. For example, there could be a reduction in air and surface surveillance once the Torres Strait radar is operational. Are those the sorts of things that might be put in the mix?

Mr Marshall—In fact it would not be a reduction. The coverage of the surface wave radar will give us an increased coverage and enable us to cue our aircraft differently from the way that we are doing it now. So we would not need necessarily to fly as much as we are now but we would have the area covered in a much better way.

Senator LUDWIG—Are those sorts of issues canvassed in the tender document?

Mr Marshall—The tender documents make it fairly clear that we are looking for an outcome and we are asking for the tenderers to tell us how they will give us that outcome, and it could be a mixture of all sorts of things, as Admiral Crane has said. We have specifically asked for satellite coverage of some parts of the exclusive economic zone but in relation to the coverage of the rest we are virtually open to the suggestions of the tenderer.

Senator LUDWIG—In relation to the Torres Strait islands, there was an issue raised by a senator when he visited Mabuiag Island in the Torres Strait. The local council expressed concern about the Customs service in that particular region. It was their understanding that the appointment of each island is—in their words—‘inadequate’ because the officers are part time on contract and lack enforcement power and back-up. I know that may be an overstatement, but in the Torres Strait islands are part-time officers employed to effect Coastwatch operations?

Mr Marshall—Not to effect Coastwatch operations, but there are a number of Torres Strait Customs officers that are employed on a part-time basis on a number of the islands. Mabuiag is one of those islands.

Senator LUDWIG—Are they on an AWA or an individual contract? How is their remuneration organised?

Mr Marshall—I am unaware of the detail but I know that they were on a part-time rather than a full-time basis.

Senator LUDWIG—Do they have enforcement powers?

Mr Marshall—That is something that I could not answer.

Mr Woodard—We will provide you with a written answer to that. I do not think they have the powers of a Customs officer, but remember that we have fairly significant contingent of full-time officers based on Thursday Island and the ability to rapidly move them to any of those islands by either of the two helicopters, so that is the mix. Frankly, we were looking to find a way in which we could properly engage Torres Strait Islanders and use their skills and abilities to help us in the enforcement of Customs law in the region.

Senator LUDWIG—Perhaps you might take that on notice. As for further information, I did not want to read some of the details into the transcript but I am happy to provide you with some of them.

Mr Woodard—We are certainly happy to do it. If there are concerns we would like to deal with them.

Senator LUDWIG—It is a local concern. I think it does raise some issues that you may want to address, because what I have heard so far is in relation to part-time Customs officials who may lack certain investigative powers. It seems, from the answers that you have given, that that is right. There are other measures to assist the resolution of some of the issues, so perhaps the people need to be made aware of those sorts of things and how they can contact the Thursday Island contingent and ensure that those sorts of issues can be dealt with. I might get the relevant office to contact you separately about that.

Mr Woodard—Yes.

Senator LUDWIG—You might also then look at the issues that I have raised more generally as well.

Mr Woodard—Yes.

Senator LUDWIG—I refer to the CADF, which is a trust fund. It seems that it is accruing interest and that it has been a difficult issue to address over the last period.

Mr Woodward—There was quite a discussion on that at the last Senate estimates committee hearing. Since then there has been, I think, at least one more meeting, which Mr Burns may have been involved in. He can bring you up to date on where we are on that.

Mr Burns—There was one more meeting of the CNCC, the Customs National Consultative Committee, where we tabled a motion that spells out the rules for the disbursement of the old CADF. We will discuss that again at the next CNCC meeting to finalise the issue. That is consistent with the message we gave at the last Senate estimates and consistent with the discussions with industry in the CNCC arena over the last couple of meetings.

Senator LUDWIG—So has there been progress?

Mr Burns—The progress has been to make clear the eligibility provisions for the disbursement of the fund. It has not been a debate that has had across-the-board industry agreement; there has been inter-industry disagreement. We believe that the proposal that has gone forward is the one of least resistance—the one that everybody in the industry can accept. It is based on disbursement of the fund according to an allocation of digital certificates to sign on to the ICS. The only people who are eligible for it will be importers who have a minimum number of transactions over the first three months of the ICS.

Senator LUDWIG—Are there any other criteria, or is that the criterion?

Mr Burns—They are the criteria.

Senator LUDWIG—So they have to have what—X number?

Mr Burns—No. To obtain a share in the disbursement it will not matter now many individual digital certificates a company, a broker or a forwarder or anybody has. So long as they have one, they will get one share. If a broking firm or something like that has a centre in each of the major cities they will still only get one share. It will be allocated on the basis of one share and a minimum number of transactions in the first three months.

Senator LUDWIG—How many would that be?

Mr Burns—There is still a bit of discussion about that. I think 12 is the number that we have settled on. That number was designed to get more than just somebody who imports one, two or three consignments over a period of time—to ensure that they are a professional importer/exporter user of the system. It was designed to keep it above the minimum level but not get into the high numbers whereby only the major importers could participate.

Senator LUDWIG—You will fund digital certificates as such, then, through that process?

Mr Burns—It will be a reimbursement arrangement. We are not proposing to put the money up front; the operators have to fund their own digital certificates. We will know who has signed up to and joined the ICS connected to Customs. We will have to ensure that we

count them accurately and then apply the minimum performance criterion to ensure that we have a population and can then share the total amount of money. The idea is that you literally divide one into the other and disburse the fund. There will be nothing left over.

Senator LUDWIG—How will you get a digital certificate?

Mr Burns—Anybody who wishes to communicate with Customs electronically has to provide evidence of identity. The digital certificate is that evidence. They go through a registration process with the ICS. The digital certificate process is part of that. They lock into our system and we count them from there.

Senator LUDWIG—And then they meet the eligibility criteria?

Mr Burns—Then we have to make sure that they do.

Senator LUDWIG—Won't you have to wait for a certain period to elapse before you know what the population group is?

Mr Burns—We have said that the eligibility period will be the first three months. Industry was pretty insistent that we get this thing over and done with. So rather than keep it going for 12 months, in which a minimum number of transactions of 12 might not be appropriate—that would only be one a month, which hardly implies a medium user—the idea was to cap it at three months. That will give us and industry enough time to work out who is serious about this sort of activity with Customs and then get on with the process of allocating the money.

Senator LUDWIG—Do you know how much will be allocated to each person holding a digital certificate?

Mr Burns—That very much is a function of the arithmetic. The amount of money in the fund is going up because of interest over time. It all depends how many shares or entities we have in the arithmetic at the end of the three-month process. We do not think it is going to be a lot of money.

Senator LUDWIG—So it would not be worth anybody's while to obtain a digital certificate and undertake 12-odd transactions in the first three months to obtain a share in the proceeds?

Mr Burns—No. We have discussed this with industry, and we are satisfied that no entity would plan their business on the basis that they are going to get a share of this fund. It is not going to be enough money to decide whether you have one digital certificate or 25 digital certificates.

Senator LUDWIG—Has industry agreed to this proposal? Or is it more than a proposal—is this what is going to happen?

Mr Burns—Industry has been very much part of the development of the proposal. We have put it to CNCC on a number of occasions. I think the criticism on the last occasion was that we just have not signed off on it as a committee. So CNCC will be asked to do that next time it meets, which is next month.

Senator LUDWIG—If it is before the reporting date for questions in estimates, can you let us know whether or not it has been signed off?

Mr Burns—Certainly.

Senator LUDWIG—Was consideration given to funding training or any other purposes?

Mr Burns—Before we got to this final proposal there were a number of other mechanisms that we investigated. One of the things that we did was to invite industry to submit expressions of interest as to how they, industry, might disburse the funds consistent with the sort of manner in which the funds had been used over the last 10 years. We went through a process of inviting those expressions of interest. There were about 13, as I recall. A committee that I chaired had a look at those, although we did not go into them in any detail. The committee was comprised of not only Customs people but industry people, and we also had a probity auditor on the committee. The general outcome very clearly—in fact the consensus of that group—was that whilst a number of the concepts and expressions of interest were good ideas they were mainly commercially based, likely to be developed as part of industry reaction to the ICS anyway and proprietary concepts, and therefore should be funded by industry. Therefore the concept was that there should be no CADF funding for those. In that particular process were some proposals that had to do with training and various other schemes that, as I say, were generally considered to be proprietary.

Senator LUDWIG—Has industry abandoned the threat of legal action challenging the status of the funds?

Mr Burns—I have had some discussion with various CNCC members at various times about whether there would be any legal action taken against Customs. Suffice to say that we did not head down this track without clear legal advice from the Office of General Counsel that what we were proposing was appropriate. The point of issue is who owns the funds.

Senator LUDWIG—As always!

Mr Burns—Yes. We had clear legal advice that the CEO is responsible for the administration of the funds under the FMA. Since we have, if you like, enunciated the eligibility criteria in the proposal to allocate the funds, which we have always developed with industry, I get the impression that that is not much dissimilar to the way in which those who were suggesting legal action were going to do it anyway. I think they are just biding their time waiting to see what happens in the CNCC.

Senator LUDWIG—They can always reserve their right in respect of those matters, anyway. Are there any legal challenges on foot at the moment in relation to CADF 1 or 2?

Mr Burns—No.

Senator LUDWIG—I turn to Tullamarine. One of last year's budget initiatives was a reallocation of \$3.85 million from Customs to the department of transport to upgrade screening infrastructure at Tullamarine airport. Has Customs kept itself informed about how the money has been spent over the past year? If so, are you able to articulate what it has been spent on?

Ms Batman—Yes. We have been involved in the working group at Melbourne airport that is working through the infrastructure changes. A lot of that work is currently under way. I think the part that is in the Customs example is due to be finished in the next month or so. I can get you some details about the exact expenditure and the various components of that if you want them, but I do not have them with me.

Senator LUDWIG—I am happy for you to take that on notice.

Ms Batman—I will take that on notice.

Senator LUDWIG—Will that include the money earmarked for the new mail screening facility at Tullamarine airport?

Ms Batman—No.

Senator LUDWIG—That is a separate issue, is it?

Ms Batman—Yes, it is a separate issue.

Senator LUDWIG—How much was earmarked for that? I am still happy for you to take it on notice if you want to.

Ms Batman—The amount for the airport terminal infrastructure works was \$3.85 million.

Senator LUDWIG—That was spent on the facility in the financial year?

Ms Batman—Yes, and there was a similar contribution from AQIS.

Senator LUDWIG—Has that been finalised—that mail screening?

Ms Batman—No, that was in the airport terminal—the mail centre. I will leave my colleague to provide advice on the mail centre.

Mr Woodward—If I could start on a preliminary basis, when we were talking earlier about IQI funding, I said that there was funding made available for a number of particular activities. One of them was in relation to changes to Australia Post facilities to better enable the proper synchronisation of Customs, Quarantine and Australia Post activities in each of those mail handling facilities. Sydney and Melbourne were flagged as areas requiring particular changes.

Senator LUDWIG—I have seen Sydney.

Mr Woodward—The sum involved was \$49.4 million for new infrastructure at international mail centres and ongoing costs for Australia Post to allow greater scrutiny of incoming mail and other articles. If my recollection is right, there may have been a few problems in Melbourne flowing from government requirements in relation to selection of contractors for the construction of facilities. That particular impediment has not been overcome.

Senator LUDWIG—You might want to take it on notice. How long has this been going on for?

Mr Woodward—It was provided with the other funds a couple of years ago.

Senator LUDWIG—This is the one that is still ongoing. I think I have asked about this. It should have been finished by now, surely.

Mr Woodward—It is not in our hands.

Senator LUDWIG—Whose hands is it in? Should I go to another committee and ask the question?

Mr Woodward—It is an Australia Post facility. We have an interest—I stress that we have an interest—but the requirements are government requirements put forward on the basis of submission via the Minister for Employment and Workplace Relations. We are not—

Senator LUDWIG—This is ringing a bell now. Minister, you might like to talk to one of your comrades about this. This has been going on for some time now. Without mentioning the member's name, it seems to be a sticking point that he has in relation to the construction of the facility. It has not been constructed yet, has it?

Mr Woodward—There has been planning work undertaken.

Senator LUDWIG—Yes. There is money earmarked.

Mr Woodward—But I am not sure that any of the potential successful contractors have satisfied the government requirements.

Senator LUDWIG—And while this goes on, you have existing Customs employees in the current facility in Melbourne that, in my understanding, is long past its use-by date.

Mr Woodward—There are improvements that ought to be made there and in Sydney. I stress that, if my understanding is wrong, we will correct it, but that is my recollection of where we are at.

Senator LUDWIG—Minister, have you seen the Sydney facilities where Customs are located?

Senator Ellison—Yes, I have.

Senator LUDWIG—In the mail centre.

Senator Ellison—Yes. That is the one I have been to.

Senator LUDWIG—Have you seen the one in Melbourne?

Senator Ellison—No, I do not think I have seen the one in Melbourne.

Senator LUDWIG—I have not either but I have seen the one in Sydney.

Senator Ellison—I have seen the one in Sydney.

Senator LUDWIG—Is it similar to the one in Melbourne?

Mr Woodward—My biased assessment is that Sydney is worse than Melbourne but I am sure others would have a different view.

Senator LUDWIG—Sydney was not particularly good. Minister, is there anything you can do to resolve this? If you go and stand with the Customs people on the floor in Sydney you will get an appreciation that it is not a conducive work environment. It could be a lot better. I suspect they could also feel a lot more satisfied that the issue that is stopping the development is not money. Apparently the money is there, isn't it?

Mr Woodward—As I understand it, that is certainly the case in Melbourne. I think it is more complex in relation to Sydney. I am going very much from recollection. I think it is probably best if we give you the answer with regard to both Sydney and Melbourne—

Senator LUDWIG—I am not trying to lead you into error. I am happy for you to correct the record.

Senator Ellison—We will take that on notice and I will convey your questions to the appropriate minister.

Senator LUDWIG—Thank you, Minister. We might finalise on that point.

CHAIR—Thank you very much. I should note that the committee is very grateful to Senator Ludwig for his very efficient work in this area. We have had a very productive day: two-thirds of the Attorney General's and other estimates. I thank Mr Woodward and his officers. As I indicated last night, the committee will not be commencing the Department of Immigration and Multicultural and Indigenous Affairs portfolio estimates today. We will begin those at 9 a.m. tomorrow morning. We will resume in this room. Minister, I thank you, the officers of the Attorney-General's Department and Mr Cornall for your assistance. As you know, questions were taken on notice for return by 16 July 2004. We are always ready, willing and able to take those answers earlier but as soon as possible would be appreciated. Thank you very much.

Senator Ellison—Thank you. We will endeavour to get those answers in on time.

CHAIR—Thank you.

Committee adjourned at 5.42 p.m.