



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

Consideration of Budget Estimates

THURSDAY, 30 MAY 2002

CANBERRA

BY AUTHORITY OF THE SENATE

INTERNET

The Proof and Official Hansard transcripts of Senate committee hearings, some House of Representatives committee hearings and some joint committee hearings are available on the Internet. Some House of Representatives committees and some joint committees make available only Official Hansard transcripts.

The Internet address is: **<http://www.aph.gov.au/hansard>**

To search the parliamentary database, go to: **<http://search.aph.gov.au>**

SENATE
LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
Thursday, 30 May 2002

Members: Senator Payne (*Chair*), Senator McKiernan (*Deputy Chair*), Senators Cooney, Greig, Mason and Scullion.

Senators in attendance: Senators Bartlett, Cooney, Ludwig, McKiernan, Payne and Sherry

Committee met at 9.02 a.m.

**IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS
PORTFOLIO**

In Attendance

Senator Chris Ellison, Minister for Justice and Customs

General Questions - Immigration and Multicultural Affairs

Departmental Executive

Mr Bill Farmer, Secretary

Mr Andrew Metcalfe, Deputy Secretary

Mr Ed Killesteyn, Deputy Secretary

Mr Peter Vaughan, Executive Coordinator, Office of Aboriginal and Torres Strait Islander Affairs

Migration Review Tribunal

Mr Steve Karas, Principal Member

Mr Noel Barnsley, Registrar

Refugee Review Tribunal

Mr Steve Karas, Principal Member

Ms Kerry Boland, Acting Deputy Principal Member

Ms Jill Toohey, Registrar

Migration Agents Registration Authority

Ms Laurette Chao, Chairman

Mr Andrew Cope, Vice Chairman

Mr Len Holt, Queensland Director

Mr David Mawson, Executive Officer

DEPARTMENT OF IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS

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

Output 1.1—Non-humanitarian entry and stay

Output 1.2—Refugee and humanitarian entry and stay

Output 1.3—Enforcement of immigration law

Output 1.4—Safe Haven

Output 1.5—Offshore asylum seeker management

Mr Abul Rizvi, First Assistant Secretary, Migration and Temporary Entry Division

Mr Phil Thurbon, Acting Assistant Secretary, Temporary Entry Branch
Mr Bernie Waters, Assistant Secretary, Business Branch
Mr Chris Smith, Assistant Secretary, Migration Branch
Mr Peter Hughes, First Assistant Secretary, Refugee and Humanitarian Division
Mr Robert Illingworth, Assistant Secretary, Onshore Protection Branch
Ms Robyn Bicket, Assistant Secretary, Humanitarian Branch
Mr John Okely, Assistant Secretary, International Cooperation Branch
Ms Philippa Godwin, First Assistant Secretary, Unauthorised Arrivals and Detention Division
Ms Kate Pope, Assistant Secretary, Unauthorised Arrivals and Detention Services Branch
Ms Rosemary Greaves, Assistant Secretary, Detention Policy Branch
Mr Vince McMahon PSM, First Assistant Secretary, Offshore Centre Management and Infrastructure Division
Ms Mary-Anne Ellis, Assistant Secretary, Detention Infrastructure Branch
Ms Lesley Daw, Acting Assistant Secretary, Detention Strategy Branch
Ms Yole Daniels, Assistant Secretary, Offshore Asylum Seeker Management Branch
Mr David Knight, Director, Offshore Centres Policy and Procedures Section
Mr John Moorhouse, First Assistant Secretary, Border Control and Compliance Division
Ms Nelly Siegmund, Assistant Secretary, Border Protection Branch
Ms Christine Sykes, Assistant Secretary, Entry Branch
Mr Des Storer, First Assistant Secretary, Parliamentary and Legal Division
Mr John Eyers, Acting Assistant Secretary, Legal Services and Litigation Branch

Outcome 2: A society which values Australian citizenship, appreciates cultural diversity and enables migrants to participate equitably

Output 2.1—Settlement services
Output 2.2—Translating and interpreting services
Output 2.3—Australian citizenship
Output 2.4—Appreciation of cultural diversity
Mr Peter Vardos PSM, First Assistant Secretary, Citizenship and Multicultural Affairs Division
Mr David Doherty, Assistant Secretary, Citizenship and Language Services Branch
Dr Thu Nguyen-Hoan PSM, Assistant Secretary, Multicultural Affairs Branch
Ms Louise Gray, Chief Financial Officer
Mr Steve Davis

CHAIR—The committee will now resume this public hearing of the Senate Legal and Constitutional Legislation Committee with the examination of proposed expenditure for the Immigration and Multicultural and Indigenous Affairs portfolio, continuing with the Migration Review Tribunal, the Refugee Review Tribunal and the Migration Agents Registration Authority this morning. We will then continue with outcome 1 of the department in outcome 1.5, which is an arrangement made based on the availability of officers this morning. When we have completed 1.5 we will review our position.

Senator Ellison—We do not go back to 1.3 after the tribunals?

CHAIR—Not immediately after, but we will definitely be coming back to 1.3. On 14 May 2002, the Senate referred to the committee the particulars of proposed budget expenditure for

2002-03 for the Attorney-General's and Immigration and Multicultural and Indigenous Affairs portfolios. 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 5 July 2002 for receipt of answers to questions taken on notice.

I welcome Senator the Hon. Chris Ellison, the Minister for Justice and Customs and Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, Mr Farmer and officers of the 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 draw to the attention of witnesses the resolutions agreed to by the Senate on 25 February 1988 relating to procedures to be observed by Senate committees for the protection of witnesses and, in particular, to resolution 1(10) which states in part:

Where a witness objects to answering any question put to the witness on any ground, including the ground that the question is not relevant or that the answer may incriminate the witness, the witness shall be invited to state the ground upon which objection to answering the question is taken.

Resolution 1(16) states:

An officer of a department of the Commonwealth or of a state shall not be asked to give opinion 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 also remind you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. Minister, do you or Mr Farmer wish to make an opening statement?

Senator Ellison—Between 10 a.m. and 11 a.m. I need to be at a meeting with the Prime Minister of Thailand. I had arranged for a replacement; unfortunately, my replacement has fallen through. I cannot find anyone to sit in for me. I am sorry about that.

CHAIR—Thank you. I had indicated to the deputy chair that the meeting with the Thai Prime Minister was at that time.

Senator McKIERNAN—The committee is appreciative of the efforts you have made during these rounds of hearings to assist the committee in its progress. As a way of reciprocating, if any matter arises while you are absent that requires ministerial attention, we will put it on hold.

Senator Ellison—Thank you.

[9.06 a.m.]

Migration Review Tribunal

CHAIR—I welcome the officers from the Migration Review Tribunal, Mr Karas and Mr Barnsley.

Senator McKIERNAN—Has there been any significant developments within the tribunal since we last met in February? I note the change in allocation in the budget is not dramatic, but has there been anything else occurring within the tribunal about which the committee would benefit from hearing?

Mr Barnsley—The major change is the growing caseload for the tribunal. In February we were estimating an intake of close on 8,200 cases; we are now talking more of 8,500—perhaps even more—cases coming into the tribunal this financial year. We are now looking at finalising approximately the same number of cases whereas, when we had this discussion this time last year, we were looking at clearing some of the backlog of the cases, and we geared up to do that. Unfortunately, the application rate seems to have managed to travel with us fairly well, but we will hold our own this year.

Senator SHERRY—Does that mean that you will not be able to clear the backlog and in fact the backlog will grow worse?

Mr Barnsley—It will stay about the same, Senator, at about the 8,100 or 8,200 mark. The other significant change is that we will be entering into a joint arrangement with the Refugee Review Tribunal to provide corporate services for both tribunals within the Refugee Review Tribunal from 1 July. That process is under way and a recruitment process and procedure and so on are being worked out now. That will happen from 1 July this year. That is probably the major change that is in train at the moment.

Senator McKIERNAN—Do you anticipate any impact on the caseload from those executive changes?

Mr Barnsley—No, not on the caseload. The decision quite consciously leaves alone those people who are involved directly with the caseload so it does not affect the capacity of the tribunal to decide cases.

Senator McKIERNAN—What, in brief, can you say about those processes leading to the executive amalgamation, as it were? It received some attention during the last estimates, so I do not want to spend the same amount of time on it on this occasion.

Mr Barnsley—The major change of course is the merger of all corporate services in the one place. There are economies in doing that; there are efficiencies in doing it together. The other major change travelling with that is a bringing together of the senior management structure of the two tribunals. We have Mr Karas, who has already headed both tribunals.

Senator McKIERNAN—An expert in millinery.

Mr Barnsley—Yes, I was going to bring his two hats. The next stage of that process of bringing the structures together will also happen from 1 July, in that there will be a single registrar of both tribunals and a single corporate manager of both tribunals with a view to ultimately bringing the two tribunals organisationally together within the portfolio.

Senator McKIERNAN—On the agreement with Finance on the payment per decision, there has been a reduction in the amount of money that is being passed over each year per decision. This is the pricing agreement that is in place with the department. Is that price realistic? Is it in any way contributing to the workload of the commission? If there were more resources, might that caseload be reduced? You are not going to reduce the caseload because the applications are going to come in, but you could reduce the group that is awaiting decisions.

Mr Barnsley—We are in the process of renegotiating the price and the agreement with the Department of Finance and Administration with the assistance of the department. There is a clear recognition that the process needs to ensure that there is resourcing to allow the tribunal to start making some significant inroads into the back load of cases over the next two years.

Senator SHERRY—The figures I have indicate that payment per decision was \$2,400 in the first year, \$2,100 in the second year, \$1,879 in the third year, and then an estimated \$1,775. That is a massive decline.

Mr Barnsley—Absolutely. Last year we achieved just over \$2,100 per case finalisation. This year we are travelling at about the same figure. Picking up Senator McKiernan's point, there is a range of things that have changed that have affected the tribunal's cost of operating and that will be picked up as part of the negotiation with the Department of Finance and Administration. We are now talking about the next two years. This time last year we were predicting that we would receive 7,400 cases this year. We have gone up to 8,500. We were predicting we would finalise about 8,500 and clear the backlog, but unfortunately the application rate has grown. We will, hopefully, gear up during the next period to allow us to finalise more cases and get in and significantly dent the backlog.

Ms Gray—To clarify your point about the declining price per unit, originally when that purchasing agreement was signed it was in the context of an expectation that the ART would be coming into place and that there would be a transition towards things like administrative efficiencies which would impact on the unit price. That has not happened as expected, which is why the tribunal is currently working with the finance department to revise those unit prices.

Senator SHERRY—The decline from \$2,400 to \$2,100 in one year is a 13 per cent decline. In one year that is a very big hit. Was it ever anticipated that, notwithstanding the delay in the combination of the tribunals administratively, there would be anywhere near a 13 per cent saving?

Mr Farmer—I believe that saving has been realised. If I understand correctly, the unit cost in the first year did go down to just around \$2,100. There are incentives to extra productivity even in this agreement, which we believe does need renegotiation. Even in this agreement, if you are able, using your existing resources, to produce more outcomes, then your cost per output goes down. That is one of the things that has happened. We have had extra members as well. That is one of the things that has driven the cost down.

Senator SHERRY—Is that an increase in productivity or an increase in efficiency?

Mr Barnsley—It is actually both, because the efficiency steps which have been taken in the tribunal and the management improvements have in effect enabled our productivity gains.

Senator SHERRY—I wish you luck with Finance.

Mr Farmer—Thank you.

Senator McKIERNAN—I will echo Senator Sherry's views on that. Hopefully, the luck with Finance will be represented in a reduction in the waiting times for decisions from the tribunal.

Mr Barnsley—Absolutely.

Senator COONEY—What is productivity and efficiency? Can you help a man stumbling to try to gain some idea of what this means in this context? That question could be to anybody.

Ms Gray—In the context of the purchasing agreement, we tend to see increased productivity as generating more outputs and efficiency through better—

Senator COONEY—But outputting what, though? Remember that you are dealing with somebody here who is very, very slow.

Mr Farmer—Could we use the analogy of the manufacture of horseshoes?

Senator COONEY—Yes.

Mr Farmer—Then I would understand it, too.

Ms Gray—Or widgets. So producing more widgets increases productivity—

Senator COONEY—More what?

Ms Gray—In this case it would be more decisions.

Mr Karas—Case finalisations.

Ms Gray—Increased efficiencies would be better ways of doing that—of producing those things. So things like the bringing together of the corporate functions is a way of achieving efficiency through streamlining.

Senator COONEY—We could produce more decisions. Say we were to eliminate hearing evidence and just give the decision: would that make it more efficient?

Ms Gray—It might make it more efficient but it might not make it more effective. There might be an integrity pay-off there.

Senator COONEY—What would effectiveness be, I wonder.

Ms Gray—I am just thinking about the quality of the decision.

Senator COONEY—How do we gauge the efficiency?

Mr Barnsley—The tribunal judges efficiency and effectiveness—I guess the terms are sometimes interchangeable—as a combination of the number of cases being finalised and the quality of the decision making that is being undertaken. The quality is judged in part by the courts and in part by the senior members and the principal member, who monitor the performance of members and their decision making—their adherence to law and the quality of the documentation of the decision, which is a legislative requirement of all members. Without going into more detail than that, that is the gist of what we would be looking at.

Senator COONEY—I am just trying to feel my way through this. The courts are a good way of working out whether the quality of the decisions are as they ought to be?

Mr Karas—They are one way. Normally, not a large number of cases go from the Migration Review Tribunal to the Federal Court, statistically.

Senator COONEY—But if you have got a court overseeing the decisions it must help the quality, from what you say.

Mr Karas—It does to some extent, particularly where a judge or the court does make a comment in relation to the decision. Comments are more in relation to the legality of the decision, so to speak, and whether the legislative requirements that a member has to take into account in coming to the decision—like the finding of fact, the identifying of fact, the making of the decision et cetera—have been carried out.

Senator COONEY—So the ability of the court system to, as it were, run a check over the decisions you make, is very helpful to the testing of the quality?

Mr Karas—It is one strand of the system.

Senator COONEY—You would have to say that it is an important strand.

Mr Farmer—Up to a point and in some limited areas. We also notice that there are many times when we disagree with the things that the court says. But the courts are an element in the total mix. I will get a lawyer to join me at the table.

Senator COONEY—Mr Farmer, I just wonder why you came in there.

Senator SHERRY—No, please. A lawyer and a lawyer—we could be here for a long time.

Senator COONEY—I was having a very gentle conversation with Mr Barnsley and suddenly the secretary comes in. And you terrorise me, Mr Farmer.

Mr Farmer—That is a very pleasant change, Senator Cooney, I can tell you. We were having a discussion about the importance of the courts.

Senator COONEY—Thank you, Mr Farmer; that is what I was talking about

Mr Farmer—I was saying that I believe that the courts have a role in the mix we are talking about. It is one way in which the tribunal can look at its work and take into account the comments of judges. I was also making the point that we do not necessarily see that as being an untrammelled plus. There have been times in the past when, as you know, we believe that the courts have not been working in an optimal way, and parliament has taken steps in accordance with that view.

Senator COONEY—What was it that you told me about section 474, Senator Ludwig—what was that all about?

CHAIR—I am not sure that that is the way estimates are supposed to work, Senator Cooney. I am not sure that we ask questions of our colleagues to elicit information. Perhaps you could try the department.

Senator COONEY—All I am trying to do is to see if I can make this system better.

CHAIR—Indeed, Senator Cooney. I agree.

Senator COONEY—Mr Storer, do you say the courts are important?

Mr Storer—I support exactly what Mr Farmer said.

Senator COONEY—I bet you do.

Senator SHERRY—I was a little bit concerned about the widget analogy, because we are not dealing with classic economic production here; we are dealing with human beings. It is pretty hard to put the economic productivity squeeze on a process that is obviously highly contentious at times and centred around human factors, as distinct from classic economic production.

Mr Farmer—That is so, and we were doing that really for the purposes of administration. When we talk about purchasing agreements and the drivers of the purchasing agreements, we deal with a number of areas that are really not susceptible to easy analogy. For example, how do you measure giving policy advice? Right throughout the range of immigration responsibilities, there are drivers that depend on an examination of how many cases are processed. We also go to very great pains to ensure that the two elements of quality customer service and integrity of the decision-making process are preserved.

Senator SHERRY—I agree with you. I attend Finance estimates quite regularly, so I think my concerns should be expressed more forcefully there.

Mr Farmer—I think that, in our dealings with the Department of Finance and Administration on this issue, they very much support the points I have just made about improvements in customer service. For example, during our current purchasing agreement they are looking to us to improve our processing times for cases. That is because of their appreciation of the points that were being made last night in the hearings about the undesirability of having some caseloads stretch out for what seem to be very long times. I would not like to leave you with the wrong impression about our dealings with the department of finance on this. I think we have a very good basis of understanding of those human dynamics when we are discussing the money.

The purchasing agreements should give departments, as they have given this department, the capacity to handle backlogs. That is an element I would like to focus on when we go into the discussion on the revised purchasing agreement for the tribunal. For example, it has given us the capacity to get through very large backlogs of unprocessed cases—a lot of points tested migration cases out of New Delhi, for example. We just did not have the resources under the rigours of the fixed budget model. We were able to generate the resources under the purchasing agreement model and get through a backlog. So it is a system that, if designed correctly, has good human dimension results.

Senator LUDWIG—I have a question, which is more of a Senator Cooney question.

Senator SHERRY—Are you sure it is only one, then?

Senator LUDWIG—In light of MIA and MACCs, what procedures have you now implemented in both tribunals to deal with the requirements that now seem to be imposed upon you by those two cases?

Mr Storer—MACCs and MIA were refugee review cases.

CHAIR—We might wait until Mr Karas changes his hat. I am sorry, Senator Ludwig, if we can complete the Migration Review Tribunal area we will come to the Refugee Review Tribunal area and, then, you can ask the first question.

Senator COONEY—We ought to ask one question of Ms Gray, out of fairness. We ought to ask her whether she is capable of compassion, because there is a suggestion along the table that she is not.

CHAIR—I do not think that is the case at all, Senator Cooney. I indicated that was not the inference, and I do not think it is necessary to put that question.

Senator SHERRY—Was that in retaliation!

CHAIR—Mr Karas and Mr Barnsley, thank you both for assisting the committee this morning in relation to the Migration Review Tribunal.

[9.28 a.m.]

Refugee Review Tribunal

CHAIR—I call the Refugee Review Tribunal and welcome Ms Toohey and Ms Boland to the table. I would observe that the dynamic really does change when holding estimates just across the table in a room of this size. Because of the size of the room, peripheral conversations are extremely audible and quite disruptive. It is not that I mind people talking at all, but it is really quite hard to hear at this table when you are, so if you could bear that in mind I would be grateful.

Senator LUDWIG—In terms of the case law that has been developing in both the High Court and the Federal Court, particularly for MIA and MACCs, what procedural mechanisms have you put in place to deal with the results of those cases?

Mr Karas—On the two cases you have mentioned, there is some developing law now in relation to section 4(74) and the privative clause. It has been noticed that at this stage there is a difference of opinion—if I can use that expression—among some of the judges who are dealing with the types of cases that are coming before them. My understanding is that, very early in June, the full Federal Court, consisting of five judges, is to hear some cases on this particular matter.

The tribunal, it being aware of the change in the legislation in October and also the impact of the decisions which you have referred to and others, has issued legal bulletins indicating the cases, the facts and the decisions arising out of them. At the same time, we are waiting for a bit more development, if I can use that expression, so far as the jurisprudence is concerned, to try to package training in relation to it, if that is considered necessary for members. At this stage, the cases as they are decided are made available to the members and there is usually some commentary as to their impact in relation to the legal section or the legal support of the tribunal.

Senator LUDWIG—Are those bulletins and commentary available to the committee?

Mr Karas—Yes. I think from the last visit to the tribunal we did make one available to Senator McKiernan. I am sure that we could make them available to you.

Senator LUDWIG—The particular cases I am interested in are those that relate to *Miah ex parte A*, in the High Court; and *Aala*, in the High Court; Justice Gyles in the Federal Court relating to NAAX; and the peripheral one attached to NAAX, which is NAAV. I am interested in whether you have provided any information to your members on section 474 of the Migration Act and on the earlier issue of the codes to see if the country information has to be changed. I think Justice Gyles summarised quite well in paragraph 79 of NAAX that, if the country information was to change, that information should be put to an applicant to allow them to respond fairly. I am not a lawyer, but I think that is the point I am trying to examine.

Senator COONEY—I think you are in a terribly difficult position with all this, Mr Karas. I suppose what you mean by efficiency and productivity is getting matters right—which clearly you want to do—but what do you do with the members? Do you give them training sessions? That is perhaps not the right word. Do you give them briefing sessions and try to help them? We have been through this before.

Mr Karas—We have regular meetings with the members and, yes, there are training sessions where members do come together. Also, the senior members and more experienced members are available to assist. Members are very conscientious about the responsibility that is thrust upon them in making decisions in a very difficult area. As Senator Sherry indicated, this refers to human beings, and members are very conscious of the responsibility. I believe they take it seriously. They do everything they possibly can to make sure that the decisions that they do make are lawful decisions, even if it does on occasions mean having to delay the decision. Members would like to think that they have all the information they need to come to a proper decision on the case before them, on the merits of the case and in accordance with the legislation. On occasions, that leads to delays; but, generally speaking, the members do take their roles very seriously. They are conscientious about it and they do their best in the circumstances in which they come to make their decisions.

Senator COONEY—I am sure they do their best, but the real question is whether their best is good enough in this very difficult area.

Mr Karas—To take it further: if we were to look at the statistics of the cases, even though more cases on the Refugee Review Tribunal go to the Federal Court than those on the Migration Review Tribunal, I think generally speaking the Federal Court has found that, in the majority of cases, the decisions that have been made by the tribunal members are lawful decisions, and they have not been overturned.

Senator COONEY—They would have found that they had been made according to law. The issue, I suppose, is whether the decision makers on the tribunal are getting the right facts. If somebody is on trial and there is a tremendous publicity drive against them, sometimes that can hold up the trial. How do you cope with the fact that the majority of the public are very hostile to people who come here as asylum seekers and that you have a government that pursues a line not in any way sympathetic to these people? Do you think that affects the tribunal? It would be a bit surprising if it did not.

Mr Karas—I would think not, other than to say that our members are human beings. They read newspapers and they are aware of the debate, so to speak, going on in the public arena. They are charged with a function—namely, to conduct the review in a fair, just, economic, informal and quick manner. But, more importantly, they look at the merits of each particular case and decide it in accordance with the facts of that case and in accordance with substantial justice and the other directions in the legislation and, again, take into account important decisions of the court. I do not think that members, in dealing with a case, would say that the government policy is this, that or the other or that, because the public debate is going one way or the other, that would influence their decision. I am very confident in saying that the members do deal with each individual case that comes before them in accordance with the merits, the facts and the substantial justice of the case.

Senator COONEY—I have absolutely no doubt that they attempt to do that, but I cannot imagine a decision maker at any level being unaffected by emotions and predispositions—and presuppositions, for that matter. It is just a matter of to what level that problem arises. I would hardly think a High Court judge would come to a matter without some feelings on the subject. What in your training session tries to overcome that problem?

Senator Ellison—Mr Karas has put it very well that the members do go about their duty in a conscientious way. I know Senator Cooney has a view on government policy and I have a view also—they are different. The members of the tribunal do their job in accordance with their obligations, and that has been put to the committee. If there is any imputation that they are not doing that, it should be put squarely to the witness—and I think the last question went to that—but to say that it is hard to believe that they cannot be unaffected by this is casting an opinion on the exercise of their duties. I think the question that Senator Cooney is asking now about the training is a fair one, but I would ask that it be without the imputation that it is a given that these people will be biased or influenced in some way. It is a fine distinction. I appreciate the point that Senator Cooney is making: the question about the training is a fair one. Senator Cooney is free to talk about government policy of course—and we have a difference of opinion—but we are now getting down to the approach by members of the tribunal to their duties. If there is something that is hard and fast that we can put that shows that they are not doing their duty or that they are influenced, by all means let us put that.

Senator COONEY—That is why I mentioned the High Court judges, to show that this is not a problem that is confined to this tribunal. But I do think this is a highly emotional area.

That is why I was talking about those issues. Let us say there is a murder trial on: it is put over because of high emotions, as you know. The courts—the state courts particularly, I suppose—take action to overcome a situation. I might turn shortly and ask why the government pursues this policy, but I do not think I will.

What I am concerned about—and I think Mr Karas is giving me an answer—are the cases where the state courts, say, delay a trial or even give orders to newspapers to mute their descriptions of what goes on. It seems to me that, given that this area is so emotional, particular measures ought to be taken to try to ensure that the decisions go according to law. If there were suddenly a switch around and everybody said, ‘We ought to keep everybody that comes to our shores,’ I would still expect the tribunal to say, ‘No, unless you are a refugee, you have to go; no matter how enthusiastic everybody is to keep meatworkers in particular places, you have to apply according to law.’ I think it would be unrealistic for us as a country or you as a government to ignore the high emotions that float around. Clearly, I would have thought that tribunal members need all the help and protection they can get, because they are under terrible strain. I do not think I could make a fair decision. I should not say that, I might be looking for a job shortly, but I would have some problems and I would need some help.

CHAIR—Yours is an interesting approach to the interviewing process, Senator Cooney.

Senator COONEY—I am really asking whether you take steps, Mr Karas—you do, don’t you?

Ms Boland—When each new group of members is appointed to the tribunal there is an induction course, and then we assign a mentor to every new member—that is, a very experienced member is assigned to each new member. The new member observes hearings, and they can also talk to their mentor about particular cases as they get assigned their work. We have an ongoing training program for all members. That covers all legal issues. It covers new issues as they arise, as well as the revision of current issues. We continually look at country information, and we endeavour to get country experts from a range of sources, including offshore. We also have training in IT. That training program is constantly reviewed, and we run it for all members in Sydney and Melbourne, addressing the needs of new members in particular. So training and support is something we consider to be very important.

Senator COONEY—In your trips around the great city of Melbourne, you must have sat and had coffee and what have you with people who expressed views about asylum seekers and other things. What I am trying to find out, and I think you are explaining it very well, is how you divorce yourself from the opinions you hear expressed and the opinions you perhaps even express yourself, quite rightly, at the restaurants and gatherings you go to. How do you divorce yourself from those opinions when you are involved in the decision-making process, sitting on the tribunal? And how do you help the other tribunal members, new or otherwise, to put those opinions aside? What I would like to know, if possible, is whether any measures are taken specifically to overcome that problem?

Ms Boland—Every tribunal member looks at the case on the individual facts. They make a decision with regard to the law and the circumstances at the date of that tribunal’s decision. The tribunal is required to weigh the evidence before it. That is what a tribunal member is charged to do.

Senator COONEY—The fact that you are charged with it does not mean it is going to happen. If I were running it, I would have general discussions about these things and make the members of the tribunal conscious of the pressures that are coming in upon them—in

Melbourne it would be one way and in Sydney it would be another, from what I can gather; nevertheless, that is another matter—and to give each other mutual assistance in making sure that the mind is as free as possible, while it can never be completely free, from emotions and presuppositions. I cannot get a picture at the moment that some sorts of measures are being taken to overcome that.

Mr Farmer—Madam Chair, could I invite Mr Storer to talk about ways in which the selection processes basically take account of that very concern right from the start.

Senator COONEY—May I say, Mr Farmer, I thought Ms Kerry Boland was doing quite brilliantly.

Ms Boland—I will make one point, if I could, and then I will hand over. If I understand your question, the issue is that independent decision making is fundamental to the integrity of the process.

Mr Storer—I was asked by the government to chair a number of selection panels that have selected recent appointments to the RRT and MRT over the last couple of years and to give advice to the government as to the sorts of qualities in people that might be appropriate. In doing that we were well aware of the responsibilities that you have outlined and well aware of the contentious and emotive nature of people who would have to carry out these, as you rightly put it, difficult and important roles—dealing with human lives, as we have said before.

We were conscious of this. I chaired the advisory panel with the principal member and Mr Paris Aristotle, a person in the community probably who is well known to people and who is well aware of the consequences of such decision making. We were conscious that people would come with this, so we explored a lot of these dilemmas that they would be confronted with. We were well conscious in talking to them; we had a set number of questions, for example. We had a lot of questions about their experience as a decision maker, about being impartial and about trying to keep their values and emotions at bay, as it were. There were a lot of questions where we said, ‘Under the act, on one hand you are required to make decisions that are fair and just, but on the other it is taxpayers’ money and it has to be done in an economical manner as well as in an informal manner, because it is not an adversarial form of decision making.’ We covered a whole range of questions: ‘How do you balance up dealing with cultural issues and credibility issues at the same time? How do you go about doing these sorts of things? What is your experience in having dealt with these sorts of things before, as well as understanding the law and applying the law in an effective manner?’

So, in balancing all of those things up, we put advice to the government, which mostly was accepted, on the sorts of people that would be appropriate to be on such tribunals. They were well aware that it would require a considerable amount of training on arrival at the tribunal. In providing this information we were telling the government that, once they did this, such people would need a fairly extensive induction-cum-training process to understand the making of these decisions within the new context of a tribunal, there would need to be ongoing training opportunities and there would need to be ongoing monitoring to try to weigh up all of these balances.

Senator COONEY—By whom?

Mr Storer—The senior member is particularly responsible for monitoring things like what the courts say in terms of legal matters and whether they are moving to bias. There are legal staff and support staff within the tribunals. The tribunals have a lot to be proud of, Senator. They probably have the latest information anywhere in the world of the situations people are

in in their home countries or in the countries they have fled to. They try to balance that up. Anyone comes to the table, when they are making a decision, with their own views and values, but you always have to have the experience and training and ability to somehow manage that while you are making your impartial decision.

Senator COONEY—What you have to do is establish the facts and attach them to the right law and come up with your decision. It is getting to those true facts that is the problem. You are dealing with people coming from different cultures. That is one point which is very important. You have people who have been in the situation of being detained behind bullnose, whatever they are—

Mr Storer—Our detention people are not here.

Senator COONEY—Have you ever been to a detention centre?

Mr Storer—Yes, I have. Are you talking about razor wire?

Senator COONEY—Yes, razor wire on top of the bullnose. That must cause a problem?

Mr Storer—Indeed. That is taken into account in the training. There is a lot of training about situations. You can always do better in terms of information and training. But I can say, as someone looking from outside, that what I have observed is that, given the resources and the other things, the decision making in the tribunals is something that people can be proud of.

Senator COONEY—I was going to ask about terms of appointment, but I think we have been over that. Ms Boland, are you confident that we are getting fair decisions?

Ms Boland—Yes, I am.

Senator COONEY—What percentage of appeals have been successful?

Mr Karas—To the courts?

Senator COONEY—To the tribunals?

Mr Storer—They will have the latest figures.

Ms Toohey—At this stage there is a 14.5 per cent rate of overturn of the primary decision.

Senator COONEY—It is only 14.5?

Ms Toohey—It varies, of course. That is an average across the whole case load of the tribunal. In certain countries it will be a lot higher than that and in others lower, but that is the average.

Senator COONEY—It used to be a lot higher than that. I better restrain myself. Is that all it is?

Mr Karas—Up until the end of April, 4,323 cases had been decided by members and the overall set aside rate was 14.5 per cent. We can look at some individual countries as examples. In Afghan cases it was almost a 68 per cent set aside rate, for Iran it was almost 24 per cent and for Iraq almost 87 per cent. I think that the overall set aside rate of 14.5 per cent has come down from about 24 per cent earlier on in the year. The casemix is a bit different. I know you were referring earlier to detention cases and they form not the major portion of the cases that come before the tribunal.

Senator COONEY—Senator McKiernan would know better than I. It used to be a lot higher than that.

Senator McKIERNAN—It was a lot lower than that as well. I can remember the figure or nine or 10 per cent as well.

Mr Karas—And it has been down to six per cent and lower in some cases. It varies, and one cannot predict with certainty that by the end of June this year the rate will be this, that or the other.

Senator COONEY—It must be a depressing tribunal to appear in front of—if you are going to lose most of your cases?

CHAIR—I think that is a reflection that you might be making on your own behalf.

Ms Toohey—Perhaps you need to put it in the context of the countries making up the highest percentage of decisions.

CHAIR—Ms Toohey has assisted the committee with the figures and Mr Karas has assisted the committee with those figures.

Senator COONEY—It is hardly worth coming to Australia. That is probably the point of it all.

CHAIR—Senator Cooney, we need to progress through the discussion with the Refugee Review Tribunal and keep things moving.

Senator Ellison—Senator Cooney asked a question about the percentage of cases which are successful before the tribunals. I think the understanding might have been what percentage of appeals from tribunals to superior courts are successful. I understand that is around 11 per cent, which is a very low number. It indicates that the decision making of the tribunals is pretty good because there are only 11 per cent of successful appeals. I think it is important to place that on the record.

Senator LUDWIG—If we go to page 260 of the portfolio budget statements, there are a couple of figures I would not mind a brief explanation of. If we look at the column headed 'Financial assets' then 'Cash', we see that the figure is \$4.540 million for 2001-02 and the budget estimate for 2002-03 is \$1.491 million. There is a significant decrease in cash. If you go down the page to the heading 'Total equity' it seems that the consequence is that total equity has gone into the negative, as I understand the figures, to \$988,000. Your current assets have also dropped significantly from \$4.976 million to \$1.927 million. If we go over the page to 'Net cash from operating activities', we find that you are going out the back door, so to speak. Can I have an explanation of what has happened to your cash?

Ms Toohey—In the same way as the MRT is, the RRT is funded under a purchasing agreement with the Department of Finance and Administration. We are in the process of negotiating a new agreement because it is our argument that the current price per finalised application is not realistic or sufficient given the case load that the tribunal is now dealing with. In years gone past, when there were a lot simpler, less complex and less time consuming cases, the tribunal built up, under its agreement, cash reserves that it is now drawing on to cover that operating loss. We expect, if we can get a realistic price for the applications and with some other measures that the tribunal is proposing, such as streamlining and the appointment of new members, that in 2003-04 we will trade out of that loss. We have not been able to produce—and it is the nature of a purchasing agreement and it is the nature of the tribunal's unpredictable and shifting case load—in the last couple of years the same number of decisions that we were able to in earlier years so the cash reserve is being drawn on to cover that loss.

Senator LUDWIG—So I am correct in saying that what you are doing is spending your cash to prop up your budget. You are going out the back door on present figures, and there has been no likelihood, in the last couple of years, of projecting forward and saying that you are going to turn that around.

Ms Toohey—We will turn it around, we believe, in 2003-04.

Senator LUDWIG—What figures demonstrate that?

Ms Toohey—That is on the basis that we would expect, in that time, to have a number of new members appointed, and members are essentially the income earning end of the tribunal. It is their output that determines the tribunal's financial position. So we would be hopeful with that and a number of other measures—for instance, the sharing of the corporate services sections, which will see some significant savings. We have recently done a very extensive review of all tribunal processes in order to streamline them and we believe that they will see the tribunal trading out of that loss in the following financial year.

CHAIR—There being nothing further for the Refugee Review Tribunal, Mr Karas, Ms Toohey, Ms Boland, thank you very much for your appearance this morning and for your assistance to the committee.

[10.03 a.m.]

Migration Agents Registration Authority

CHAIR—Good morning. I welcome the representatives of the Migration Agents Registration Authority to this consideration of budget estimates, Ms Chao—you and your colleagues.

Senator BARTLETT—Could I get a general indication of the size of your workload compared to previous years? You are obviously still developing as an organisation—or it seems that way to me. Is the workload increasing along with it, and how is that being balanced against financial considerations?

Ms Chao—Currently we have 2,740 registered agents. Our complaint rate has increased about 50 per cent since the end of last year, which is an average of 30 complaints per month rather than 20 complaints per month.

Senator BARTLETT—Is that complaint increase generally due to members of the public?

Ms Chao—We have percentages here. About 60 per cent come from members of the public or from registered agents who have encouraged their clients to lodge complaints.

Senator BARTLETT—About other people, I presume, rather than about themselves.

Ms Chao—Yes. Approximately 18 per cent are self-initiated complaints by the MARA, 18 per cent are referrals by the Department of Immigration and Multicultural and Indigenous Affairs, and approximately two per cent are referrals by the courts or the tribunals.

Senator BARTLETT—Is that number of referrals from the courts and the tribunals at an appropriate level? What I mean is: do you perceive that they consider that option as often as they could?

Ms Chao—I think we can certainly improve the understanding by the courts and tribunals of our function and encourage them to refer more matters to us when they are looking at matters under appeal or review.

Senator BARTLETT—Is that your role: to go out and make people aware of what you do? Or is it the department's role to publicise this process? Or is it a bit of both?

Ms Chao—I think it may be a bit of both, although obviously it is in our best interests and those of consumers to actively promote our existence and the functions that we serve.

Senator BARTLETT—In terms of the breakdown of your workload and, probably more importantly, the breakdown of costs, how much money do you set aside for the publicising side of things? Is this something you do specifically as a separate task: go out and educate agents and other relevant organisations about your role? Or do you just try to fold that in while you are doing everything else?

Ms Chao—Our executive officer estimates that last year about \$50,000 would have been spent on those aspects. As part of our planning we do take into account promoting and raising awareness of our functions. We use such things as posters, the *Yellow Pages* and continual improvements to our web site. Thank you, David.

Senator McKIERNAN—David can contribute as well.

Mr Mawson—Yes, I can; I am trying not to interfere with the flow.

Ms Chao—Or the lack of flow.

Mr Cope—I am not sure whether these are picked up in the two to three per cent referred by the tribunals or courts but there are occasions where the MARA—either through the secretariat, the board members or other agents—would actually find a case, a reported decision, where there may be reference to an agent, particularly in the sense of not filing documents or causing problems to the court in terms of some delay. In those circumstances, while it may not be a direct referral, the fact that the court in its decision has actually noted an agent's conduct as a migration agent would then allow the MARA itself to initiate its own investigation into that agent's conduct or the circumstances involved. It may not result in a sanction but it would certainly trigger an investigation.

Mr Mawson—To clarify Mr Cope's answer, within the numbers that we have just talked about the referrals by the tribunals are where the tribunal has clearly identified within its decision that it is going to report the matter to MARA or the judge or tribunal member has actually sent a copy to us. We also monitor court cases through some of the technologies that are available and where we find that the activities of an agent breach the code of conduct or the various court rules we then refer to that as a MARA initiated complaint.

Senator BARTLETT—You are saying that you have an increase in the complaint rate—which, I assume, is due more to your greater effectiveness and a greater awareness of what you are doing rather than more people doing dodgy things out there; I hope that is the case—

Mr Mawson—Yes.

Senator BARTLETT—Do you run up against the problem that the more complaints you get the more your budget gets stretched?

Ms Chao—Yes.

Mr Mawson—Absolutely. One of the things that is happening is that as the industry itself is maturing the agents within the industry are taking more responsibility for the actions of their peer agents and are encouraging their clients, where the clients have been somewhat disadvantaged, to complain to MARA. So we are seeing the industry itself starting to drive its own complaint process, which is an excellent thing. However, that does put a load on our

resources. We have a limited number of staff and, as we have identified, since the beginning of this year the complaint load has significantly increased and we do not have the resources to continually have that sort of growth within our current budget process.

Senator BARTLETT—So in some ways, the more you get out there publicising your role and what you do, the harder you make life for yourselves?

Mr Mawson—Absolutely. That is one of the difficulties. The more you publicise it and encourage people, the more you run into this problem. Some people have honest issues but there are also some people who are just using the process to put some pressure on their agent or in the belief that they will influence the visa outcome. We spend quite a bit of time assisting people to understand that we cannot help them with their visa outcome. Where there are issues with the agent, we have worked through those, although I think it is significant that we have a large number of matters where no breach of the code of conduct is found and the complainants' claims are not necessarily proven and issues exist about whether the complainant is being honest about what they are claiming in the first place.

Senator BARTLETT—I presume there are different types of complaints—some that are fairly easy to follow up and others that are a big deal. When assessing which ones to focus on, do you go in order of complaints received or do you say, 'This one looks like a serious one; we had better prioritise it'?

Mr Mawson—There are priorities given to complaints. We have a system where, following natural justice processes, we evaluate the complaint as it first comes in, and at that point we determine what approach should be taken on it. If it involves matters of fraud or possible criminal activity, we approach it slightly differently, and we have a greater involvement of people who have been involved with that type of complaint. Otherwise, a normal complaint will just be processed out to the agent, and they get to respond. Other times we will look at a complaint and say, 'This is a very serious complaint, it needs urgent action,' and we fast track it through the process.

Senator BARTLETT—What sorts of formal information links are there with the department?

Mr Mawson—Through section 321, we are able to obtain personal information from the department. We also have regular meetings with the investigations section of the department, to ensure that we are not crossing their boundaries, because we do run across the same agents, and we have some common interests where there is an agent involved and they may have some people who are advising clients in breach of the law. Therefore, we work through the central office of the department to have a coordinated approach on those issues and make sure we are not creating any problems for their prosecutions.

Senator BARTLETT—An issue that I recall has come up a little in the past in terms of specific practices relates to communication flows and follow-up on things. Is it the view of MARA that, from the department's side of things, those are adequate, or is there scope for improvement?

Mr Mawson—Generally, the communications are very good. I cannot talk for the board itself, but I have seen some frustration from the board about the speed at which some of the unregistered practice matters have been handled. However, from an operational point of view, I also have an understanding that the department is caught, because of the limitations of natural justice and the procedural affairs they must follow.

Senator BARTLETT—I am just wondering which bits are the legislation, but that is another issue. I am going to have to go, unfortunately, but I have one totally gratuitous question. Is your title of chairman a legislated one or is that something the authority just chooses to use?

Ms Chao—Chairman Chao—my family always laugh about it because it reminds them of Chairman Mao. I think it is more so used in its non-sexist form. It has been used traditionally by the MARA and when I stepped in I thought it was not a matter that required a lot of resource or attention to change, so I left it as it stood.

Senator BARTLETT—It probably is not the top priority. I was just curious.

Senator SHERRY—I am just looking at the MARA budget in the estimates and at the figure of \$2.7 million estimated expenses which declines by just over \$400,000 to \$2.3 million in the year 2002-03. How is that sustainable, given the position that you have already started to outline? Isn't this going to have a significant impact on your operations?

Ms Chao—Yes. Because of those issues we are keen to see the Migration Agents Registration Application Charge Amendment Bill 2002 passed. We have a number of projects that we are keen to proceed with, such as the sound knowledge exam and skill component for initial registrants and the simplifying of the registration process. We are keen to see that bill go through to enable us to—

Senator SHERRY—Do you anticipate being able to make up any of those funds? How are you going to cover your operating expenses given the position you have outlined?

Mr Mawson—We are managing the resources to the current expected number of \$2.2 million—we are aware of that particular number. The way the MARA operates is that it uses the registration fees from registered agents.

Mr Waters—Senator, if I may, I would like to add something here. The \$2.3 million estimate is in fact to cover the MARA until 21 March 2003 because of the sunset clause in the legislation, unless the MARA is, in effect, renewed following the review of the industry which is currently under way.

Senator SHERRY—Notwithstanding that, the figure is reducing by \$400,000 in one year and that is a pretty big hit.

Mr Waters—By the same token, given the circumstances and the timing, this is budget cover to 21 March not budget cover to 30 June. Providing parliament renews the MARA, I would expect an additional budget appropriation would be provided.

Senator SHERRY—I think that would be useful. Certainly the size of it will be looked at.

Mr Waters—I would expect it to be amended to almost \$3.2 million.

Senator SHERRY—I do not want a long debate about the issue of public liability insurance and professional indemnity insurance, except to say that we all know that costs in this area are going up. Do you have any comment to make? Are you getting any feedback from agents about this issue?

Mr Mawson—We have had no direct feedback in the secretariat—some of the members may have. We work with a particular organisation that offers indemnity insurance to migration agents and they have actually worked to get a package together for migration agents which is very competitive. Whilst agents can go to any insurance company to get their own professional indemnity insurance, we have not heard too many comments about that.

Ms Chao—Apart from those who are lawyers, who have seen an increase in their professional indemnity insurance premiums as a result of HIH. This is off the top of my head, but my recollection is that the premiums went up at least threefold.

Senator SHERRY—I notice in your annual report you say:

The Authority strongly supports the need for migration agents to hold professional indemnity insurance ...

I gather from that it is not compulsory for them to hold professional indemnity insurance.

Mr Cope—I was going to mention that the Joint Standing Committee on Migration recommended the notion of introducing professional indemnity insurance. Prior to becoming the MARA, the MIA supported that view. The regulation was inserted into the Migration Agents Code of Conduct, to take effect on 1 July 2000. That has caused 2.3A of the code which, without reading too much, says:

The Authority recommends the holding of adequate professional indemnity insurance as a suitable arrangement.

That is, an arrangement to assist clients. So, at this point, there is no mandatory requirement to hold professional indemnity insurance but there is an intention to move the industry from having no professional indemnity insurance—lawyers with practising certificates clearly would have professional insurance—to having insurance. For that reason, we have tried to work closely with an insurer to ensure that there is at least one insurer out there with a product.

Senator SHERRY—I understand. It is commendable to have a group, and there is an efficiency in having group indemnity insurance. But it is not compulsory, though, is it?

Mr Cope—That is correct.

Ms Chao—That is right. To answer your question, it is not compulsory. My understanding is that it was not made compulsory at the time because of the non-commercial sector of the migration advice industry.

Senator SHERRY—Do you think it should be compulsory? Isn't there a risk that if something goes seriously wrong and they do not hold professional indemnity insurance—

CHAIR—Senator Sherry, I think you are asking the officers for an opinion on a policy issue that they may not be either prepared or equipped to respond to, but I will leave that in their hands.

Ms Chao—It is a policy issue, Senator; however, I would like to say yes.

Senator SHERRY—Thank you. What proportion of agents are currently covered by professional indemnity insurance?

Mr Mawson—We do not have that information. While we have worked with the insurance organisation to have the process in place, because migration agents are free to choose their own professional indemnity firm and there is no requirement to report that, we have no information on that.

Senator SHERRY—Does the Financial Services Reform Act cover this area of the disclosure of fees and charges, the standardisation of the disclosure of fees and charges?

Mr Mawson—We are not aware of that. However, migration agents are required to disclose their fees under the code of conduct.

Senator SHERRY—Yes, I am aware of that. I just wondered whether the FSR Act would cover you in this area. Would you take that question on notice?

Mr Mawson—Yes.

Senator SHERRY—On the issue of fees and charges, do you have information on what are the fees and charges? I notice the complaints in this area are about eight per cent. Do you have any information on that?

Mr Mawson—The information we gather is only from the complaints we receive and from anecdotal evidence that we have picked up in various inquiries. There is no centralised information source about fees and charges. Depending on the visa class, but looking at something like a 457—which is the one I see most of—the fees range anywhere from \$50 to \$4,000 or \$5,000. The range is quite wide. Each migration agent evaluates the situation with their client and then charges for that. Certainly there is a very small percentage of individuals who abuse that, but most agents are working within what would be seen to be quite a reasonable range.

Senator SHERRY—The reason I raise this issue, and I think this is true for any particular service, is that it is critical from the consumer point of view to at least have some understanding of what the range of rates is. That is an important element of making any decision to select a provider of any service. You might give that issue some greater consideration in the context of the other issue we have raised. What assumptions have been made about the number of new and continuing registrations from commercial and non-commercial migration agents?

Mr Mawson—The current industry has 2,740 migration agents. The low point for the industry was, I believe, in January 2000, when there were just on 2,000 agents, and it has grown considerably since then. The change has been created in two parts. This year we will have about 600 new agents coming into the scheme, and we have a higher retention rate of those agents who have already come into the scheme. That contrasts with what occurred in 1998 when the MARA came into the scheme. There were 2,600 agents in that first year; 800 agents left the industry and just under 500 came into the industry. Now 500 a year have been coming into the industry and we have been losing about 500 every year. But, as I have just stated, the numbers are changing dramatically. This year we expect only about 360 to leave the industry, so we are seeing more stabilisation occurring in the industry.

Senator SHERRY—The churn rate, if you like, on those figures must have been about 20 per cent.

Mr Mawson—Twenty to 25 per cent—very high.

Senator SHERRY—I was just going to raise the issue. That was high and you appear to indicate it is dropping. What difficulties does that present to the regulatory system? It must make it much more difficult to regulate in terms of workload.

Mr Mawson—The registration churn does create issues of workload within the secretariat and for the board itself, because each applicant on initial registration is considered very carefully against the requirements of probity. They have to be a fit and proper person et cetera. Then each year, the next registration year, every agent in the system is again reconsidered. There is a reconsideration of every agent every year. That means that the board itself has a higher workload to go through because it is the board itself that makes that decision.

Senator SHERRY—Is there any emerging evidence of agents operating overseas? What is the form of regulation in this area?

Mr Mawson—The number of agents operating overseas at the moment is, I believe, about 75—I do not know the number exactly. That number is very slowly increasing, although we are seeing a slight acceleration. Remember that people who wish to be a migration agent must be an Australian citizen, a New Zealand citizen who is in Australia at the time of the decision or an Australian permanent resident. Therefore, that limits the number of people who are overseas who could be anywhere near the jurisdiction of the authority. Those people who do sign up are submitting to the authority's jurisdiction. Other than that, we have no jurisdiction outside of Australia.

Senator SHERRY—That must create a difficulty, surely, because at least some of the activity must occur overseas, and trying to regulate or oversight must cause some difficulties.

Mr Mawson—There are some difficulties with that. Certainly we do get complaints about individuals who are operating overseas who are not even registered in our scheme. We know of instances where overseas agents are saying that they have business relationships with agents in Australia, and that is not correct. However, a number of submissions have been made in the review that is about to close, and certainly the authority has expressed some concerns about that.

Senator SHERRY—I do not know what happens overseas in other jurisdictions, but I assume that they do not have the same level of regulation in most other jurisdictions.

Mr Mawson—In most other jurisdictions, that is correct. England has a scheme which has some voluntary basis to it and some compulsory basis to it. New Zealand is looking at the Australian scheme, I understand. We have had some discussions with the migration agents in Canada and, recently, we have had some questions from Korea. But, for immigration processes, Australia is leading in the registration scheme.

Senator SHERRY—There are a couple of other issues I might put on notice.

Senator McKIERNAN—With regard to the overseas thing, Canada is probably the country that Australia is most compatible with. Is there anything happening in the area of migration agents registration, control of agents, within the Canadian system?

Mr Mawson—Not at the moment. They are looking at it. We have a number of delegations from the migration agents' organisation in Canada to the MARA and to the MIA. However, there have been some issues because of their constitutional processes in Canada. They are not able to invoke it in the same way. It is a different constitutional process.

Senator McKIERNAN—Yes, and indeed the bill of rights in Canada is another factor.

Mr Mawson—Yes.

Senator SHERRY—Do you contribute to the public sector superannuation funds?

Mr Mawson—No, we do not. We act as a private company, and so each employee chooses their own superannuation fund.

Senator SHERRY—That looks like a base rate of superannuation there?

Mr Mawson—That is right.

Senator SHERRY—I notice that your cleaning expenses in the year 2000 were \$2,934 and they were zero in 2001. Does that mean you are working in very dirty offices or doing your own cleaning?

Mr Mawson—When the MIA took over the scheme, we had a certain number of projections of what the scheme would look like. It took about a year and a half for us to determine that the projections were a little off beam and we had to move premises. Under our new leasing arrangements, the cleaning is including in the lease.

Senator SHERRY—I suspected that might be the case. Looking at the increase in the rent, from \$73,000 to \$136,000, I hope that is not all accounted for by cleaning?

Mr Mawson—No, Senator. A number of matters arose. Two years ago, we had the Barlow experience, which showed us that we had to have some open space available to us, and so we have designed an office which allows us to have a work area but where we can still take a huge number of client files in an emergency. We also had to allow for growth of staff and so on. That is the space we took, and that is what our projections have been working to.

Senator COONEY—How many complaints do you get from overseas—Afghanistan, Iran and Iraq—about people not getting proper treatment? Do you get any at all and, if so, how many? If you do get any, what do you do? Do you go over and see them or what?

Mr Mawson—I am not aware of any complaints coming from Iraq, Afghanistan and that area. We certainly get a number of complaints from India and China. We have not segmented our complaints by source country. We do all our communication by correspondence or telephone, and we have a significant cost in translations and so on, because complainants can make complaints in their own languages, and so interpreters and translators do very well out of us.

Senator McKIERNAN—Regarding the dialogue you had with Senator Sherry about actions and activities overseas, I regret I was distracted with something else that was happening at the time. When you were talking about agents overseas, were you talking about persons who are acting as migration agents who are foreign nationals operating in their own countries or were you talking about registered Australian migration agents who have links overseas?

Mr Mawson—We have approximately 75 agents registered in the Australian scheme. Some ballpark estimates put the number of individuals who may act as agents outside Australia at between 2,500 and 4,500. They are individuals who can read the language and help their local people, but we have no control over them.

CHAIR—The committee has no further questions for the witnesses from MARA. On behalf of the committee, thank you very much for your assistance with the committee's examination of budget estimates this morning.

Proceedings suspended from 10.34 a.m. to 10.40 a.m.

CHAIR—We will resume the estimates public hearing with output 1.5, Offshore asylum seeker management.

Senator McKIERNAN—I would like to start with the question I attempted to ask yesterday on the number of persons in detention in overseas facilities—if that is the right terminology.

Mr McMahon—Persons accommodated overseas. Currently there are 1,442 people in our offshore centres, 1,102 of those on Nauru and 340 on Manus. That is down from the original total of 1,515. The ethnic composition is as follows: on Nauru there are 753 Afghanis, 301 Iraqis, 27 Palestinians, 15 Iranians, five Sri Lankans and one Pakistani; on Manus there are 318 Iraqis, six Turks, six Bangladeshis, four Iranians, two Pakistanis, two Syrians and two

Palestinians. On Manus there are currently 224 males and 116 females, and the break-up between adults and children is 223 adults and 117 children. On Nauru there are 878 males and 224 females, and the break-up between adults and children is 868 adults and 234 children.

Senator McKIERNAN—What is the status of those persons? I am aware of a couple of press statements that have come down in recent times from the minister about decisions being handed down. The departmental media release DPS 20/2002 dated 17 April mentioned decisions handed down on Nauru and Manus, and the minister's media release dated 23 May mentioned decisions handed down on Manus and Christmas Island. Can you break down the status of the persons in these hand-downs?

Mr McMahan—Yes, Senator. Although there has not been any press release on it because it was a relatively small hand-down, another hand-down of 62 people on Nauru took place yesterday. They were 59 Iraqis and three others. At the moment in total between the two centres 691 people have received decisions, of whom 447 have been approvals and 244 have been rejections. You will have seen from the press release earlier that only seven Afghan decisions have been handed down to date. Those seven were all approvals. They were made by the UNHCR on the basis that no changed conditions would change the circumstances of those people. We are moving towards a significant hand-down of Afghan decisions. That will take place some time in the coming weeks. The situation is that nearly all of the non-Afghans have now received decisions.

Senator McKIERNAN—Thank you for those figures. They paint the real background. There are 447 with approval status. Do those people remain on Nauru or Manus?

Mr McMahan—Not all of them. There have been 64 people who have now been resettled.

Senator McKIERNAN—If I take those 64 from the 447, would that give me the number of persons who have received positive decisions on their applications and remain on Manus and Nauru?

Mr McMahan—Yes.

Senator McKIERNAN—So there are 383?

Mr McMahan—Yes.

Senator McKIERNAN—Of those who have received positive decisions, what is the duration of time they have remained on the island since the handing down of those positive decisions?

Mr McMahan—The first decisions were handed down on 8 April.

Senator McKIERNAN—So we are talking in the region of seven to eight weeks?

Mr McMahan—Yes.

Senator McKIERNAN—What are those people able to do who have been granted a positive decision? Do they remain in detention or do they have freedom of movement in their respective islands?

Mr McMahan—Their movements remain restricted on the basis of the original visa conditions. In Nauru they actually do take people outside the centres for swims and other activities.

Senator McKIERNAN—But those activities include people who are awaiting decisions as well. Am I correct in that assumption?

Mr McMahon—That is correct.

Senator McKiernan—Are those people who have received positive decisions treated any differently then from persons who are awaiting decisions or, indeed, persons who have received decisions that have not been favourable to their application?

Mr McMahon—No, other than in respect of the efforts being made to resettle them.

Senator McKiernan—Are the three groups of people, that is, those who have received negative decisions, those who have remained in processing and those who have received positive decisions, segregated or separated from each other in either of the facilities?

Mr McMahon—No.

Senator McKiernan—I think I have probably covered the statistical information. After my colleagues have finished questions on the statistics, I want to move onto the media reporting of the resettlement of persons who have received positive decisions.

Senator Cooney—Is all this set out on a piece of paper that we could look at?

Mr McMahon—We could table a piece of paper for you.

Senator Cooney—Showing the costs and all those things that people normally ask about.

Senator McKiernan—What information can you give us about the efforts to resettle people who have received positive decisions and those that may receive them in the future? Of course, I am going to ask about the media reports of the Cuba-Iraqi swap or whatever it was called. Could you address that as well as put whatever information you can on the record about the efforts to resettle people who have received positive decisions?

Mr Metcalfe—You would be aware that a number of people have been resettled from Nauru. From memory, New Zealand has taken about 59. Australia, and the minister, have made it clear that Australia will play a role in relation to resettlement but does not regard it as being the only country with a resettlement obligation or indeed the only country with the ability to offer resettlement places. Our focus will be on people who may have ties or some links with Australia.

In relation to resettlement elsewhere, there has been a series of discussions with UNHCR. Essentially we see UNHCR as being the key organisation able to deal with the resettlement issue. Typically UNHCR will approach other resettlement countries and work with them to see whether there may be cases with a link to that country or where there is a program for resettlement. We know that UNHCR is involved in that work at the moment.

The minister visited a number of countries in Europe recently and there was some media speculation as to whether he was seeking resettlement offers from those countries. He has made it clear that he was briefing those particular governments on the issues that we have been dealing with and simply inviting them to work with UNHCR if there are cases linked to those countries or other resettlement opportunities. It was not a case of going and seeking resettlement places from those particular countries. The minister has made that point a number of times, and he has also made the point that the issue of whether particular countries will offer resettlement is a matter for them to announce rather than Australia. He does not intend to say anything in more detail about that. In other words, the issue of resettlement is under way. Some people have gone and further work is under way now.

Senator McKIERNAN—As I understand earlier media comment and statements by the minister, those agreements with Manus and Nauru are for a limited time. If there are delays in finding solutions to the resettlement of people or, indeed, the removal of those who are seen to not warrant protection, what moves are afoot? Is this within the ambit of the Department of Immigration and Multicultural and Indigenous Affairs? Are there continuing negotiations with those governments for those people to remain on those islands? What is going to happen to those people when the deadline for those limited time agreements arrives?

Mr Killesteyn—Can I just clarify the agreements, because the nature of the agreements with Nauru and the PNG government are slightly different. There is no effective termination date of the agreement with Nauru. There is an expectation within the agreement that people are processed quickly, and there are some broad time frames established in the agreement, which talks about six months or as reasonably short a time as is necessary to complete that processing. But, as to a termination date, the expectation is that the processing centre in Nauru will continue. Our understanding with the government of Nauru is that we can have up to 1,200 people in the processing centres at any one time for a period which continues until either party decides to terminate the agreement. The agreement with Papua New Guinea is different—it does have a sunset clause. At the moment that is October of this year.

It is within the context of those agreements, therefore, that the negotiations with other governments to resettle those people who have been found to be refugees, as well as the return of those who are found not to be refugees, is taking place. It is against that, of course, that the efforts of the minister and senior officials and so forth are going on to try and find the places for people to return and to be resettled as quickly as possible. The UNHCR is taking responsibility for its particular case load—that is, the people off the HMAS *Manoora* which were delivered as well as the group referred to as the *Aceng* group, which is a group of roughly about 530-odd people.

For the balance of the people being processed by Australia, through our efforts we are trying to find resettlement for them. The first resettlement to New Zealand of 59 people has been a welcome development. It allows us to start the process of resettling. I think we are reasonably confident, both in terms of the UNHCR workload and the Australian workload, that we will find appropriate places as quickly as possible but within the context of the limitations of the agreement.

Senator McKIERNAN—I am pleased also to record the cooperation of New Zealand in this matter. There was one other country at the time that offered assistance and very few others have actually offered resettlement assistance on this matter. The one I am thinking about is Ireland. Have there been any further developments in that area?

Mr Hughes—I understand that the Irish authorities were going to have to wait until the election was over before making any particular commitments. Now that the election is complete and the results are there, I will be in a position to follow up with them and to discuss firm commitments.

Mr McMahon—Can I just correct some of my earlier figures. Some of the people that were transferred to New Zealand were not approvals—they went on the basis of family relationship—so it throws the numbers out slightly. The number of people on the island who have been approved and who have not been resettled yet would be 397 rather than 383.

Senator McKIERNAN—Thank you. Again, I just want a clarification of your numbers as I very roughly recorded them here. I think you told us there were 1,442 people on both islands

and 691 have received decisions. Would I be correct then in doing a simple subtraction and arriving at a figure of 751 for those awaiting decisions, or have you got a figure on those who would be awaiting decisions?

Mr McMahon—I think about 800 people are awaiting decisions. It is complicated by the fact that people are moving. Some people have voluntarily returned with or without decisions and some people have been resettled with or without decisions. But, if you work on a figure of around 800, I can prepare a more detailed table.

Senator McKIERNAN—You have already offered to prepare those details for the committee. We would appreciate receiving them and would like to check them through. When did processing start on the applications? We cannot start the time lines from the people's arrival in Australian waters or Australian territory, or from when Australian vessels came into contact with them. When did the process start and what are the time lines for decision making?

Mr Killesteyn—The fact that these people are in sites which are relatively remote to Australia has affected the processing times. What has happened is that there has been a process of gearing up. It has taken us some time to be able to put people in place to start the decision making. The processing time varied between Nauru and Manus Island. On my recollection, processing started in Manus at around the end of October for the first group of arrivals. They were the people from the SIEV 4. Processing started a couple of weeks after that for those people in Nauru. The issue for us was the infrastructure in both Manus and Nauru—to be able to put sufficient numbers of case processing officers there to maintain a reasonably quick flow-through. It was also at a time when we had the Christmas breaks. All of that has added some delay in finalising the decisions. At the same time, we have had to try and align our processes with those of the UNHCR. They have also been hamstrung with the resource availability that they have been able to put there. As they have been trying to grapple with some of the issues in Afghanistan, they have had some fairly significant constraints on their resources. Those sorts of issues have added to the time. But, as Mr McMahon said, we now have a bit of momentum. The first decisions were released on 8 April.

The other factor was the changed circumstances in Afghanistan. Of the bulk of those cases which are still outstanding, roughly 800 are primarily Afghan cases. The need to reinterview a lot of those people, but also to wait for the circumstances in Afghanistan to develop, has added some element of delay. I think you will find now that, since the beginning of April, we will have momentum and we will see the decisions completed over the next few weeks for that group of people who have been on Manus and Nauru for some time.

Senator McKIERNAN—As I complain about the time constraints we are under, I will curtail my questions at this stage, but I may come back later. I will stop at this time to give my colleagues an opportunity.

CHAIR—As we knew from last night, Senator Crossin had some questions in output 1.5 in relation to the new Christmas Island development. She has other commitments in another committee. She will leave that committee to come here, so we may come to the Christmas Island development sooner than you had perhaps intended, Senator McKiernan. We will keep going on the numbers at this end. Senator Cooney and Senator Ludwig, do you have any questions in this area?

Senator COONEY—Do we have the costs of the camps that have been built on these islands? Mr Farmer, could we get details of all those things, such as the cost of the contractors and of outsourcing? Did UNHCR or Australia make the decisions?

Mr Killesteyn—It varies. There is the original group that went to Nauru, which is the group from HMAS *Manoora*—they were the group that was rescued from the *Tampa*—as well as a group from a subsequent boat from Indonesia called the *Aceng*. The government of Nauru approached the UNHCR and sought their support. The UNHCR agreed to process that group and they have been working on that group of some 530 people since that time.

Senator COONEY—But that is at no cost to Australia at all, is it?

Mr Killesteyn—We have committed to cover all of UNHCR's costs.

Senator COONEY—Have we?

Mr Killesteyn—Yes. The balance of the group, some 1,000-odd people, is being processed by Australia.

Senator COONEY—Do people go up from here?

Mr Killesteyn—Yes. We have both DIMIA officers and other people from the Australian Public Service involved in managing the centre there, including DFAT officers and officers from the Australian Protective Service, for instance. They are stationed there.

Senator COONEY—Can we get the cost of that?

Mr Killesteyn—A lot of that information has been provided to the inquiry into a certain maritime incident, but we can provide that on notice if you like.

Mr McMahon—The additional estimates, which have the costs for 2001-02, provided for \$114 million.

Senator COONEY—But they are provided. Is there any outsourcing? I am pursuing a line of insisting that these committees should be entitled to look at the costs of any outsourcing in detail, not just a general figure but how much each person was paid. If all this has been revealed already, I am not terribly worried about it. Are there any costs in respect of all this that you have not felt able to reveal?

Mr McMahon—That is an interesting question. Basically, the great bulk of the money we are paying goes to IOM.

Senator COONEY—What is IOM?

Mr McMahon—The International Organisation for Migration, which runs the centres. Essentially, they have a range of commercial relationships with other people. It could be Eurest, or whoever, in respect of the provision of food; it could be Chubb in respect of perimeter security. We meet both our own costs for sending people there to do the processing and the costs of some other agencies, in particular the Australian Protective Service. They do the more active security within the centres in conjunction with the respective police forces. We did provide a break-up of the \$114 million in the additional estimates context.

Senator COONEY—Who runs IOM?

Mr Metcalfe—IOM is an international organisation that is not affiliated with the UN but works closely with UNHCR. It has been in existence since about 1950, when it was originally called the International Committee for European Migration. But it changed its charter and now has a global outlook. Roughly 70 countries are members of IOM. Australia has been

involved with IOM for many years. It is probably the pre-eminent world body dealing with the movement of migrants. It is a very practically oriented organisation that assists with the movements of refugees and other things. For example, in East Timor IOM was engaged by UNHCR and by the international community to assist in the repatriation of the refugees from West Timor back to East Timor. So we work very closely with IOM in a range of areas, and this latest work is simply an example of work we do all round the world.

Senator COONEY—But they are financed themselves, I take it.

Mr Metcalfe—They operate on the basis of contributions from member governments, and Australia has for many years made contributions. They also operate on a cost recovery basis. So some of their activity—for example, the work they are doing with us in Nauru and PNG—is done on the basis that their costs are recovered.

Senator COONEY—And that is all out in the open already, is it?

Mr Metcalfe—It is all there, yes.

Senator COONEY—How are the people lodged up there? Were camps built? I should be on to this, I think. What happened? Did somebody build houses?

Mr Killesteyn—It varies.

Senator COONEY—Any of it—who did the building of whatever was built?

Mr Killesteyn—Again, it varies according to the site. In Nauru, for instance—

Senator COONEY—Do we have details of all that already?

Mr Killesteyn—I am not sure whether there are those sorts of detail, but it is certainly public information that the site in Nauru was initially built by the Australian Defence Force. We were under some time constraints and they provided an engineering task force to construct the sites.

Senator COONEY—Were there any private contractors at all that did any of the work?

Mr Killesteyn—Subsequent to the initial accommodation, IOM continued to develop the sites and built accommodation in Nauru. On Manus Island the sites were pretty much already established. It is an operating naval base for the PNG navy and much of the accommodation is based upon existing nissen style huts that were there already. As part of its service arrangement with DIMIA, IOM have refurbished a lot of that accommodation as well as bringing in new accommodation to house extra numbers.

Senator COONEY—Were any local contractors used?

Mr Killesteyn—Yes, local contractors have been used both in Nauru and Manus. One of the important economic spin-offs for those two countries has been the additional employment.

Senator COONEY—Are details of all that out in the open? Could you go and get the information that, for example, Mr Smith built three huts for whatever price and here are the receipts signed by you, Mr McMahon, or somebody else from DIMIA?

Mr McMahon—Many of the developments, particularly in more recent times, have actually been undertaken by IOM directly between them and the contractors. We have mechanisms in respect of overseeing what IOM is doing.

Senator COONEY—Do we have details of the contracts between IOM and whoever they contract to—which we have reimbursed IOM for?

Mr McMahon—No, we would not have copies of their contracts in general. We certainly have details, and we look at the accounts fairly closely as they come in, as to what the expenditure is.

Mr Killesteyn—It is not terribly complicated. There are a few basic contractors that IOM use. IOM essentially provide their staff to manage the centres. They provide centre managers. Beyond that they contract with an organisation called Eurest. Eurest is an organisation which provides facilities for mining sites and so forth in terms of food and, of course, a lot of that food they provide is culturally appropriate for the population. There are contracts for security with Chubb and with Protect Security, an organisation within PNG. Then there are a number of other relatively minor contracts for small construction type work, which is where the local labour is engaged.

Senator COONEY—All I am trying to do is, for one thing, to see if we have all the accounts available for people to see and for this committee to see and, secondly, to try to identify whether there is any direct evidence we can get from people who are there. You are giving us an account of what you have been told.

Mr Killesteyn—More than told; I have been there on several occasions.

Senator COONEY—Presumably you have looked at these records.

Mr Killesteyn—A lot of the payments were approved by me or, from time to time, by Mr McMahon. We have seen the construction work ourselves and IOM, as the service provider, are responsible to us to properly account for their expenditure of moneys.

Senator COONEY—I understand that. Who designed the places to stay? Was that you and Mr McMahon?

Mr Killesteyn—Do you mean designed the accommodation?

Senator COONEY—Yes.

Mr Killesteyn—The accommodation is basic. The accommodation in Nauru would be described as long houses, and this is pretty much the same sort of accommodation that the Australian Defence Force was using in East Timor.

Senator COONEY—What is the significance of that?

Mr Killesteyn—They were constructed by the Australian Defence Force. They are long, barrack style accommodation. Some private accommodation has subsequently been provided. The accommodation on Manus was already there. It was not designed. They are nissen huts used by naval personnel, both by the Australian Navy personnel when we were operating the base up until the mid-1970s and subsequently by the PNG navy.

Mr McMahon—Subsequent to that, it has largely been demountable, airconditioned accommodation which has been configured along the same lines as it is configured, for example, in Coonawarra and Darwin: rows of demountable accommodation with covered areas in between.

Senator COONEY—I did not know that we had Australian troops still in Papua New Guinea using these huts.

Mr Killesteyn—We did not. The base was an operating base for the Australian Navy up until about the mid-seventies. At the time of independence, that was of course handed over to PNG.

Senator COONEY—You would not have been working in the seventies.

Mr Killesteyn—I was in short pants at the time. At that time it was handed over to the PNG navy and they have been using it ever since.

Senator COONEY—You said you were going to give direct evidence because you were there. I had visions of you in short pants. You have been told about that bit.

Mr Killesteyn—Yes. That is a piece of history.

Senator COONEY—And you have no reason to doubt that the history is accurate.

Mr Killesteyn—Indeed I have not, but more than that can I suggest that you talk to one of your colleagues. The shadow minister for immigration, Julia Gillard, has also been to both centres and has seen what has been established.

Senator McKIERNAN—Senator Cooney asked some questions about the costs that have been incurred. Have those overall figures been given? If they have been given, say so and we will move on, because I do not want to repeat the questions.

Mr McMahon—I will run through it very quickly. We had an additional estimates provision last year of \$114 million. That provision will be very substantially underspent. The budget has a provision of \$129.3 million. That is at page 43 of the PBS.

Senator COONEY—We cannot examine the decision makers, can we? The UNHCR is not subject to us—or are they?

CHAIR—I certainly do not think they are in the budget estimates process, Senator Cooney—or not that I am aware of.

Senator COONEY—What about the other ones? Can we fly some decision makers up?

CHAIR—Which decision makers did you have in mind?

Senator COONEY—The ones who work in UNHCR. There are some who are local to Australia.

CHAIR—Mr Killesteyn has just sent Mr Hume up there to assist you in some of those areas.

Mr Hughes—The Australian decision makers are the same people who make the onshore protection decisions. Our staff who can make those decisions within Australia travel to Nauru and Manus to assess the cases there.

Senator COONEY—They cannot go to the Refugee Review Tribunal. I am just thinking that maybe we have been negligent in not asking the Refugee Review Tribunal about this. They cannot do that, can they, Mr Metcalfe?

Mr Metcalfe—Sorry?

Senator COONEY—For people in respect of whom decisions were made by people down here.

Mr Metcalfe—Pursuant to legislation passed by the parliament last year.

Senator COONEY—Yes, but they cannot appeal, can they, to the Refugee Review Tribunal?

Mr Metcalfe—That is correct.

Senator COONEY—I am simply asking, Mr Metcalfe, because we might be seen to have been negligent in not asking the Refugee Review Tribunal questions about this when they were here, but we did not have to because they had no authority.

Mr Metcalfe—That is right. I do not think the RRT would be able to offer an opinion.

Senator COONEY—That is right.

Mr Metcalfe—So I do not think you should regard yourself as having been negligent.

Senator COONEY—Thank you.

CHAIR—That is a great relief to all of us, Mr Metcalfe.

Mr Killesteyn—We understand that those people who have a negative assessment can then have a further review of that assessment by an independent, more senior officer. So there is a review process established, but it is certainly not one that is established by virtue of any legislative force.

Senator COONEY—That is a precaution taken by the department.

Mr Killesteyn—It is an administrative arrangement but it is also modelled on the arrangements that UNHCR adopt. We have tried to align ourselves as closely as possible with well-trying and proven processes that UNHCR have adopted all over the world for many years.

Senator COONEY—Since 1950.

Mr Killesteyn—Whenever the UNHCR was established.

Senator COONEY—You would not even have been in short pants.

Mr Killesteyn—That is right—maybe in nappies.

CHAIR—That is way too much information, Mr Killesteyn, but you did elicit it, Senator Cooney, so let us stop at that part.

Senator McKIERNAN—I have to put this on the record now. We have just celebrated the 50th anniversary of the UNHCR and, whilst I have not formally declared it yet, I am wearing on my wrist a 50th anniversary UNHCR watch which was given to me by the UN High Commissioner for Refugees.

CHAIR—Now you have inspired feelings of envy and jealousy in members of the committee, Senator McKiernan.

Senator McKIERNAN—That was the intent.

Mr Killesteyn—I hope you declared it.

CHAIR—Yes, Mr Killesteyn, we are all hoping it has been declared appropriately.

Senator McKIERNAN—It has also given me the opportunity to search through my papers to see what other questions we have on this issue. Do you know if any consideration was given to the fact that Nauru, as a nation state in the Pacific, had quite a poor reputation for being a tax haven or a haven for possible criminal activity? Was any consideration given to any downsides in establishing a very close relationship between Australia and that country?

Mr Farmer—That broad question is really beyond our competence, but perhaps I could just make a remark in relation to it. Australia and Nauru have a relationship that goes back many years and one that, in a number of respects, is still current and important, all things being relative. For example, the participation in the South Pacific Forum is of long standing, and there are a number of South Pacific regional matters where the two governments have cooperated over a long period. In terms of development cooperation and diplomatic relations, there is a relationship there that, again, is of long standing. There is a trade relationship. Nauru has, by its standards, some substantial investments in Australia. I think that the totality

of the relationship—again, all things being relative—has been a pretty broad one. I am not strongly equipped to comment on this but, as I understand it, that relationship has certainly not prevented our government making its views known on a number of matters to Nauru. Beyond that, we would be getting into water that would be over our heads.

Senator McKIERNAN—And there is a lot of water in the Pacific, isn't there!

Senator SHERRY—Just on that issue, there is well-established corruption in Nauru, which has been linked to their commercial activities in Australia. There are substantial amounts of Australian taxpayers' money going to the Nauru government. Given the problems that have emerged with respect to some people in the Nauru government, we should be very mindful of payments made to the Nauru government and where it may all end up. There is ongoing litigation involving investment activities on behalf of the Nauru government in Australia and there is litigation stretching back the best part of a decade, as I understand it.

Mr Killesteyn—In the context of the operation of the processing centre in Nauru, there are no direct payments that go to the government of Nauru. Those payments are made direct to the International Organisation for Migration. There are other payments, of course, which are made in the context of the aid program, which I cannot nor am I competent to comment on. From the processing centre perspective, it is the IOM who runs it, the payments are made to IOM, and we have processes with the IOM to fully account for the way in which those moneys are spent.

CHAIR—I was going to indicate that some of Senator Sherry's questions go to the portfolio of foreign affairs in that regard. Senator Sherry, there may be some matters that you raised then that the minister might wish to comment on but which the officers are not necessarily able to comment on.

Senator COONEY—I was just thinking that when we have a crossover of portfolios what we could do in the future—especially with you in charge, Madam Chair—is to have two or three departments in together so that the secretary of one could say, 'That is a Foreign Affairs question.'

CHAIR—Thank you for that suggestion, Senator Cooney. I am sure that will be considered in the drafting of the estimates reports.

CHAIR—Senator Sherry, timing, as they say in politics, is everything. If there are aspects of that question that you wish to put to the minister, please do so. By way of clarification, Minister, the issue we are discussing is the matter of offshore asylum seeker management. Most particularly in this case Senator Sherry was raising some concerns about Nauru, concerns that I thought were better directed to you, as minister, than to officers of the department.

Senator SHERRY—I raised the issue of serious allegations, some of them proven, about levels of corruption in the Nauru government. In light of the Commonwealth's involvement in Nauru via a variety of activities that are now located there and payments that are made, I just wondered whether the minister has any comment on this issue. There are ongoing commentaries in the media about the Nauru government's financial difficulties—their investments, largely in Australia, as I understand; the sustainability of those investments; and the very sustainability of the economic future of the government and the country itself. Some of those involve allegations of corruption, some of them proven.

Senator Ellison—The payments you are talking about, Senator Sherry, are not any payments from government to government. You are talking about corrupt payments—bribery?

Senator SHERRY—There are issues of donations of aid to the Nauru government, but we have also located facilities there. So there is the issue of whether allegations of corruption involving some people in the Nauru government, some of which are proven, are being taken into account when making payments to the Nauru government by way of aid and also when locating facilities there.

Senator Ellison—Senator Sherry, I think the department has mentioned that payments have been made to the IOM in relation to the building of facilities. Any aspect of aid is in the area of the Department of Foreign Affairs and Trade, and we have the usual strict requirements that go with that. Certainly, it is of concern if there is any corruption in this process. Of course, that is something we are always on guard against. I am not aware of there being any such problem. The payments made to the IOM have been for those facilities and the aid given is in the area of Foreign Affairs. I will refer your question to Foreign Affairs and to the minister and see if there is anything they can add to it.

Senator SHERRY—Thank you. In respect of the programs that we have been discussing, there is an indirect benefit to the economy and to the government of Nauru. My concern is that there are very extensive allegations. I am always a bit sceptical about anything I read in the media, but the allegations are so widespread as to raise serious concerns. The Russian Central Bank has apparently said—and I must say that I find this figure quite extraordinary—that \$130 billion has been laundered through Nauru by the Russian mafia. That is just one of an ongoing series of commentaries about issues relating certainly to some elements of the Nauru government.

Senator Ellison—I will refer your concerns to the ministers concerned. A lot of countries have allegations of corruption and things of that sort made against them, but we do not necessarily suspend relations with them because of that. The South Pacific is an area that we look at closely in relation to things like money laundering and the presence of transnational crime. We have a South Pacific police ministers forum and a police commissioners forum to deal with that. In fact, the Asia-Pacific Anti-Money Laundering Conference has its meeting in Brisbane early next week and I will be opening that conference. We have had cooperation in relation to money laundering from Nauru and other countries in the South Pacific area, and we would want to continue with that cooperation rather than do anything to put an obstacle in its path.

Senator SHERRY—It is not just the money-laundering issue; Nauru is an interesting case because it has a very substantial proportion of its assets in Australia, dwindling rapidly apparently due to a series of scandals and swindles. I do not want you to comment on operational matters. I know some of these matters are still in the courts. The presence, if you like, of some of these commercial assets and some of the individuals involved in the cases is not just confined to Nauru. There is a very substantial Australian connection in this area.

Senator Ellison—I cannot go into anything operational. If you have some information about anything untoward that you can provide us, we will certainly look into it. I do not think I can take it further than that.

Senator McKIERNAN—I have reflected on the questions from the last estimates. Question No. 100 from Senator Bartlett was replied to on notice. With regard to the earlier question I asked—you took it on notice—if there is a need to update, amend or change any of the information contained in this response to question No. 100, it would be appreciated.

Mr Killesteyn—We will have a look at that.

Senator McKIERNAN—Question No. 101 at the last estimates was from me. It was with regard to the chartering of an aircraft that went from Christmas Island to Nauru and back, and back again and back again. You have not included in that the costs of the charter. Is it possible to get those figures? My interest in the matter arose because it seems to be an extraordinary process of back and forward and back and forward with refuelling stops on the way. You have explained some of the difficulties in regard to that.

Mr Killesteyn—I think the context was explained by Ms Godwin at the time. We can provide an update of the figures.

Senator McKIERNAN—Thank you. How are officers of the department who have to serve on either Nauru or Manus are covered from an industrial relations or human resources point of view? Have any special provisions been brought in to cover their contracts and industrial agreements because they have had to move in a short time to those places?

Mr Killesteyn—All DIMIA employees are covered by the certified agreement, which provides some specific allowances to people who serve periods in localities such as Nauru and Manus or, indeed, go on other short-term missions to places which are by their very nature uncomfortable places to work in. Additional allowances are paid to people; they receive the normal sorts of travel allowances and so forth but also an allowance in the nature of a disturbance allowances or a ‘remote localities and exceptional circumstance allowance’, as it is called under the certified agreement.

Senator McKIERNAN—Has there been any difficulties in that regard, from the officers’ points of view?

Mr Killesteyn—No. We have found generally that there are many employees who are keen to experience the type of work that they get in Nauru and Manus, so encouraging people to go has not been a problem. We find that the allowances that are being paid are quite well regarded by those employees as an adequate compensation for the difficulties that they face.

Mr Farmer—Perhaps I could give you a bit of background, Senator. We introduced this sort of allowance to take account of the exceptional circumstances that do arise. As you know, we had a need a few years ago to send officers to Skopje in the Former Yugoslav Republic of Macedonia to process the Kosovars who were coming here on a short-term basis. I thought that sort of reaction by public servants to very short-term and urgent needs was really quite outstanding, and it seemed to us that in the nature of our work that sort of phenomenon was going to happen again. That is why, in the context of our certified agreement, both management and the unions and staff reached quite an easy agreement on this provision. We wanted to make sure that not only were we able to take advantage of the demonstrated readiness of DIMIA officers to do quite extraordinary things in some quite challenging places and circumstances but that readiness was not being taken advantage of, that we were constructing a regime which adequately compensated them for the difficulties and inconveniences involved.

Senator McKIERNAN—Thank you very much for that.

Senator COONEY—From what you say, the conditions in Manus and Nauru would more than justify the allowances that the officers up there were given—probably not enough.

Mr Killesteyn—We have not had any complaints from the officers about the allowances. As I said before, we have found that there is a great deal of enthusiasm and willingness for people to take on this additional work.

Senator COONEY—But it was tough work and the conditions were pretty primitive.

Mr Killesteyn—Indeed, it is tough work and it is in difficult conditions in terms of the climate and the general area that you are in. It is not like being in the middle of the capital city of Australia.

Senator COONEY—I hope the department did not take advantage of the enthusiasm of the officers so as to not pay them what they really deserved.

Mr Killesteyn—As Mr Farmer said, that was precisely the objective of the remote area and exceptional circumstances allowance.

Senator COONEY—But I am asking whether it is enough. Perhaps you had better not answer that.

Mr Farmer—I think it is measured by the fact that the certified agreement was accepted by a very large proportion of the officers voting.

Senator COONEY—Did the union run its eye over it?

Mr Farmer—Of course.

Mr Killesteyn—They were a signatory to the certified agreement.

Mr Farmer—In this area the department and its officers share a common interest. I want to make sure that we have the right regime in place for officers who are really doing a quite extraordinary job, and I want to do that because these circumstances will recur. They will not be the same circumstances, but over time they will recur and we want to make sure that our conditions package provides the right benefits for people now but is also seen to be an attractive package in the future.

Senator COONEY—Couldn't you have taken the people to a place where better conditions would have been prevailing?

Mr Farmer—Unfortunately, that was not around at the time we were negotiating our certified agreement.

Mr McMahan—We were paid the ultimate compliment—the Department of Foreign Affairs and Trade has now adopted our allowance system in respect of those locations. I should note that there is only one member of staff normally in both centres and other people come in for very short periods of time. We are not talking about a huge number of staff but a small number of well-rewarded and happy staff.

Senator COONEY—Well rewarded?

Mr McMahan—Indeed.

Senator COONEY—That is an admission I would never make from that side of the table.

Mr McMahan—Justly rewarded.

Mr Farmer—Our criterion on all of these matters is that we would be ready to come before the Senate estimates committee and defend our actions. If you think we are paying them too much, I will resist you to the last ounce of my fibre!

Senator COONEY—I do not think you have been paying them nearly enough. I have never thought that you have been paid enough, Mr Farmer, or anybody else, but you come along and say, 'Yes, it is all good.' I thought that you should be saying you are not being paid enough.

Mr Farmer—No, in this case I think we are doing the right thing, and in erring we are erring on the side of making it attractive.

Senator McKIERNAN—I just wish we could take advantage of it. We will not, but it is certainly a change of attitude from other witnesses that we have heard. I have two questions of clarification: on the reintegration assistance for Afghanis and non-Afghanis who have arrived here unlawfully, and on the construction of the Christmas Island facility, are these to be addressed in output 1.5 or do we move to a different one?

Mr McMahan—They are under output 1.5, yes.

Senator McKIERNAN—They are both in output 1.5?

Mr McMahan—Yes.

Senator McKIERNAN—If other people jumped outcomes I would bark at them, so I want to make sure nobody is going to bark at me. On the reintegration assistance to Afghanis in the first instance: we have seen the media release with regard to the offer that has been made and the conditions about the acceptance of it. Can you provide further information about when the offer is actually actioned and details of that? This is about when they are told of decisions, but we have information yesterday and today that there are individuals who have already received decisions. When will this reintegration offer impact on them? When will the clock start ticking on the 28-day period they will have in which to make decisions on it?

Mr McMahan—In a sense this offer cuts across outputs 1.3 and 1.5. I guess I was responding earlier about the offer of assistance in respect of persons offshore. That reintegration assistance offer has been made and has already been paid to one person, who has returned to Afghanistan. The IOM now have another six people who are waiting for their documentation to leave. Of people who have not yet received a decision, and who have been wanting to return, the IOM is expecting a very large number to express an interest in returning as soon as a substantial decision has been handed down. The offer must be accepted either 28 days from the time the offer is made or 28 days from the last decision. If that is a primary decision, it is 28 days from the primary decision unless they seek review. If they seek review, it is 28 days from review.

Mr Farmer—From a review decision.

Mr McMahan—From a review decision.

Mr Farmer—That is an important point, because there have been press reports which have suggested that the 28-day offer is only from the date of the primary decision and therefore would act as a disincentive to people to lodge a review, and that is not correct.

Senator McKIERNAN—I am sorry, we are crossing outputs 1.3 and 1.5, but it is probably better to deal with this matter at this time than to open it again in 1.3. In the event that an Afghani national—we will narrow it to that at this stage—has received a negative primary review decision, they then have 28 days in order to determine whether or not they want to seek review on that, do they?

Mr Illingworth—It is one week, but it is flexibly applied. If an individual raises issues which need to be considered, then those would be considered.

Senator McKIERNAN—It is a bit stronger than that, though, is it not? They have to lodge an application, don't they, within a period of time or they become liable? I am talking to output 1.3.

Mr Illingworth—Offshore processing, the processing on Nauru and Christmas Island?

Senator McKIERNAN—No, output 1.3.

Mr Illingworth—Onshore. It is seven days for people in detention.

Senator McKIERNAN—So, effectively, they have seven days to make up their mind. In the event of a negative primary decision, they have seven days to make up their mind whether to lodge a review application?

Mr Farmer—Yes.

Senator McKIERNAN—If they lodge a review application, the 28-day clock on the reintegration assistance does not start ticking over?

Mr Killesteyn—Until the decision is handed down after review.

Senator McKIERNAN—Then under output 1.3 they have 28 days to seek a review or challenge the review decision in the court. They do not have 28 days.

Mr McMahon—I think it is clearer onshore, in that as far as I know everyone has received a decision and some people have already gone through review. There may be one or two exceptions, but the difference between offshore and onshore in respect of the Afghan offer is that the people offshore essentially have not received decisions. There is no person who has received a negative decision, while the people onshore have basically either all or nearly all received decisions. Many of them have been through review and some of them have no other form of appeal. As I understand the way it has been done onshore, they will receive a formal letter and they will then have 28 days from receiving the letter. But Ms Godwin can confirm that later.

Senator McKIERNAN—I do not think we need to bring Ms Godwin in on this matter. On output 1.5, offshore, Mr Illingworth is saying that there is seven days in which they can make a decision for review. Where would that decision for review be made?

Mr Illingworth—In respect of cases that would be processed by the UNHCR, that would be a review request made to the UNHCR. For those cases which Australia is processing, it would be made to Australian officers and the review would be undertaken by more senior, independent and different DIMIA officers, as outlined by Mr Killesteyn earlier.

Senator McKIERNAN—Would that review body be acting under the aegis of UNHCR or would they mirror the procedures within the Australian Refugee Review Tribunal?

Mr Illingworth—It would not relate to the Australian Refugee Review Tribunal. It is part of the process which we have designed for offshore processing to mirror the processes that the UNHCR conducts

Senator McKIERNAN—Once the decision is handed down by that review body, that is when the clock on reintegration assistance starts ticking for them to make a decision?

Mr Illingworth—Yes.

Senator McKIERNAN—How is the information regarding the offer of reintegration being conveyed to the respective people at this stage, both within Australia and offshore?

Mr McMahon—Offshore, there were discussions with the group leaders, and then there was printed material and IOM conducted sessions because it will be organising the travel. There are two sides to it: (a) to explain what the offer is and (b) to condition expectations that

if someone accepts an offer then they will be catching a plane out the following day. A major issue around that is trying to get documentation, and that has been the major hold-up to date.

Senator McKIERNAN—What pressures will be brought to bear on individuals who have to make decisions within what is a relatively short period of time—28 days—and who might be disadvantaged by not accepting the offer? What information is made available to the people about their home country and how things are settling down there? Who is responsible for conveying that information to the people in the event of their requesting the information?

Mr McMahan—It is possible that Peter Hughes may also want to comment on this, but updated country information has been distributed to all the Afghans on Nauru. They have all been told clearly that they do not need to make a decision until 28 days after they get one. As I said, there have been no rejections to date, so it has not really come into operation offshore yet—the 28 days has not started to tick. They also know that if they seek a review it is 28 days after the review. So it could well be three or four months before they would need to make a final decision.

Mr Killesteyn—Can I say that in this process, which is a deliberately managed process, it is not just a matter of chucking a little bit of information around. Prior to the decision hand-down we have teams that go into both facilities and we start the managed processes of giving them information about what is going to happen in terms of the decision hand-down, what the implications are for them and what the opportunities and options are for them. At the time of decision hand-down we have written material that is provided and translated. At the same time IOM, who are essentially responsible to us for managing this whole process, are providing additional information about country circumstances and so forth and then giving people an opportunity to think about this issue. So they have a lot of information.

At the same time, there is clearly some pressure on people to be making a decision. The process is designed to give people both the information and the opportunity, but also a realisation that, once the review process is complete, there are no further options for them and that the best opportunity for them is then to return home with the reintegration assistance that the government is providing. As I say, it is carefully managed and a lot of effort goes into it. I do not believe there would be any argument that suggests that people are being ill informed or misinformed about what their options are.

Senator McKIERNAN—Thank you for all of that information. It is certainly a little bit clearer to me after those questions. In regard to the assistance to non-Afghanis, there is a figure of 700,000 in the budget statements and there is no figure for the out years while there are out years for the assistance for Afghanis. What that does is convey to me an expectation that the non-Afghani case load will be settled within this coming financial year. Can you develop that for me?

Mr McMahan—Can I ask you what page you are on?

Senator McKIERNAN—Pages 61 and 62 of the PBS—the large one—Budget Related Paper No. 1.12.

Mr Killesteyn—It could mean that we are going to be very successful, of course!

Mr Farmer—That is another way of saying that it may well be that we do not have sufficient surety about the future to make a realistic budget estimate. I think that is probably the explanation. If we can do better than that, we will come back to you on it.

Senator McKIERNAN—I do note that Ms Gray is in deep conversation at the end of the table. I have been trying all week to ask different questions of Ms Gray because of her knowledge of the financial things and my lack of understanding of these matters. I am prepared to wait just a moment to see if there is something more forthcoming at this juncture. If there is not, I am more than happy obviously for you to take the matter on notice.

Mr McMahon—I am sorry, it took me a while to get to the right page.

Senator McKIERNAN—It is actually just after page 60!

Mr McMahon—With my hearing it sounded like 52 and 53.

Senator McKIERNAN—Lucky it wasn't in the 30s!

Mr McMahon—It simply reflects the fact that the package has a limited life. It is not an open-ended package. It is only available to those people who have already made the movement. Consequently, if there are any further arrivals they will not be eligible for the assistance. That was done quite deliberately in that we did not want to encourage movement on the basis of reintegration assistance. It just reflects the fact that we are dealing with a limited and non-renewable pool in respect of the eligibility criteria.

Ms Gray—I just draw your attention to the end of the first paragraph at the start of page 62 where it talks about:

... to extend eligibility to Afghans intercepted by authorities as illegal immigrants in Indonesia and those in Australia on a Temporary Protection Visa but whose claim for permanent protection has been refused.

When we were working through that, the key difference was that there was that aspect as well, whereas with the reintegration assistance for non-Afghans, as Mr McMahon said, is a distinct pool with a limited expectation of what might happen to them.

Senator McKIERNAN—I just wondered why you can have such confidence of success with the non-Afghani case load. You are going to the out year 2004-05 with the Afghani case load. I am not going to labour the point here. It came to me as just a little bit of a surprise. Before I leave this area, what was the level of acceptance of the reintegration assistance package that was offered to the Kosovos who were here on safe haven visas as well? This is not one I want answered now, Mr McMahon. I know you probably have that information indelibly impressed into your brain.

Mr McMahon—I am glad you are so confident of my memory skills. Just so we do not labour the point, as I understand it, with the reintegration assistance for Afghans some of that may be in respect of assistance which is provided on the other end when they actually reach Afghanistan.

Senator McKIERNAN—Okay. You have taken it on notice to provide some more information if you can—and in regard to that question on the Kosovos as well, if you would not mind. I know you were intimately involved in that process some years ago.

Mr McMahon—Yes, I will take that on notice.

Senator COONEY—If they are not refugees, why should we be paying them money? If they are refugees, shouldn't we be keeping them here? This is a heavy burden on the Australian taxpayers.

Mr McMahon—A quick movement of them reduces the burden on the Australian taxpayer.

Senator COONEY—That is your judgment.

Mr McMahon—I think it is more than a judgment. The fact of the matter is that people have talked about the cost of maintaining people both in Australia and overseas. If we move them more quickly, then quite clearly the savings are very substantial. So the business case is there, and the reason the business case is not more actively pursued is that you actually do not want to start a flow on the basis of the reintegration payment.

Senator COONEY—Do we line up the country they are sent back to before we give them the money?

Ms Gray—Yes.

Senator COONEY—How much do we give them—\$2,000?

Mr McMahon—It is \$2,000 per person. It is on the basis of a voluntary return.

Senator COONEY—Do we say, ‘There’s \$2,000, make your own way’? Do they have to fix up their own return? Is there a Qantas office in Nauru where they can go down and say, ‘We want a ticket to Kabul,’ or wherever they are going to go to? Is that what we are expecting?

Mr McMahon—No. IOM is responsible for their return. They will arrange the documentation ahead of time, and they will also pay for their fares on the way back.

Mr Killesteyn—That \$2,000 is not to cover their costs of travel back to wherever it is. All of those costs for travelling are met through the IOM payments that we make and the actual reintegration assistance will be paid by IOM upon arrival at their destination.

Senator COONEY—But haven’t we got to repay IOM?

Mr Killesteyn—Yes. They are expenses that we will be billed for by IOM. That is part of the broad arrangement we have with IOM in managing the centres as well as arranging for the returns of people and resettlement in countries, whether it is Australia or elsewhere.

Senator COONEY—Instead of using IOM, wouldn’t it be cheaper for us to—

CHAIR—Senator Cooney, I might just interrupt you. I understand there is a slight problem with the recording system. Can we just take a pause. It is important that this is all on the record.

Proceedings suspended from 12.00 p.m. to 12.07 p.m.

Senator COONEY—I have been speaking and the recording has been off. I am not going to be upset if *Hansard*, which is a terrific organisation, misses the odd statement from me.

Mr McMahon—The key point I want to make for the record is that these are voluntary returns, and for each voluntary return the costs of the upkeep much more than pays for the cost of the resettlement assistance.

Mr Farmer—There is another point in relation to refugees. You could not in the one sentence say, ‘We—Australia—accept that someone is a refugee and we will pay them \$2,000 to return home.’

Senator COONEY—Do you mind if I borrow that concept? You have put it much better than I have. That is the sort of thing I am worried about. How do we get over that? You are saying that we should not say, ‘You’re refugees and therefore you can have \$2,000.’ Isn’t that your point?

Mr Farmer—If you put it from the point of view of the individual, the individual cannot logically maintain the two propositions that he or she would be under fear of persecution if they returned to their country of origin and at the same time would like \$2,000 in order to enable them to return home.

Senator COONEY—I agree with that, but are you not then putting that temptation in their way? It depends very much on how this is put to them. If people say, ‘You have got no hope of winning this case so you may as well go back and get shot quickly, and there is \$2,000 to help you’—

Mr Farmer—I think it is clear at the top of page 62 of the budget papers that the reintegration assistance would be *inter alia* paid to those in Australia on a TPV but whose claim for permanent protection has been refused.

Senator COONEY—So these people in Manus and Nauru that we are offering \$2,000 to have been turned down, is that right?

Mr McMahon—They are people who have either been turned down or who have not had a decision. If you have had a positive decision you are not eligible for it.

Senator COONEY—And you would not do it. It would be quite wrong—and this was Mr Farmer’s point—to send them back again, even if you were going to give them \$10,000. I do not know why somebody whose position has been turned down ought to get it. Although, to be fair, often it must be close whether a person is accepted or not. In any event, I do not want to comment on that further. It does seem to be a bit of a problem even if there is any perceivable risk that they might be refugees and we are sending them back. That is a problem, is it not?

Mr Farmer—The entire purpose of the refugee determination system is to establish, according to what we think is best practice, the merits of claims to protection.

Senator COONEY—It seems to be a bit of a problem to offer people, who may well be quite deprived, \$2,000 in circumstances where they may be refugees.

Mr Farmer—But our system and the UNHCR system will have made that determination.

Senator COONEY—I can understand you offering it to them once it has been decided, but I thought you said that it is also offered to people who are awaiting determination. That is a worry, in all seriousness.

Mr Killesteyn—It is open to them, but they often voluntarily make the decision to return home.

Senator COONEY—How voluntary is it? They are in confinement on these islands, are they not?

Mr Killesteyn—Yes, they are.

Mr McMahon—It is interesting that the amount of money that we are offering is well below what they pay to come here.

Senator COONEY—What does that have to do with it?

Mr McMahon—You referred to deprived people. None of the people who have come here—

Senator COONEY—I see what you mean. By ‘deprived’ I meant people who are disadvantaged due to being in a fairly remote spot, in confinement and faced with the worry

of whether or not they are going to be found to be refugees. It is not a comfortable spot to be in.

Mr Killesteyn—If you look at it from the individual's point of view, there is very little for them to lose in terms of taking the process right through to the end. They do not lose the opportunity to take the reintegration assistance if they go through to the primary decision and then go to the review decision. Even at the end of the review decision they will still have the opportunity to take the reintegration assistance.

Senator COONEY—So they can accept the offer and then go on with their application?

Mr Killesteyn—They would continue with their claims for protection as assessed by either the UNHCR or DIMIA at the time of the first primary decision. They would have another opportunity to have a review of that decision if it is negative. If it is negative again at the review then they have the opportunity of taking the reintegration assistance. There is nothing for them to lose by taking the process to the very end. So the pressure of going before the decision is handed down is very small, if anything. They do not lose an opportunity by simply taking the process through.

Senator COONEY—The only problem I have with that is that it is a judgment we are making from an entirely different set of references to the ones they have. They are in a fairly remote place, in confinement and are dealing with a culture where they may be having problems with the language and with having people talk to them at length about things.

Mr Killesteyn—I would accept your proposition if we said to them, 'As of today, you now have 28 days irrespective of your circumstances,' but we have not said that. We have said, 'You have opportunities to have your protection claims heard. That can go through to primary, review and subsequent review and at any time during that process you have the opportunity to take the reintegration assistance.'

Mr McMahon—I think the important thing here is that the offer has been made. We have not had a flood of people taking it. The Afghans who decided they wanted to return decided they wanted to return for quite particular reasons. We expect a large number of people to be interested because there is clearly significant interest amongst the Afghans, but no movement. We only expect that they will express that interest after they get a determination or after they get a rejection.

Senator COONEY—The payment of money in this situation has some overtones. It is a bit of a worry. If it were a commercial dispute you could always settle it, but this is not a settlement of a commercial dispute; this is a payment to take a course which may be—

CHAIR—Senator Cooney, I think you can make that comment. I am not sure the officers are in a position to respond.

Senator COONEY—They are very worried about this. They are sensible people.

CHAIR—I am sure that they can express their concerns if they wish. The minister may wish to make a response, but if not I would like to move on.

Senator COONEY—We will.

Senator McKiernan—I want to move to questions related to Christmas Island. If we could deal with the new facility on Christmas Island, that would finish outcome 1.5. Quite a substantial amount of money has been allocated over a number of years—\$195 million this financial year and next financial year—to construct a facility at Christmas Island. What is the tendering process for the construction of that facility?

Mr McMahan—Because of the time limits involved we went for a fast track process. The fast track process basically had three major elements. One of them was the resolution that was made not to go to the Public Works Committee. The second was that Minister Kemp made an exemption under the environmental protection act. The third was a fast track process for the selection of the construction tenderers and the architects.

On the construction side, our commercial advisers advised us of the people they believed were large enough and met the criterion of being distributed enough to be able to deal with a major construction process in a remote area. We were provided with a short list of companies and we then invited them to a select tender. Our people then submitted bids. It was unusual in the sense that the bids were not submitted against a finalised plan but submitted in respect of their capacity to organise and undertake a construction process of this sort and the way in which they would control their costs—in other words, what fixed margins against costs would be dealt with. We have been considering the tenders against those criteria. In a matter of weeks we should know the results of that process.

Running alongside that, we had already formed panels for architects for Brisbane and Darwin. That was a public tender process in which architects had to demonstrate their capability in designing detention centres. So we had a panel and we invited architects from that panel to submit concept designs. We are going through that process and will be finalising it within a matter of weeks. At the end of that, the architect will be under novation to the builder so that we are only dealing with one company. We will then be working with the architect on the final design specifications.

Senator McKIERNAN—What length of time would the normal processes take, in order to bring the decision to construct into a position where tenders would be cast? How long would the procedures involving the Public Works Committee normally take?

Mr McMahan—Possibly something in the order of 12 months. If you look at a major construction process, you would develop a concept design then go to some level of specifications, have it costed, go to the Public Works Committee, finalise the detailed drawings and specifications and go to tender against a very detailed plan of the site and the nature of the facility. I would expect that we would take 12 to 18 months to come to the same position.

Senator McKIERNAN—How do you go about finding professional designers or architects in Australia who would have experience with, and knowledge of, constructing detention centres?

Mr McMahan—That is a good question.

Senator McKIERNAN—All my questions are good.

Mr McMahan—I am congratulating you on that one.

CHAIR—That is really not necessary. It only encourages them, after all.

Mr McMahan—We do not have purpose-designed and built detention facilities in Australia. If you look at the minister's announcements in the detention strategy, the movement is towards purpose-designed facilities which are more robust and which offer a higher level of amenity. Many of the architects have experience in major construction processes. Some of them have experience in prison design and other self-contained facilities with infrastructure. It could be an old persons' home, for all we know. Essentially, we want to make sure that there are people with experience in this, because we have more things to build.

Mr Farmer—Part of the process is to satisfy ourselves that the firms or individuals that are selected have the competence to deliver against our requirements.

Mr McMahon—Having seen the designs—and we are working our way through the process—they are very sophisticated, with very high levels of amenity. Considerable thought has gone into making a centre work properly and work in the most friendly environment possible.

Senator McKIERNAN—Firstly, let me compliment you on your answer to my very good question. I do not think you have properly answered my question, but I am not saying that in a disrespectful manner. What concerns me is Villawood. In a recent visit to Villawood, I noted the new medical facilities that have been put in there which are completely and utterly inadequate. When we come to 1.3, we will address that. So there is a question on notice. I do not have confidence at this stage in what we are proposing for Christmas Island because of that one experience.

In regard to Woomera, I have some other criticisms. I saw Woomera in the early stages and expressed some concerns at that time, and I think those concerns have been realised through later events. Do you know if these designers or architects who have been engaged have looked at some of the overseas experiences in regard to this? I am thinking in particular of Britain, where I recently visited a custom-designed and constructed detention facility close to Heathrow Airport. Have the overseas experiences been taken into consideration?

Mr Farmer—As an introductory remark: in talking about Christmas Island and Villawood, I think they are quite different operations.

Senator McKIERNAN—Indeed, but I was talking about the design.

Mr Farmer—Christmas Island will be designed from the ground up; a total package. With Villawood, obviously there was a variety of existing facilities and we had to add to those and develop and improve them while the centre was being run. As a conceptual point, I think they are significantly different operations. I do not know whether Mr McMahon has anything to say on your other point.

Mr McMahon—I do not think I can add much to that. Quite clearly, these architects have a wide spread of experience. Whether or not they specifically brought to bear designs overseas, I do not know. All I can say is that in the end this is going to be judged on the results.

Senator McKIERNAN—Exactly!

Mr McMahon—The drawings that we have seen are very sophisticated.

Mr Farmer—And also—and I think this does flow on—when we are at the point of having detailed discussions with the successful architect, we will be going through our detailed requirements. Typically with a tender bid you would be looking at concepts and choosing the concept that is the best overall. That does not mean that in each and every element of the bid that particular bid is the best; what it means is that it is the best overall. If there are particular concerns in relation to security, medical facilities, the positioning of gateways or roads, or fire egress—that sort of thing—then we are able to work with the architect on the basis of our experience. That, of course, does include visits to exactly the facilities you are talking about. Mr Ruddock visited that facility near Heathrow within the last year and had a look at that.

Senator McKIERNAN—I think he went within the last few weeks—later than when I visited. But the proof is in the pudding, as we say. I visited Villawood and was briefed on the plans for Villawood, but when I saw that new medical facility I thought it was inadequate. But we will deal with that one later. I do agree with what you said, Mr Farmer, that there is no direct comparison between Villawood and Christmas Island. I accept what you said, not only in regard to Villawood but also in regard to other detention facilities within Australia. I am very keen to move on. When is construction of the facilities scheduled to commence? Do you have a target date?

Mr McMahan—Yes. We would like to start groundwork in the next three to four weeks. Whether or not you may have seen some publicity, we are still trying to get access to the site. Assuming that we get access to the site, we will be moving very rapidly.

Senator SHERRY—It is pretty important to have access to the site. Otherwise, you cannot build it.

Mr McMahan—That is quite correct.

Senator McKIERNAN—What is the difficulty in getting access to the site?

Mr McMahan—Essentially, it was a resumption and there are certain legal processes following from a resumption. This is a DOTARS matter—a territories division matter. That process has gone through, and it is a legal matter between the department and the company involved, Phosphate Resources Ltd, in respect of the acquisition of that site.

CHAIR—Has that process gone through or is it going through?

Mr McMahan—A formal resumption notice, which is apparently regularly made in Western Australia under Western Australian law, was made.

CHAIR—We might seek expert advice on that.

Mr McMahan—I might need it. That formal resumption notice requires a response from the company within 30 days; we have reached that today, and I think the Commonwealth got a response from the company yesterday. Under those arrangements, the company has another 30 days in which to provide the Commonwealth with access to the site. It has the discretion to waive that, and it also presumably could seek an injunction against entry to the site. At the moment we are operating on the basis that we will have access to the site, but normal legal process has to be followed.

Senator McKIERNAN—Why could these difficulties not have been foreseen earlier in the piece and resolved? There has been some criticism about the general consultation in regard to the decision to build this facility. Is this one of the areas where the consultation process could perhaps have been improved?

Mr McMahan—What is happening now is following pretty closely the script that we were aware of from the beginning. Essentially, we always knew that there was the question of a two-month delay here. There is always the possibility that there may be some interest in greater levels of compensation and that people may take action to try to achieve that. No-one is surprised, from the Commonwealth's point of view, but everyone is working to achieve a mutually agreeable result.

Senator McKIERNAN—Would it be fair to say, if you foresaw all this happening, that an amount of compensation was contained within your budget appropriations in this regard?

Mr McMahon—It is a territories matter, but there does have to be compensation. The act requires compensation to be paid upon resumption.

Senator SHERRY—The Constitution requires it too.

Senator McKIERNAN—Is that contained within the overall figure of \$219 million?

Mr McMahon—Yes, it is.

Senator McKIERNAN—But if the compensation is greater than you have budgeted for—and I think it would be inappropriate to ask you what you did budget for—you will have to go back to Finance for a further allocation to cover those costs?

Mr Farmer—We will face that when we come to it.

Senator McKIERNAN—There have been some criticisms about the community consultations that took place on the island. Can you inform the committee about what consultations did take place?

Mr McMahon—In respect of the site, Minister Tuckey had consultations on the island, and in the end that is a question you will need to address to Territories. But I understand he had a number of discussions leading up to the announcement of the site.

Senator McKIERNAN—I am not disputing what you said about it being with territories division. However, it is of interest in this area. Under output 1.5, the allocation of the expenditure of the money is here. I wonder how far you can be of assistance to the committee. I do not know when DOTARS will be addressed in the other estimates committees, but certainly if they are being done this week either I have missed them or I am going to miss them tomorrow, because I will be engaged with this committee.

Mr McMahon—I believe they are on today. If I could make an observation, there are very few sites available on Christmas Island. I know there was strong community concern that any detention centre that was going to be built on the island not be built on Phosphate Hill. I know that because Minister Ruddock visited earlier. The decision reflected community concerns and, essentially, there are very few other sites available on the island. There was a site near the spaceport and quite clearly it was not suitable both in respect of the land itself and in respect of the fact that it was close to the spaceport. Then there was this site which was flatter, better and more remote. It met some of the concerns which had been expressed earlier when our minister went—and which subsequently, I understand, were expressed to Minister Tuckey—that, if a facility were to be built, it should not be close to the population centre.

Senator McKIERNAN—I have some questions in regard to the consultation process which one of my colleagues has passed to me. What I would seek to do, with the cooperation of the chair and the department, is to put these on notice and ask you if you can address the content of them as much as you can. I will inform my colleague that, if the other committee is still meeting at the moment, she may be able to press these questions in that forum. I really do not want to let her down, so I will put these on notice. If you are able to address them, fine. If you are not, perhaps you might be able to seek the assistance of the competent territories division in getting responses.

CHAIR—Perhaps we might also suggest to your colleague, Senator McKiernan, that they be placed on notice in the other committee if the Territories and Local Government Division of the Department of Transport and Regional Services is scheduled to appear in that committee today. I do not know at what time.

Senator McKIERNAN—I will pass that on. I think it is probably happening concurrent to this, because my colleague was intending to be here. We will see what we can do by covering it in both areas. In regard to Minister Ruddock's consultations on the island about the construction of a permanent detention facility on the island, can you inform the committee of any initiatives from Minister Ruddock or from departmental officials who may have accompanied Mr Ruddock on that visit?

Mr McMahon—The minister's consultations were not about the construction of a permanent facility; they were about the construction and commissioning of the reception centre on Phosphate Hill. But during that time there were a range of issues raised with him, including quite specifically the community concern about a permanent centre being built on Phosphate Hill.

Senator McKIERNAN—I was skimming through the rest of the questions. We will put them on notice for now but with that proviso that if they are clearly not within the sphere of influence and responsibility of DIMIA, you will obviously not be able to respond to the questions contained in them. From the area advised, there certainly would be some contained in that package that would fall into that category. I apologise for this, but it has been done during the course of this morning's hearings. What is the expected date or the target date for commissioning and opening the facility?

Mr McMahon—The completion of the facility is planned for the end of January. However, the design has 400 places becoming available at the end of September.

Senator McKIERNAN—We are dealing with this within output 1.5. Yet, within output 1.3—and I am not going to deal with 1.3 at this stage—there are facilities in Australia which are ready for commissioning. Can you explain to the committee why this expenditure of \$185 million on Christmas Island has been made, planned and started whilst there exists capacity already in Australia? I am thinking particularly of Baxter, Coonawarra and the other facility at the army camp. And if you look at the numbers that are contained in Port Hedland, Curtin and other places, there is excess capacity. What is the rationale for the decision?

Mr Farmer—I think there are a couple of points to be made. As you know, the government has announced that Curtin will be mothballed, as will parts of Woomera. The second point I would make is the general point that—with the exception of the now very outdated higher security area at Villawood—we do not have a purpose-designed and built detention facility in Australia. The strategy for some time has been to construct just such a facility. The reasons for that are clear enough, that we are able to design from the ground up what we want in a facility. We thereby give ourselves an opportunity to avoid a number of the problems that we have had with the facilities that have had to be developed at short notice in a quite ad hoc way, and in many cases using demountable accommodation which has not been optimal. The concept of a purpose-designed and built centre is not new; it has been a part of the strategy for a couple of years. We had been looking to build just that sort of facility in Darwin during the last year.

The government as part of its intense focus on the question of illegal arrivals decided that it would pursue a strategy with a number of prongs. One of them was the legislative action that was taken by the parliament in September, the second part was the offshore processing strategy, and a third part of that strategy has been to develop the purpose-built facility on Christmas Island—that is, in one of the offshore excluded areas. As part of the announcement of that decision, the government announced that the future of the proposed Darwin facility

would be examined again in the context of next year's budget. The concept, if you like, has been around for some time; the positioning of it has changed for the reasons I have given.

Senator McKIERNAN—I am very disappointed. I have been agitating, with other of my Western Australian political colleagues, for the permanent facility to be built in Port Hedland where there already is a facility, but it would appear that we have lost out on that decision with this one. I will record my disappointment; it would have been a nice accolade to leave this place with—to have been successful with that.

Senator SHERRY—Is Christmas Island part of WA?

Senator Ellison—No, they are in the Northern Territory. They have WA law, but they are under the administration of the Territory.

Senator SHERRY—The McKiernan detention centre.

Senator McKIERNAN—It is not going to be.

Senator SHERRY—I will just go back to the tender process. Will there be a requirement in the contracts for a local employment component?

Mr McMahan—There will not be a requirement per se, but there will be a very strong expectation that local employment will be used. It is clearly the case, in respect of every project that has been undertaken there, and certainly in our experience with Phosphate Hill, that there has been very significant local employment.

Senator SHERRY—Why not have a requirement in the contract? These issues are always very sensitive when you see them, and we see this issue in Tasmania. Hordes of people are brought in from interstate on the construction of our gas pipeline at the moment, and it is a very sensitive issue.

Mr McMahan—Put simply, there is a question of cost. Also there is a clear knowledge that the centre will heavily drill down on local expertise. Given the number of people who will be required for the project, I do not think there will be any doubt that they will be trying as far as possible to locally source, because it costs more to bring people in.

Senator SHERRY—Have you had discussions with the potential tenderers about this?

Mr McMahan—Yes, we have.

Ms Ellis—Apart from the construction of the detention facilities, there are significant other works that are being undertaken on the island, and I do not think anyone would expect that the work force on the island would be capable of supplying all of the needs. There is significant work on services infrastructure, for example, that is under way.

Senator SHERRY—Will it be a requirement in the contracts to have only an Australian workplace agreement?

Mr McMahan—That is up to the company when it has finally contracted to undertake the work.

Senator SHERRY—So you will not be making it a requirement?

Mr McMahan—I would not specify a requirement, no.

Senator SHERRY—What about a requirement in terms of trainees and apprentices?

Mr McMahan—Again, that will be up to the company involved.

Senator SHERRY—Where will the construction camp itself be placed?

Mr McMahon—Essentially, work is already under way on Phosphate Hill. This is essentially a territories matter but I can tell you that they have already upgraded the electrical supply there and, because we have done work on Phosphate Hill previously to bring water, sewerage and telephone lines up there, some of the infrastructure is already there. Territories will be going ahead and doing some clearing but we also will be using accommodation on the island.

Senator SHERRY—Will the visa system that once operated in relation to the casino on Christmas Island be reinstated?

Mr McMahon—All I can say is that, in respect of this project, there are no special visa arrangements, but I cannot answer more widely than that.

Senator Ellison—That is the department of territories, if you want to ask them.

Senator SHERRY—There are a number of other question but they can be put on notice.

Senator COONEY—Who is the architect who approves the plans for the facility to be built on Christmas Island?

Mr McMahon—We have not entered into any formal arrangement with an architect yet, so I simply cannot answer the question.

Senator COONEY—I thought somebody said it was going to be an experienced architect.

Mr McMahon—It is an experienced architect.

Senator COONEY—But you have no architect to be experienced.

Mr McMahon—We are reviewing the tenders. We have seen the tenders and we have seen the designs, and we are moving towards, by the middle of next month, being in a position to announce who it is.

Ms Ellis—Would you like a list of the architects who are on the panel? Is that of interest?

Senator COONEY—Yes. I can have a list, but what are they expert in? When you talk about experience, are they expert in building motels or in building prisons—experts in building what?

Mr McMahon—The criteria that we used when we were seeking expressions of interest from people to participate in a design competition for Brisbane and Darwin included seeking information on the extent to which the architectural firms had been involved in developing social infrastructure—for example, infrastructure where there are significant movements of people and where there are hospitals, major resorts, prisons, and a whole range of infrastructure that may well have some similarities to the requirements of a detention centre.

Senator COONEY—Aren't hospitals and prisons much the same sort of institution?

Ms Ellis—In terms of the need to move people—have people in particular areas and not in other areas—there are some similarities.

Mr McMahon—Provide food, infrastructure, car access.

Ms Ellis—Food, programs.

Mr McMahon—There are a lot of similarities across a whole range of areas because in effect what we are producing is a village-like environment.

Senator COONEY—I thought we would be looking for security.

Ms Ellis—Certainly, when the department issued a design brief to members of the architects panel, it was outputs focused in terms of the department's particular requirements for a detention facility. For the purposes of selecting the architects for the original panel, the requirement at that point was to identify skilled architects.

Senator COONEY—What I am trying to get, if I can, is a picture of what is going to go on. Senator Sherry said that perhaps lodging these people on Christmas Island might provide custom for the casino, but I am not sure whether you are going to let them. If it is a village-like institution they will be able to go to the casino, but are they going to be able to get out and do that?

Mr Farmer—The casino does not operate.

Senator COONEY—No, but I am just wondering about it if it did operate. Is that the only reason they will not be able to go to the casino, because it is not operating? If the casino were operating would we let them go?

Mr Farmer—There is a casino in Melbourne.

Senator COONEY—So they can go to that? I am just trying to get a picture of how free they are. You have talked about hospitals and social structures—

Mr Farmer—And prisons.

Mr McMahon—It will be a secure facility.

Senator COONEY—I am trying to learn what experience the architect has got. I would have thought that what you should be doing is looking at architects who are experienced in building prisons, but you are going to look at people who build hospitals.

Mr Farmer—I understand your point. I will just elaborate on a point I was making to Senator McKiernan. We are looking to build a purpose-built facility and we exist in an environment where our operations are subject to a lot of scrutiny and a lot of advice—much of it helpful. That leads us to believe that we need a facility that enables us to discharge our responsibilities under the law—namely, to keep people in administrative detention in security, but also to discharge our responsibilities for the care of the detainees. So the facilities that are provided—accommodation, food, medical, recreational—are also extremely important and the construction of this facility gives us the opportunity to have an integrated best shot at such a facility. That is why we have to take into account both the security aspects and, if you like, the amenities aspects that are central to our responsibilities.

Senator COONEY—You are talking about a classic description of a prison.

Senator SHERRY—Why would we build here? Is the department willing to give the committee a copy of the design specifications?

Ms Ellis—The design brief?

Senator SHERRY—Yes. Then Senator Cooney can have a look through it and just see what the specifications are that the department requires.

Mr McMahon—There are very few specifications because it is an output based design brief. But, by all means, the committee can have a copy.

Senator COONEY—I would have thought you would have to have the right architects.

Mr McMahon—Yes.

Senator COONEY—We will have to get all of that and we will see if that will shut me up.

Ms Ellis—The minister did announce the architects on 3 April.

Senator COONEY—Are they good?

Ms Ellis—Yes, Senator. They were selected as the best through an open tender process.

Senator SHERRY—Senator, I am just ensuring that there is a huge amount of information for you to look through so you can ask questions at a future estimates committee.

Senator COONEY—You had better not make them available until tomorrow at the earliest, otherwise we might not get out. So you will give us all of those?

Ms Ellis—Yes, Senator.

Senator COONEY—And the costs, too?

Ms Ellis—While there is provision in the budget, we do not have actual costs yet because we would need to have the detailed design to get the costs worked out.

Senator COONEY—And the tender process is coming up, so that is fair enough.

Ms Ellis—That is correct.

Senator COONEY—Thanks very much.

CHAIR—Are there any further questions in this area? If there are none then we will conclude on 1.5.

[12.55 p.m.]

Senator McKIERNAN—There is no allocation, no line, for output 1.4 in this current budget. Is that a confirmation that output 1.4 is more or less wound up?

Mr Farmer—I believe that that is so. There may be a small number of individuals involved, but if there is any significant variation from that we will advise you.

Senator COONEY—On the issue of efficiency and the cost, why isn't the department making estimates more efficient?

CHAIR—I do not think that is a question for output 1.4, Senator Cooney, with respect. Output 1.4 is related to the safe haven operations of the Department of Immigration and Multicultural and Indigenous Affairs. If there are no further questions in this particular area, on safe haven, that deals with output 1.4.

Proceedings suspended from 12.56 p.m. to 2.07 p.m.

CHAIR—We are resuming in output 1.3: Enforcement of immigration law, but before we do Mr Metcalfe has a number of responses, to Senator McKiernan in particular.

Mr Metcalfe—Yesterday in estimates Senator McKiernan asked questions in two broad areas and I undertook to check and get back to him. The first related to whether or not there were any current allegations of corruption or other inappropriate behaviour on the part of our staff in the Australian Embassy in Moscow. I can advise that, as is unfortunately the case in a number of places, staff of the department in Moscow have been the subject of a number of allegations over recent years. Usually we find that the allegations are unfounded or can be explained as some sort of misunderstanding, but in a small number of cases there are real issues, and the department is absolutely determined to deal with those promptly, fairly and efficiently.

As I mentioned yesterday, quite a substantial group of officers in the internal investigations section are tasked to follow up all allegations of internal malpractice. I can advise in relation

to Moscow that there have been a number of allegations in recent years and that the vast majority of those have been investigated and concluded. There are a small number of allegations on hand and there are current investigations under way. Some staff from our investigations section will be going to Moscow in the fairly near future to pursue those matters.

I also advise that, although there have been no recent dismissals of local staff, one locally engaged employee who was the subject of numerous allegations of improper behaviour resigned in October 1998. If there are any more specific details about the matter that you raised that you think it would be helpful for me to have, I am very happy to take those from you and follow them up.

Senator McKIERNAN—Thank you very much for the information you have provided to date. I have no further information at this time, but if any further information comes to hand we will certainly pass it on to you. We appreciate the effort you have made so far.

Mr Metcalfe—You also asked some questions about whether or not there had been complaints to the Ombudsman in relation to unreceipted and unbanked cheques amounting to around \$20,000 at our Parramatta office and also whether there were other processing irregularities relating to student visa applications at our Rockdale office. We have checked those, and they are matters that are known to the department. I can advise that the allegations of financial mismanagement at Parramatta supposedly involving unreceipted and unbanked cheques for visa applications were investigated by our internal auditor, Ernst and Young, in February 2001. The auditors noted that, while there may have been an earlier backlog in processing cheques, they were satisfied that there were no irregularities in processing. The Ombudsman had raised this matter with us, and the Ombudsman was advised of the outcome of the investigation and confirmed in April 2001 to the departmental officer who had raised the matter that the Ombudsman was satisfied the issues had been addressed appropriately.

In July 2001, the same employee made allegations to Minister Ruddock that some 19 student visas were granted to persons with active tuberculosis. This, of course, was a matter of great concern to us, and it was very promptly investigated. The result of our investigations was that we were satisfied that no student visas were granted to persons with active TB. In cases where there may have been a residual concern regarding previous exposure to TB, persons to be granted visas signed an undertaking to report to health authorities for ongoing monitoring. If there are any other issues you wish to provide to us, we are again happy to follow those up, but I think we are satisfied that the complaints you may have received had in fact been raised in similar terms with the minister, the Ombudsman and a number of other people. Those matters have been fully investigated and we are satisfied with the situation.

Senator McKIERNAN—Thank you very much. I felt yesterday, as I indicated to the hearings, that I had an obligation to raise those matters. Names were provided to me, but I chose not to use those names and, with the benefit of hindsight, that was another wise decision on my part. As the plaudits have been going out today, I thought I might give myself one. I still owe Mr Farmer one from Christmas Island, but I am working on that.

Senator SHERRY—While we are following things up from last night, I wonder if there has been any progress in obtaining the figures in relation to the scanning contract and the problems that were experienced?

Mr Moorhouse—Yes. The amount that was paid to the previous contractor, HPA, during the last financial year of operations, 1999-2000, was approximately \$1.4 million.

Senator SHERRY—I raised some other issues. Do you have anything else?

Mr Moorhouse—We are still producing some other statistics for you. The cost of the current contract is in the region of \$2.75 million per annum, which sounds substantially more. However, it covers a much wider range of functions and has resulted in considerable cost savings for the department, which we will document when we can give you a more precise figure on notice, if that is okay.

Senator SHERRY—I think you said last night that the new contractor with the scanning technology had employed people to do the manual processing while the problems were being sorted out. Does that price include the cost of doing that manual scanning, which would I am sure be additional to the original contracted price?

Mr Moorhouse—No, it does not. We are still in the process of obtaining those figures for you.

CHAIR—We will now return to output 1.3.

Senator McKIERNAN—Last evening we talked about persons in this country who are here on a temporary basis or following their release after having been granted temporary protection visas. Because of that questioning I have now been informed about a certain individual whose name I have but will not put on the record because I personally have not spoken to him. He is an artist who paints religious icons and frescos and he has worked by himself for some four years while he has been in Australia on a 457 visa. He has been working on a church, training no-one. He has not been engaged in training, which is one of the obligations of that visa class. He was living on site at the church in a shed, and later in a caravan, while he was paid the super amount of \$163 per week to cover both his wages and the materials for the painting of the church.

I am informed that the only monitoring this particular individual has received from the department in the four years he has been here is that the department undertook to send a form to the employer, after four years of what could be termed as exploitation. I have the name of the individual, but I will not use it on the open record. Is anyone at the table aware of such circumstances? It seems to me that this is a description of the exploitation we were talking about last evening, which may be happening to workers who are less fortunate than others in our community.

Mr Farmer—That does sound like a matter of real concern. The officers who would deal with that are not here but, if it would be of help, I would be very ready to pursue that case and let you know the outcome.

Senator McKIERNAN—Thank you, Mr Farmer. I appreciate the offer and will take you up on it. In order to help the matter through, I will provide you, off the record, with the name of the individual; I do not have his permission to use his name on the record. I would ask you on the record, though, to take it to the minister and seek to have some assurances given to the committee. Even if it is not done directly by the department of immigration but together with the other relevant departments, including state departments, given the type of activity and if indeed it is true—when I have not been able to check them out myself I always put that caveat on things—could we get some assurances after examination and inquiry on this matter?

Mr Farmer—We will look into that. But I would note that, over the last 18 months, the department has greatly increased the resources it devotes and the focus it gives to just this area. Our concern is there. We remain interested to know if there are cases that should be the focus of our attention. So I am grateful to you for this; we will follow it up.

Senator McKIERNAN—Thank you very much. I will pass on the name and information that I have here. Perhaps I need to do a little work with this. Again going back to last evening when I was directing questions to Ms Godwin with regard to the number of persons who are in detention in Australia, I think it was yesterday in the House of Representatives that a question was directed to the minister about the number of boat people who are detention. I think—I do not know—the minister tabled a couple of graphs that served to illustrate the process and the numbers who are in the processing of applications for protection within Australia. You provided me with the statistics last night. I do not want you to repeat them; we will get them on notice, and I am appreciative of that. It might also be of assistance if those statistics of the number of persons in detention in Australia that you gave to the committee last evening could be put in the same graph form as the minister tabled in the House of Representatives yesterday.

Ms Godwin—I would be happy to do that. Before you go on, yesterday evening there was one other issue to do with numbers that I said I would check. That was to do with the fact that the data was showing three children in Perth.

Senator McKIERNAN—It was four, from my recollection—or was it six: three male and three female?

Ms Godwin—No, it was three. I did check that this morning; there are no children in Perth at the moment. When I gave the statistics yesterday I made the caveat that there are sometimes minor discrepancies because of the delays in updating records in the system. Of the children that were referred to, one was there for only one night with a family that had been picked up in a compliance operation, another was there for only two days and another was there with a parent and was admitted to hospital. They were all very short stays. Another thing about Perth is that we have changed the configuration of Perth so that there is now a separate area for women and children. We still take the view that it is not suitable for long-term detention, but we do have a slightly different arrangement now than we had up until the end of last year.

Senator McKIERNAN—Thank you for that information; I was going to follow through on that today. I am comforted and assured by what you have said about no children in Perth. I have recently been into the facility in Perth and I still hold the view that I have held as an individual member for Western Australia and as a member of the Joint Standing Committee on Migration—which recommended some years ago that the Perth facility is not suitable for the detention of children, certainly in the long term—that the facility is not suitable for children. I was quite surprised when I got that information last evening. I am aware that on previous occasions, where there was a need to detain children in association with families, detention has happened in hotels or motels in Perth. With regard to Maribyrnong specifically—I do not have my page of statistics open—from memory there were 50 persons in there.

Ms Godwin—That is the figure we have.

Senator McKIERNAN—This included four children.

Ms Godwin—The statistics included four children. There are three children there at the moment, and they are all the members of one family.

Senator McKIERNAN—The facilities at Maribyrnong are not necessarily directly comparable to Perth; nonetheless, they are enclosed areas—rather different from other

detention facilities. Over what length of time would those persons, the children in particular, have been detained?

Ms Godwin—That family has been there almost 12 months.

Senator McKIERNAN—I do not want to go into individual cases; that is not the role of this committee. My questions would be delving into individual cases.

Ms Godwin—A couple of the questions that Senator Allison asked also relate to a very small number of persons, and I made the comment last night that I was reluctant because even without the names it is possible to identify people. I do have quite a lot of information in relation to a number of individuals at Maribyrnong and would be very happy to brief the committee privately, as we have done in the past in relation to individual cases.

Senator McKIERNAN—I think that is a matter for the committee or, possibly, the new committee. In asking the questions that I have just been asking I was not in any way seeking to reflect on Senator Allison and the questions she asked last evening. It is mainly the standards that I have set for myself in carrying out this process and in my other role in the Joint Standing Committee on Migration. I think it is a very sensitive area and it has to be handled very sensitively. I am not so sure that that has been done by everybody who has participated in this process over the years that we have been involved in it. Just in relation to Maribyrnong, though, and the 50 people in there, are you in a position to break down the stages of the process where each of the persons is at—for example, how many have made no applications—rather like that overall detail you gave me last evening? I am not going to go through this for each and every centre, so be assured on that. I just want it on this particular one at this time.

Ms Godwin—Yes, I have that. Six people have been detained for less than 14 days with no protection visa application; 22 people have been detained for greater than two weeks with no protection visa application; six people are at the judicial review stage; one person has a primary application on hand; two people are at the review stage at the RRT; 12 people have had a protection visa application finalised; and one person has been remitted by the RRT and is awaiting final processing by the department.

Senator McKIERNAN—With regard to the 12 persons who have been finalised, there has been some recent publicity about one particular individual. I will not go into the detail of that, but it is alleged in that publicity that the individual is merely being held because the individual does not have a passport. The newspaper articles indicate that the individual has been granted protection but there is some difficulty gaining a passport. I do have a copy of the media comment with me if you are not familiar with the case.

Ms Godwin—I am not.

Senator McKIERNAN—We might pass that down to you as we proceed through the questioning. The other thing I was quite surprised about, and I think you give a partial explanation on this last night, was the fact that a person convicted of another criminal offence—that is, people-smuggling—was in fact detained at a detention centre. That seemed to me to be an unusual occurrence. I am sorry, I am misdirecting you—I think this particular one was before the Australian Federal Police, when they were here.

Ms Godwin—I know the case you mean. I think the individual was given a suspended sentence. He does not have a custodial sentence but he is required to remain in immigration detention because he is an unlawful non-citizen. So he has been convicted and sentenced—it was a suspended sentence—and he remains in immigration detention.

Senator McKIERNAN—There were changes to the legislation last year where the legislation imposed—not with my support, I might add—at a Commonwealth level mandatory sentencing for people-smuggling. How does this suspended sentence sit with that legislation? Is anybody able to assist me with that?

Mr Metcalfe—I think the answer to that is that the incident for which that particular man was charged had occurred prior to those changes to the law taking place. The law is only, of course, prospective in application.

Senator McKIERNAN—I am happy with that explanation. The newspaper report was from the *Age* of 15 May this year. It was a report of a Federal Court hearing. It was not about Maribyrnong; it was about Woomera. It stated:

He is still inside Woomera because procedure requires a character clearance—
from his home country—

which he cannot get because he does not have a passport.

I can pass the article to you.

Mr Metcalfe—I know there has been some media interest in the case and some comments were made about it by a judge. My recollection was that the person had spent some time in a third country and we were endeavouring to satisfy ourselves that there was no criminal record in that particular country. I gather that a procedure of that country was that the person produce a passport.

Senator McKIERNAN—The person had been detained for quite a lengthy period of time. We had some discussion at the last hearing about the length of time it takes in some instances to do a clearance after the decision has been made that a person is in need of protection. I think Senator Schacht was addressing questions to the department about a particular instance and we got the good news that the individual had been released on that very same day. I guess in individual cases there will be individual reasons why delays will occur. Is it not possible, though, that some transitional arrangements might be made and that the person might have some degree of liberty in those circumstances?

Mr Metcalfe—I will preface my response with a little background information. On previous occasions in the committee we have covered the work that the department has done in the last couple of years to try to streamline and speed up processing of protection claims and associated issues such as security, criminal records and medical processing. One of the major changes that was put in place a couple of years ago was the simultaneous processing of those aspects of a case rather than sequential processing. Notwithstanding that, the finalisation of all elements relating to a visa application can take different lengths of time in individual cases, depending upon the circumstances of the person. This particular example was one where a determination had been made that the person was someone to whom Australia owed protection obligations. Other elements of the case had been finalised, such as medical checking. But we are very mindful of the requirements of the law in satisfying ourselves that a person is of good character, and hence the need for character checks in countries where that person has spent some time—apart from the country from which a person is actually seeking asylum. In this particular case, I understand that that check has now been received and the individual has been released from detention. The visa granted the person release from detention.

It is problematic in some areas for us to receive character checks from some countries or for people to obtain a character check themselves. Notwithstanding that, we believe that it is

essential—in terms of the duty that we owe the Australian community—to do everything we possibly can to ascertain whether a person might be a risk to the Australian community were they to come into it. In situations where it is impossible to obtain a character clearance, provisions in the guidelines allow for the waiver of that requirement, where we are satisfied that all reasonable efforts have been made. That was essentially the situation with this case. We continued to encourage the person to do what they could to obtain that check from the third country, and that process obviously took some time. The issue of whether or not there is some sort of intermediate process, some sort of qualified release or some other release, has been thought about from time to time. I think our strong preference is that we do everything we can to ensure that we have been as thorough as we possibly can be prior to a person entering the Australian community.

Senator McKIERNAN—Part of my concern with this is that the individual was in Woomera. If any of Australia's detention facilities could be said to be very good, I do not think that Woomera would be one to be put at the top of the heap. It would not be the most comfortable place to be detained for the eight months after the decision to grant a protection visa. I accept what you have said, but the newspaper article gives us greater clarity on what the judge said. It would not be only a passport that could confirm identity, it would be more detailed than that. Confirmation of identity might be able to be provided by means of other than a passport. Would I be correct in saying that?

Mr Metcalfe—I will have to check. I will come back on notice if my understanding is incorrect. I think the issue of the passport being produced was a requirement of the third country to do that check. It was not a requirement of ours. We do have situations, from time to time, where persons say they cannot locate their passport, but ultimately they are able to locate it or have one sent from somewhere. As I have said, that is my understanding. I have not briefed myself in detail on that particular matter. If my understanding is not correct, I will correct that on notice.

Senator McKIERNAN—I appreciate you taking the matter on notice. Another newspaper article drew the attention of one of my colleagues to the fact that three detention centre guards at Woomera were apparently given their jobs back after previously being dismissed for allegedly seizing, interrogating and bashing a 13-year-old unaccompanied Afghan boy. Can I ask for confirmation that there was in fact a situation where three ACM staff were dismissed because of an alleged bashing of a 13-year-old boy? Can you confirm that a 13-year-old Afghan boy in detention in Woomera was physically damaged in some way by these persons who were supposed to be protecting him?

Ms Godwin—I can take that question. There was an allegation that three officers had used an inappropriate degree of force in relation to a minor. Because of the company's policy, those officers were immediately dismissed. The case was referred to the AFP for investigation. Their investigation found that there was not sufficient evidence to charge the staff members and they consequently closed the investigation. As a result of that, my understanding is that the officers who had been dismissed appealed on the grounds that they had been dismissed when the allegations had not been substantiated. They were reinstated.

Senator SHERRY—They appealed to whom?

Ms Godwin—To their employer.

Senator SHERRY—So it was not an appeal to an industrial tribunal?

Ms Godwin—No, and they were reinstated. One was put on restricted duties pending the internal investigation that they conducted. Two have since left and are no longer employed at the centre. The third is currently employed, but their contract concludes in June.

Senator McKIERNAN—It seems particularly harsh that individuals can be dismissed on the basis of a complaint. Was an investigation or inquiry conducted at the time of the lodgment of the complaint or was it just an automatic reaction that a complaint came in and the group of individuals involved lost their jobs?

Ms Godwin—There is an internal disciplinary process that the employer conducts, as I understand it. It is one of those difficult issues. They have a very strict code of conduct. They expect their employees to abide by it. No doubt there would be criticisms if they did not have that strict approach, particularly where there is a question of inappropriate behaviour in relation to a detainee. They usually do act quite quickly and strictly on these sorts of issues. In this particular case the AFP investigation could not substantiate the allegations and, as a result, the officers were reinstated. It is their practice to take quite a strict approach to these sorts of things.

Senator McKIERNAN—It takes me back to my old union days. I am not so sure I would accept behaviour like that if I were the official or shop steward in that area. It would seem to me that there would have to be some form of inquiry prior to the act of dismissal. In saying this, I am not condoning any activity by any official in any of the centres, particularly against children, because there is equality in that, but at the same time it seems very harsh that there was not at least an internal inquiry by ACM itself.

Ms Godwin—Can I clarify this. I thought I said, but if I did not I should have, that there was an internal disciplinary hearing initially. It was decided by the company that there had been a breach of the code of conduct and, on the basis of the breach of the code of conduct, they were dismissed. But the officers then appealed that dismissal on the basis that the AFP investigation could not substantiate the allegations. There was an internal process, but it is true that the company takes a very strict approach to these sorts of things.

Senator SHERRY—So ACM management reinstated the three persons, two of whom have subsequently left, after the appeal. You said that one was put on restricted duties, did you not?

Ms Godwin—I apologise; I have confused the issue. They were put on restricted duties while the internal investigation was going on, then they were dismissed for the breach of the code of conduct and then they were reinstated. Two of them have subsequently left, but one is still employed.

Senator McKIERNAN—My plans for organising a picket line have gone.

Ms Godwin—No more pickets at the Woomera, please!

Senator McKIERNAN—From the manner you laid it out first it seemed to me that natural justice had not been served. I was actually doing a comparison in my own mind with what happened with regard to the children in Woomera who had their lips stitched, which we talked about extensively at the last round of hearings and which I talked about with the Human Rights and Equal Opportunity Commission on Monday evening. I thank you for setting the record straight in regard to the internal inquiry. In regard to the child who was allegedly bashed, were photographs taken of him at the time and have those photographs subsequently been lost or misplaced or are they now part of the AFP record?

Ms Godwin—I have no information on that here. I would have to take that on notice.

Senator McKIERNAN—Would you do that?

Ms Godwin—Yes.

Senator McKIERNAN—Going back to the lip-sewing incident, I must draw your attention to the transcript of the hearing with HREOC on Monday evening, where the Human Rights Commissioner gave the committee an assurance that he would use his investigatory powers to further investigate the unresolved matter—and I think it is unresolved, so that is my word rather than anyone else's—of the allegations of adults being involved in the lip sewing of children at Woomera. I understand there has been another investigation, as we were told during the last set of estimates committees, by the South Australian authorities who are responsible for child welfare in that state, but again there have been no charges laid in regard to that, and nor has enough evidence come forward during that inquiry to dismiss the very serious allegations made at the time. As you would be aware, HREOC are doing an inquiry into children in detention, and I thought it would be a useful exercise if on this occasion the commissioner, when going in to inquire into these matters, used his investigatory powers. I did not press him as to why he did not do that last time, but I am hoping we will get some more authoritative advice from that about what actually occurred. I felt obliged to inform you of that. If it causes you to have more work, I am sorry.

Ms Godwin—That is all right.

Senator McKIERNAN—I know that from time to time we as members of the committee put the department and its officers to some lengths to provide us with information. In regard to Woomera, we are also noting newspaper and media reports of another legal action where the court has ordered the production and release of a large number of psychiatric files and records of the various self-harm and suicide attempts in the detention centre at Woomera over a period. Are any of the officers present at the table able to enlighten the committee as to what is happening in this matter?

Mr Metcalfe—To an extent I can, bearing in mind that the Commonwealth is I think considering an appeal from the recent decision of the magistrate. I would be loath to traverse into matters that may be regarded as sub judice, but essentially that matter relates to the prosecution by the Director of Public Prosecutions of four persons who escaped from Woomera. Ms Godwin probably has the details of the time that occurred. Legal representatives of the accused are mounting a defence and, in relation to that, they have sought a great deal of material that goes, in our view, well beyond the issue of the departure of the individuals concerned. The magistrate has made certain orders in relation to the production of documents. It is the Commonwealth's view that those are oppressive and go to documents that are not relevant to the prosecution, and responding to those matters would certainly constitute an unreasonable diversion of resources. As I said at the outset, we are considering what our next step should be.

Senator McKIERNAN—Thank you for that information. I also thank you for the information that was supplied to the committee to the question on notice put last time regarding the number of self-harm and suicide attempts and other incidents that occurred over a period. I welcome them onto the public record. Part of that response sought to draw a distinction between what was a minor incident and what might be seen to be a serious incident. To elucidate that information further, can you give the committee an idea about where you draw the line between a minor incident and what you consider to be a serious

incident? I know it can be an arbitrary decision from time to time, but for laypersons it is somewhat difficult to understand.

Ms Godwin—As you say, I would not say so much that it is arbitrary but it obviously is a matter of judgment. I will just make a couple of comments by way of introduction. Because the actual or possible self-harm by an individual is obviously a serious thing, regardless of how much injury they may suffer, we require the service provider to report all incidents regardless of their seriousness, including where there have been threats of self-harm or where it is suspected but not confirmed that someone may have undertaken some form of self-harm action. Very many of the incidents would fall into what we would call minor incidents in the sense that people either threaten or take superficial action, if I can put it that way, and there is either no injury at all or the injury that results is either very minor or very superficial.

I guess the most obvious example is that from time to time people will cut themselves, but very often those cuts are very minor and superficial and often do not even require dressing, let alone stitches. That is the sort of thing that we would call minor. Someone may claim that they are on a hunger strike but there is no evidence that they have not been eating or the indications are that they have been turning up to meals and so forth. Nonetheless, they say they are on a hunger strike and that is recorded. The fact that someone says that about themselves may well be indicative of a concern that we should have for their wellbeing.

At the other end of the spectrum are cases where people have been injured seriously, whether by intent or accident. We would regard that as a major incident. You may well be aware that an individual fell out of a tree at Port Hedland a couple of months ago and was quite seriously injured. It is not clear that he intended to hurt himself but he did, in fact, hurt himself. That would be recorded as a major incident because he required hospitalisation. In the middle, I guess, there is a judgment. We do try and classify them but, essentially, it is based on the advice we get from the centre about whether it was a minor or a significant incident. Regardless of the seriousness, they are all reported. That is because we think it is an important duty of care issue.

Senator McKIERNAN—Thank you for prompting me about the Port Hedland incident—about the person falling out of the tree. I was aware of the incident. I had left the centre shortly before it happened. I am also aware that, in the course of that incident, one of the guards at Port Hedland, a constituent of mine and of Senator Ellison, made valiant efforts to save the individual. In the course of doing that he actually got himself injured.

Ms Godwin—Yes, it was suspected cracked ribs. It was eventually diagnosed that he just had deep bruising to his ribs.

Senator Ellison—He broke the fall.

Ms Godwin—He did, yes. The individual was up the tree and the detention officers were in attendance to try to make sure he was okay. He appeared to overbalance and, as he did, they moved in to try to break his fall. Obviously, they were partially successful in doing that, and one of them was injured in the process. At the time it was suspected that he had broken a rib, but I think it was ultimately diagnosed that he had just sustained deep bruising.

Senator McKIERNAN—I am pleased to hear that. I had made inquiries about him and about the detainee. Is the detainee still in hospital, are you aware?

Ms Godwin—I have to confess that I am not actually sure if he is in hospital. He is certainly continuing to receive medical treatment and rehabilitation and he is recovering. He is still in Perth. I think he has been in hospital and I think there was also a period where he

might have been at the Perth detention centre. I just need to check the exact details. But he is certainly recovering, which is the important news of course, and he is continuing to receive treatment.

Senator SHERRY—Did the guards in that case who were injured receive some sort of commendation for their attempts to assist?

Ms Godwin—I think the company has an internal process of noting the commendatory behaviour of officers in that sort of situation.

Senator SHERRY—I just ask about that because I think, unfortunately, at times there is some adverse publicity in respect of security personnel, whether it is justified or not. Unfortunately, the aspects of the heroic behaviour of people in certain circumstances tends to get forgotten.

Mr Farmer—Senator, I would like to thank you very much for that observation. From our perspective, we as a country do ask both public servants and other Australian workers to carry out their jobs in sometimes quite difficult circumstances—and, I would say, in circumstances where there has been some history of activity by some people who are determined to put the role and the activities of those workers in a negative light. It is quite clear that in many respects that is very far from the truth and your acknowledgment of that is very welcome to us—as have been similar acknowledgments by members of the committee in the past. We will ensure that that is passed on to the people concerned. Thank you.

Senator Ellison—Madam Chair, I would like to add my comments to that and associate myself with those comments made by the secretary. I think there was one case in Woomera where someone was on the fence and got caught up in it. One of the officers concerned was injured assisting that detainee on the fence.

Senator McKIERNAN—I endorse the remarks that Senator Sherry, the minister and Mr Farmer have had to say in regard to this particular individual. I also am aware that there is another officer from another detention centre who received very serious head injuries and who, on the last occasion that I visited Villawood, was also still in hospital. I think that the persons who are undertaking these very difficult jobs on behalf of Australia are quite often forgotten about in the whole debate around the issue of mandatory detention in Australia. These people who are undertaking these tasks—certainly in Port Hedland—are constituents of both Senator Ellison and me, they are persons with families, they live in our community and they are very good law-abiding citizens, otherwise they would not have these jobs because they have very rigorous tests in order to get into them. They are citizens of, in that case, Port Hedland and the other place. I, too, am very pleased to be able to join with Senator Sherry, other members of the committee and the witnesses to commend the activity of that particular officer. I was going to take a break to give Senator Bartlett the opportunity to speak.

Ms Godwin—He is using his mobile phone.

Senator McKIERNAN—Obviously greater things call!

CHAIR—No, I do not think that is the case, Senator McKiernan. I had indicated to Senator Bartlett that I thought you had one more question and we would then take questions from Senator Bartlett.

Senator BARTLETT—I want to briefly revisit the issue of the Perth detention centre. You mentioned earlier on that it is not ideally suitable for long-term detention. Is that the department's view?

Ms Godwin—Generally speaking that is our position, Senator. If someone goes in to Perth and we assess that there is a possibility that they will be there for a reasonable time—for example, if they are pursuing an application or something of that sort—then we would normally seek to transfer them to another centre. However, there are a number of people in Perth who have been there for an extended period of time and generally speaking it is because they have been offered the opportunity to move but have declined it. They have either got community contacts or some other reason for not wishing to move because moving would generally mean going up to Port Hedland or interstate. There are a number of people who have been there for an extended time but as a general rule we would prefer to transfer people if we think that their detention will be for more than just a short period.

Senator BARTLETT—To my knowledge there is at least one person who has been there for a couple of years. Is that correct?

Ms Godwin—There may be. I have statistics if you would like me to check.

Senator BARTLETT—Yes, if you could.

Ms Godwin—There are a number of people—all adult males—who have been there for an extended period. There are 16 people. I will have to check this—the statistics we have are for their total period in detention. Some of them would be people who had been in state correctional facilities and have subsequently been returned to immigration detention. Although their period in detention is listed as more than two years they would not necessarily have been in Perth for all of that period.

Senator BARTLETT—You gave the general reason why people have been there for an extended period. Is that the case for all of them? It is probably not appropriate to mention names but are the people who have been there for that long there because they specifically want to be?

Ms Godwin—I would have to take that on notice. We undertook a process there some months ago—maybe even more than 12 months ago—where we worked through all the people in the centre to establish whether they would be suitable for transfer elsewhere or whether they wanted to be transferred. At the time, that general rule was certainly the case. I would need to specifically confirm as of now the detainee population and what the circumstances are.

Mr Metcalfe—If you have a particular person in mind perhaps you could let us know off the record and we will pay particular attention to that.

Senator BARTLETT—Thank you. I know Senator Murphy asked some questions on this issue last night but I am not sure how comprehensively he went into it. It is in relation to the proposed Queensland detention centre which at this stage is still earmarked for the Pinkenba area near the airport.

Mr Metcalfe—We refer to the site as Brisbane airport.

Senator BARTLETT—There are no figures published in the budget papers, but what stage is that at?

Mr McMahon—You will know that the minister made some comments on it in the lead-up to the election. Essentially, we are now in a consultation phase. The minister is due to meet with the community in July. In the meantime, we have been having consultations with a number of interested municipalities outside Brisbane. However it is progressed—in other words,

whatever site it may eventually be on—we have a process which requires us to develop concept plans et cetera for development within the next budget process.

Senator BARTLETT—So would that be in the next 12 months?

Mr McMahon—That is 2003-04.

Senator BARTLETT—How locked in is that particular site? There still seems to be some conjecture about whether that is confirmed or whether it is just the preferred location.

Mr McMahon—The minister has not made a determination on it. He has very explicitly left it open. It is clear that the site has a number of fairly significant advantages, including the fact that it is located near an airport where many of the arrivals are coming in. Queensland has something like 22 per cent of the national arrivals coming through its ports, mainly Brisbane. It has a reasonably high compliance workload. It is quite clear that if you look at the economics of it, it drives you near an international airport and, obviously, the more customers you have, the more logic there is to locate there. Nonetheless, the minister has not reached a view on it and will not do so until he has finished his consultation processes.

Senator BARTLETT—Could I ask about the planned Christmas Island detention centre. I think I asked you about this before but I cannot remember whether it was in estimates or the maritime incident committee—it might have been that one, actually. I was asking about the planned environmental impact assessments that were going to be done. Since that time, the federal environment minister has given a waiver under the federal environment act, exempting it from the requirements for the assessments under the environment protection act. I wanted to ascertain what form of environmental management plan is still going to be prepared, is being prepared or has been prepared for that.

Mr McMahon—This falls under output 1.5 but, just very quickly: in looking at the plans and doing our selection process, we have had an environmental adviser. When the construction process starts, a critical element will be that they must have an environmental adviser. They will be required to develop an environmental management plan with that. In fact, we would hope that, environmentally, the site will be in a better position than it was beforehand. It already suffers from problems like excessive wind shear, and we have been advised that this facility can reduce that impact.

Senator BARTLETT—When was the application for a waiver made to the environment minister? Do you know?

Mr McMahon—I do not have a date in my mind, but the minister himself has to make a determination under the act and he made that in accordance with the environment act.

Senator BARTLETT—In the media releases that were put out by Minister Ruddock and Minister Tuckey on 12 March announcing details of the proposed centre, Minister Tuckey said that preliminary works would begin immediately, with stage 1 to be completed within six months, which is September-October. My understanding is that the application for the waiver was not put in by the two ministers until 20 March, and a decision to allow that waiver was not made until 3 April. How were the ministers able to be so confident a month before the waiver was given that construction would be completed within six months?

Mr McMahon—I think it is the difference between simply making plans and the decision that the Minister for the Environment and Heritage had to make in his own right. But that is a question that really should go to the environment department.

Senator BARTLETT—I will be doing that shortly. But obviously, in terms of actions that were generated from your department, I wanted to follow the course of proceedings. Has the immigration department referred the matter to the Australian Heritage Commission, given that the site is listed on the Register of the National Estate?

Mr McMahon—It has been referred to the Heritage Commission.

Ms Ellis—In fact, the works for the centre and the associated works were jointly referred to the commission by DIMIA and the Department of Transport and Regional Services.

Senator BARTLETT—Do you know the status of that? That would be under section 30 of the Heritage Commission Act.

Ms Ellis—Yes. We have had a response from the commission, and they have pointed out a number of matters they would expect to be managed during the process. We will continue to have correspondence with the commission to ensure that their concerns are addressed.

Senator BARTLETT—So the AHC has made an assessment and provided that to you?

Ms Ellis—That is correct.

Senator BARTLETT—Are we able to get a copy of that?

Ms Ellis—I see no reason why not.

Senator BARTLETT—Have any of the contracts been entered into for construction of the site yet?

Ms Ellis—No.

Mr McMahon—No, not yet.

Senator BARTLETT—Has any work been commenced?

Mr McMahon—The only work that has been undertaken was by DOTARS in respect of surveying the site.

Senator BARTLETT—Has that involved any clearing?

Mr McMahon—It did involve clearing a path to allow the survey to be undertaken.

Senator BARTLETT—Are you tendering out for the construction of the centre?

Mr McMahon—Yes. We did go through this a little earlier but, essentially, it is a selection process and it is well advanced.

Senator BARTLETT—So there are no extra approvals you require from the Heritage Commission at all. Have those sorts of hurdles been dealt with?

Ms Ellis—As I said, we will continue to correspond with the Heritage Commission. On the environmental issues, a number of permits will be required prior to particular works being undertaken, and we will make the relevant applications as they are required.

Mr McMahon—We will be operating in accordance with the park management plan, and that does require some permits to be sought.

Senator BARTLETT—When the minister announced it in his statement on 12 March, he said:

Although there are limited potential sites, the Christmas Island community will be consulted on a final location ...

Within eight days the application had gone to the environment minister for a waiver, which I presume detailed the specific site in question. Was that consultation with the community conducted in the course of eight days?

Mr McMahon—This is really a matter for the minister for territories but, as I mentioned earlier, the minister for territories did in fact go to the island beforehand to have consultations. He certainly had some fairly strong messages about where a centre should go and, in particular, that it should be away from the population centre and that it should not be on Phosphate Hill, which limits the locations quite significantly.

Senator BARTLETT—Yes, it does. So the criteria used for selecting the site were fairly heavily influenced by the community feedback about where they did not want it?

Mr McMahon—I think it was heavily influenced by the fact that there is a very limited number of sites to choose from and the fact that the community had expressed some views to both him and Minister Ruddock.

Senator BARTLETT—So the environmental impact side of things came after the fact rather than at the start of things?

Mr McMahon—No. A significant element of this is that the only sites that were looked at were ones that were highly degraded.

Senator BARTLETT—Current mining leases.

Mr McMahon—Exactly. I think something like 70 per cent or 80 per cent of the island is park, so no contemplation was given to anything of high natural heritage value.

Senator BARTLETT—Thank you. That will do, Madam Chair.

CHAIR—Completely?

Senator BARTLETT—Yes.

CHAIR—Thank you, Senator Bartlett, that was very helpful. We appreciate your assistance. The committee will take a brief adjournment for a private meeting of committee members. I apologise again for the break in proceedings but we have some important procedural matters to consider. We will resume in a couple of minutes.

Proceedings suspended from 3.16 p.m. to 3.26 p.m.

CHAIR—My apologies for that break in proceedings, ladies and gentlemen. As I indicated, the committee had a number of matters to resolve in a private meeting. We are doing output 1.3 and Senator McKiernan is continuing with questions in that area.

Senator McKIERNAN—I want to move now to an area of considerable concern to me. I wish to follow up on questions I asked on the last occasion, and on a number of previous occasions I also addressed some questions to the Australian Federal Police on the matter. It is with regard to some very serious disturbances that have occurred in Australia's detention centres in recent times. I do not want to go back and revisit all the disturbances over the period, including those that occurred last year, which were responded to in answers to questions on notice that we received in recent times. We were grateful for that information, but there have been further disturbances since that period of time, and it would appear that there is almost a state of lawlessness in existence at the detention facilities in Australia.

Considerable damage has occurred at some centres and, from information I have received, there has been some difficulty in investigating what may be criminal offences which would, in normal circumstances, if they were out in the community, lead to at least prosecutions and

charges, if not later convictions and some penalty being imposed. But it seems to me, including some of the information we have received in very recent times from the Commissioner of the Federal Police, that there is very real difficulty in collecting evidence with regard to the disturbances. I understand that, when we talk about damage to facilities, it was in the region of some half a million dollars in Curtin last month. That is a serious amount of money, which is, of course, taxpayers' money. It is not only the question of the dollars and cents that is of concern in this but the very serious threats to life and limb of human beings around the place, including the detainees themselves, people who work in the centres and law enforcement officers who had been called in to attempt to quell the disturbances.

I am focusing in the first instance on those incidents in Curtin and in Port Hedland. The Curtin one is particularly disturbing, not only for the amount of money involved but for the length of the period for which the disturbance went on and for the weapons that were used. Unlike some cases in the past when they just used branches of trees, in this case they used real weapons. Knives and other implements that could do real, serious damage were in the hands of the detainees for a period of time afterwards.

What assurances can the committee be given about the security within the detention facilities and that, if criminal damage is occurring and individuals are being physically injured, the perpetrators of those crimes will be brought to account and will have to face the full force of justice that every Australian citizen out there in the community expects to face? That was a question, but I put it in the form of a statement in order to try to compress the discussion. I do not want to go through things chapter and verse. You are in possession of more information on these matters than I am, and I would appreciate as much information as you can put on the public record being put on the public record. If there are matters that are before the courts, obviously I am not going to press for information on those matters. I do not want to in any way interfere with or impede or intrude upon proceedings that may be afoot in the courts. That is another reason for my going into this very lengthy question. In that sense, the judgment remains yours as to whether or not information is given about any likely legal proceedings that may be afoot as a result of these disturbances.

Ms Godwin—You have obviously touched on a number of important and difficult issues. I will try to pick up on some of the factual matters first and then, if there are other things you would like me to comment on, perhaps you could prompt me. I will start with a couple of things to do with the Curtin incident in April. You are correct: that was a very serious disturbance that unfortunately resulted in very significant damage, particularly—and this is what is always very concerning in these situations—to amenities that are provided for the benefit of the detainees. For example, the brand new schoolroom was very badly damaged and all the computers were destroyed. It is disappointing, I have to say, from my perspective and worrying from the perspective of a public official trying to manage this sort of situation.

There are couple of things to say, though, about that incident, apart from the amount of damage and the type of damage that was done. It is correct that it was an incident that went on for a period, but I think it is important to distinguish the two phases of the incident, if I can put it that way. There was the very serious disturbance on the Friday night, which I think was 19 April, when most of the damage was done. Things settled somewhat the next day and on the Sunday. On the Sunday night, unfortunately, further damage was done, in that a building was burnt down. Those were the two main active incidents, if I can put it that way.

The reason that the incident appeared to go on for a period of days beyond that was not because there was an active confrontation or disturbance but more because of the point that you

mentioned to do with weapons. A number of things had been taken, particularly from the kitchen, during the disturbance on the Friday night, and a number of other bits of equipment and items around the centre had been collected and fashioned into weapons. In that context, it was assessed as unsafe to take the centre back to normal operations. By way of explanation, can I make the point—which I think I have made in the past in this committee—that, after a major incident, our first objective is to get the centre back to normal operations. Typically—and this was certainly true of this incident as well—quite a significant proportion of the detainee population do not participate and are not interested in active confrontation, yet they are always disadvantaged when such an incident takes place. So our first objective is always to get the centre back to normal operations.

In this instance, that process took a number of days, because of the need to, in a sense, clear the weapons out of the centre. The centre did progressively return to normal over a period of days and in effect was back to normal operations, except for the kitchen, by Thursday of that week, which I think was 25 April. So it was an extended period by the standards of other incidents we have seen, but there was not an ongoing confrontation, if I can put it that way. It was simply that there were concerns about safety and that meant the process had to be managed very carefully, and that was done. There was a lot of negotiation. APS were involved, the AFP were involved, our own staff were involved and ACM was involved, and I think that process of negotiation was very well handled and the situation was brought under control.

As to the aftermath, the AFP were involved very quickly in the process and conducted an investigation. That investigation, as I understand it, has been concluded, and they are now in the process of consulting with the DPP about possible charges and so forth. Obviously, taking your invitation about not straying too far into that, I do not want to talk about where that might go, because I do not want to pre-empt the decisions that the AFP and the DPP might make in that sort of circumstance. But there has been an investigation and there is an ongoing process, and my understanding is that there is an expectation that charges will be laid in a number of circumstances. Perhaps that is as much as I will say on that point.

You make the point that there have been difficulties in investigating some of these incidents or in gathering appropriate evidence. That has certainly been an issue over a period. There is a range of reasons for that. In part it is because of the nature of the incidents, which are often volatile and fast moving. It is very hard to specifically identify who exactly is undertaking which action. Of course, in fairness to the individuals involved, there can be no question of charges unless there is a very clear identification of an individual and a particular offence. So the nature of the incidents themselves can contribute. It has certainly been true that on a number of occasions in major incidents detainees have taken active steps to prevent their identification, by covering their heads with clothing or towels or by throwing away their identification passes or swapping those passes amongst themselves—those sorts of things. A number of incidents take place at night and, because of the nature of the infrastructure, there are often large areas of shadow and so forth at night and it is often not possible to see who is moving around in a particular area. You know the centre, Senator.

So, as I say, there is a range of issues. We have worked over a couple of years with the AFP, who have assisted, I think, in pointing out ways in which evidence gathering can be improved. That is an ongoing process, and I think that has also contributed to an improvement in practices around evidence gathering and so forth. But you correctly point out that gathering the evidence itself can be a difficult process, and that is certainly true.

The third thing, if I can just touch on it, is the question of when and if we would seek to involve the police after an incident has happened. If I can draw a couple of distinctions, generally speaking, when there has been a major incident of the sort we are talking about in Curtin, the cooperation of both the AFP and the state police, in most instances, has been very good. We have obviously appreciated that and as a result there have been a number of people charged and convicted in relation to major incidents particularly in Western Australia. I think that we face more difficulties when it is not a major incident, if I can put it that way—when it is an individual incident and it may of itself appear not particularly serious. It is certainly the case that, in relation to a number of incidents we have put to the police—whether it is AFP or state police—the view has been taken that it is not a serious matter and therefore it does not have sufficient priority to be actively investigated. The difficulty in that situation is that those more minor incidents can be a precursor to something more major, and if people get a sense that there are things they can do with impunity then sometimes incidents can escalate into something more major. That is certainly something that is of concern to us.

I want to repeat the point that I have made about the generally good level of cooperation between ourselves and the police, but I think it is fair to say there has been a change over a period of probably 12 months or more, in terms of the balance of responsibility that is taken by state police versus the AFP—with state police in a number of jurisdictions taking a view that more of these matters should be transferred to the Australian Federal Police. That, I think, has put pressure on the Federal Police and I think it has also created a level of uncertainty in the detention centres about just who things should be referred to—including where DIMIA had once taken the view that certain things were unequivocally the responsibility of state police. So, for example, I can point to an incident of domestic violence in a centre, in effect a dispute between a husband and a wife that ended badly. In that situation in the community you would call the local police and they would attend. In this instance the local police were called and they said, ‘No that is a matter for the Federal Police’, and the Federal Police then had to work through with the state police, ‘Well, no, that is actually more a community policing issue.’ So there are those sorts of issues which are creating difficulties.

I think the problem for us as DIMIA and as the overall managers of the detention centres is that, if it is not clear who to go to, or what response there will be, then that leads to a degree of lack of confidence about what to refer, when to refer, who to refer it to and whether there will be a response. In that context I think there have been incidents where detainees have felt that they can take action without consequence and that of course is not a helpful development. But can I really reiterate the point I have made—that is not to say that we have not had excellent cooperation from the Australian Federal Police. But it is a difficult situation for them, for us and no doubt for the state police and it is something that we are attempting to work through collaboratively with the Federal Police to try to come to a workable solution.

Senator Ellison—I am asking that this issue be placed on the agenda for the Australian Police Ministers Council which is to be held in Darwin on 17 July. Because of this jurisdictional issue, the Commonwealth places act does give jurisdiction to state police in relation to these sorts of places to enforce the law. Regarding the MOUs that are in place, I recollect in particular that South Australia does provide for the South Australian state police to have a role. Because there are detention centres around Australia it is an issue that police ministers, including me, should sit down and work out so that everyone knows exactly where they stand, because of the issues Ms Godwin has referred to.

Senator McKIERNAN—You are getting better at answering questions without notice. You even answer them before they are asked; that was my next question. Thank you. I do not

want to get into a scaremongering campaign or cause concern in the community but it is of concern to me. For that reason I have raised it in forums previously. I see the situation deteriorating rather than improving. I was not comforted by the responses I got from the Australian Federal Police in questioning them earlier in the week. I am not critical of their actions—I endorse the remarks you have made, Ms Godwin—but their resources and where those resources are located does cause concern. If there is a serious disturbance at Port Hedland or Curtin, there are not enough federal agents in that vicinity to come in to quell a serious action. That is where there has to be a reliance on the state police services.

In responses to questions asked the other day the committee has received a response in regard to the number of referrals and then actions and charges that arose out of them from various incidents. I will read into the record what Commissioner Keelty has provided the committee in regard to Woomera. He tells the committee:

... the AFP had received 89 referrals in relation to offences at Woomera since April 2000. Of these, 23 were accepted for investigation and 66 were rejected. Of the 23 matters accepted, six have been finalised and 17 are ongoing.

So there are still 17 in train that we do not know about. He details each of the cases, but case No. 4 was arson and assault at detention centres. Twenty-eight people were involved, 23 were arrested, four proceeded with summons and one charge was withdrawn. The result of all that was no successful prosecutions due to lack of witnesses. I am not aware of the individual instance and I am not critical of the officers who were present but these incidents are happening and criminal damage is being done. The perpetrators are, in some instances, being charged but they are not being convicted and sentenced as a result of it. The incidents continue and people continue to get hurt and public property continues to get damaged. I was going to ask the minister what he was going to do about it but he has already told me. I am reflecting what I believe to be a very strong community view on this matter. I wish the minister and the police ministers conference well in their deliberations on that issue. I hope from that the community can be reassured that things will improve.

Following those serious disturbances at Woomera, it has been reported that South Australia—indeed a good friend of mine who is now the emergency services minister, Mr Pat Conlon—is going to send a bill to the Commonwealth for some \$200,000 for the services rendered by the South Australian police force to the Commonwealth in regard to these events. What is your reaction to that? Are you in a position to comment, Minister, or is it a matter you are taking to the police ministers conference?

Senator Ellison—Has it been received?

Mr Farmer—I do not think we have had a bill, Senator.

Senator McKIERNAN—You have not had a bill?

Mr Farmer—Not that I am aware of.

Senator McKIERNAN—Well, you are a Bill, aren't you?

Mr McMahon—He's a Farmer, too.

Senator McKIERNAN—Thanks. It wasn't equal to what you did, but there was no thinking time on it.

CHAIR—Senator, that is almost a reason to adjourn.

Mr Metcalfe—Just on that: according to some media reporting I have seen, I think that the South Australian government has been talking about a sum of \$6 million. My understanding

is that there are a whole lot of things added into that particular figure to come up with \$6 million. It is not purely the cost of South Australian police resources around Easter, but the cost of managing TPV holders and a whole range of other things where the Commonwealth does not believe that that is a cost for the Commonwealth but that it is a discretionary issue for the state. Minister Ruddock has said on a number of occasions that if the South Australian police are able to quantify the cost in relation to their activity then we are certainly happy to look at that matter. We are waiting for the bill. Senator, there was one other figure you mentioned earlier. I did not hear it but I am told that you said, in relation to the Curtin incident in April, that there was—I think your words were—about half a million dollars.

Senator McKIERNAN—Yes.

Mr Metcalfe—I am told the figure of damages, according to our estimates, is in the order of \$700,000. That included damages to the buildings and contents in the dining room and kitchen, the education rooms, the computer room, the welfare store, the sports recreation room, the counsellor's office, the ladies' activities room and the officers' stations. As Ms Godwin said, it is particularly regrettable that the very buildings that are designed to provide amenity to people were the ones that were targeted in that criminal activity.

Senator McKIERNAN—Thank you for that update. I wonder if you might provide the committee with details on notice of the various damages that have resulted over the past 12 months from 1 July last year. It is not going back to the other serious things that happened in Woomera—which we have got information about—but just to give a capture of the year of the amount of damages.

Mr Metcalfe—We can do that, Senator.

Senator McKIERNAN—And, in turn, if it is possible to update the charges that have resulted from it. To get this in a bit of context, you might recall some of the questioning we did in February in relation to the prosecution that was mounted against a journalist. That action by the APS happened very quickly. Yet, where the really serious damage was occurring—in the detention centre—it appears that the activity is not quite as diligent. Incidentally, the charges in that matter have been dropped. The matter of the \$200,000 where I quoted my friend, Patrick Conlon, was in the *Advertiser* on Wednesday 3 April 2002 in relation to the bill that is going to be sent to Mr Farmer.

Mr Metcalfe—The address is PO Box 25, Belconnen, Senator.

Senator McKIERNAN—I will not be sending it.

CHAIR—That is very helpful of you, Mr Metcalfe.

Senator COONEY—Senator McKiernan has raised a lot of issues. I think you have been invited to urge the investigative forces of Australia to be vigorous in their treatment of people held in detention centres. Are you going to accept that invitation? In other words, is the department going to urge the police to ensure that people are charged and convicted?

Senator Ellison—I think what Senator McKiernan's questions were getting at was the jurisdiction and the proper response by law enforcement to problems at the detention centres. They were reasonable questions when you look at what has been happening and what Ms Godwin was telling us about. I have said that I want the question of how law enforcement responds to problems, be they of a domestic disturbance or domestic violence nature through to civil commotion, to be raised at the Police Ministers Council. But we need, for the good of all concerned, to work out very clear lines of responsibility. I think that that is appropriate.

Senator COONEY—From the responses I have been getting, my impression is—and I am giving you the opportunity to correct it—that the department wants to put pressure on the police force to charge people and get them before the DPP so that they can be convicted and so that an example can be made of them.

Senator Ellison—I think that that impression is not an accurate one. What the department and the government are saying here is that people in detention centres are subject to Australian law like anyone else and that, if someone commits an offence, the law should take its course. The government is saying that there should be no discrepancy. If someone in the wider community were to commit an act of violence—assault someone or damage property—you could expect that there would be an investigation by the authorities and that a subsequent charge would be laid. That is all that is being said.

Senator COONEY—I can understand people complaining about the police but I want to know if that is what the department is doing: complaining about all the policing authorities, including the APS.

Senator Ellison—I do not think the department is complaining about the police. What we are saying today is that you have the Australian Federal Police and the state and territory police forces and you need to have a clear line of responsibility. That goes without saying. It makes perfect sense.

Senator COONEY—So that is all that is being said: that there ought to be a clear line of responsibility?

Senator Ellison—Exactly, and that people in detention centres are subject to the law, just like any other person.

Senator COONEY—You would get over a lot of these problems if you put the detention centres in Canberra, in the ACT, where you would have no problem with jurisdiction. Has that matter been considered at all? From the reaction, I think the answer is no, but wouldn't that get over the problem of jurisdiction?

Senator Ellison—I think subjecting people to the climate in Canberra is bad enough, but that is a personal point of view.

Senator COONEY—Ms Godwin could have the detention centres next door to her house and then she would not have to worry about driving to work of a morning.

Senator Ellison—I think we have made the government's policy on detention centres and the positioning of them very clear.

Senator COONEY—I suppose this is a matter to be discussed, but there is a question of costs. I can understand the South Australian police or the South Australian government being concerned about whether they have to bear the cost of what is the creation—rightly or wrongly—of the Commonwealth government. Is that the sort of thing that will be discussed at the conference?

Mr Farmer—I will give you a bit of background. In the year 2000, when there were quite serious disturbances at Woomera, we asked for the cooperation of the South Australian police. That was given to us. During discussions with the Acting Police Commissioner of South Australia at the time, he asked—and I agreed—that the department reimburse the police service for the additional costs involved in that operation, such as charter flights, overtime, accommodation and the like.

Senator COONEY—The other issue I want to raise is that problems keep arising in prison-like establishments around Australia run by Australasian Correctional Management. You have been invited, Senator McKiernan, to look at the perpetrators of these deeds. I want to invite you in a similar way to look at the record of Australasian Correctional Management. They have had problems in Victoria as well and, if you believe some stories, their main shareholder has had trouble in America. What are you doing about that?

Mr Farmer—Your question raises another question for me, and that is that we have begun a tender process for the detention services contract and I am not clear in my own mind about the extent to which it would be proper for us to be talking about ACM's performance. I am not shying away from it; I am just raising the question. I would like my colleagues to think about that for a moment or two.

Senator COONEY—I do not mind if you think about it for a while, but there are a couple of things about that. First of all, I think this issue of how detention centres are run is so important. On some views, they are run disgracefully, and for ACM to even be in the tender process may seem to some to be beyond reason. So, at this point, unless you can make a stronger argument for what you say, I would insist on discussing this issue. If needs be, I suppose we had better have a private meeting about it.

Mr Metcalfe—We had anticipated that this issue might arise and the understanding I have is that the secretary's obligations under the Financial Management Administration Act and relevant legislation relating to the proper conduct of tender processes obviously places him and the department under obligations in relation to our public comments or other activities in relation to matters that could be seen to influence or prejudice the tender process. Hence, I think it would be very difficult for us and we would probably need to take specific legal advice if you were to ask us for a general assessment of a company that is now a tenderer for services in the future. However, if there are particular issues about performance, I think we can comment on those. There was a discussion earlier, for example, about the unfortunate incident at Port Hedland just after Senator McKiernan was there, when a gentleman fell from a tree. There was a discussion about the actions of the staff and their commendable actions in seeking to minimise injury to that man. It is absolutely appropriate for us to discuss that, but were the committee to seek from the department some form of view about the performance of the company in very broad terms we would have an obligation to take legal advice on that matter.

Senator COONEY—I hate to disappoint you, but I am going to make this a test. This is my last thing. I am asking you specifically, in the light of what I would call the very bad record Australasian Correctional Management has had in running detention centres around Australia, to tell me: first, why should they still be allowed to be in the tender process; next, what amount of money are they earning and what are they expending; and, lastly, what are their operational programs? Those are three distinct things, and I want the answers in detail. What you perhaps ought to do is refuse to set the thing up.

Mr Metcalfe—I made a general statement. I think yesterday we had a discussion and we took on notice your questions in relation to expenditure under the contract. We are very happy to give you as much detail as we possibly can in relation to that. There has been extensive discussion, not only in this hearing but in previous hearings, about the performance of the company and its work in various areas. But I certainly could not associate myself with any comment that you make indicating that the company has a bad record and, therefore, should not be in a tender process.

Senator COONEY—I am not asking you that. That is the proposition I am putting to you.

Mr Metcalfe—That is absolutely—

Senator COONEY—That is why I am saying it is a very serious question for this committee—and I have a part on it—to ask that question. As you can probably gather, I am not asking this question idly but because I have a great concern about the way this company has acted and behaved over the years. Even though there is a tender process, I think it is so serious that this Senate committee ought to know about it. There is no privilege—and I have been told not to use that word—but there is no right, in any way, on your part to refuse to answer the questions. It is up to the Senate whether or not they press the matter. That is how I am putting it.

Mr Metcalfe—We have shown on many occasions that we will do everything we possibly can to assist the committee, but it would be utterly inappropriate for me to offer any comment on a company that is currently in a tender process.

Senator COONEY—Can I take that as a refusal? That is all I want from you.

Senator Ellison—Madam Chair, just to be clear where we are, there were questions asked as to costs and payments made under the current contract—

CHAIR—The witness has indicated that he will provide as much information as possible.

Senator Ellison—Just so that we can dissect the problem.

Senator COONEY—I think that is right.

CHAIR—The committee is grateful for that. Thank you very much, Mr Metcalfe.

Mr Metcalfe—That does not go to the tender issue.

Senator Ellison—We will put to one side all those things we can, but any comments on the tender issue are ones that the officials cannot make or answer and nor can I.

Senator SHERRY—There are some issues I want to explore on this. I do not accept that the—

Senator COONEY—I will just define this. I need details not only on the tender process but on any matter. I am asking certainly for their present cost of running things.

Senator Ellison—That is easy.

CHAIR—You have an undertaking that officers are coming back to you on that, Senator Cooney.

Senator COONEY—And the cost of any outsourcing that they do. The government outsources to them and they outsource further.

CHAIR—I think Mr Metcalfe made a similar undertaking on that point.

Senator COONEY—In detail. Say there is an order for razor wire, you would say, ‘This is how much we paid for razor wire.’

Mr Metcalfe—To the extent that I can.

Senator COONEY—It has to be reasonable; I need you to be fair on this, as well. That is the first point—yesterday’s point. The next point today is about details of the structure of ACM—the corporate structure, who it belongs to, back to Wackenhut. I do not know whether that is on the public record.

Mr Metcalfe—I think it has now been solved but we can provide you with details of the corporate ownership and structure of the company, plus the names of the principals or owners.

Senator COONEY—We will call that category 2. Then there is the third category, in which I think you are much stronger, although I am not conceding that you are. My proposition is that this is not a company that ought to be allowed to tender. Since the tender is coming up, as far as you can, I need to know the details of all the problems they have, certainly in the detention centres run by the government but also insofar as the government knows the problems they have had in Victoria and elsewhere—a history of the problems that ACM have had.

Mr Metcalfe—In relation to the last point, the contract has now been in place for 4½ to 5 years and, as is well documented, there have been a very large number of issues that go to the performance of the company and associated issues. I think that we have done everything we can over the years to respond to questions contemporaneously, and for us now to go back and attempt to provide to you what sounds like a very detailed request I would have thought would be a massive undertaking.

CHAIR—Mr Metcalfe raises a valid point, Senator Cooney.

Senator COONEY—Yes, I agree with that. I am relying on you, Mr Metcalfe and Mr Farmer. We have talked about training before, but I wonder if there are any records of that training that ACM has carried out—even an example of that would help. What I am suggesting is that we get a whole picture of this company.

Mr Metcalfe—On training, I think that Ms Godwin could probably provide some information now and, depending upon her answers, we could probably provide more detail.

Senator COONEY—The only trouble about Ms Godwin doing that is that she was not at the training. You do not have anything to do with the running of the camps other than through ACM.

Ms Godwin—That is not quite true. We have departmental staff in situ in each centre. As far as the training is concerned, I believe we have actually provided to this committee in the past the curriculum for the training and the way in which it is conducted.

Senator COONEY—Exactly, but that is not what I am asking for. I am asking for the results of the training—the comments given by the trainer about the trainee. Surely they have got, ‘Philippa Godwin—genius; Senator Cooney—very poor.’

Senator McKIERNAN—Evaluations.

Senator COONEY—Evaluations. Thank you. That is what I am looking for.

Ms Godwin—We can certainly take that on notice, but my understanding is that, in a sense, it is a practical outcome. If people are not passing, they do not conclude the course, and if they do not conclude the course they cannot be employed. My understanding is that they are weeded out as they go along, but I will certainly take that on notice and provide you with further details.

Senator COONEY—I want to get a picture of this company. The next thing to agree upon is how expeditiously this can be done. With the Attorney-General’s portfolio, we asked some questions and we got an opinion from the Clerk. What I am trying to do here is get serious answers from you but also set up a situation where I can get an opinion from the Clerk. I need to have your response.

Mr Metcalfe—I do not think anything you have asked for so far we have said we cannot do.

Senator COONEY—The only thing I can do now is wait for your response, and if it is not a satisfactory response then I can get the opinion.

Mr Farmer—I would hope that you would agree that this department has been not perfect but pretty good at providing answers to questions on notice.

Senator COONEY—You are the most long-suffering department in the government; and excellently led if I may say so!

CHAIR—I might have to rule that one out of order!

Mr Farmer—We will obviously do our best and we will make a particular effort to answer these questions quickly.

Senator COONEY—And if any problems do arise we could perhaps agree on terms. All right, I hear the long-suffering chair. I have lots of other questions but I am not game to ask them!

CHAIR—The long-suffering chair did not say a word, Senator Cooney, but I could!

Senator SHERRY—What is the time frame for the tender process?

Mr Metcalfe—Mr McMahon may have some more specific detail, but the process we are going through has, firstly, been a call for expressions of interest. That followed on from the release in December 2001 of a draft request for tender and an invitation for industry comment on that. We have now embarked on a process of seeking expressions of interest, and the department made an announcement on Tuesday, I think from recollection, that we have decided to proceed and request tenders from four bidders. We could let you have a copy of that press release, if you like.

We are now finalising the tender documentation and expect that that material will be issued in the next few weeks. It is our expectation that we will then provide the tendering companies with a period of approximately two months to submit their final tenders. Part of the reason for that period of time, acknowledging that they have undertaken a fair degree of work already, is that part of that time will be taken up by the fact that it is incumbent upon us to make available opportunities for the tenderers to actually physically inspect each of the facilities. As you would appreciate, with facilities in Sydney, Melbourne, South Australia and Western Australia and on Christmas Island, that is quite an undertaking. That is something we expect to happen in the next couple of months. We would then expect to take approximately two months to evaluate the tenders, conduct any site inspections or other checks that we need to do and make a recommendation to the secretary for decision. At this stage, our expectation is that it will be towards the end of this year before a decision has been made as to the successful tenderer.

Senator SHERRY—Is this a tender for all of the operations, or is it a tender where it is possible to split the running of particular centres?

Mr Metcalfe—It is a tender for all of the centres. Your next question might be: what about new centres such as Christmas Island? To anticipate that question, the tender will make it clear that we could invite from the successful tenderer a bid for that centre. It is difficult to get precise ideas as to costs and other things. We would then need to assess that as to whether we regarded that as value for money. So it would remain open to us to invite a new tender in respect of any future centres.

Senator SHERRY—What about the issue of the successful tenderer subcontracting to other business entities or subcontracting by not employing people directly? Are any parameters set in the tender on this issue?

Mr McMahon—It is pretty clear from our position that the bulk of the tender document really refers to standards of service. It is the standards of service—in other words, their performance—that we are measuring. How they group together to actually deliver that performance is not something that we would directly engage in, except in respect of satisfying ourselves as to their corporate strength in respect of the bid et cetera. I think the answer to your question is no.

Senator SHERRY—Are you aware of any subcontracting by the existing operator?

Ms Godwin—I think there is in some instances, depending on the nature of the service. I would need to check. For example, I think the catering at somewhere like Maribyrnong is done on a subcontract basis, whereas in other centres it is done as a core part of their service. So there would be some elements, but I would have to check.

Senator SHERRY—Is the department at least informed about where and when this takes place?

Ms Godwin—Yes, we are.

Senator SHERRY—Perhaps you could take that on notice. I would not expect those details at the moment. I have one point of clarification. The web site of the department says that Australasian Correctional Services Pty Ltd (ACS) manages the detention facilities for DIMIA. Has there been a name change from ACM to ACS?

Ms Godwin—No, the formal head company, if you like, is ACS and they have a subsidiary called ACM, which is in effect the operational arm of the company, and that is why we usually talk about ACM, because it is ACM that delivers the service.

Senator SHERRY—ACM is a separate company from ACS?

Mr Metcalfe—It is a wholly owned subsidiary. In responding to Senator Cooney's question about corporate structure, we will cover that point.

Senator SHERRY—Good. You referred to the ownership of ACS, which is the holding company, and you mentioned that it has been acquired—is that by Group 4?

Mr McMahon—It is not something we can have a definite view about. Falck Global Solutions has an interest in Wackenhut, and Wackenhut owns ACS and ACM, but I think it is unclear as to where that relationship is going. In respect of the tender process, it is quite clear that we have independent Australian companies who are making bids in respect of detention service work. We would need to consider their tenders on that basis.

Senator SHERRY—Is CIRCO another private operator within Australia?

Mr McMahon—It is not one in the tender process.

Ms Godwin—It is not one I am familiar with.

Senator SHERRY—What are the companies that operate within Australia that can seek to tender?

Mr Metcalfe—As I indicated, we have gone through an expression of interest process. Essentially, we had an open process and invited all-comers to express an interest. We have

then applied some criteria to those bids and decided to proceed with a select tender for four. So the broader group of potential companies has now been narrowed down to four.

Senator SHERRY—I heard all that. What are the companies that operate in Australia that can operate in this area—you can give me some names?

Mr Metcalfe—The reason I hesitate is that some companies may regard themselves as being able to operate even if they are not operating specifically in this area, so I would not want this to be regarded as an exclusive list. There are a number of companies that do provide services in correctional institutions in Australia. Others will correct me if I do not recall the obvious names, but ACM or ACS is certainly one and Group 4 is another. I do not know the current name, but there was a company known as Corrections Corporation of Australia, which has now been acquired by another company—AIMS is I think the name of that company.

Senator SHERRY—That name rings a bell. Have they been involved in some sort of problem with their superannuation fund?

Mr Metcalfe—I do not know.

Senator SHERRY—It seems to ring a bell.

Mr Metcalfe—I think you know much more about superannuation than we do!

Senator SHERRY—Do not lead me into that area, otherwise we will be here for a long time. I will go and check, but that name rings a bell.

Mr Metcalfe—When people look at this issue and they compare immigration detention centres with state correctional facilities, I think those are the three companies that do operate in Queensland, New South Wales and Victoria. The point I am making is that there may well be other companies, and indeed one or two of our tenderers may operate in other areas related to facilities management or facilities provision or security associated businesses—Chubb is an example. So there are a number of other companies that may regard themselves as operating in this broad area.

Senator SHERRY—I am not sure whether this is correct or not, but is Group 4 in the process of acquiring Wackenhut Corrections Corporation?

Mr Metcalfe—That is the point that we were not absolutely clear on. If we can provide anything more precise, we will take that on notice and come back to you.

Senator SHERRY—Looking at the list of names you have given—and I accept your assurance that it is not an exclusive list—if Group 4 purchases Wackenhut, which owns ACMS, ACM and ACS, that is effectively one company. You have mentioned Chubb and you have mentioned the Corrections Corporation of Australia.

Mr Metcalfe—Now known as AIMS.

Senator SHERRY—I will be checking that out. I will get some information for you, because the activities of the superannuation fund investment have some serious implications for the company.

Mr Metcalfe—We would appreciate that, but that company is not in the select tender, so to a certain extent we do not need to concern ourselves with it.

Mr McMahon—Just to confirm, there are potentially only four groups who can bid at the moment, who have basically passed the threshold to go to the next stage. They are ACM, APS, Group 4 and Management Training Corporation, which operates in Queensland but is a

subsidiary of a much larger international group. They are the only ones of interest to us from this point on.

Senator SHERRY—Is Chubb now an Australian company, or is it owned internationally?

Mr Metcalfe—As our press release indicates, Chubb was considered in the expression of interest, but we have decided not to request a select tender from them.

Senator SHERRY—Group 4, both domestically and internationally, have had serious adverse comment about them and their operations at a number of places. Are you aware of the criticisms that have been made from time to time?

Mr Metcalfe—We read the papers, but I repeat the point I made to Senator Cooney earlier that I do not think anything we say here—we need to be very careful what we say—

Senator SHERRY—Yes, I know; I understand that.

Mr Metcalfe—in our coming to a tender process with a clean mind. In exploring a tender process and exploring, ultimately, who the successful tenderer will be, we will obviously do very strict probity and other background checks in relation to all those companies.

Senator SHERRY—So you will look at proven allegations or observations by people such as the Victorian Auditor-General. That would be someone of some significance and weight whose comments, I would have thought, should be taken into account when looking at the probity of an operation.

Mr Farmer—Senator, I feel that we are now stepping over the mark, because we are talking about a particular company or, at least, the context of a particular company. As the person who will take the ultimate decision in this matter, I really do not think it is appropriate for us to go down that path. I would ask your indulgence, if I could, in that matter.

Senator Ellison—It has long been recognised by Senate committees that there is a proper process to be conducted when a tender is called for. I do not recall any committee seeking evidence or information that would impinge upon a tender process. The result is of course obvious: if something untoward were said today, an agreed party could take action and all sorts of consequences could follow—consequences that I am sure no-one here would want.

Senator SHERRY—I had just about reached the point I thought I could get to.

CHAIR—So we are all in furious agreement again?

Mr Farmer—To take my comment one step further, the concerns that I have are a reflection of my determination to discharge my responsibilities in full and according to the expectations of the law and the parliament.

Senator SHERRY—I do not want to go any further into any company than we have so far. What is involved in the probity check?

Mr Metcalfe—There are two senses of the word ‘probity’. Firstly, we have a probity adviser to ensure that our processes withstand scrutiny. Secondly, we undertake financial and other checks, using appropriate advisers, as to the financial viability of a company. We would seek references and we would seek to uncover any issues that would be relevant to making a decision. I am a little reluctant to go any further into the detail of our process at this stage. What I think the secretary has been saying and what I am saying is that our processes will be rigorous and we will be seeking to take into account all relevant material in reaching a decision.

Senator SHERRY—Is there a working group within the department to oversee this process?

Mr Metcalfe—There is an evaluation committee within the department. Ms Daw is the chair of that process. That involves representation from different parts of the department. Ms Daw's branch is charged with the overall conduct of the tender process. Also on that internal group are the chief financial officer of the department and an officer at the section head level with contemporaneous experience in managing the contract, as well as a senior officer in our Sydney office who is a former manager of a detention centre. So we are attempting to ensure that, within the organisation, the breadth of financial and operational views are brought to bear. That committee in turn reports to the tender steering committee, of which I am chair, and which comprises Mr McMahon, the head of the relevant division; Mr Davis, the First Assistant Secretary of Corporate Governance Division; and Ms Godwin, the head of Unauthorised Arrivals and Detention Division. Once we have considered the various applications, we will come to a recommendation which ultimately goes to the secretary.

Senator SHERRY—Will you be employing the services of any private headhunting firm? I know it is not an individual who is being scrutinised, but will you employ any private company to assist in this process?

Mr Metcalfe—We have a number of advisers to assist in the process. I mentioned a probity adviser earlier. We also have legal and financial advisers. As the occasion arises, there could be other areas where we might look for specialist advice from consultants from very well known and well regarded Australian companies.

Senator SHERRY—Would you obtain financial advice from an accounting firm operating in Australia?

Mr Metcalfe—That is correct.

Senator SHERRY—That is as far as I wanted to take it. Thank you.

Senator McKIERNAN—Will the tender process include those centres that may or may not be operating at the time? For example, a new facility is to be built on Christmas Island; Baxter is built but not yet commissioned; we have Coonawarra; and Curtin is going to close down. What are the procedures regarding those centres?

Mr Metcalfe—Senator Sherry asked a similar question earlier. To recapitulate, the tender process is in respect of existing centres, including the contingency facilities.

Senator McKIERNAN—If this is already on the record, do not continue. I apologise because a number of other things are happening around the committee and we are being distracted by those.

Mr Metcalfe—If you check the *Hansard*, I think you will see I have answered that question.

Senator McKIERNAN—I certainly take your word for it, and Senator Sherry has been in contact with me on it as well. I apologise again for duplicating questions. I would like to ask about telephone facilities within detention facilities, particularly Woomera. One of my colleagues in the lower house put a series of questions on notice in recent times, asking about the use of phone cards in Woomera and the company that owns and is in charge of the system at Woomera. Ms Godwin, are you in a position to provide any additional information on this matter?

Ms Godwin—Yes, I have some information. I am aware of the question on notice. I think it only came in literally in the last couple of days to our office, and consequently we have not yet addressed all the aspects of it. I am not sure if the information I have here covers everything. Perhaps if we return to the point where the pay phones were installed, you might recall that when Woomera was first set up one of the issues was things like basic amenities such as phones. We had had longstanding difficulty in getting sufficient phones into the centre and there was a point at which a decision was taken to engage a particular company, essentially because they were able to provide the phones in a very short time whereas Telstra were suggesting it would take 12 to 16 weeks to get phones in. Those phones are still there and that company is still providing maintenance on a regular basis as part of the overall service agreement—and that was all negotiated by DIMIA. Once the phones are in, the day-to-day management of the relationship with the service provider is undertaken by ACM, and that arrangement continues now.

Phone cards are available to detainees at the cost of \$11 or \$22, which is essentially the face value of the card plus GST. I know there has been a lot of discussion about the call rates and whether they are excessive. We have done a bit of homework on this. As you would probably be aware, it is hard to compare call rates because different companies have different approaches, but as far as we can tell the arrangements seem broadly consistent, if I can put it that way. For example, the rates for overseas calls charged by the current service provider are \$1.76 a minute to Afghanistan, \$1.17 to Iraq and \$1.17 to Iran, and there is no flag fall, so it is just a rate per minute. The rates we understand Telstra would charge in a similar situation are \$5.10 for Afghanistan, \$3.95 for Iraq and \$3.50 for Iran. That was to get a point of comparison.

For domestic calls, the current provider charges 70c a minute Australia-wide. Telstra has a sliding scale which starts at lower than 70c and goes higher than 70c depending on the time of the call. That is what I mean about it being a bit hard to compare. There may be a point in time where a call is cheaper from the current service provider than it would be from Telstra and vice versa. There is a problem with comparison at that point. I would just like to make the point that the reason that the existing service provider was chosen was simply that they were able to provide the service quickly and have gone on providing an immediate maintenance service to the phones. As far as we can tell, the call rates are at least broadly comparable with what would be available elsewhere.

Senator McKIERNAN—I am not going to press for too much detail in regard to Telstra because I was not aware when the question was put on notice, so I am not sure how much of the detail you have collected. I am a little bit familiar with Telstra's pricing policies and the constituent inquiries that lead to it. They operate on a system where there is a cost if you are within a particular zone but if you are going outside that zone or the next adjoining zone the costs escalate accordingly. When you say that their lowest price is below 70c, would that be for calls within a zone that would include Woomera township and the detention facility and that, if you were calling Adelaide, you would probably pass two, or possibly even three, zones? Do you have that type of detail with you?

Ms Godwin—I do not have it down to that precise level of detail. Given that we were considering that people might be potentially calling a capital city, we looked at the sorts of rates that would apply to Sydney or Melbourne. As I understand it, Telstra works on a kilometre basis for long distance calls. For calls from a centre that is further than a certain distance—and Sydney and Melbourne both go over the distance—we looked at those call rates. As I say, it depends on the time of the call. At certain times calling Sydney and Melbourne is cheaper and at certain times it is more expensive than the current service provider. Whether a

at certain times it is more expensive than the current service provider. Whether a particular call by a particular detainee at a particular time is more or less expensive really depends on the circumstances of the individual call. When we looked at the countries that might potentially be called, there appears to be a competitive arrangement as far as the current service provider is concerned.

Senator McKIERNAN—I am reassured to a point because the information that I have got—and I think it was contained in my colleague's question—was that the telephone company at Woomera was charging \$1.25 per minute. You have brought that down to 70c per minute. You have told the committee that it is less than 70c per minute, which is a difference and, hopefully, we can get below that. We were also advised that it compared with prices ranging from 9c to 22c per minute. You have not confirmed that the costs are as low as that for the other providers.

Ms Godwin—I would like to make a point of clarification. They are pay phones, so the 9c to 22c rate is the sort of call rate that someone would get on a domestic phone service, not on a comparable public phone service. We have looked at comparable public phone rates. As you know, we have public phones in all of the centres; that is what is provided.

Senator McKIERNAN—I appreciate that advice and, as you are responding to the questions on notice to my colleague in the other place, could they be copied to the committee as well for our information?

Ms Godwin—We could certainly do that, Senator.

Senator McKIERNAN—Thanks very much. In regard to the new facility at Baxter, which is in relative close proximity to Woomera—although I have not personally been there but that is what I understand—what is the arrangement for telephones in that area? Are you in possession of any information about that?

Ms Godwin—I am not sure whether the phones have been installed yet.

Ms Ellis—We would have to take that on notice. The communications plans are still being finalised. I am not sure exactly what is planned for public phones.

Senator SHERRY—What about Christmas Island?

Ms Godwin—For the permanent centre?

Senator SHERRY—Yes.

Ms Ellis—That is a fair way off planning.

Senator McKIERNAN—Regarding contracting and tendering for services within facilities, I mentioned yesterday—or it may have been this morning or on a previous occasion—that in tendering for the wish list for the new detention facility to be built at Port Hedland, many in the community and certainly the council were very keen to have the new centre built in Port Hedland because of the business the current centre brings into the township. Does the provision of general foodstuffs and other needs within the centre go to a tendering process? If repairs are required for electrical maintenance does that go to a tendering process? Or is it just a matter of engaging an individual, or if you need a tonne of rice going down to Woolworths and buying it?

Mr Metcalfe—It is a bit like that. It depends on the issue. Repairs to buildings and those sorts of things are the responsibility of the department in the main. What happens depends on the nature of the repairs—we described before the significant damage to buildings and what-

ever. If it is a question of buying food for the kitchen then that is within the purview of the company. How they establish the best price is for them to deal with. They do have a general policy of attempting, where possible, to buy locally and support local business. That is an issue we have had with the Port Hedland community. Precisely what the company does in terms of establishing good prices is something I do not have details on.

Senator SHERRY—Under this tender round process, if the subcontractors who are supplying goods or services to the principal tenderer and operator, whoever that may be, are concerned about payment, for example, and they are waiting an inordinate amount of time—some months—and they believe this should not be happening, will there be a process whereby they can complain to your department?

Mr Metcalfe—The officers at the table do not have precise knowledge of the proposed contract under the new tender. I will take that on notice. We have had the occasional issue where a particular contractor is worried about delays in being paid and they notify us. Our experience has been that as soon as we raise the question the issue is dealt with very quickly. I would be surprised if there were any provision for a formal process. If there is anything further to add I will do so on notice.

Senator SHERRY—Spotless is a huge company operating in Australia in a range of areas. Are they involved in any of these sorts of facilities?

Mr Metcalfe—Not that I am aware of. I will check. The officers who may have a better idea are still in the building. I will come back to you.

Senator SHERRY—Spotless is such a major operator of these sorts of services—some of them at least.

Mr Metcalfe—To the best of my knowledge they did not lodge an expression of interest with us, for example.

Senator McKIERNAN—How many bridging visas E have been granted from July 1 of this financial year?

Ms Godwin—I might have to take some of the detail on notice. I am certainly aware of a number that have been issued, and that remain in effect, but the briefing I have here relates to individuals as opposed to the statistics. I would also need to check the classes, because there are two different classes of bridging visas that are possible.

Senator McKIERNAN—I am particularly interested in those that might be granted to young persons, children, or older persons who may have been in immigration detention centres.

Ms Godwin—I will take that on notice.

Senator McKIERNAN—In doing that can you provide advice to the committee on the status of documents which are called MSIs—Migration Series Instructions. Is the DIMIA officer examining a request for a bridging visa compelled to follow the instructions contained in an MSI?

Ms Godwin—Broadly speaking, the answer to that is no. They are compelled to follow the act and the regulations. The MSIs are what they say: Migration Series Instructions. They are designed to give the officer further information about what was intended, and how they might go about forming a view about whether the criteria that are set out in the regulations have been met. At the end of the day, what the officer is required to do is to satisfy themselves that the requirements for granting the bridging visa have been met, and therefore they can go

ahead and grant the visa. The formal requirement is the act and the regulations; the MSIs seek to provide further information to the officers making those decisions under the regulations.

Senator McKIERNAN—If you can provide that additional information, it would be appreciated. I am looking for a response to a question by Senator Bartlett at the last estimates hearings where he asked for further information in regard to what is colloquially known as ‘split families’. Do you recall the question?

Ms Godwin—I have a general recall, but I do not recall the specific question or indeed the answer.

Senator McKIERNAN—I have been asked by one of my colleagues to ask for numbers for the last five years on the split family visa applications, but I do not want to ask for the information again if you have already given it. In anticipation, can the department provide the committee with numbers for the last five years of the grants of split family visas?

Ms Godwin—Can we take that on notice? If you mean humanitarian split family visas, it actually comes under program 1.2.

Senator McKIERNAN—Yes. They apply particularly to persons in detention, don’t they?

Ms Godwin—No.

Mr Metcalfe—Split family visas are really where part of the family is in Australia and part of the family is overseas.

Senator McKIERNAN—But it relates to refugees, doesn’t it?

Mr Metcalfe—That is correct; it is a humanitarian area. Unless I am wrong, I think that—

Ms Godwin—Can we clarify. There may be two issues here. I know there has been some discussion about people in detention who have a family member already in the community and who are in that context split families. But, separate to that, in the humanitarian program there is a category of visas called split family visas. So if we are talking about split family visas it is program 1.2. If we are talking about people in detention who have a family member in the community, that is something we would need to take on notice. I am not sure whether we would have the data going back five years, if that is the question being asked. If it is about split family visas, we will probably have that.

CHAIR—We have, thanks to the assistance of the secretariat, the questions from the last discussion in output 1.2, under refugee and humanitarian entry and stay, which are questions Nos 23 and 24, which were both from Senator Bartlett on split families. One was in relation to emails received from Bangkok, concerning the processing of split family applications in Islamabad, and it asked you to provide details of those. The other concerns how many split family applications are 2½ years old or older. Senator McKiernan, are they the questions you were referring to? They are on page 425 and 426 of volume 2.

Senator McKIERNAN—It is more related to question No. 24, which is the second question. Thank you very much to the magnificent staff for that assistance.

Ms Godwin—I am sure we will happily refer it to program 1.2.

Mr Metcalfe—So we will take that on notice, Senator. Are you asking us to run those figures back for five years?

Senator McKIERNAN—If that is at all possible.

Mr Metcalfe—If the computer can do it, we will do it.

Senator McKIERNAN—But if it requires you to spend serious amounts of money in order to do so—

Mr Metcalfe—If we can get a report easily we will; if not, we will let you know.

Senator McKIERNAN—Thank you. I think that exhausts all the questions I have been given in 1.3.

Senator COONEY—There was a statement by the Chief Justice of the Federal Court, in the last report of the Federal Court, about concern—I think I raised this last time—with the sending off of notices of appeal. Did you ever read that? Or don't you read the Federal Court reports?

Mr Metcalfe—We had a discussion last time about the question of whether or not certain persons could make applications outside the 28-day time period, arguing that they had been delayed by action of the department or its officers in receiving notification. I checked on this before we came along yesterday, and the advice I gave you then was that the issue was on appeal to the full Federal Court. The advice I have now is that that hearing has occurred but we are awaiting a decision of the court.

Senator COONEY—Did anybody give the Chief Justice a ring, or is there antagonism between the Chief Justice and Immigration?

Mr Metcalfe—We have a working relationship with the Federal Court. Indeed, one of the areas we are concerned about, and I know the committee is concerned about, is what would appear in some cases to be inordinate delays in finalising matters before the courts. It is certainly an issue that Senator McKiernan has pursued over the years. We have had a number of very productive discussions with the registries of the court, and I think some judges, as to how we can work together to improve that. So there is what I certainly think we would regard as a good relationship. In relation to that particular matter, that is before the court and I really cannot comment.

Senator COONEY—Of course you can comment. I will ask the question again. I am asking you specifically, Mr Metcalfe, to tell us what the department is doing about the issue raised in the last annual report of the Federal Court, which was signed off by the Chief Justice, where the holding up of notices of appeal in detention centres was remarked upon by the judge.

Mr Metcalfe—I can comment about that. The particular matter that was remarked upon by His Honour is something that is being pursued through the judicial process. But you raise a very good point about whether there are lessons for our general handling of appeal notices or correspondence. It is a very serious matter.

Senator COONEY—It is not the department's fault; it is ACM's fault, without a doubt.

Mr Metcalfe—Ultimately the department has responsibility. But we are certainly aware of that particular issue, which arose at Woomera soon after its establishment, when conditions were—in some respects—less than optimal because we were having to deal with the arrival of a very large number of people in a very short period of time. We are mindful that people need to be given timely notification of matters that touch on their ability to appeal to the courts, and processes are in place.

Senator COONEY—That is one explanation. Another thing that is consistent with the facts is that the ACM—an irresponsible organisation wishing to manifest its dislike for the

Federal Court—fails to send on notices of appeal which it should. It is as consistent with that explanation as with yours.

Mr Metcalfe—You may form that view.

Senator COONEY—And you may form your view.

Mr Metcalfe—I may form a different view. I do not think I can say anything more.

CHAIR—Do you think we should leave it at that, Senator Cooney?

Senator COONEY—No, I do not. I am trying to get you to refuse to do things.

CHAIR—Thank you for spelling that out. I think Mr Metcalfe's exceptional powers of perception had picked that up.

Mr Metcalfe—I had spotted that, Senator.

Senator COONEY—What you are saying is that, because the department takes a particular view and because I have a particular view, what this Senate committee is doing is of equal, but not superior, worth in this circumstance. I put it to you that this committee is entitled to get comments from the department and indeed from anyone else. An answer which says, 'That is your view, this is mine; I am not going to answer any further,' is not sufficient to meet our requirements.

Mr Farmer—I think there is a story to tell which perhaps does answer your question, which was: what was the issue and what have we done about it? Ms Godwin has some remarks that may be helpful.

Senator COONEY—You and Mr Metcalfe are too good in your answers. You have to say, 'No, I am not going to tell you that.'

Mr Farmer—Yes, but you have to winkle it out of us.

CHAIR—I do not want any winking going on at my committee, thank you, Mr Farmer.

Senator COONEY—You are too good for me. I am going to retire because of the fact that I cannot meet the ability that you show.

CHAIR—Can we conclude output 1.3?

Senator COONEY—Ms Goodwin is going to say something.

Ms Godwin—I am going to point out that my name is Godwin. I know it is unfair, when this is the last time we will meet.

Senator COONEY—Touche. You seem to have been there all the time. Senator McKiernan says he wants everything done expeditiously, but you were here last night and you are still here. I do not know how that can be called expeditious.

Ms Godwin—I know.

Senator COONEY—That is a criticism of this committee.

Ms Godwin—I think I made the point when this came up last time that we recognised that there had been a problem with procedures at detention centres. As a result of those problems we have changed the procedures to make sure that we do not have the same difficulty arise again. The procedures have essentially been changed to make sure that we provide any documents—for example, forms for the court that a detainee may require in order to lodge a Federal Court appeal—as early as possible in the 28-day period that they have so that it does not come down to the last couple of days.

The problem that occurred with the cases you are referring to was that it all happened right at the end of the 28-day period when there was something else happening—I do not recall the exact details—and as a result there was a delay. We have changed the procedures now in each of the centres to make sure that people are provided with the forms and so forth early in the 28-day period so that if they intend to appeal—which of course not everybody does—they have got the documentary material they require early in the 28-day period. We have also changed the process so that things are faxed immediately there; delivered to the office of DIMIA in the detention centre.

Senator COONEY—When are we going to get the answers that we asked for that you were going to consider? I know this is a bit Kim Carr-ish, but nevertheless I am going to ask.

Mr Metcalfe—These are the particular ones we discussed before?

Senator COONEY—Yes, because you are going to go away and we will not see you again.

Mr Metcalfe—No.

Senator COONEY—That is the end of that.

Mr Metcalfe—We will be back. I was actually going to ask the question of the chair in that there is a reporting date—

CHAIR—It is 5 July.

Mr Metcalfe—and we have taken a considerable number of questions on notice. I think others may have been tabled. I do not know whether there is a view within the committee as to the relative priority of our answers. The area concerned that would be dealing with those questions from Senator Cooney would be dealing with a large number of others so it is a question of whether the committee has a view as to priority. We certainly will commence work on those matters and provide the answer in as timely a fashion as possible, as we always do. I sense from Senator Cooney that he is looking for his answers in a more accelerated time, perhaps, than answers to Senator McKiernan's questions. I am not sure—

CHAIR—If you would like me to describe that look, Mr Metcalfe, I would describe it as constituting shock, horror and disbelief that you could contemplate that that might be the case.

Senator McKIERNAN—In short order, my gast has been flabbered!

CHAIR—That is another thing I do not want happening here! Mr Metcalfe, I appreciate your raising that. The committee does have the pressures of changes in committee membership, as you are indirectly alluding to, so we might contemplate that and come back to you before the end of this evening. But if you considered Senator Cooney's and Senator McKiernan's questions as equally pressing that would be of assistance.

Mr Farmer—That is sufficient guidance for us. We will do our best.

CHAIR—I am not usually that subtle, either.

Senator COONEY—All I am really looking for is a statement from you to say, 'Look, we think this is a category of questions we should not answer.' That is all you need say. It is very simple.

CHAIR—Thank you for that advice. That may have helped Mr Metcalfe immeasurably. Can I ascertain from my colleagues whether we have completed output 1.3?

Senator McKIERNAN—Just before you do so, on a matter that has just been raised: I addressed some questions to Ms Godwin last evening and again this morning on the statistics of persons in detention. I have taken copies of those responses. We have the *Hansard* available from last evening and it is my intention to publish some of that information. It would be appreciated if that information which Ms Godwin was quoting from could be made available to the committee so that I am accurate with those figures. I do not want to put out information that I had not copied correctly or—save that it might ever happen!—that *Hansard* have copied incorrectly. Could we have the information that you have quoted from. On the last occasion when a similar request was made, it was provided very quickly. I am not asking for it if it would involve a great deal of extra burden on the department.

Ms Godwin—There should not be a problem. We have essentially the same package that we delivered last time. I will ask staff to check it tomorrow to make sure it is complete and covers the issues that you asked for. It should take a couple of days.

[5.11 p.m.]

CHAIR—I am declaring that we have completed output 1.3. We will move to outcome 2 and I thank the officers who have assisted the committee in 1.3, we are very grateful. We will move to outcome 2, A society which values Australian citizenship, appreciates cultural diversity and enables migrants to participate equitably.

Senator McKIERNAN—On page 89 of the PBS, the detail in regard to settlement services at output 2.1 shows that there is projected to be a decrease in funding for settlement services from \$47,873,000 to \$45,682,000. Can you detail what this is about?

Mr Vardos—In terms of grants for Migrant Community Services, the amount is going up in the next financial year by \$1 million. I cannot give you an explanation off the top of my head for the difference in the totals.

Ms Gray—I understand that is a change as a result of purchasing agreement variations where we have reduced the number of targets slightly for IHSS applications. I would have to confirm that.

Senator McKIERNAN—Will you take that on notice and come back to the committee with further information on that. Under the general heading of 2.1, this output covers settlement planning and information delivery, humanitarian settlement services and support for community services, which would include planning and oversight of MRCs, MSAs and CSSS project grants. It would also cover AMEP administration and fee-free translating and interpreting services. They are 1, 2, 3, 4 and 5 of 2.1.1 and 2.1.2, of outcome 2.1. Am I correct in that?

Mr Vardos—That is the menu of items covered under the broad heading of settlement services, yes.

Senator McKIERNAN—Specifically where would these reductions impact? The global figure of \$47 million moving down to \$45 million is not a great impact; it is \$2 million. However, if that \$2 million is in one specific area it might be having a dramatic effect. Is it possible to give the details of each individual output of 2.1.1 and 2.1.2 and so forth?

Ms Gray—I would have to take that on notice and get the details for you but, yes, we can break that down.

Mr Vardos—We can disaggregate the amount.

Senator McKIERNAN—Are you not in a position to do something on that now?

Mr Vardos—I am caught on the hop in terms of not being able to explain the difference. It may well be an accounting issue, but I will have to defer to the experts and come back with a fully detailed answer for you.

Ms Gray—We would need to go back and check the estimates variation related to outcome 2 for the purchasing agreement to see which areas of that output were affected. So we can get that for you.

Senator McKIERNAN—I would appreciate receiving that information. Has any work been done to analyse the impact of the TPV phenomenon on the Integrated Humanitarian Settlement Strategy? Overall, what has occurred in recent years is that there is a greater number of persons within Australia who have been able to access the refugee and humanitarian program, who are on TPVs and who are not eligible for humanitarian settlement services. A bland analysis of that would mean that there ought to be a saving within this area. Would I be right in putting up that straw man and, if indeed it is a straw man, will you knock it down?

Mr Vardos—TPV holders are not principal clients of the IHSS. The principal clients of IHSS are the refugee and humanitarian entrants under the humanitarian program. However, there are some elements of the range of services provided under IHSS, in particular the early health intervention service, which service TPV holders. So some IHSS contractors provide early health intervention services for TPV holders. I am advised that, in 2001 and 2002, approximately 1,700 TPV holders will have received torture and trauma counselling services within that framework. I emphasise that the principal clients under IHSS are those entrants under humanitarian programs.

Senator McKIERNAN—Yes, indeed; that was the point I was making. There has been a reduced number of those because of the larger number of TPVs.

Mr Vardos—The projection for this financial year is 5,200 clients under the IHSS. As at the end of March, I think we had reached just over 4,000. On current projections we will probably meet our target by the end of the financial year.

Senator McKIERNAN—Was the target 5,200 rather than 8,000? The reason I say 8,000 is that I thought, from memory—and the memory is getting old—that the projection was of 4,000 internal visas, which would be granted in Australia for this current year.

Mr Vardos—The way we calculate our projected client group for IHSS is based on a percentage of total humanitarian entrants. Not all humanitarian entrants will require the services of IHSS—some have family members or other support networks. I think the original projection was that 75 per cent of humanitarian entrants would want to access IHSS services. It is not the total case load; it is a proportion of the total case load. That is why that number—our projected client case load for IHSS—is lower than the total intake under the humanitarian program: because not all clients will wish to access it.

Senator McKIERNAN—Thank you for that. I know it is dangerous relying on memory, but you notice what I have at the back of me: a whole row of empty seats. You have other support behind you.

Mr Vardos—I have a corrected figure: it is 5,600. I think I said 5,200 but the correct figure is 5,600 projected case load.

Senator McKIERNAN—Both of us are probably close to the mark. I had a memory of 8,000 people coming in who would probably be eligible. With a 75 per cent target, it would

just be an extra 400 people. But we will leave that one for now. What are the projections for the next financial year?

Mr Farmer—I will just make a general point while we are getting those details. Obviously, our hope would be that the number of people taking advantage of the service would increase because of the potential for us to increase the number of people that we are taking through the offshore refugee and humanitarian program. That is as a result of the running down of numbers of those who arrive unauthorised onshore. There is a positive result in terms of our capacity to increase numbers offshore from what appears to be the success that we are having at the moment in curtailing unauthorised arrivals.

Senator McKIERNAN—Again, I seem to recall—without going through my papers here—that the target for next year for onshore humanitarian visas is 2,000.

Mr Farmer—I believe that is the case, yes. I would not say that is a target; that has been the allowance, as it were.

Senator McKIERNAN—I am duly reprimanded.

Mr Vardos—To close off the loop on the question that you asked me: the projected case load for IHSS for next financial year is just a shade under 5,300. It is a reduction of 300-odd on this year's projected case load. I would suspect that that is a lag in relation to the number of onshore approvals over the past 18 months or so and the reduction in the case load coming from offshore. It is around about the same magnitude—5,297 to be exact.

Mr Farmer—But it is really subject to the phenomenon I mentioned earlier. I think that these figures have obviously wobbled around a bit over the last few years and I think we will see a bit more of that, but with any luck it will be in the right direction.

Senator McKIERNAN—Minister Hardgrave announced some changes earlier this month to the payment arrangements under the IHSS. There was a media release released on it as well but there is a little confusion from within the constituency that I serve as a member of parliament as to what it actually means. Mr Vardos, I wonder if you would be in a position to provide some detail and explain the previous payment system and what those changes are.

Mr Vardos—One of the concerns expressed by the service providers engaged under IHSS is what they describe as 'the erratic nature of the arrival of their clients' and consequently their inability to put work plans in place—work force planning in particular—when they do not have a guaranteed number of clients arriving during the program year. We have created a degree of certainty for them by guaranteeing them a minimum level of clients in a financial year—based on a conservative estimate of total arrivals in the given year—payment of, I think, 60 per cent of the fees associated with that guaranteed minimum up front, and then the balance payable approximately six months later. Obviously, if the arrivals exceed the minimum level we are projecting then they will get paid for every client above that level. We have provided a degree of certainty on a national state by state basis on the number of clients that each service provider can expect in a given financial year. That was a response to the concerns they expressed to us.

Senator McKIERNAN—There is going to be an evaluation of the IHSS. Who will be undertaking that, and what is the time frame for it?

Mr Vardos—We have come close to finalising the terms of reference for the evaluation. The objective will be to determine whether the program is actually delivering against the objectives that were set for it when it was created. There will be an added emphasis on

housing issues—as raised by the states in terms of housing pressures, particularly in the big metropolitan cities. As you may be aware, the provision of on-arrival accommodation is one of the services we provide to IHSS clients. The evaluation will be managed by DIMIA. I expect that it will be completed by the end of 2003 calendar year. Parallel to that evaluation, which is looking at service delivery, there will also be an examination by our internal audit and evaluation people of contract management. There are some 37 contracts on foot under the IHSS banner so there will be an examination of contract administration issues as well.

Senator McKIERNAN—It is rather a long time for the evaluation.

Mr Vardos—Yes. One of the issues is that the contracts have come on stream on a staggered basis. While IHSS has been in existence for some time, the most recent contracts were concluded only within the first quarter of this year. So there is not much experience in terms of implementation. The bulk of the work, I would hope, will be done within the next financial year, but if I take into account the preparation of draft reports et cetera it can stretch out. We will certainly be looking at doing it in the minimum time possible, but the objective is to do a comprehensive job and also give an opportunity to those most recently concluded contracts to have been in operation for some time before we stand in judgment of whether they are delivering the services.

Senator McKIERNAN—I wish we could get those time lines in for a Senate committee inquiry. But it is not to be. Do the 37 contracts represent a marked decrease in the number of organisations involved in the delivery of services within the IHSS?

Mr Vardos—I cannot give you an exact answer on that because I do not know. One of my staff may know. Before IHSS, the services were provided by a range of voluntary and community based organisations. I will have to take on notice whether moving to 37 contracts across the country is an increase or decrease in the number of service delivery organisations.

Senator McKIERNAN—If you would. Is there still a voluntary sector operating within the delivery of IHSS?

Mr Vardos—Yes. Volunteers still have a role to play. It would be fair to say, though, that we are still trying to work out the most efficacious way for volunteers to work alongside the contract framework that has been put in place for IHSS. It is also fair to say that some volunteers feel that they are no longer valued and no longer have a role. I do not hold that view. There is role for volunteers and there is a strong volunteer spirit in the community to deal with humanitarian entrants. It is a question of finding a way to amalgamate them both to get the best out of the government objectives under IHSS and to give the volunteers the opportunity to play a role. I can give you an answer now. There were 101 volunteer groups across the country, including about 600 individuals. In a strict comparison, which I do not think is a valid comparison of like with like, they have been replaced by 37 contracted service delivery organisations.

Senator McKIERNAN—Did you say there were 101?

Mr Vardos—There were 101 volunteer groups under the old arrangements and now there are 37 contractors providing the same range of services. I am getting confused signals here, so I will take the question on notice and give you a coherent response, or an accurate response, shall we say.

Senator McKIERNAN—I am a little bit concerned about the answer. It is a detailed question and you did not get any notice that it was coming up. It seems to me, from what you have told the committee, that previously we had 101 volunteer groups with over 600 individuals

involved. We had those quite substantial changes to the system, I think, two to three years ago. We are now into a more formalised system and there are 37 contracts in operation. It seems to me that a lot of those volunteers—those persons who were really committed to protecting and aiding refugee and humanitarian entrants—may have been lost from the system. These people were making a very real contribution. There are some people who think they are contributing to the refugee system by demonstrating outside detention centres, but these volunteers were making a very real, measurable contribution. Have they been lost from the system?

Mr Vardos—Not completely. Some obviously would have moved on to other things if they felt that the new system was not to their liking or they did not feel that they fitted in. However, I attended a meeting in Brisbane where the community volunteers were brought together with service providers for a discussion on a range of issues, including how volunteers could play a role within the framework we have in place. So there is active work around the country to ensure that volunteers still do have a role. But I take your point and, as I have said, I am supportive of volunteers continuing to have a role. They are certainly unsure as to where they fit in to the process in the new contracting arrangements—but it is not an exclusionary process.

Senator McKIERNAN—It is not an exclusionary process?

Mr Vardos—No.

Senator McKIERNAN—On notice, could you tell us where, geographically, those contracts are operating? I am looking to see if my constituency is being adequately serviced, but for comprehension I would include the other parts of Australia, less important, but nonetheless relevant because people live in them!

CHAIR—Respect, Senator McKiernan!

Mr Farmer—We can do that.

Mr Vardos—I do have a list but it is too long to read out and I will give it to you in a comprehensive run-down on a state and territory basis.

Senator McKIERNAN—Could you also attach to that the areas where volunteer groups are continuing to assist in a voluntary capacity and whether there was any particular recognition that the department gave to these particular groups coinciding with the Year of the Volunteer, which was last year.

Mr Farmer—We took a decision within the department to transfer the administration of the IHSS and refugee settlement issues from the refugee division to the citizen and multicultural division where the other migrant settlement work is done. That partly explains why the current division does not have the history of former arrangements immediately to hand. But the essential point is that, for the future, we think that centring both sets of settlement services in the one division will improve the department's consultation with NGOs, voluntary groups and others because we will have, in effect, one group of people doing both. We think that will be an improvement on our past performance.

Senator McKIERNAN—I hope so, because they have made a very real and meaningful contribution to the very important role that Australia plays in the international community of settling persons in need of resettlement in this country. It is something, indeed, that we can and do boast about.

Mr Farmer—I think it is not quite unique, but it is important. We commented yesterday on some of the talking that is going on within the European Community about their aspirations for the future. The sorts of things they are talking about as possibilities for the future are how they plan to attract new people to European countries and help them to settle in those countries, and this has long been a part of the way Australia does things. We owe a great deal to the volunteer organisations which have obviously done an outstanding job over half a century.

Senator COONEY—Does any outsourcing take place in that program? Do you outsource any issues, matters or services?

Mr Vardos—I guess in the strict definition of outsourcing the answer is yes. All of the service providers under IHSS, for example, are contracted by the department. Whilst these organisations do not want to go under for lack of income flow, they tend to be more community organisations that are delivering the services. The service provider for the housing is a commercial company—Haden Group.

Senator COONEY—You are happy to make all of the contracts available?

Mr Vardos—I have to take advice on that. I do not know that there were any commercial-in-confidence elements in these contracts. To the extent that we are able to provide you with copies, we will do so.

Senator COONEY—Can I take that as a refusal, Mr Farmer?

Mr Farmer—I fear not, Senator.

Mr Vardos—I do not think we have the same issues in these contracts as we do, perhaps, in other contracts.

Senator COONEY—I agree with that—this should be a contract about which there are no problems.

Mr Metcalfe—We have taken that on notice and we will provide a response.

Senator COONEY—I want the full contract—not a contract without the costs; the full contract. It can be a photostat copy.

CHAIR—I certainly think that Mr Farmer and Mr Metcalfe understand what you want, Senator Cooney.

Senator COONEY—The trouble is that they are being too—

Senator Ellison—Too agreeable?

Senator COONEY—I have got to get the right word here—

Mr Metcalfe—Too cooperative?

Senator COONEY—That is probably the right one—too cooperative.

Mr Metcalfe—He is suspicious.

CHAIR—Senator, I have not been doing this for nearly as long as you have, but I have never heard anyone complain about someone being too cooperative before.

Senator COONEY—No, ‘cooperative’ is not the right word. But, anyhow, what it really means is that they are doing me over, Madam Chair.

CHAIR—They are smiling though, Senator Cooney.

Senator COONEY—Of course they are!

Mr Metcalfe—The record should show that Senator Cooney is smiling as well.

CHAIR—Yes, it should—I am sorry, I was remiss in not noting that.

Mr Vardos—For the sake of completeness I should also add that the arrangements we have with MRCs are under a service agreement arrangement which can be interpreted as a contract in some quarters. I do not think there is a difficulty with service agreements but, as part of the undertaking given by Mr Metcalfe and Mr Farmer, we will look at those as well.

Senator COONEY—Can you have a look too, Mr Vardos?

Mr Vardos—Certainly.

Mr Davis—I just want to add a point of clarification. In terms of the Murray motion requirements that have been brought forward for departments to declare confidentiality within contracts, we are seeking to review all contracts as they are renewed and to only restrict commercial-in-confidence, or that sort of material, where there is legitimate criteria. We base that on advice from the department of finance who give us criteria to assess it by. And, certainly, we are asking ourselves the question—as we look at renewing contracts—of what the confidentiality provisions are, and that has led to fewer confidentiality provisions being the case in many contracts.

Senator COONEY—We have an opinion from the Clerk, but the Clerk gave evidence either yesterday or the day before where he gave the amount of a brief fee for Mr Bret Walker, Senior Counsel, without any problems. He gave it straight across, did not equivocate and that was because he had warned Mr Walker that that was what he was going to do. I put this to the Australian Government Solicitor yesterday—and I might put it to you—that I think it may be an issue of negligence on the part of departments not to warn private contractors that that contract may be subject to Senate scrutiny. It would be my view—and I think this is supported by the Clerk—that the committee is entitled to ask questions as its right not only for all contracts but for all matters. The Senate itself might extend concessions in certain ways, but that is the overall principle. I would have thought it may well be negligent for a department not to warn people who contract with them that that is the situation.

Mr Farmer—Thanks, Senator. I agree we are clearly sailing on waters that are different now from those that we have been on in the past.

Senator COONEY—I was going to raise this again and again as we went through, but the quickest way through this is just for me to make that statement now and to say that it applies for all issues that arise between now and whenever this finishes.

Mr Farmer—Thanks, Senator.

Senator COONEY—And I will rely on you, Mr Farmer, to apply it where necessary. That is a bit of a loose way of doing it but it might save time.

Mr Farmer—Would you mind if I just added a footnote to an answer to a question that Senator McKiernan made a minute ago? You asked about anything we had done to mark the role of volunteers in the year of the volunteer and we undertook to provide that on notice, because I do believe that a number of statements were made around the time of refugees week in Australia, including by the minister. The department did make a particular point in the conclusion of its annual report for last year. One of the points that I emphasised was that in the International Year of Volunteers we wanted to thank the thousands of volunteers who had played a key role in the success of the humanitarian and migrant settlement schemes. We

noted the significant contribution by volunteers that had been made in a number of our programs. I made the personal observation that I had seen at first-hand the impact of that work on the lives of migrants and their families and noted that we admired and respected the efforts of this generous group. We warmly endorse the sentiments that you expressed about volunteers and it has clearly been an outstanding element of what we, as a country, have done for a long time.

CHAIR—Thank you, Mr Farmer.

Senator McKIERNAN—I am still on page 87 of the PBS. I refer to the \$1 million allocation—it says page 87 here, but I cannot pick up the \$1 million on this page. The question reads:

How much of the one-off allocation of \$1 million in the 2002-03 year for settlement services will be devoted to (a) MRCs or MSAs or (b) CSSS projects?

Mr Vardos—Minister Hardgrave has yet to make a decision on the allocations for the next financial year so that is a matter still under consideration.

Senator McKIERNAN—Do you know when that decision will be forthcoming? I have found it under the explanation at the bottom of the page. I had seen it before but I have other matters running as well.

Mr Vardos—Core funding for MRCs and MSAs will be finalised early in the first week or second week of June and funding for CSSS organisations will be finalised in about August for an October commencement. So it is imminent.

Senator McKIERNAN—Are you able to advise if all projects will be recurrent or non-recurrent in nature?

Mr Vardos—As you will see on page 89 of the PBS, approximately \$26 million is allocated for grants for community services. The rough break-up is about \$9½ million for MRCs and MSAs in new allocations, about \$9.1 million for CSSS and the balance of \$7.4 million is for ongoing grants. They are in round figures and that should make up \$26 million.

Senator McKIERNAN—The \$26 million actually shows an increase from the previous year—which was around \$24 million—of \$1.6 million in my very rough, quick calculations. Do you know where those increases will be specifically targeted? Or does that include the \$1 million we have just been discussing?

Mr Vardos—It includes the \$1 million we have been talking about. All of those decisions are yet to be made by the minister.

Ms Gray—It also includes a small amount for indexation.

Senator McKIERNAN—Thank you, Ms Gray. There is no indication of what the out year's funding will be. Is this normally a year to year funding decision in this area?

Mr Vardos—Part of the process is for us to conduct a review of our settlement services during the course of the next financial year, both in terms of targeting and spread. The end of that process will have an impact on future year funding.

Senator McKIERNAN—The next question relates to page 18 of the PBS. I have not actually picked up the point where it says this, but I am told that on page 18 of the PBS it states:

... fair and accountable open tender process for new contracts to deliver tuition under the Adult Migration English Program (AMEP) from July 2003 ...

What changes, if any, have been made to the tender arrangements to avoid the recurrence of the problems that occurred with the initial AMEP tenderer? There were questions asked in regard to those difficulties during the course of the Senate estimates scrutiny of the appropriation bills.

Mr Doherty—We are now in the process of moving forward with the next tender round of the AMEP contracts. In that context we are drawing our experience of contract management from our own departmental experiences, the experiences of existing contract holders and observations made by the Australian National Audit Office on the management of AMEP contracts.

Senator McKIERNAN—You indicated earlier that you are still in the process of constructing those and taking them into account because the new contracts will not start until July 2003. Is that what you said to me, Mr Doherty?

Mr Doherty—That is correct, Senator.

Senator McKIERNAN—Do you have an indication of when you will be in a position to start the tendering process for those contracts, which would mean you had finalised what the terms of the contracts are going to be?

Mr Doherty—The tendering process has effectively begun. It began with the advertisement on 27 April this year for expressions of interest for new contracts. That allowed people to respond and to give us their views about the tender, as detailed in the state requirement. The period for expressions of interest finished in the last few days and we are now beginning a process of looking at responses to those expressions of interest.

Senator McKIERNAN—Were there any specific changes in the contracts as a result of the ANAO audit report of the AMEP contracted programs?

Mr Doherty—Yes, Senator, there were. There was a series of changes. The most fundamental of those changes was the funding formula that drives the contracts. Essentially, the changes that we have made actually pay the contractor for the hours that the clients are in the program, right down to the individual client.

Senator McKIERNAN—I do not want to steal my colleagues' thunder, but can we have a copy of a blank contract? Obviously, we cannot have a completed one because they are not in existence yet.

CHAIR—Are you asking for the draft?

Senator McKIERNAN—Yes.

Mr Metcalfe—We will take that on notice. I am saying that because I think it is important that we have the chance to review the paper before we form a decision. I am not aware of the content. In the spirit of cooperation we are disposed to assist, but we will check and will respond on notice.

Senator McKIERNAN—Is the extra funding to the AMEP because of the projected increased migrant intake in this coming year?

Mr Doherty—I am sorry, Senator; I missed the first part of your question.

Senator McKIERNAN—I leaned away from the microphone. The extra funding for the AMEP contained in the PBS—is that there because of the increased permanent migrant intake which is projected for the next financial year?

Mr Doherty—There are two elements to the increased funding in the Adult Migrant English Program. The first of those is the continuation of the AMEP special initiatives, which are the Special Preparatory Program and the Home Tutor Enhancement Program. That is detailed on page 85 of the PBS. The second element, which is on page 86 of the PBS, is an increase in the AMEP funding because of the change to the migration programs.

Senator McKIERNAN—Are you able to break that down a little further and provide details of the extra clients that would be in the AMEP this year? Could you break it down further, firstly, into the skilled area and, secondly, into the family area?

Mr Doherty—We will have to take that on notice.

Senator McKIERNAN—Yes, please, if you would. I want to follow up on another matter that you will probably have to take on notice as well. It seems that the increases for the 2002-03 and the 2003-04 years are different. Why are those differences there? Would you provide some information on that?

Mr Doherty—We will do that.

Senator McKIERNAN—Thank you. What are the projections for the number of persons who will come in through the business skills category in the coming financial year who would not have functional English?

Mr Metcalfe—I think that probably comes under 1.1, and the relevant officers are not here. We will take it on notice and provide you with that advice.

CHAIR—What was the question, Senator McKiernan?

Senator McKIERNAN—What are the projections for the numbers coming in through the business skills category who would need to access the AMEP program—persons who would not have functional English?

Mr Metcalfe—I can see how that question would asked under 1.3, but I do not think the knowledge—

CHAIR—In 2.1.

Mr Metcalfe—We will take it on notice.

Senator McKIERNAN—Thank you for your cooperation on that one. The increase in funding is going into the AMEP program and there must be a reason for the increase in that regard.

CHAIR—Wouldn't that be based on a projection that we could talk about now?

Senator McKIERNAN—No, let us not.

CHAIR—Okay.

Senator McKIERNAN—Unless you insist.

CHAIR—I never insist, Senator McKiernan.

Senator McKIERNAN—What about students having to pay for the new second-instalment visa application for AMEP tuition, which was announced in the budget? Are we in the right category to ask for further information on that?

Mr Metcalfe—I do not think the information is here, so we will take that on notice.

Senator McKIERNAN—Thank you. It might help if I provide you with a copy of the question.

Mr Metcalfe—We would certainly appreciate that.

Senator McKIERNAN—Turning to page 85, how much of the budget funding of \$4.5 million a year to continue the AMEP special initiatives is devoted to the Special Preparatory Program—that is, for refugee and humanitarian clients—and how much is to the Home Tutor Scheme Enhancement Program?

Mr Doherty—I am advised that it is \$4 million for the Special Preparatory Program and \$0.5 for the Home Tutor Scheme Enhancement Program.

Senator McKIERNAN—And those figures add up as well. The package of measures for the former child migrants announced by Minister Hardgrave on 13 May includes \$1 million per year in reunion travel funding. What calculations were done to underlie this allocation? Is the department able to advise the committee of how many people may be assisted each year? Will it operate on a grant or a reimbursement basis? Will funding vary from individual to individual or will there be a flat amount available per applicant? When is the scheme supposed to commence? I have asked all those questions at once; I am more than happy to go back and break them down individually but it would be nice if we were able to finish at the dinner hour.

Mr Vardos—The funds become available as at 1 July. It is an initiative from next financial year. The eligibility criteria are being finalised now, basically, to be put to the minister. I do not have a draft set of eligibility criteria to run by you, but it could take a range of issues into account, such as whether any of the former child migrants have accessed the equivalent British travel fund. We would want to spread the funds as widely as possible and give an opportunity to those people who have not travelled before. It would be on a grant basis to facilitate their travel to the UK, so we would not be expecting a reimbursement.

The number of people who can be assisted is difficult to define, fundamentally because the statistics on how many former child migrants are still alive and still in the country are difficult to quantify. Conservative estimates suggest that about 3,000 have come into Australia since the end of World War II. Many of those would be in their 50s, 60s or possibly 70s by now. Some may need carers to accompany them—which was a feature of the British program. It reduces the number of tickets you can make available to former child migrants if you are also including a carer. I cannot give specific answers to the question you raise but, to summarise: we are finalising the criteria and we will be looking to maximise the number of trips we can make available. But at the end of the day the size of the fund depends also on the extent to which relevant states contribute, and one of the issues raised in Minister Hardgrave's press release was to invite states to contribute to the travel fund.

Senator McKIERNAN—The minister also invited to contribute to the fund. What is meant by 'receiving agencies'?

Mr Vardos—It would be those organisations that hosted the child migrants on their arrival in Australia—the orphanages and church organisations that took children in.

Senator McKIERNAN—Have there been any responses to date from either the receiving agencies or the state governments? Will approaches be made to all state governments? I understand that child migrants were not directed to all states in the then Commonwealth.

Mr Vardos—You are right; that is the case. Minister Hardgrave will be writing to the premiers of the states where the children ultimately resided, conveying a copy of the Senate committee's report and a copy of the government's response, inviting their contribution to the travel fund, and also indicating that, should any of those states choose to pursue the

construction of a memorial, \$100,000 is available from the Commonwealth to share between the states. It is not \$100,000 per memorial; it is a total of \$100,000 as a part contribution to any memorial that states or other organisations choose to establish. I am sorry: the letter may have gone from Minister Hardgrave to the premiers or it may be in the final drafting stage, I cannot be sure.

Senator McKIERNAN—The statement went on:

The administration of the fund will be contracted to a suitable provider, following a competitive process.

What are the details? Are you in a position to reveal any of the details of what the competitive process might be and when the selection of the service provider might be finalised?

Mr Vardos—That was based on the realisation that as a department we do not have the capacity to effectively run a travel agency, to administer \$1 million per annum over three years to get former British and Maltese child migrants home. So we are looking to engage an organisation that is capable of doing all of the ticketing and the arranging et cetera. I am hopeful that we can finalise that during June so that we can kick off as early as possible in the next financial year. I cannot give you details in terms of the process that we are going to go through because it is not finalised yet, but we will be going out to the market inviting expressions of interest from organisations that are capable of delivering that service.

Senator SHERRY—Do you have any idea what the cost of tendering this out to the private sector would be?

Mr Vardos—In short, no, but it will be intentionally a low cost exercise. It is a complex exercise to organise travel arrangements, as any travel agent could tell you, but it is not in its totality a big contract so I do not expect the cost to be large.

Senator SHERRY—Whatever the cost, will that come out of the \$1 million a year?

Mr Vardos—No, it is in addition to it. The \$1 million is committed to the provision of fares.

Senator SHERRY—Will that involve also some sort of bulk purchase of tickets to maximise the number of tickets that can be bought with the \$1 million in a year?

Mr Vardos—Certainly we will be encouraging whomever we select to use all of the discount mechanisms available in the airline industry to maximise the number of tickets, whether that is through bulk purchasing, advance purchasing or whatever.

Senator SHERRY—So that will be a criterion?

Mr Vardos—We want to maximise the dollars.

Senator SHERRY—Is there any means testing of this or is it available to anyone regardless of income?

Mr Vardos—Means testing was a feature of the British program. If my memory serves me correctly, the Senate committee recommended that we do not take a means test approach. The position at the moment is that we do not have a concluded view on that. We have not come to a final determination on whether one of the eligibility criteria will be means testing or an income threshold.

Senator SHERRY—When will you expect to have a view on that matter?

Mr Vardos—I want to try to finalise this as quickly as possible during the month of June. We have to recruit the company and publicly announce how we are going to go about it so that former child migrants can apply. We do not want to drag on too far into the next financial year before we get the first person on the plane.

Senator SHERRY—Thank you.

Senator McKIERNAN—The inquiry was first referred to the Senate Legal and Constitutional References Committee but because of the very large workload of the committee and its sister committee the legislation committee we were not able to undertake this inquiry. Another committee of the Senate undertook it and I am personally very pleased with the results and the government response. I wish the Senate legal committee could get the same constructive responses. That was just a shot—ignore it. I am referring to page 49 of the PBS. Who is conducting the pilot survey of the effectiveness of the DIMIA funded migrant welfare services? What is the time frame for the completion of the study and what consultation has occurred with non-government agencies in building this survey?

Mr Vardos—The organisation contracted to do the survey is Urbis Keys Young. The principal of that organisation, Susan Young, was in fact in DIMIA headquarters today talking about the survey. I met her during the lunch period, coincidentally. She has a strong track record in delivering the AMEP client survey and also a strong track record in cross-cultural communications, which is an essential feature of this process. We have selected community organisations in Cairns, Townsville, ACT and Melbourne to conduct this survey—a mixture of both large metropolitan, small urban and regional areas—to get a good spread and also to keep the costs down. The time frame for the completion of the survey is before the end of this calendar year—August-September.

Senator McKIERNAN—Is there agreement in place at the moment between the Commonwealth and the states on roles and responsibilities for the care in the community of humanitarian minors? If so, what are the agreed roles and responsibilities? If not, what efforts are being made to resolve the difficulty and fulfil the obligations? Will the Commonwealth be responsible for funding care arrangements that are agreed to by the states? Are there any agreements in place?

Mr Vardos—I will have to take that on notice because those issues are not an outcome 2 responsibility.

Mr Farmer—I think unaccompanied humanitarian minors are the sole settlement issue that remains in the refugee and humanitarian division in output 1.2. We will follow it up.

Senator McKIERNAN—Thank you. Part of the difficulty in operating quickly after the delivery of the budget is that there is not the time to do the necessary research and for our parliamentary colleagues to prepare. I apologise for asking that question in this area. There is an extra \$1 million in the budget for the promotion of citizenship. Is this money on top of any base budget allocations for citizenship promotion measures?

Mr Doherty—The \$1 million is a new element of funding for the promotion of Australian citizenship. It will increase an internal allocation in the order of \$1.4 million for Australian citizenship for this year.

Senator McKIERNAN—Will any specific measures be targeted with this money? Will it be advertising, for example; will it be promotional material or will it be Australia Day itself?

Mr Doherty—It will continue to have two purposes: one is to encourage eligible noncitizens to take up Australian citizenship, and the second is to continue to promote the value of Australian citizenship in the general community. There will be activities in the coming year which could range from formal advertising campaigns through to promotional activities like Australia Day, Harmony Day and Australian Citizenship Day, and a range of products.

Senator McKIERNAN—The projections for revenue from this area for the next financial year are the same as for this financial year. That is the revenue from the application fees for citizenship, which is \$8,406,000. From that, I read that there is no expectation of an increase in the number of applications for citizenship for the next financial year. Am I correct in reaching that conclusion?

Mr Doherty—The revenue estimate in the portfolio budget statements is derived from the purchasing agreement between the department and the Department of Finance and Administration. It would be estimated from a base level of expectation of citizenship applications to be received.

Senator McKIERNAN—Another colleague in the other place recently asked some questions on notice relating to citizenship. He asked about the number of people who had lost Australian citizenship because they had acquired the citizenship of another country. He wanted information about the other countries concerned. He also asked about the number of people who had renounced their Australian citizenship by their nationality and the number of people who had resumed their Australian citizenship by their other nationality. Finally, he asked about the number of people who had resumed Australian citizenship by the grounds on which they had lost their Australian citizenship in the first instance. That was in order to separate those who had lost it through renunciation, under section 18, from those who were affected by the former sections 17 and 23 of the Australian Citizenship Act. The information could not be provided to the honourable member. What was the reason for that? I would have thought that the loss of Australian citizenship was a serious event for the individual but also for the nation, because it requires a specific act on behalf of officials in Australia to take citizenship away from the individual. Why is there no database collecting those figures?

Mr Doherty—I will take the first of those issues, which is the loss of Australian citizenship. Prior to the passage of the [Australian Citizenship Legislation Amendment Bill 2002](#), and its royal assent on 4 April, people lost their Australian citizenship by operation of law. In other words, they had taken some action in some other country to acquire another citizenship and, by doing that, the Australian law took over and removed their Australian citizenship from them. The department does not hold any detailed statistics on all the people who may have lost their Australian citizenship under those circumstances.

Senator McKIERNAN—I find that a little bit strange but, nonetheless, the act has now been amended so it is of less import than it was before. But I do find it a little strange that those statistics were not collected and stored in a form that would have been suitable to be extracted. It is not that I am dismissing the explanation you have given to the committee; I am grateful for that.

Mr Doherty—It is only if people who have lost their Australian citizenship under those circumstances come to notice it and then reapply to resume their Australian citizenship. For people who fall into that category, we certainly have the detail you are looking for, but that is only a relatively small proportion of the people who we believe have lost their Australian citizenship under the operation of that law prior to 4 April 2002.

Senator McKIERNAN—It is not automatic that they would come to the attention of the department?

Mr Doherty—No, it would not. There are no mechanisms for it to happen.

Senator McKIERNAN—On page 89 of the PBS 89, under output 2.4, what is the breakdown of the \$12.8 million departmental appropriation for the ‘Appreciation of cultural diversity’ item?

Dr Nguyen-Hoan—The breakdown consists of salaries for staff in the multicultural affairs branch, the money for the New Agenda for Multicultural Australia, the Living in Harmony initiative and also staffing in state and territory offices of DIMIA.

Senator McKIERNAN—The money is allocated for cultural diversity but it is going to be spent in multicultural Australia. Is there something amiss here?

Mr Farmer—No, because Australian multiculturalism embodies respect for diversity, but within the framework of Australian law, and respect for all cultures.

Senator McKIERNAN—I appreciate the explanation. On page 18 of the PBS there is some reference to the department seeing itself as proactively encouraging community harmony. How does the department define ‘community harmony’, and how does it record threats to community harmony and measure over time its successes and failures in overcoming these threats?

Dr Nguyen-Hoan—We are doing it in several ways. The first thing is to implement the Living in Harmony initiative by proactively promoting and bringing together different groups in the community through our grants initiative and also partnerships—through asking people to show their support on Harmony Day for the last four years. But we also look at how different ethnic communities react to external events due to overseas tension. We meet with them and look at how people can have an overriding commitment to Australia and therefore put Australia first and put community harmony as their priority. So this works not only through the Living in Harmony initiative but also through our community relations interaction with different organisations in Australia.

Senator McKIERNAN—Minister Hardgrave has been on the public record a number of times talking about threats to community harmony that flow from particular international events—for example, September 11, the conflict and disturbances between Israel and Palestine, and I daresay Pakistan and India will come to the fore in the very near future. Does the department have a formal strategy for dealing with such threats and what specific measures are in place to respond to these issues and events?

Dr Nguyen-Hoan—We have an internal structure in our central office together with our state and territory offices to obtain community feedback from different groups in Australia. If they have suffered some vilification due to, say, September 11 we provide regular reports to our minister on such incidents so that he is aware of what action to take. We provide advice to government, from the Prime Minister down to other ministers. For example, Minister Ruddock wrote to all Commonwealth ministers asking them to note the need to observe that perhaps Muslim people may suffer some problems—for example, women who wear their traditional headscarves may be abused by other people—so that their departments and portfolios can be mindful about that. Directors of our state and territory offices also meet with community groups to assure them that the government respects the contribution of Muslims to Australia. We also try to see whether we can exchange information with state and territory commissions of multicultural affairs so that we know who is doing what.

Senator McKIERNAN—Are there any formal partnerships in existence between your branch of the department and any other Commonwealth agency, state agency, the private sector or the business sector, unions or community groups? What formal partnership arrangements are in place, if any?

Dr Nguyen-Hoan—Before the meeting of the ministerial council in Darwin there were none, and that was the reason the council decided there should be some kind of formal mechanism for the exchange of information. Before that we might have called our counterparts in state and territory governments but it was very informal and ad hoc. We put up a proposal at the ministerial council for the ministers to agree that there may be merit in sharing information so that we do not learn it from the media or other sources. We wanted a formal sharing of information.

Senator McKIERNAN—Page 96 of the PBS refers to the liaison maintained with some 4,500 community organisations and individuals nationally with more extensive liaison maintained with over 2,000 community organisations and individuals. That seems to be a very small number in a society with a population close on 19.5 million. When you add to that the number of organisations that exist within the community itself there would be a multifaceted aspect to it.

Dr Nguyen-Hoan—The numbers here are different from the number of meetings that we may hold throughout the year. It may be that although we maintain close liaison with over 2,000 community organisations we may have 5,000 or 6,000 contacts with the same organisations throughout the year. We hold several meetings with each organisation and the total number of organisations are 2,000 or 4,500. The numbers here reflect those more or less intensive liaisons that we may have with them. With one organisation we may have had 10 meetings, so you can multiply 2,000 by 10.

Senator McKIERNAN—Are the meetings your chief means of getting feedback from organisations, and the community more generally, on issues relating to community harmony and cultural diversity?

Dr Nguyen-Hoan—One of the different mechanisms that we use, apart from meeting with them, is that we also attend their functions when they have national days or independence days and so on. There could be some home visits or some mediation that we may have with different groups as well—for example, during the Greek and Macedonian conflict, we held meetings with both groups. It depends on the issue, and this is why we try to separate out the intensive liaison from the normal day-to-day interaction.

Mr Vardos—We have a community liaison officer network across our regional network. Their dedicated task is to maintain links with the ethnic communities of Australia through either their established organisations or individuals as part of the process that Dr Nguyen-Hoan has mentioned.

Senator McKIERNAN—Thank you for that extra information. In the last estimates hearings we asked some questions about the Living in Harmony initiative and we were told in a written answer:

The Evaluation report is in the process of being finalised for submission to the Minister ... Decisions are yet to be taken on future options for the format, release and distribution of the Evaluation findings.

How far has that progressed since that response was provided to the committee in April of this year?

Dr Nguyen-Hoan—We have completed the evaluation and we have printed the report. We have briefed the minister on how to use it internally and also how to distribute it. Given that the initiative is still ongoing, we have agreement from the minister that the evaluation report will be distributed internally, and we will use it to inform our implementation of the new funding for the Living in Harmony initiative. If you would like, we could use the report to brief you at a private session.

Senator McKIERNAN—My next question was going to be: will the report be released publicly or will a copy be provided to the committee? But you have partly answered that now by offering a private briefing rather than offering the committee a copy of the report. That is something the committee will have to consider and make decisions upon. I draw your attention to page 44 and the budget breakdown of the Living in Harmony initiative. Of the \$3.5 million a year that is allocated to the Living in Harmony initiative—that is, stage 2—\$2 million or almost 60 per cent goes to DIMIA itself rather than to the grants program. Is there a breakdown of the specific elements of the DIMIA component—that is, the production of promotional material, market research, advertising, or the cost of staging events?

Dr Nguyen-Hoan—For the time being, we will use it to form partnerships and implement a public information strategy including supporting Harmony Day 2003. We will provide support for grants and pay for staffing because we have no other funding to support salaries for staff in the Living in Harmony section. It all comes from that amount of \$2 million.

Senator McKIERNAN—Thank you. I am pleased the staff are getting paid. I am about to ask my last question in Senate estimates of DIMIA. The *Melbourne Age* on 10 May reported allegations that problems of religious based discrimination and harassment were prevalent in Australia's immigration detention centres. Has the multicultural affairs side of the department sought to ascertain the veracity of these allegations? If so, what were the results of its inquiries and what further action, if any, has it taken or does it plan to take in relation to this matter?

Mr Vardos—Those are questions we have left primarily for our colleagues in outcome 1 to deal with. Correct me if I am wrong, but we have not taken any specific initiatives in that area because it is the responsibility of our colleagues in outcome 1.

Mr Farmer—Our colleagues have taken it up, Senator. We are looking into that.

Senator McKIERNAN—And you will take it on notice and come back to the committee?

Mr Farmer—Yes, we will.

Senator McKIERNAN—Thank you, Mr Farmer.

Senator COONEY—On that question, there are people in our community of Arab origins and people who follow the Muslim faith who are being targeted. What is being done about that? There are some suggestions that the department itself encourages that. I will give you one example put to me by Julian Burnside. A friend of his in Armadale had his house raided by eight people from the department because there were two people who looked like Arabs in the house. When inquiry was made, that was the reason that was given for the raid. Can you check on that?

Mr Metcalfe—We can, Senator. I am aware of that incident, but I think it would be better if I got the detail and provided that to you.

Senator COONEY—It was brought up in Melbourne during one of the hearings, I think.

Mr Metcalfe—I recall that there was community information provided to the department, but I think we will have more detail and we can provide that.

Senator COONEY—It seemed to me a bit too starkly put. I thought there must be another side to be put from the department. If you remember, the way it was put in Melbourne was that simply because they were Arabic in appearance that was enough to—

Mr Metcalfe—Yes, I understand the issue. Just a very brief mention in relation to your earlier assertion: my recollection of the article in the *Melbourne Age* was of complaints by a minority Christian faith of inappropriate behaviour towards them by others. So it may, in fact, have been the reverse of the proposition that you put.

Senator COONEY—There was one put by Julian Burnside. Do you remember that one at the Melbourne hearing?

Mr Farmer—You are talking about activities in the community. I think Senator McKiernan's question was related to a detention environment.

Senator COONEY—Can we get a version from the department in respect of the Julian Burnside one? I do not think he would mind me putting it that way.

Mr Metcalfe—I will take it on notice.

Senator COONEY—And then there is that one in Melbourne that was written up just recently.

Mr Metcalfe—My recollection of that one in Melbourne that was written up—the one that Senator McKiernan referred to—was that it in fact referred to adherents of the Sabian Mandaean faith, followers of John the Baptist, who were complaining about their alleged treatment at the hands of other religious groups within the detention centres.

Senator COONEY—Are you going to do anything about the ones in the detention centres?

Mr Farmer—We are looking into that, Senator.

Senator COONEY—Just that one—because I think Bilal Cleland fights the good fight down in Melbourne and I take it that there are other problems as well. Could you give us an answer—not necessarily now—on those issues?

Mr Farmer—Yes. I would, though, like to say something to you about this question because I think it is important to get it on the record. We get many reports from people in the community about matters related to our responsibilities. For example, if someone said to us: 'I think the people next door to me are illegally in Australia and illegally working, because people come and go; it does not seem to be a settled family and the population changes quite a bit,' then I think that would give us a prima facie basis for saying that maybe there is something we should look into. But if someone said, 'The people next to me are funny, foreign types and I think you should look into it,' that does not raise a prima facie case for us. In multicultural Australia I do not understand the 'funny, foreign type' phrase. It just does not mean anything in our country because of the nature of our society. So for us that is a really important threshold statement: people's looks, race, religion or background are not matters that incite our interest in any but a positive sense.

Senator COONEY—I understand what you are saying. One of the problems, though, is that that account rests in Melbourne. I suppose somebody like Julian Burnside, who has a very high standing in the community and is an outstanding lawyer, was doing it on the basis

of hearsay, I think. I do not know whether that has ever been answered by the department, has it?

Mr Farmer—We have taken it on notice now.

Senator COONEY—I think it is still hanging on the record against you, that is all I am saying, and you might want to correct that. That is one of the reasons I raised that.

Mr Farmer—Thank you very much, Senator.

Senator COONEY—The other question is the promotional value of Australian citizenship. How many people have dual citizenship? I must confess that I have to watch my own prejudice here, but how do you promote the value of Australian citizenship by giving people the ability to get as many citizenships as they want?

Mr Metcalfe—I think our estimate was—and this was published in the report of the Australian Citizenship Council—that there are around 5 million people in Australia who hold dual nationality. The vast majority of those people held a previous nationality and subsequently became Australian citizens.

Senator COONEY—I understand what you are saying; it is the law. This is under performance information for outcome 2, output 2.3, Australian citizenship. How can we promote the value of Australian citizenship by saying, ‘If you want half-a-dozen citizenships, you can do it under the legislation as it now exists’?

Mr Metcalfe—The parliament has decided that the former provisions of section 17 should be repealed and therefore it is open to Australians to acquire a second or subsequent nationality. I think that the parliament, in considering that matter, and the Australian Citizenship Council before that, in broad takes the view that citizenship is no longer an exclusive concept and that, in today’s increasingly mobile world where people may work and live in a number of countries or come from a number of different backgrounds, the nature of exclusivity of citizenship is not what it was some years ago.

Senator COONEY—I can follow that. The answer I get is: because we are world travellers, going from one country to another almost every day, we need a vast number of citizenships from Iceland and everywhere else. I just wondered whether we had worked out a way of promoting Australian citizenship in that context; that is all I am asking. In the new context that the legislation was brought in, what strategies has the department worked out to promote Australian citizenship?

Mr Metcalfe—I do not see it as being in any way mutually exclusive. What we are about is promoting the value of Australian citizenship and encouraging those people who have come to Australia and who have not yet chosen to become Australian citizens to contemplate taking that step. We think there are around a million permanent residents of Australia who have not taken that final step in their migration which provides all those aspects of being part of the community. That is what we are about.

Senator COONEY—Would it be fair to say there have been no new arrangements made to promote Australian citizenship in the light of the legislation that has been put through abolishing section 17?

Mr Metcalfe—We do not think that the concept of the repeal of section 17 gets in the way of the positive promotion of Australian citizenship.

Senator COONEY—For the reason that you have suggested, nothing new is being done. You are saying to me, ‘We have not done anything because we do not think there is any need to.’

Mr Metcalfe—I will take that on notice, to see whether any work has been done to establish that point.

Mr Farmer—I would say it more positively than that. I hear the point you are making, but we have an ongoing citizenship promotion campaign. We will think about what you have said, because if there are elements there that should be reflected in what we do, I would want to do that.

Senator COONEY—I think citizenship identifies the character of the country. That piece of legislation which went through—and everyone agreed to it going through—underpinned certain fundamental concepts which nobody seemed to speak to. All I am saying is, if that is right, what strategies are we developing as a nation to accommodate these new concepts that we are now adopting?

Mr Farmer—How typical of us to end on a heated agreement.

CHAIR—There has been a lot of furious agreement. I understand there are no more questions for the department or any of the officers. That means we have completed these estimates expeditiously—to use my favourite word of the last couple of days—and have had a good opportunity for discussion of the issues of concern to committee members.

Mr Farmer—On behalf of my colleagues, because it is the last occasion on which we will appear before Senator McKiernan and Senator Cooney, I want to take a minute or two to record some views from officers of the department. I hope that that is in accordance with the protocols of the committee. I do not think I will cause you any difficulties.

CHAIR—I am sure you will not, Mr Farmer, and I am sure it is appropriate.

Mr Farmer—Senator McKiernan, the department has had a very long involvement with you, not only on this committee but on the Joint Standing Committee on Migration—including during the period when you were Chair—and in a number of other fora where you have focused on matters of great national significance of relevance to our portfolio. We have endeavoured to work with you constructively and that has mirrored your own very consistent approach to us. You have shown a keen understanding of the complexities and difficulties of this portfolio and of the great importance of it to the structure of Australia. We have particularly appreciated your understanding of the sometimes difficult and always onerous work of the public servants who work in this area. We have appreciated your keen pursuit of fact in this area, your ideas for improvement of our operations and your concern for justice. We have also respected your consistent respect for the privacy of individuals. Senator, I hope that it does mean something to you that you have earned the respect of the officers of the department, and we wish you every good thing for the future. I mean that emotionally and sincerely.

Senator Cooney, we have also had a long history of association with you, and your concern about and contribution and involvement in areas of great national significance have mirrored our own, and we have had occasions to reflect on the need for a wider appreciation of the positive benefits of migration to Australia and the ways in which this process of the last 50 years or so has built a very different country. We have respected your relentless pursuit of transparency and justice, and we have certainly tried to deal with you in an atmosphere of trust and frankness. I hope you will allow me, on a personal note, to say that we have, in ad-

dition to the work we have done on matters of substance, enjoyed our forays into literature, ethics, law, language and theology. They have, I think, hastened us down the road. We have always appreciated the robustness of our exchanges with you and we are very pleased that we have been the recipient of the learning that you doubtless acquired during your six years on the Senate Select Committee on Animal Welfare. So we wish you the best too, Senator.

CHAIR—Thank you very much, Mr Farmer. I am sure Senator McKiernan and Senator Cooney will wish to respond.

Senator McKIERNAN—Thank you for those very kind words. They are appreciated and I accept them not only for me personally but for my very dedicated staff and indeed for Jackie, my wife, without whom I would not have achieved anything like I have in my career. My interest in migration began more than 41 years ago when, as a young lad, I went off to England on my own—without permission, I might add, but I did it legally. I since migrated to this very fine country. I thought that through my work in the parliament and on various committees one of the areas where I could make a contribution to this wonderful country would be in the area of migration. I think I have made a contribution; I hope I have and I hope it has been a positive contribution. I hope it will be a lasting contribution as well. I want to pay tribute to you, Mr Farmer, to the officers at the table and to the senior officers of the department. As I did with Mr Williams from Perth the other day, I also want to pay tribute to the officers in Western Australia who have assisted on a first-hand basis with my electorate office, because the majority of the electorate work we do in that office has been in the migration area.

I want to pay special tribute to those officers of the department who serve overseas, both the Australian-based staff and the non Australian based staff, who have been of immeasurable assistance to us, particularly in my area of deepest interest—that is, the persons most deserving of assistance: the persons in the refugee and humanitarian area. Your officers over the years have been of enormous assistance to my office and to constituents of mine who have been seeking to reunite their family members in Western Australia and in other parts of Australia as well. I thank you for your kind words; I am sorry that the association is coming to an end, but my interest in the subject matter will not be coming to an end. Do not be surprised if you find a letter from private citizen McKiernan arriving on your desk at some time in the future.

Senator COONEY—Talking about our origins, my forebears were largely placed in Tasmania, Mr Farmer and Mr Metcalfe, and their passage there was insisted on by certain so-called judges of the British Crown—wrongly, of course, in all cases—so I probably come at things from a different perspective, in a way, from Senator McKiernan. World War I stripped us of 60,000 people. Since then, there has been the immigration into Australia which I think is absolutely essential, and it will make this country what it is going to be in years to come. I just want a country that has justice about it. You have the same thing—this gets emotional—we all love Australia and you have done great things by that.

Mr Farmer—Thank you, Senator.

CHAIR—Thank you, Senator McKiernan and Senator Cooney. Mr Farmer, I thank you and your officers for your assistance in facilitating the committee's consideration of budget estimates. As ever, a significant number of questions have been taken on notice—we often go from the profound to the mundane in this profession—and if you would assist us by returning the answers to those as soon as possible we would be very grateful.

Mr Farmer—Thank you.

CHAIR—Let me make some announcements about our arrangements. We have made arrangements to invite the Australian Government Solicitor to reappear this evening, and we are in the process of trying to contact other agencies to ensure that we can continue with the consideration of Attorney-General's and agency estimates. I was somewhat taken by surprise by the pace with which we concluded the estimates for DIMIA. We may hold a brief private meeting at the beginning of that period to ascertain our plans for the evening and for tomorrow. Thank you.

Proceedings suspended from 6.52 p.m. to 7.55 p.m.

ATTORNEY-GENERAL'S PORTFOLIO

In Attendance

Senator Ellison, Minister for Justice and Customs

Attorney-General's Department

Mr Robert Cornall, Secretary

Mr Ian Carnell, General Manager, Criminal Justice and Security

Australian Government Solicitor

Ms Rayne de Gruchy, Chief Executive Officer

Mr David Riggs, Chief Finance Officer

Australian Protective Service

Mr Martin Studdert, Director

Mr Chris Haywood, Assistant Secretary, Corporate Support

Australian Customs Service

Mr Lionel Woodward, Chief Executive Officer

Mr John Drury, Deputy Chief Executive Officer, Border

Rear Admiral Mark Bonser, Director-General, Coastwatch

Mr John Hawksworth, National Director, Border

Mr Phil Burns, National Director, Commercial

Ms Jenny Peachey, National Director, Office of Business Systems

Ms Gail Batman, National Director, Passengers and Information Technology

Mr Alistair Cochrane, Chief Financial Officer

Ms Sue Pitman, National Manager, Trade Measures

Ms Marion Grant, National Manager, Border Operations

Australian Government Solicitor

CHAIR—We will resume our consideration of budget estimates. The committee has just concluded a brief private meeting. Mr Cornall, may I indicate on behalf of the committee how grateful members of the committee and other senators are at the efforts of your department and associated agencies—minister and Customs included—to assist us by returning to consider budget estimates this evening. We are aware that that was done on short notice. As I am sure you are aware, our previous consideration of DIMIA estimates finished somewhat earlier than I had estimated—which should be a happy thing, to the extent that it means the commit-

tee is now operating to a slightly easier schedule—but we will still be sitting at length tomorrow.

The first item of business for this evening is the committee's request, which I made by letter this afternoon to Ms de Gruchy, for her to appear before the committee again this evening to continue discussion of matters the committee had considered on Tuesday. In that letter, of course, we provided Ms de Gruchy with advice the committee had received from the Clerk of the Senate on this matter.

Mr Cornall—Since Tuesday we have given further consideration to the question of legal fees payable by royal commissions, which arose in some detail at Tuesday's estimates hearing. Following that hearing, the department again discussed the committee's request for information with the Attorney-General. As a result of those further discussions, the Attorney gave instructions yesterday to provide the committee with detailed information about the legal fees paid by both royal commissions. The department obtained that information today and I will table it tonight.

These detailed figures set out aggregate fees paid to date to individual barristers and firms of solicitors, including the Australian Government Solicitor. In considering these fees, I ask the committee to note three things. Firstly, the fees are gross fees. They include GST, with the exception of one set of amounts disclosed in respect of the Australian Government Solicitor, where they are marked as excluding GST. Secondly, the fees are of course subject to tax. And, finally, I want to make a point that has not been made before, and that is that barristers are sole practitioners. This means they do not have partners or employees to look after their usual work while they are engaged by the royal commissions. As a consequence, when the royal commissions are over, and after a long period of absence from their usual practice, it will most likely take them some considerable time to rebuild their practice with new work. Madam Chair, I table the figures.

CHAIR—Thank you very much, Mr Cornall. I ask the secretariat to take those from you and distribute them to committee members. We might just take a moment to examine that document.

Senator Ellison—Whilst you are doing that, Madam Chair, can I just refer to the advice from the Clerk of the Senate dated 30 May addressed to you, which refers to the AGS's refusal to answer questions in the estimates hearing. I would say that my recollection is that that really is not quite accurate, that questions were taken on notice and you now have the result of those questions being taken on notice. There was a difficulty, which was alluded to by the witnesses in relation to legal privilege. But I think that to have it put so strongly as to say that there was a refusal to answer questions is somewhat of an overstatement of what I recollect happened, although I appreciate the difficulties that were encountered at the hearing at the time. I think, for the record, I should make that clear in case someone reading this at a subsequent time thinks that there was a contumacious attitude by the AGS or by the witnesses who appeared. I think that would be an unfair inference to draw from that.

CHAIR—I will just acknowledge the minister's point. I note that you have made those statements on the record, Minister. They will stand in response to the correspondence put forward by the Clerk.

Senator COONEY—Minister, we have been having interchanges all this week. As you know, I have been driving a line to bring out the proper power of the Senate to demand not only this but also another matter which I will come to in a minute. I do not think any of the

witnesses had any forewarning of that. I thought, when Ms de Gruchy came to the table, that her intent and purpose at all times was to represent her clients in the way she best felt able, particularly in circumstances such as this, and to give answers to complex questions about problems which need to be sorted out. I see the Deputy Clerk here, who is an outstanding figure in this field. She would concede that the Clerk took more than an hour to get this opinion ready, so it was clearly a matter which required some thought. Ms de Gruchy at all times acted with the highest intent and in the way that you would expect a solicitor acting for a client to act. I think she was wrong, but you can be wrong without being contemptuous. She at all times acted as she thought she should act and acted in a way that was admirable, given the direction from which she is coming. I would like to put that on record.

Mr Cornall—Thank you.

Senator COONEY—I might pursue this, to get even more out of you. I think it ought to go on record. I do not know what the rest of the committee thinks but the Chair has indicated her thoughts. No criticism is being made of Ms de Gruchy, given the way the whole situation arose. I think she ought to be praised for trying to stick by her client, but the obligation and the power of the Senate enable us to do what has been done. The client, Ms de Gruchy, can be well assured that you fought valiantly on their behalf.

CHAIR—Are there any further comments or questions on this matter?

Senator LUDWIG—Is that in relation to the Australian Government Solicitor?

CHAIR—Yes.

Senator LUDWIG—I will deal with the HIH royal commission first. I see the fee schedule is \$1,995,760 and disbursements are \$15,816. Could the committee have the breakdown of the accounts or the invoices that make up that amount of \$1,995,760?

Senator Ellison—When you say a breakdown of accounts—

Senator LUDWIG—Or the invoices that are attached to them.

Senator Ellison—Let me make sure that I understand what you are asking for. Do you want copies of the invoices or just the amounts, as they were paid piece by piece, which added up to that figure?

Senator LUDWIG—We could start with a copy of the invoices. We asked questions yesterday about how many personnel were working on the HIH Royal Commission—lawyers, administrative staff and so on. I suspect it would be detailed in the invoices that make up the bill, and that is something I could explore shortly. The first question is of course whether we can have the invoices, but the invoices would show the number of people, I suspect, and how it is broken down.

Senator Ellison—Invoices, for a start, are detailed and would go to the conduct of the matter, no doubt as to telephone attendances and things of that sort—which I think is something that then crosses the line, as we said in our previous discussions. If you are looking at the amounts, the bills, and the date—that is, it was X dollars billed on such and such a date and then another lot billed on another date—

Senator LUDWIG—I think I want more than that.

Senator ELLISON—Then I think, Madam Chair, we have a problem. The invoices themselves, I am advised, are detailed and would reveal aspects of the conduct of the matter, and no doubt would also reveal an hourly rate, as the government makes its view in this way. I

repeat what I said the other day: if the Commonwealth is to reveal the hourly rate paid to barristers and solicitors, it prejudices its position in further dealings. The previous government never revealed that. I can recall the previous government doggedly not revealing that. In fact, what we have done here is what was requested the other day, and I do not think we can go as far as Senator Ludwig requests us to, for those reasons. I do not know what the committee wants to do. It is a question of prejudicing the Commonwealth's position.

Senator LUDWIG—So can I get a clear no in relation to that issue then?

Senator Ellison—Yes. There may be some other information that can be given.

Senator LUDWIG—We can go on and just explore how much we can get then.

Ms de Gruchy—Madam Chair, if I may, there were a couple of slight inaccuracies in the information that I gave the other day concerning numbers of staff. With your indulgence, may I just correct the record in relation to some of that information—and it would also cover some of the information that was requested from me which I took on notice.

Senator McKIERNAN—It is not the most appropriate moment to do that. I would have thought the most appropriate moment would have been at the commencement but, nonetheless, we have passed that time. Senator Ludwig was in the process of putting a question which was the first in a series of questions. It might be better from the committee's point of view for that series of questions to continue at this point, and we will ensure—I am sure I can speak for the committee—that you be given the opportunity to make any alterations you may need to for the record.

CHAIR—And to provide any additional information.

Senator McKIERNAN—It probably would have been helpful if you had given us advance notice of this and we could have done that in the first instance, but Senator Ludwig has commenced a series of questions and it might be better to finish that.

CHAIR—It may be that there are issues on which Ms de Gruchy wishes to provide information that may pertain to Senator Ludwig's questions—in which case, Ms de Gruchy, please indicate that that is the case and we will incorporate the information as we proceed. I am in the hands of the committee.

Ms de Gruchy—Not knowing precisely what Senator Ludwig might wish to ask, I cannot precisely answer. The nature of the information was simply to correct a number of minor inaccuracies as to the numbers of people, their backgrounds and whether they are full time and so on.

CHAIR—I will ask Senator Ludwig to proceed, and we will see how we go. Thank you for the offer.

Senator LUDWIG—What information that is contained in the invoices can you provide, if we reverse the process? Can you provide, for instance, the number of solicitors which comprise both the HIH Royal Commission, the \$199,576, and the building industry royal commission where, as I understand it, the total cost was \$4,491,567—and collateral. I am not too sure what collateral means, but perhaps you can provide an explanation.

Mr Cornall—There is an explanation at the foot—

Senator LUDWIG—Through costs incurred by AGS as well as some additional fees. Do they form personnel or staff costs, or administrative costs?

Senator Ellison—Perhaps Mr Cornall can answer that question.

Mr Cornall—All I can say in answer to that question is that this is the information that was provided to us today by the royal commission and this is how we have provided it to you. We have not interrogated the royal commission about the information, so if there are further questions about it I will have to take them on notice and take them up with the royal commission.

CHAIR—I think it is important to note for the record that the committee does appreciate that this information comes from the royal commission, not directly from either department and clearly not from the AGS. We are therefore working with that slight caveat.

Senator LUDWIG—Is the Australian Government Solicitor in a position to provide a breakdown—and we will start with the HIH Royal Commission—of the number of employees, both administrative staff and lawyers, which comprise the fees?

Senator Ellison—Which went to making up that total cost?

Senator LUDWIG—Yes. I pause at this point because I really need to get an answer; otherwise, I can ask a lot of questions and we just do not get anywhere.

Senator Ellison—We need to pause, too, to work out if that can be done or not.

Ms de Gruchy—I would have to take the question on notice. We could ascertain the information about how many lawyers were involved, in what percentage, or what amount of that global amount and break it down in that way. But we would have to analyse information in order to do that.

Senator Ellison—It is over some period of time, of course. There would have been a lawyer who was on the job and then got put onto another one; so it may have been a moveable feast. I think the lawyers and other staff involved in the make-up of those fees will have to be taken on notice and looked at.

Senator LUDWIG—By way of explanation, the reason why I use those fees is that at least it becomes a concrete starting point. The more general information that I was seeking was in fact the number of lawyers, both part time and full time, provided by the Australian Government Solicitor to the HIH Royal Commission and the building industry royal commission; and the number of administrative staff, both part time and full time, provided. I assume you charged out at a rate and you then billed. That is the reason that you used the billing account, because it must then incorporate the methodology. I do not know—unless you want to explain—how you charged them out. Perhaps we could start with that, and I might be able to shorten the questions. Can you tell me how you charged out both part-time and full-time lawyers to the HIH Royal Commission and the building industry royal commission?

Ms de Gruchy—The way we charge out is a matter relating to our commercial operations. To reveal in detail the manner in which we charge out per solicitor would place us in a difficult competitive position in the market. By providing the information on the number of solicitors that comprised a particular component of the bill, that at least would not get to the point in a sense of providing almost a unit price in relation to each solicitor.

Senator LUDWIG—Correct me if I am wrong, but I think I have got a no in relation to the first part of the question but a maybe in relation to the second.

Mr Riggs—I think Ms de Gruchy's statement could actually help here because it shows the scale of the teams. I think we can add to the information that the scale of the teams has remained essentially constant right throughout the whole of their life. There is a build-up period to begin with in the scale of the teams that Ms de Gruchy's statement indicates, but

they have been essentially constant in themselves over all of last year right up to today. There has been some variation, but not a variation of more than two or three people in any particular period of time.

Senator LUDWIG—You could start by telling me some of that. The difficulty I have is that I am using a long bow. I am having difficulty getting you to tell me how many staff are involved. The most accurate information I have is the Australian Government Solicitor's newsletter. I have Australian Government Solicitor staff before me and I seem to be unable to start with some basic information.

Senator Ellison—I think the statement Ms de Gruchy was going to make earlier is now relevant.

Ms de Gruchy—First of all, dealing with the Royal Commission into the Building and Construction Industry, at the hearing on 28 May I advised the committee of the number of AGS lawyers and administrative staff working as part of the AGS team assisting the royal commission. I have looked more closely at the numbers since the hearing and wish to correct the information I gave then. AGS currently has a team of 19 lawyers assisting the royal commission on a full-time basis, including two junior solicitors who act as associates to Commissioner Cole and three lawyers assisting the commission on a short-term basis. There is also one administrative employee, a legal secretary who is full time. The lawyers' specialities cover a wide range of litigation and legal advisory functions, including employment and financial related matters, construction industry and industrial and workplace relations, trade practices and competition law, occupational health and safety laws, law enforcement, property law, administrative law and the conduct of government inquiries. Eight of the 22 lawyers have been engaged under contract by AGS for the purposes of working on the commission. There has been no specific allocation of other lawyers to work on commission matters. In aggregate, over the life of the commission the time involved in matters referred to AGS lawyers not in the team assisting the commission is under the equivalent of one-person month.

In relation to the HIH Royal Commission, AGS currently has a team of five lawyers assisting the royal commission on a full-time basis. There is also one administrative employee, a senior legal assistant who is full time. The lawyers' specialities cover a wide range of litigation and legal advisory functions on matters arising out of the functions of government and government business activities. These matters include regulation of commercial activities, insolvency, law enforcement, revenue, trade practices, administrative law and the conduct of government inquiries. Two other lawyers were engaged by AGS for the purpose of working on the commission but have since ceased their contracts. There has been no specific allocation of other AGS lawyers to work on commission matters. In aggregate, over the life of the commission the time involved in matters referred to AGS lawyers not in the team assisting the commission is under the equivalent of one-person month.

Senator Ellison—Perhaps that statement can be tabled because there is a fair bit of detail in that.

CHAIR—Yes, we will take that as a tabled document.

Senator Ellison—Just to clarify where we are: we have taken on notice the question of how many lawyers and staff were involved in the generation of those costs. That will be taken on notice.

Senator COONEY—I think Senator Ludwig asked for the basis on which the AGS charged out—and I think you made the objection, Ms de Gruchy, that that was commercial-in-confidence. Is that right, Senator Ludwig?

Senator LUDWIG—Yes. I was not sure whether I got a clear yes or no in relation to what you were going to provide or not provide. Given that you were not going to provide the invoices I requested, I was looking for a more grossed up version. If the first response is negative then I am looking for a second-order response—something that is less, in your words, commercial-in-confidence but which may still meet my expectations of being able to understand how you have charged out.

Senator Ellison—The indication I gave earlier about the hourly rates and charge-out—because that is what this would reveal and goes squarely to—is that it should not be provided, if I can put it that way, for these reasons: (1) that it is not being done for the council who you have given your aggregate amounts for; (2) there is the question of commercial-in-confidence for the AGS, because it would expose their position; and as well as that I can add (3) because, again, it would lead to prejudicing the Commonwealth's position in the way it tenders for work in the future in the legal profession. So you have three grounds on which that objection is based.

Senator LUDWIG—As long as that is a negative I might move to a third order, or we might go to Senator Cooney if he has a particular question on that issue.

Senator COONEY—You have put it well, may I say, Minister. Taking into account all of those issues, I still press for the basis upon which a charge-out is given. I want a detailed description on that. I am putting that forward on the basis that none of those points you have put forward is sufficient to turn aside the Senate's rights to the information it has sought or its power to get that information. I think that flows from what the Clerk has said, but if we need to reinforce that, then, depending on what the committee says, I would seek a further opinion from the Clerk. If you remember the material I read into the *Hansard*, I think it started off with the statement in 1978 that basically commercial-in-confidence is not a basis for ousting the scrutiny of the Senate.

Senator Ellison—I suppose we have reached the position that we now know the area where we are at odds. Senator Cooney has put that position very clearly. The Attorney has made it very clear that he does not believe that hourly rates and daily rates—that is really the same difference; it is anything that could divine the hourly rate—should be revealed, because it would prejudice the Commonwealth's position, and I pointed to other matters. Perhaps there are other questions that Senator Ludwig can ask—and we can sort out the wheat from the chaff, so to speak—so we can work out what information we can provide now and what we can take on notice and, then, we can preserve those areas of disagreement and work out where we go from there. Unless, of course, questions were going to flow. I know that is the obvious problem you have got; it is the line of questioning.

Senator COONEY—If I put my position, finally, it might help. In my view, you—and when I say you I mean the executive—are not entitled to withhold information that is sought. It could ask the Senate to exercise its forbearance or indulgence, but that is a matter that would have to come from the Senate. I am putting to you that the executive cannot take as a right the objections you are taking.

Senator Ellison—The situation is that the executive claims public interest immunity or commercial-in-confidence, or one of the claims that has been traditionally made.

CHAIR—A number of which are addressed in the Clerk's advice, Minister, as you know.

Senator Ellison—Public interest immunity could be one of them insofar as it is in the public interest that the Commonwealth not be prejudiced. The ultimate arbiter is really the Senate. We have seen that happen before and that may well be where this does go.

Senator McKIERNAN—There has been some progress since last evening. If I recall last evening—and I have the *Hansard* with me—Ms de Gruchy and the minister—

CHAIR—I think you mean Tuesday evening, Senator. Time is just flying away from us.

Senator McKIERNAN—were relying on a particular set of advice from the Attorney-General. We have heard tonight Mr Cornall read another advice from the Attorney into the record. I am not sure, from memory, whether it is exactly the same as the advice which was being relied upon on Tuesday evening. I wonder if you have a copy of that advice in a form that could be provided to the committee so that we could peruse it, compare it to the advice that was relied upon on Tuesday night, and see whether there has been any movement—which I have detected, but I may be wrong because I do not have the legal forensic mind of many of the persons who are participating in these hearings.

Mr Cornall—I can do that. I will just have to look for the document from Tuesday. This was not a document prepared by the Attorney-General. It was a document I prepared myself this evening—

CHAIR—Thank you for clarifying that, Mr Cornall.

Mr Cornall—just for the purpose of having my thoughts in order in speaking to the committee tonight. I think that there has been very significant difference. We have agreed to provide you with the fees in detail; we have broken them down by practitioner; and we have given you the dates for which the fees are calculated. So I think we have given you just about everything that was requested on Tuesday—which was not the case on Tuesday afternoon.

Senator McKIERNAN—I do not think we have got everything just yet, but thank you very much for the clarification. It helps the record. It had been my understanding that what you were reading into the record tonight was a statement on behalf of the Attorney-General.

Mr Cornall—No, it was just my statement of where we have reached since Tuesday.

Senator McKIERNAN—So where we are at the moment is that the advice that the minister and the representatives of the Australian Government Solicitor are reliant upon in assisting the committee with our proceedings is the advice that Ms de Gruchy referred to in a letter circulated to the President of the Senate in 2000?

Ms de Gruchy—That is correct, Senator.

Senator McKIERNAN—And that is still the standing and your yardstick as to how much information can be given to the parliament or to a parliamentary committee?

Ms de Gruchy—It is the view that was expressed by the Attorney-General to the President of the Senate requesting the Senate and its committees to consider the matters that were in the letter when asking questions of the Australian Government Solicitor.

Senator McKIERNAN—But, if I recall that letter and its contents, it would not have provided us with the information on this matter that we have now. So where is the movement and what is the authority for the movement? Is it with the Attorney-General's authority that we have had that additional information given to us this evening?

Ms de Gruchy—As he indicated in the letter that he wrote, what the Attorney was indicating was the source of where the information should emanate. The information that has been provided tonight has emanated from each commission in relation to the fees that have been paid to the Australian Government Solicitor as well as the other matters that the committee had requested.

Senator McKIERNAN—But is the additional information that you put on the record—again, which was read into the record and is now distributed—additional material that would not normally have been provided to the committee under the terms of the content of the Attorney's letter to the President?

Ms de Gruchy—Again, the information relating to the number of people working at the commission and so on has been the subject of information to the committee before, and the information that I gave tonight in a sense was to clarify some of that information and to provide the information that was sought about the general background of some of the lawyers working with the commission. That background is not a matter of client confidentiality in the sense that that is the background of those lawyers who are with the commission.

Senator McKIERNAN—It is not the background tonight but it was last night?

Ms de Gruchy—It was simply to provide further information about the background to the information that I provided the other night.

Senator McKIERNAN—The sticking point will still be those instructions from the Attorney-General that were outlined in that letter—the date of which we know, but I do not have in my head—to the President of the Senate some two years ago.

Ms de Gruchy—Certainly, my reluctance to answer questions that relate to client matters is outlined in that letter from the Attorney to the Senate.

CHAIR—Indeed, and that has been a matter of some considerable discussion in this committee.

Senator McKIERNAN—It has indeed. But, since then, we have sought advice from the Clerk and we have provided that advice to your office. So the response tonight is not necessarily in response to those matters raised in the advice to the committee, which has been provided to you.

Ms de Gruchy—I have not had an opportunity to consult with the Attorney-General in relation to the views of the Senate. We have appeared tonight at the committee's request. I certainly accept that that is the advice of the Clerk of the Senate and, in a sense, we would appreciate the opportunity to consider matters further if the committee wishes to press them.

CHAIR—Ms de Gruchy, I acknowledge that that—

Senator Ellison—I think there is an important difference here. The information that is here has come from the AGS client, the royal commission. You will recall that Senator Cooney, I think, said, 'Get them to weigh privilege'—I think that was the term the Clerk objected to.

Senator COONEY—Yes, the Clerk hopped into me about that.

Senator Ellison—So what has happened is that these figures have been obtained from the royal commission, and there is other information that has come from the royal commission in relation to Ms de Gruchy's statement tonight. So the source of the information that you have before you tonight is the two royal commissions. Ms de Gruchy said the other night, 'I have

difficulty giving this information because it is really information of my client, the royal commission.'

CHAIR—Indeed. I do not want to let the point that Ms de Gruchy just made go by without responding. Ms de Gruchy, I want to acknowledge that the timing of the delivery of the Clerk's advice to you for consideration was based on when the committee received it, was able to consider it and was able to turn it around and get it to you, and I acknowledge that that was later this afternoon. I did not expect, and I am not sure whether the rest of the committee did, that you would necessarily have the opportunity to consider it in full and respond to those detailed points, having discussed matters with the Attorney-General and the secretary of the department as appropriate. So I acknowledge that that is the timeframe in which we are working.

Senator LUDWIG—Hopefully, after all of that, I will be able to regather some of my thoughts. We do appreciate that we have made some ground since Tuesday and that is, it seems, because of the good offices of the Australian Government Solicitor. As I understand it, my request for information from you this evening was met with a negative answer. You can correct me if I am wrong, but the Australian Government Solicitor has not provided the committee with any information other than that provided by the building industry royal commission, through the department.

Senator Ellison—There is one that has been taken on notice, of course. That is not a refusal.

Senator LUDWIG—No. The others were, except for the second or third order. In relation to fees paid to the Australian Government Solicitor from after 15 April to now, are you in a position to detail those that have been charged to the building and construction royal commission and the HIH Royal Commission?

Ms de Gruchy—There will be work in progress and, perhaps, invoices that have gone to both royal commissions that have not yet been paid. So there would be an additional amount of value accrued, if I could put it in that sense. I would not be in a position to give a precise figure.

Senator LUDWIG—If you are able to produce a figure, I am happy for you to take it on notice.

Mr Riggs—I missed the operative part of your question, I am sorry.

Senator LUDWIG—The figures that I have been provided by the building and construction industry royal commissioner are up to 15 April 2002. I was simply using the next question as a method to test the Australian Government Solicitor's ability to provide information on its own.

Ms de Gruchy—Mr Cornall was indicating that it is, I guess, easier to provide information based on invoices paid for the commission as the other information would be untested in the sense that it has not yet been established that the invoices ought to be paid, if you know what I mean.

Senator LUDWIG—I did not actually ask for a paid invoice. I asked for your invoice—or at least the monetary amount of your invoice.

Senator Ellison—You are basically asking for fees rendered after 15 April 2002?

Senator LUDWIG—Yes. I do not know whether we would call it fees rendered or an invoice required to be paid.

Senator Ellison—So invoices rendered—that is what you are asking for?

Senator LUDWIG—Yes.

Senator COONEY—You are still sticking with your application for the way matters are charged out?

Senator LUDWIG—Yes, I have not waived my earlier demands. I just met with a negative.

Ms de Gruchy—We could give you an approximate figure in relation to that.

Senator LUDWIG—Thank you.

Mr Riggs—We had the opportunity during the last 24 hours to discuss with the commission our numbers and their numbers. Although I have not seen the statement that has been handed to you this evening, I have had the opportunity of discussing the difference between your request the other evening that we should estimate the bills, as it were, up until the end of last week and the amounts that had been paid by the two commissions to AGS. In the case of the building industry commission we believe that, up to Wednesday evening, the amount that we would be owed, subject to the judgment of the commission, would be about \$700,000 greater than the sums indicated as being fees paid up to 15 April in the statement handed to you this evening.

Senator LUDWIG—That includes both dedicated and collateral?

Mr Riggs—That includes both dedicated and collateral.

Senator LUDWIG—Can you break that down between dedicated and collateral?

CHAIR—That \$700,000?

Senator LUDWIG—Yes.

Mr Riggs—The additional \$700,000 is almost wholly dedicated.

Senator LUDWIG—In relation to the earlier question, we started with the first order and we then got to the second order—this is the invoice, if you recall, where we got a negative in relation to that and we got a negative in relation to the charge-out rate grossed up. The third would be, then, can you show a breakdown for the HIH Royal Commission and the Royal Commission into the Building and Construction Industry for the total amount of fees paid to lawyers out of that bill, and then administrative expenses—in other words, a breakdown between the two. So what I am trying to say is that, as a third question, I am not waiving my rights in relation to the earlier question. I am simply trying to gather what information you will provide. Will you provide it in terms of a breakdown between administrative expenses and law fees for those two—both the HIH Royal Commission and the Royal Commission into the Building and Construction Industry?

Ms de Gruchy—Could I take that question on notice? We would be able to provide that information, I believe, but I would need to ascertain the information.

Senator LUDWIG—What I am asking for additionally is the most accurate information you can provide which does not, in this question, show the charge-out rate—in other words, the issue that Senator Ellison objects to in relation to that point. Then, in relation to the work of the solicitors or lawyers for the building and construction industry commission, can you

provide information as to whether the work they undertook was to draft statements of evidence for witnesses appearing before the commission?

Ms de Gruchy—As I indicated in the hearing on Tuesday, what the solicitors do is under the direction of counsel assisting. It would be in the purview of the commission to answer any question as to what any of the solicitors or lawyers do for the commission and the counsel assisting.

Senator LUDWIG—In relation to the structure of how the team of solicitors or lawyers works, and starting with the building and construction industry royal commission first, is it a team with a team leader that is transplanted to the building and construction royal commission? Do they work as a team, as such? Or are they ad hoc legal personnel attached to the building and construction royal commission who are then under the direction, independently and separately, of the building and construction royal commission?

Ms de Gruchy—My understanding is that, for each royal commission, it is up to the counsel assisting the royal commission to decide in what way the commission's legal staff and other staff will operate in order to carry out whatever work is required in order to fulfil the terms of reference. It is therefore the counsel assisting, in consultation with the solicitor assisting, who allocates lawyers to whatever structure of operation they see fit.

Senator LUDWIG—So your billing for legal fees does not show a grossed up amount for a team effort; it shows individual billing for individual solicitors or lawyers for a certain time, or money per hour. I am trying to ascertain, in respect of the building and construction royal commission, how \$4.5 million is broken up.

Mr Riggs—I think the short point—and I don't know that this is getting to your question—is that the basic fees charged are related to the time of the individuals working at the commission and the length of the days they work, and so on. So it is a fairly traditional form of time related charging but with commercial embellishments. We put it out to reflect the nature of the job. It is not a 'task and finish' nature of arrangement, which is how I think you described it the other day. It is not that sort of structure.

Senator LUDWIG—It was 'job and finish'.

Mr Riggs—The English expression is 'task and finish'. It is not that sort of job.

Senator LUDWIG—I was trying to get an understanding of whether it is a per hourly charge rate and, if it is, whether there is another way of expressing it. To assist the committee, if you cannot provide the hourly rate—you won't provide the hourly rate, if I put it that way—can you provide a per lawyer gross rate? If there are no hours I have no way of ascertaining what their hourly charging rate is.

Senator Ellison—A gross amount of fees, do you mean?

Senator LUDWIG—Yes, per lawyer. This does not waive my right to pursue the earlier question.

Senator Ellison—You do not have to repeat yourself, Senator Ludwig. We have taken it as read that that stands.

CHAIR—Senator Cooney, did you have a question?

Senator LUDWIG—Madam Chair, I am still waiting.

Senator Ellison—We are still considering the question that Senator Ludwig asked in relation to an aggregate fee for each practitioner from the AGS.

Senator LUDWIG—Perhaps I can add in support of my question: if you look at the fees for legal counsel at the beginning, you have expressed that as well in terms of their name, their start date, the date they were paid to and then a total amount. So that information has already been provided in one form. That is a matter that the minister may recall used to be put in the annual reports much earlier, I understand, for the department. I do not know whether I have added much to my question. In the building and construction industry royal commission they have provided names of the barristers, their start date, the date they were paid to and the amount. That was also an amount that I think was once upon a time included in annual reports.

Mr Cornall—No, not really. What was included in annual reports was an annual aggregate figure—

Senator LUDWIG—I see.

Mr Cornall—for a person over the whole of the year. You would not know whether it included one case or 10.

Senator LUDWIG—But it is the same in the sense that it has a start date and end date. The annual report similarly has a 1 July start date and a 30 June finish date.

Mr Cornall—Yes it does, but you can relate this directly to the commission—

Senator LUDWIG—Yes, I see. You are right.

Mr Cornall—whereas for the annual report it could have been 20 cases or one brief advice, you would not know what it was. It was just the figure for all work done in however many matters over the year.

Senator LUDWIG—I take your point and I am certainly not arguing with you in this respect. But similarly that also does not show the number of various matters that were called on during the royal commission, because of course there were different hearing days, different witnesses and different events.

Mr Cornall—I agree.

Senator LUDWIG—It has the same lack of clarity, if we could put it that way, as the annual report. That is the only inference I was drawing.

CHAIR—Thank you, Senator Ludwig. Is that finished?

Senator LUDWIG—I am waiting for an answer.

CHAIR—We are still conferring, yes.

Senator Ellison—We are just trying to work it out.

Senator LUDWIG—I was filling in the silence.

CHAIR—Perhaps try tap-dancing!

Senator Ellison—We will have to take that on notice.

Senator LUDWIG—All right. Thank you. They are the only questions I have in this area.

CHAIR—Senator Cooney wishes to make some remarks, then the committee will determine how it wishes to proceed.

Senator COONEY—I think you have had time to assess these things. What I want is the sort of information that was provided by private solicitors to the then Senate Legal and Constitutional Affairs Committee so it could issue its report *Aboriginal Development*

Commission—Legal costs in relation to a Senate privileges matter in May 1991. You have said, and you have taken the objection to this as commercial-in-confidence, that you want to be able to compete with private firms. Private firms gave their information in this case, Ms de Gruchy, and I can tell you that running a private practice has a lot of strains which you do not have to bear. Just understand, when you are talking about private practice, that it is in lots of cases a lot more difficult than the sort of practice which you have to run. There are partnership problems and all sorts of problems.

I am asking the Australian Government Solicitor to provide at least as much information as the private solicitors were prepared to supply—and did supply—on this issue. You have refused to do it. I thought earlier in the week that it was because you had been met with a sudden demand which you needed time to consider. You have done that. I am looking for the brief fees charged per day—not the aggregate—the date on which they were incurred and the rate at which they were incurred. I also want the basis on which you charged out and the rate at which you charged out. You either charged out according to some scale or you charged out on a per hourly rate. I do not know what the law is in the ACT. In Victoria you are subject to all sorts of checks from all sorts of bodies. This is not an unreasonable demand and it is not a matter of commercial-in-confidence. People do know what fees are charged. When a barrister charges a fee he puts it on the brief, which goes down into the clerks room and it is normally available to everybody. The argument about confidentiality does not hold water, but even if it does I am pressing the demand that you provide that.

Minister, on page 3 of the Clerk's advice, when talking about the immunity claim he says:

In any event the Senate has declared that a public interest immunity claim by a government is only a claim and it is for the Senate to determine whether the claim is sustained.

Were you agreeing with that, Minister, or did you say that that was a matter for the executive to decide? I thought you agreed with that.

Senator Ellison—What I said, Senator Cooney, was that at the end of the day the Senate can decide what it considers to be protected by that rule or not. The executive can have a view different from the Senate, of course, and that is normally dealt with when that comes to the Senate to be decided.

Senator COONEY—You are saying that this is a return to order situation?

Senator Ellison—Yes. We have had this before; this is not the first time we have had the executive maintain a claim and the Senate disagree with that claim. In the time I have been here I have never seen a demand go to the detail of the demand made by Senator Ludwig in relation to a bill rendered, which would be detail of work done. Certainly there have been previous demands for hourly rates which have been refused, but that goes further in relation to the detail—telephoned attendances, who was called, who was written to and all that sort of stuff. That reveals the bread and butter of the legal work done. I have never seen that demanded by a Senate committee before. I myself asked for hourly rates when the previous government was in power and it was refused, much on the same grounds that I have raised today.

Senator COONEY—In my view, wrongly refused.

CHAIR—Sadly, Senator Cooney, you were not making that decision to assist Senator Ellison.

Senator COONEY—Can I refer you to this excellent volume, a report from the Senate Standing Committee on Legal and Constitutional Affairs dated May 1991.

CHAIR—That volume is certainly well on the record, Senator Cooney.

Senator COONEY—The minister has said that he has not seen this. There are details here from Minter Ellison that include counsel's fees—Mr F. Adams QC, 'copy account herewith'.

Senator Ellison—That could have been volunteered quite happily. Or was it demanded?

Senator COONEY—They were written to and they replied. I think that is a fair point, but in any event they are there. We have agreed to disagree.

Mr Cornall—Could we have a look at that report. We do not have it with us.

Senator COONEY—I will walk round with it. As I understand from what Ms de Gruchy was saying, most of this work has been run by counsel assisting. Is that right?

Ms de Gruchy—Yes, that is correct.

Senator COONEY—Does the royal commission pay the brief fees directly to counsel?

Mr Riggs—I assume it must—

Senator Ellison—Madam Chair, I will stop that right there. We do not assume things in Senate committees. Either we know that or we don't. If it is not within the direct knowledge of the witness, then the evidence should not be given.

Senator COONEY—I agree with that. If the work is being done by counsel assisting and the brief fees are being paid directly from the royal commission to counsel, we are then left with fees paid to the Australian Government Solicitor up to 15 April 2002 of \$4,491,567. It is a lot of money and, from what has been said tonight, it is very difficult to see what work the Australian Government Solicitor would have done to justify anywhere near that amount.

CHAIR—Senator Cooney, is there a question?

Senator COONEY—Yes, it is.

CHAIR—What is the question?

Senator COONEY—What work has the Australian Government Solicitor done to justify anywhere near that sum of money? It is a huge sum.

Senator Ellison—I think the evidence has been given as to the range of advice, and lawyers' specialities cover a wide range of litigation—I will not go through it again—but, dealing with the sorts of advice that we were given, currently there is a team of 19 lawyers assisting the BCI commission and there is one administrative employee, a legal secretary. So that is what the AGS is saying all goes to make up the costs incurred.

Senator COONEY—The real worry is—and, Minister, you would understand this I think—that, if you go down the fees to legal counsel, you have very highly qualified Senior Counsel, Queens Counsel, Queens Counsel, Queens Counsel and then a series of, I take it, very high-powered juniors, and just what work would be left for the Australian Government Solicitor to do is very hard to identify.

Senator Ellison—That really is a question to be asked of the royal commission, because the royal commission is the one who has engaged these people and would have an overview of who is doing what. You could not ask the AGS to compare their work to these counsel because the AGS would not necessarily know. The royal commission really is the body to ask.

Senator COONEY—No, let us get this clear. All these barristers are receiving their fees direct from the royal commission; they are not being briefed by solicitors.

Senator Ellison—I would have to ask the royal commission that. I will take it on notice.

Senator COONEY—That is a very interesting situation, if they are appearing unbriefed by a solicitor. Anyhow, that seems to be the evidence. I will put this clearly on the record, and I ask you to comment. You need not comment if you do not want to, but it would seem to me that the Australian Government Solicitor has made charges which must approach somewhere near the outrageous to justify the sum charged there for the apparent work that it has done. You have not been able to point to any significant work done by the Australian Government Solicitor, yet the taxpayer is contributing well over \$4½ million—because there is some collateral, whatever that is, of \$260,477. This royal commission is just an outrage, and I am afraid I have to say that the Australian Government Solicitor is in the same company.

Ms de Gruchy—I might just comment in relation to that. We have a significant number of solicitors working at the commission full time and we have had a significant number there since the beginning of the commission. Our accounts, in relation to the work that they do, have to be justified in order to be paid, which means that we have people working on legal services for the commission day in, day out for many, many months. That is where the bulk of the legal fees come from.

Senator COONEY—I suggest that you do not know what work they are going, you are not able to tell us what work they are doing, you are not able to tell us what sort of skills they have in this work. There are lots of solicitors that work very hard and get very little money for all the work they do—in private practice it is hard—and here we have the Government Solicitor, from the description given by the Australian Government Solicitor herself, who does not seem to know what sort of work they are doing except that there are plenty of them, making all this money. It is just not fair and, in any event, it is a use of taxpayers' money which the ordinary solicitor, which the Australian Government Solicitor likes to compare herself with, just does not have access to. Most solicitors in the private sector get out there, battle for clients and wait for the fees to come in. It is just outrageous what a lot of them have to put up with, and here we have a solicitor who cannot even explain how she comes to claim \$4 million. Anyhow, that is enough.

Senator Ellison—There is no question, I take it, in relation to that.

CHAIR—It did not sound like a question. Senator Ludwig has one point he wishes to make, and then we will try and wrap this part of the hearing up this evening. I normally do not qualify matters, but, Minister, you put the question that I 'demanded' information from the Australian Government Solicitor. I asked a question; I put it no higher or lower than that. I do not know whether a 'demand' is the same, but it is certainly not the colour that I added to it. My job up here is to ask questions.

Senator Ellison—I was not aware that I had said 'demanded', but if I did I change that to 'requested'.

CHAIR—Thank you very much. In an effort to wrap this discussion up, to the degree that I am able, the committee has asked a number of questions, some of which we have been provided with answers to, some of which have been taken on notice and some of which, it has been indicated, it is not possible to answer or that answers will not be provided on those specific questions. Of those that have been taken on notice, could I indicate that there are also a number of questions which were taken on notice from Tuesday evening, particularly to be directed to the royal commissions. These questions went to matters such as involvement of the AGS in the drafting of the discussion papers that were released by Commissioner Cole to

the day-to-day work of the solicitors—also a matter taken on notice for the royal commission. So in indicating that there are matters to be responded to—which, it has been indicated, will be pursued—I would remind Ms de Gruchy and the AGS that those undertakings to seek advice on those matters from the royal commission were given by either you or the minister on Tuesday evening.

In relation to the matters which we have been further considering this evening—after the advice from the Clerk and the information provided further this evening through Mr Cornall, the commissions and the AGS—the committee will consider them in a private meeting. I imagine that these are matters which will be brought back to the Senate in due course. We will see the discussions on those matters continued in that process; I do not imagine this to be the last time we discuss it, one way or another.

Minister, I would like to acknowledge and thank both you and Mr Cornall for your efforts in providing the information which was made available to the committee this evening and which was obtained, as I understand it, through the royal commissions—both the HIH and the building and construction royal commissions—and for the financial details provided this evening. We are grateful for that assistance.

Senator Ellison—Thank you.

CHAIR—Ms de Gruchy and Mr Riggs, I would like to thank you both for joining the commission again this evening at short notice. We are very grateful for your assistance. I am sure you will have further opportunity to turn your mind, Ms de Gruchy, to the Clerk's advice to the committee and to make any consultations on that matter that you need to.

Mr Cornall—Can I just make one remark about Senator Cooney's 1991 report, having looked at it just this evening. The terms of reference in relation to this report were:

The level of, and justifications for, the legal expenses incurred by the Aboriginal Development Commission in connection with the inquiry ...

So the costs were the very subject of the inquiry. It is clear from appendix 1 that the Aboriginal Development Commission said in a letter to the inquiry—to you, Senator Cooney, as chair—that the commission was well satisfied with the legal assistance received from the lawyers involved, and so on. So I do not doubt that all of this information was provided with the consent and knowledge of the Aboriginal Development Commission, and that is really the significant issue.

Senator COONEY—Yes, I agree, that would be a crucial issue.

[9.07 p.m.]

Australian Protective Service

CHAIR—Mr Studdert, I thank you on behalf of the committee. I know that you are here at even shorter notice than some other officers this evening. We are very grateful for that.

Mr Studdert—Thank you.

Senator McKIERNAN—As I ask this very first question I am acutely aware of the bill that is before the committee for which we will be having a public hearing on Friday of next week. I am not going to canvass matters within that bill that will be canvassed at that hearing, other than one aspect of it that I just want to get information on for clarity. Then I want to move to some other issues, including the briefings we have had in regard to how this

amalgamation is represented in the budget documents. The bill and the amalgamation of the APS and the AFP will be dealt with in other forums at a later time.

One of the consequences of the bill that is before the committee—I think it is called the protective services bill, but we know which one we are talking about—is that it will provide a slightly different role for the AFP commissioner. Currently, he operates within the provisions of the AFP act that are designed to allow government to give formal general policy directions, but in all other respects he protects his independence as the head of the police service. As head of a statutory agency under the Public Service Act he will be subject to general direction and control by government. Can you see that there may be a possible conflict in those roles?

Mr Studdert—Before I answer, I would like to introduce Mr Chris Haywood to the committee. Mr Haywood has joined the Australian Protective Service as the Assistant Secretary, Corporate Support. I think he will become a familiar face to the committee over the next few sittings.

Senator McKIERNAN—Not to me, Mr Studdert. But welcome, Mr Haywood.

Mr Studdert—I do not think there will be a conflict through the commissioner having dual responsibilities, that is, as Commissioner AFP and as the head of a statutory agency which is also an operating division of the AFP. Certainly the commissioner will, in his statutory authority role, be affected by the Public Service Act, which remains in effect for the APS but I do not see that that necessarily creates any conflict between his existing role now and the new role.

Senator McKIERNAN—Has consideration been given to that aspect?

Mr Studdert—I do not think it has specifically been addressed at this stage but there is a working group that is actively looking at this process. I am sure that that working group will work through that issue as time goes on.

Senator McKIERNAN—It may be a matter that might be addressed further at the hearings next week.

Mr Studdert—Thank you. We will certainly have a look at that before next Friday.

Senator McKIERNAN—Thank you. That is part of my reason for raising it tonight. We expressed our gratitude to the Attorney-General's Department at the commencement of these estimates proceedings for the briefing which was given to us on some of the changes in the budget papers, in particular the issue of budget funds and outputs already transferred to the AFP, that is, funds for the APS which have been included in the AFP budget. This transfer of funds, though, is contingent upon the passage of this legislation through the parliament. The passage of legislation, as the minister would know, is sometimes a pretty dicey subject. Nothing is guaranteed in the Senate. I am not saying this with any malice of forethought. There are no threats or whatever. If in the event the bill does not pass for whatever reason, what would that mean to how the APS would then operate for the next financial year?

Mr Studdert—This matter has been addressed by the working group and there have been discussions both with the Attorney-General's Department and with the Department of Finance about that issue and we have recognised that it is contingent on the bill passing. The general agreement on it was that, if it did not for some reason pass as expected by 1 July, through consultation between the three agencies adjustments would be able to be made pretty much seamlessly.

Senator McKIERNAN—Thank you. Will it still be a government objective of the amalgamation for the APS as a statutory agency to continue to operate on a commercial basis after the amalgamation?

Mr Studdert—Yes, that was made very clear in the cabinet decision and it has been one of the pillars upon which the working group has based its work.

Senator McKIERNAN—Has any consideration been given to the possibility that this might cause some difficulties to the AFP as it sells its services to the private sector, particularly in relation to security advice?

Mr Studdert—Again that is a factor that has been a very important consideration for the working group, and I know that the commissioner is concerned about that. The working group is focusing on maintaining if you like a firewall between the activities of the AFP and commercially based activities of the APS, and that is certainly something that is being given very serious consideration in the working group. I think it is quite possible to maintain that separation between the two parts of the organisation.

Senator McKIERNAN—Has thought been given to how that is going to work? What form of Chinese walls will be put up in order to provide for that separation?

Mr Studdert—At the moment, the organisations have a separate financial management system. They are both SAP based but they are quite separate systems. I think that probably the best way of achieving that separation is to maintain two very separate financial management systems so that there is no crossover—or perception of crossover—between the two systems. Similarly, the APS will operate its own business development and commercial activities—again, quite separately from the way the AFP runs its internal finances and businesses. That separation will be both geographic, initially—because we will be in separate places—and electronic. There will be an electronic separation and, indeed, a separation of the people doing it. I think that by keeping those three things in place there will be an adequate separation.

Senator McKIERNAN—There is a series of questions on these matters, such as would persons who would want to, be able to access AFP data through using the APS services in order to do so through those Chinese walls? It is possibly easy enough to put the divisions up between the financial side of things—between both organisations—but there will have to be links in other areas that will blend and meld the organisations together. Is there a possibility that they might be infiltrated in some shape or form in order to get within the AFP, which is possibly a more secure organisation than the APS?

Mr Studdert—The answer is I do not think so. But one of the reasons that the working group and the commissioner chose to take a step-by-step phased approach to this amalgamation was so that issues just like that could be worked through in great detail. We are not rushing into this—we are going to take a slow, steady, phased approach. I think that those issues will be paramount in it and will put in place adequate security.

Senator McKIERNAN—I just hope that the Senate is able to have a slow, steady approach to it as well and give the detailed consideration to it that it will deserve. We are dealing with the first phase of the bill next week. We have got the public inquiry on it. The Senate will deal with the bill in the two weeks of sitting.

Senator LUDWIG—We hope.

Senator McKIERNAN—The Manager of Opposition Business says, ‘We hope’. But that is the wish of government and we will proceed. At this stage I thought I would put some

markers down in regard to that and perhaps put some matters on notice for the hearings on Friday without going through the matter in great depth and with great deliberation at this time. I hope that my successors on the committee do have ample time and opportunity to explore the matters in much greater detail than some of the matters that we have had to deal with in the last few days—or hours, even.

With regard to the recruitment processes within the AFP, I understand that, as a result of significant increases to your role in providing counter-terrorist first response and recent significant funding to the tune of \$20 million plus \$31.6 million, you will be running major recruitment campaigns and you will be involved in upgrading the training programs. What level of response do you get from your advertisements?

Mr Studdert—I think ‘enormous’ is probably an appropriate word. We are seeking to fill something like 300 positions in total. For that level of recruitment we had something like 4,000 applications.

Senator McKIERNAN—What is the process applicants are required to undergo in relation to security and integrity tests? How much information are you able to put on the public record in regard to this?

Mr Studdert—Quite a lot, I think. As part of their application there is a self-assessment which includes certain aspects—I guess, the first level aspects—of their personal security situation. For example, it asks if they have any outstanding cases before any police services or any court cases. So that gives us a rough first sieving of the information.

At the interview stage, we go into a little more detail on that. Again, we ask a number of questions, and the applicant may volunteer information in response to those questions. Once we have gone to a short-listing and then a selection phase, we then have, for those people that are selected for training, a detailed security vetting process that goes into much more depth, into their personal histories et cetera, including criminal checks, financial checks, police checks and other checks—a normal security vetting service to take them to the level of, in national security terms, ‘confidential’. So it is quite a thorough testing of their security and their integrity, from that perspective.

Senator McKIERNAN—How long does the process take from the receipt of the application? Is there an administrative vetting of the application? Is it that some will not make it to the interview stage and then, at the interview stage, there will be a lesser number who will go on to the training levels—what is the process?

Mr Studdert—Once the applications are received, there is a first stage short-listing which, in general terms, reduces the numbers by about half. From there, there is a detailed short-listing that is done by a panel of somewhere between three and six people who sit down and go through every application and do a finer grain short-listing. Those people are invited to attend an assessment centre. An assessment centre involves an interview, a group activity, a series of written activities and some psychological and medical testing. From there, a further short-listing is done, and those people are offered positions on a recruit training course. So it is quite a rigorous and broad system of selection.

Senator McKIERNAN—Does this happen in a centralised location or does it happen in different areas throughout the country?

Mr Studdert—It happens at most of the capital cities.

Senator McKIERNAN—Most of the capital cities?

Mr Studdert—Yes.

Senator McKIERNAN—Does that include the smaller capitals like Hobart and Darwin?

Mr Studdert—Yes, in Darwin. We have combined the Hobart selection centre with the Adelaide or South Australian selection centre, and both of those are being done in Melbourne.

Senator McKIERNAN—I understand that the AFP, when they are recruiting, ask their recruits for a ‘whole-of-life integrity’. You would probably understand that better than me, Mr Studdert. They ask their recruits for this whole-of-life integrity to be established. How does that qualification compare with what is required from the APS?

Mr Studdert—I think in practice it is the same philosophy. We do not use that term—although I must say I like that term—but, in practice, we apply the same philosophy to it. In other words, we go backwards, we look at what they have done and then we ask for a forward commitment to the same sort of levels of integrity. Whilst on the surface level it is a different set of terminology et cetera, the philosophy is exactly the same.

Senator McKIERNAN—Are you changing your entry requirements as a result of the increased focus and increased responsibilities in relation to the threat of terrorism and counter-terrorism activities?

Mr Studdert—In the context of aviation security, the government’s recent announcements in the budget have included an enhanced series of selection and competency requirements for the employment of APS officers at airports. At this stage, that enhanced requirement has only focused on airports and not on other stations around Australia, but my expectation is that once it is in place for airports it will be expanded to all stations of the APS.

Senator McKIERNAN—Are there any plans to bring into line the APS’s recruitment practices and standards of entry with that of the AFP either now or in the future?

Mr Studdert—Again, the working group will be looking at that aspect of the amalgamation and it will be one of the things that we consider in the slightly longer term. Having said that, it is clear that the core functions of the AFP, the national operations functions, and the core functions of the APS are significantly different. My instinct on this is that they will not be laid exactly on top of one another. Having said that, I think there will probably be some areas where we have a common practice. But, again, the working group will work through that over the next 12 months.

Senator McKIERNAN—Are you undertaking the recruitment yourselves? Is the APS handling that or is it outsourced to some agency?

Mr Studdert—At the moment, in this current round of recruitment we are doing it ourselves.

Senator McKIERNAN—You mentioned before the possibility of co-location of the functions and offices of the AFP and APS. How far advanced are plans for that co-location?

Mr Studdert—They are not advanced yet. Again, it is one of the issues the working group will be considering and it is too early to make any statement about whether or not there will be any co-location in any location.

Senator McKIERNAN—Is it too early in the process, or are you finding now that you are attracting back into the APS those persons who had previously left? You told the Senate estimates committee on the last occasion we met:

We have taken a number of steps to bring back into the organisation people who have separated from the organisation quite recently—in the last 12 to 18 months—so that there is a minimum requirement for training.

Has that strategy been successful and is it paying dividends as yet?

Mr Studdert—It was certainly successful in the period straight after September 11. We were grateful for that because it obviously takes some time to recruit new members in and so being able to draw on recently retired members or members that had separated was a very useful thing. I have been a little surprised by the small proportion of ex-members who have applied formally for permanent status in the APS in this latest round of recruitment. There has been a percentage. I stand to be corrected, but I think about 100 ex-members have applied to come back to the APS.

Senator McKIERNAN—What particular targeting strategies did you adopt in order to target these people for re-recruitment or re-employment—whatever the terminology is?

Mr Studdert—Nothing specifically in the newspaper advertising campaign. It was largely by word of mouth. The word certainly got around ex-members on a nationwide basis that there was a recruiting campaign and that people were welcome to apply if they chose to.

Senator McKIERNAN—Will former officers still have to go through the same terms of selection as new recruits will have to go through—that is, psychological testing, fitness training and security checks?

Mr Studdert—Yes, they will.

Senator McKIERNAN—During the re-recruitment of these persons, are you finding out reasons why the persons left in the first instance?

Mr Studdert—We are not specifically asking that question, certainly not formally. I think what happens in practice is that that is discussed informally with people when they come back on. As station managers go around the stations, or if I wander and visit the stations, if I see an ex-member or get talking to them I talk to them about that. But we are not formally surveying that attitude.

Senator McKIERNAN—What are the current attrition rates?

Mr Studdert—I would have to get back to you on that; I do not know. In a general sense, I would say that it is declining from where it was, certainly two years ago. I cannot give you an exact figure but I can get back to you on it.

Senator McKIERNAN—Would you give me comparative figures for a recent period of time—a period which I will let you determine, but a reasonable period of time. I am giving you a good length of string here, but I think the committee would be looking for proper comparative figures. Could you include in those figures details of the level and length of service of the individuals who have moved in previous years.

Mr Studdert—Sure, Senator. That is no problem.

Senator LUDWIG—I want to turn to air marshals. Given the nature of the work, please indicate where a question oversteps the security requirements of the position. I am interested in a couple of areas, and we will deal with them sequentially. Firstly, can you say how the training program is put together and who delivers it? How is it delivered and what is the cost of delivery?

Mr Studdert—I can talk about that in general terms. I appreciate your consideration of the security aspects. The training package was put together late last year, after the announcement that the ASO capability would be developed. Our first step was to send a couple of experienced trainers to the United States and Israel, to draw on the experience of those nations in what they call an air marshals program. We got as much information from those countries as we possibly could. We brought it back here and developed a program using some internal training resources that I had and a number of very experienced trainers who we drew from state, territory and federal police services. In the main, they were trainers who had operated in a special operations group environment in one of those police services. The result was that we developed the air security officer training package by the required time so that we could put it in place with a view to having the air security officers operational within the time frame that the Prime Minister required.

Since that time, we have undertaken a process of evolving that training package. That evolution has again been based on information gathered by a couple of trainers whom we sent across to the United States on a second trip. They did some specialist courses related to firearms, defensive tactics and other uses of force capabilities. They brought that information back. Based on the experience that we had gained from the first ASO course, we evolved the training to a more sophisticated level. It is not that the skills were any better, because I am confident that the skills that were passed over in the first course were of a very high standard, but the delivery of the training was a little more sophisticated.

It took us some time to purchase the required training equipment. We have done that now. We now have very good facilities for air security officer training. After a significant amount of consultation with the major airlines, we have also incorporated into the training program joint training with the airlines. As you would expect, that involves training in emergency procedures of an aircraft, capabilities of flight attendants, relationships with the aircrew and those sorts of things. At the moment the capability of our own people links in really well and really effectively with the capabilities of the aircrew. The level of training that we are delivering now is of an extremely high standard. That has been acknowledged by other experts in the law enforcement field generally.

Senator LUDWIG—Can you say how many people are currently undergoing training?

Mr Studdert—There is a course running at the moment that has something over 20 students on it.

Senator LUDWIG—Is the course conducted in Canberra, at a training centre?

Mr Studdert—It is primarily conducted in Canberra, with various periods of training at other locations.

Senator LUDWIG—Are these people new to the Australian Protective Service or are they drawn from within the ranks?

Mr Studdert—The majority of ASO trainees are drawn from agencies external to the APS. They are primarily from police services and the military. A small percentage are drawn from other places—people who have capabilities but who are not drawn from any particular type of organisation.

Senator LUDWIG—So none are drawn from the APS?

Mr Studdert—A proportion are. I cannot give you a figure on the proportion and, of course, it varies between training courses. We made the ASO positions available to all APS officers, on the basis of selection.

Senator LUDWIG—APS officers were aware of the program and could apply, and have done so?

Mr Studdert—Correct.

Senator LUDWIG—How will the airfares for the air marshals be arranged?

Mr Studdert—That was a policy matter that was developed and negotiated between the Department of Transport and Regional Services and the airlines, but I think they would be comfortable with me saying, in a generic sense, that they came to an agreement to meet the cost of the seats.

Senator LUDWIG—What about the frequent flyer points?

Mr Studdert—I think I am correct in saying that there are no frequent flyer points accrued by air security officers, but I will check that for you. If I am wrong, I will correct it.

Senator LUDWIG—What about the goods and services tax payable on the tickets?

Mr Studdert—Again, that is really a Department of Transport and Regional Services matter.

Senator LUDWIG—What about other airport taxes such as noise levies, insurance levies and the like? That is why the question really went to the ticket itself—to work out whether or not those on-costs are also added to the price, and who eventually foots that bill.

Mr Studdert—I know that has been a subject of some discussion between airlines and the department of transport. I think a more accurate answer would come from that department rather than from me. We are very much on the delivery side of it rather than the policy side.

Senator LUDWIG—So you cannot say whether or not the government is providing any financial assistance for the tickets for the air marshals?

Mr Studdert—I cannot comment on that.

Mr Cornall—Is this about the cost of the tickets for the air marshals when they are flying on the planes on duty? Is that what we are talking about here?

Senator LUDWIG—Yes. I did not think they were on holidays.

Mr Cornall—My point is that my understanding is that those seats are provided by the airlines.

Senator LUDWIG—I do not know. I did not want to guess it either.

Mr Cornall—My understanding is those seats are supplied by the airlines as their contribution to this security issue, so questions such as frequent flyer points do not arise.

Senator LUDWIG—It did not come across as clear as that.

Mr Cornall—That is my understanding of the situation, and Mr Carnell's is the same.

Senator LUDWIG—It does effectively change the way I would have asked the question. In other words, as part of the service, the air marshals do not buy a ticket.

Mr Studdert—That is correct.

Senator LUDWIG—As a consequence, you are contracted to—please correct me if I am wrong—provide a service, and the service includes being at a place at a certain time, boarding an aeroplane and taking a seat. But you must be allocated a seat in some way. I did not want to get into the operational side. It is not proper to go there.

Mr Studdert—I appreciate that.

Senator LUDWIG—So those matters such as goods and services tax, airport taxes, noise levies, insurance levies and the like are a matter that I could ask the Department of Transport and Regional Services about, as to how the provision of the total cost of the seats allocated to air marshals works. Perhaps we can deal with it in that way.

Mr Cornall—I think that would be appropriate.

Senator LUDWIG—Because, as far as the Attorney-General's is concerned, that is a matter that is not paid or purchased out of the air marshals budget.

Mr Cornall—That is right.

Senator LUDWIG—Will the air marshals liaise? This is an operational matter, so I ask you to be careful in your answer—you will, in any event. How will they relate to other APS officers, Customs officers or Australian Federal Police officers at airports or airport security locations? Will they liaise with Customs?

Mr Studdert—There has been considerable liaison between the APS and the Customs Service and indeed all of the Commonwealth agencies at airports. We have worked out procedures so that the ASOs are able to carry out their function within the environment of the airport and move to the aircraft.

Senator LUDWIG—Will the other agencies at the airport know that they are there or not know that they are there?

Mr Studdert—They are aware of the presence of ASOs but they are not aware of the individuals unless there is a need for them to be aware of an individual to assist them in any way to get to the aircraft.

Senator LUDWIG—In the contract for the provision of seating, is there a specific requirement that your contract requires, or that you require, in terms of distance from the cockpit or the front of the aircraft or the back of the aircraft? Is there a requirement that you would request from an operational—

Mr Studdert—I have really got to be careful about those sort of things.

Senator LUDWIG—Yes. Perhaps I should put it another way?

CHAIR—Yes. I am not sure that they are matters we need to discuss on the public record.

Mr Studdert—It has been worked out with the airlines, and they are happy with the arrangements, and the arrangements fit what we perceive to be the tactical requirements. More than that, I would rather—

Senator LUDWIG—Yes. I did not want to go anywhere further than that. Will there be requirements for air marshals to travel both internationally and domestically? I know that is an operational question, so I am open on whether you answer it or not.

Mr Studdert—It is in the public domain that the development of the ASO program on an international basis will occur this year. The government's expectation is that ASOs will be flying internationally this year.

Senator LUDWIG—I have thought of another way of asking the question. Is it a requirement that you would place the air marshals in particular locations, or do you accept where the airline would otherwise place them? If that is too difficult, we will move on.

Mr Studdert—Sorry, it is a bit difficult.

Senator LUDWIG—All right.

Senator McKIERNAN—Regarding the matter of airline security, is the APS involved in any way with the security at the airport itself? I know, as a regular passenger going through airports, it is private organisations that are engaged by the airlines to do security checks on the baggage that passengers bring on board with them. Does the APS provide any advice to those individuals on how that screening of passengers and the baggage they are bringing on board the airline is done?

Mr Studdert—The passenger screening function—the normal screening point that you would be familiar with at any airport—is operated almost exclusively by private providers of security—Chubb or Group 4 or SNP. The APS has no formal role in that function.

Senator McKIERNAN—Are you used on a consultancy basis with these persons, or, indeed, with the airlines as to the requirements?

Mr Studdert—For passenger screening?

Senator McKIERNAN—Yes.

Mr Studdert—No.

Senator McKIERNAN—It seems to me that this might be a glitch in the system—if the airline in the air is secure as a result of air marshals being on board, but security on the ground is a bit lax.

Mr Studdert—I do not think that security on the ground is lax. If I implied that, I did not want to. There is a layered approach to security at airports that really starts when you drive your vehicle in to park at an airport. You are restricted in where you can park. Then there are layers all the way through that include security screening of passengers, security screening of baggage and the counter-terrorist first response role that the APS has. So there are—I have not added them up—probably half a dozen screening layers of security before you actually get to the aircraft. Then the final layer in that is the ASO layer.

Senator McKIERNAN—I hope I did not imply that you had said anything about lax security at the airports themselves; I am not making any inference of lax security. What I am saying is that there are different levels of security at different airports throughout Australia at different times. I have been to airports where at one time one had to take the battery out of one's laptop when going through, but when you were reboarding the aircraft at the city where you landed you did not have to do that at all. So there were different levels of security. There are other airports where you walk through the screen and the alarm goes off and, while you do not quite have to strip, I have seen individuals having to take their shoes off. Yet you can walk through a different screen level and no alarms go off, although the same things are in one's pocket. So there seems to be a bit of inconsistency at an airport level. I am not saying that it is serious, but it seems to me that there ought to be some better coordination between the security companies, the airlines and indeed the APS, who are providing these persons on board the aircraft—for very good reasons mind you; I am not knocking the reasons they are there.

Mr Carnell—I can offer some information which generally describes responsibilities about security at airports and airlines.

Senator McKIERNAN—I think it would be helpful. Now that the matter has been raised it is always better that assurances are put in place in regard to it, just in case.

Mr Carnell—A key point I need to make is that most of these things sit in the Transport and Regional Services portfolio. The Air Navigation Act has these requirements on airport and airline operators that they produce security plans. The requirements in those plans and the standards et cetera are all set by regulations under the Air Navigation Act; so DOTARS has the policy and standard setting responsibilities generally. They also have a compliance and audit function, so questions of whether things are being done properly is something that they have responsibility for, and I think in this budget there was some additional allocation for that purpose. In the Attorney-General's portfolio, we have the two responsibilities that Mr Studdert has mentioned already: the counter-terrorist first response and the air security officer program. But they fit within a set of arrangements, whereas the ultimate policy sits with the Department of Transport and Regional Services.

Senator McKIERNAN—Thank you for the assurance in that. Let me draw an analogy to give you an example of where I am coming from. We live in a democracy which is headed by a parliament with sets of rules about how that democracy should operate. But if you get one glitch—for example, the minister issuing directions which are not in conformity with how that democracy should operate—the system starts to break down because the information is not freely available. The same thing can happen in the area of transport, and particularly in the area of security operations. I was just seeking to point out, while we had some expertise at the table, where there might be a possible—and I do not put it beyond that—glitch in the system. But I do note that on the last time I travelled—on Saturday of last week—at Perth airport the battery had to come out of the laptop, whereas I think that initiative started in Sydney. I am not questioning you on that.

Mr Studdert—I understand what you are saying.

Senator McKIERNAN—Thank you very much for the update on the air marshals program.

CHAIR—I am hoping to get an indication of timing for the rest of the evening. What I had hoped to be able to do was to give Customs at least a full hour for this evening. Can I get some guidance from senators as to whether we can conclude APS by about 10 o'clock.

Senator McKIERNAN—No, I do not think that is possible. There is a little bit to do with security at detention centres, both onshore and offshore. I have one final question in the transport area. Then there are a couple of questions to follow up from the AFP questions, and I also have questions to DIMIA about the jurisdictions within detention centres. We would certainly not do it by 10 o'clock.

CHAIR—Let us keep moving and see how we go.

Senator LUDWIG—In relation to the last question about air marshals, you have talked about the role of air marshals on planes when in the air, but what about responsibility for cargo or baggage searching? Will air marshals have a broader role or is that their only area of work?

Mr Studdert—The air security officer's role is exclusively that of the air marshal's.

Senator LUDWIG—So, for the other area, it becomes APS, Customs, Group 4 or whom-ever; in other words, part of the airport security plan to deal with baggage and customs?

Mr Studdert—That is correct.

Senator COONEY—I was going to ask how the two forces mesh together so it becomes the Australian security police, but you might know more about that, Mr Cornall. We could ask you questions tomorrow on that area.

CHAIR—Mr Cornall will be here tomorrow.

Mr Carnell—Yes.

Senator COONEY—You are the person who is in charge of the legislation and is going to bring the two bodies together?

Mr Carnell—Yes. Personally, I have not been closely involved in the working group, which has a number of the detailed issues.

Senator Ellison—I am sorry to interrupt, but there are questions to be asked of the APS. I can see where Senator Cooney is coming from—he is being cooperative in suggesting that these questions can be asked of the department tomorrow—but we do have Customs waiting here. Looking at the late hour, I am wondering whether we will get to Customs at all. It would be a shame to get to 11 p.m. and not to reach them. Do you think there is a chance of reaching Customs?

CHAIR—I would feel very bad if we had invited Customs to come here this evening at such short notice and we did not pay adequate attention to that, Senator Ellison.

Senator Ellison—Customs had been patient earlier on in the week.

CHAIR—As was Mr Studdert, frankly.

Senator COONEY—What would Customs think? Would Customs prefer to come back if there were any risk of not finishing tonight?

Senator Ellison—I can see, with the line of questioning, that we have another half an hour here.

CHAIR—On the point of the APS and AFP matters, Senator Cooney, I would note that not only is the department here tomorrow but the committee, in its legislation manifestation, has a public hearing next Friday morning where both the APS, the AFP, the Attorney-General's Department, the AFPA and the CPSU will all give evidence.

Senator Ellison—I am in the committee's hands, but it would be a shame if we got to 11 o'clock and Customs, having been called in at short notice, did not get on.

CHAIR—Yes, I agree.

Senator McKIERNAN—We would like to get to Customs as well.

Senator LUDWIG—Tonight?

Senator McKIERNAN—Yes.

Senator LUDWIG—We are working quickly to achieve that.

Senator McKIERNAN—The more we get done today, the less we have to do tomorrow. I really do not want five nights in a row at 11 o'clock. Senator Ludwig will ask some questions while I undertake some consultation.

Senator LUDWIG—Can you tell the committee whether there are any plans to either increase or decrease the number of APS officers at the Nauru processing centre, either in the near future or now?

Mr Studdert—We have a contingency plan in place—it has been in place for about a month now at the request of DIMIA—to provide additional officers to Nauru should DIMIA ask for it.

Senator LUDWIG—How many are there now?

Mr Studdert—There are 18 officers in Nauru at the moment.

Senator LUDWIG—And the request by DIMIA is for how many more, or how many in total, or both?

Mr Studdert—We have 25 officers on stand-by to go to Nauru.

Senator LUDWIG—So there would be 18 plus 25.

Mr Studdert—Forty-three, Senator.

Senator LUDWIG—Is there a request for any additional above that?

Mr Studdert—Not specifically at this stage. There has been a general request as to whether the APS would be able to provide more than that should the need arise. Our general answer was yes, but it has not been quantified at this stage.

Senator LUDWIG—So it could be in addition to the 43?

Mr Studdert—Correct.

Senator LUDWIG—Is that supplied under a single contract? How do you then work out the workload? Do they tell you that this is the task that they want done or simply ask for additional APS officers? Do you then say, given this amount of work, given the nature of work, we have a team of eight and we need three shifts, so there is that amount of people? Or do they simply say, ‘We need 25 because that is how we run it’?

Mr Studdert—It tends to be discussed in relation to the situation that is expected to arise, and between the APS and DIMIA, we decide what we feel that incident would require in terms of APS support. It is not done on a shift-by-shift basis. It is normally a gross number.

Senator LUDWIG—Am I able to ask what that situation that might arise is?

Mr Studdert—Normally, it is by way of providing a standby force in case there is a threat of violence or deteriorating attitudes at any of the detention centres.

Senator LUDWIG—Where will these APS officers be accommodated?

Mr Studdert—In Nauru, there is a hotel and there is overflow accommodation. I understand it is known colloquially as the ‘wrestling village’, and that is the intended place where they will be accommodated.

Senator LUDWIG—Have you made inquiries to determine there is sufficient accommodation for the additional 25 officers?

Mr Studdert—That has been part of the planning process with DIMIA.

Senator LUDWIG—Have you ensured there is additional places of accommodation?

Mr Studdert—I have seen the accommodation so I know that the accommodation is adequate for that number. What I do not know is what is happening on the ground in terms of

who else is being accommodated there. I have on OIC on the ground in Nauru who is looking at that sort of issue as part of the planning process.

Senator LUDWIG—I am happy for you to take it on notice to ensure that there is sufficient accommodation for an additional 25 officers. I am not sure whether your answer is, yes, that you have checked and there is accommodation available for the 25 should they be requested in the foreseeable short future. Unless, you can say that you have done that—

Mr Studdert—I have not checked that specifically.

Senator LUDWIG—In fairness, it might be more advisable, if you take that on notice and are able to inform the committee that that is in fact the case.

Mr Studdert—Okay.

Senator McKIERNAN—Mr Studdert, we have some more questions relating to detention centres and offshore detention centres. They are in a form which could be read and responded to now but, to put them on notice, we do need to do a little bit of work to provide a bit of clarity to them. What we are going to do, with your concurrence, is seek to put these on notice, but we will not be able to do that immediately. Likely as not, you will get them tomorrow, probably earlier rather than later, if that would be suitable to you. It would be better if we could get them tonight but would like to cooperate with Customs and at least get part of their evidence onto the record tonight. They have been, like you, around for a long period of time. So, if you would oblige by accepting that, that is the way we would proceed from here.

Mr Studdert—It is fine.

Senator McKIERNAN—Thank you for your cooperation. We are appreciative of it.

Senator LUDWIG—The only additional matter is: does the APS provide security at Sydney airport?

Mr Studdert—Yes, we provide a counter-terrorist first response role at Sydney airport.

Senator LUDWIG—Does that liaise with the other security groups like Group 4, or Chubb or whoever it might be? I am not aware of which security group.

Mr Studdert—In practice, on the ground, there is considerable liaison between all of the agencies that contribute to security at, not only Sydney but all other airports as well.

Senator LUDWIG—Are you able to tell me how many staff are there in that group?

Mr Studdert—The total of APS staff at Sydney airport—there are all different types; there are some ASO; there is CTFR; there are a couple of others supporting DFAT—is approximately 125.

CHAIR—Thank you. There are no further questions. Once again, on behalf of the committee, thank you for appearing this evening on very short notice and for assisting the committee with its deliberations. You will have some matters to answer on notice and our return date is 5 July.

[10.01 p.m.]

Australian Customs Service

CHAIR—Good evening, Mr Woodward. I thank you and your officers very much for joining us this evening, as I have said to the other witnesses, at short notice. We are very

pleased that Customs were monitoring the proceedings and were perhaps half expecting to end up here this evening anyway. We will begin with questions from Senator Ludwig.

Senator LUDWIG—Minister, I was wondering if you could clear up something that appeared in the *Sydney Morning Herald* on 24 May about the arrival of the Sino-Anzac medals. The article stated:

The *Daily Telegraph*'s controversial Chinese-made Anzac commemorative medallions have somehow made it through Customs.

Last month, the *Herald* revealed the shipment of medallions had been seized by Customs because they breached Veterans' Affairs regulations and Section 81 of the Defence Act.

But after some ministerial manoeuvring, and applications from News Ltd, the medallions have made it under the wire.

A spokeswoman for the Veterans' Affairs Minister, Danna Vale, said the minister approved the medallions because they had an educational role, and proceeds from their \$2 cost were going to the RSL.

At press time, the office of the Customs Minister, Chris Ellison, had not got back to us to explain exactly how the Customs regulation, which allowed no ministerial discretion, had been amended to allow the imported Anzac medallions to be released.

Could you help me with that?

Senator Ellison—To answer the second part, my office has been in frequent contact with the *Sydney Morning Herald*. If they do not know by now then they never will. Perhaps Mr Woodward can fill us in on those regulations.

Mr Woodward—There are a couple of pieces of background information that I think are important. In March last year the minister wrote to the then Minister for Veterans' Affairs suggesting that it was appropriate that that minister, as the relevant policy minister in relation to Anzac matters, look at the absolute prohibition of anything bearing the name 'Anzac'. The government had experienced one or two difficulties that were potentially embarrassing. Mr Scott responded in August, saying that he thought the regulation ought to be amended. A number of events intervened between August and earlier this year. There was then an importation that bore the word 'Anzac' coming into the country, and under the regulations—as they then stood—it was absolutely prohibited.

Upon seizing and detaining the medallions—and obviously we notified our minister—we approached the Department of Veterans' Affairs. There was a recollection of the earlier ministerial exchanges, and the regulations were amended consistent with what applies in relation to many prohibited imports—in other words, they are not prohibited absolutely; they can be imported within a certain framework. The framework would, of course, be with the policy minister, which is the Minister for Veterans' Affairs. The regulations were amended to reflect that, and the goods subsequently came through the system. That is the background. It is certainly not the series of events as simply portrayed in the newspaper.

Senator LUDWIG—So it did not have anything to do with Senator Ellison's office; there were regulations under Veterans' Affairs, or the Customs—

Mr Woodward—Senator Ellison is obviously involved, because they are our regulations, and he is the relevant—

Senator LUDWIG—Not in the sense of personally involved; I mean his office.

Mr Woodward—There were contacts made with us, there were contacts made with his office, but the implication that I read into that particular article was that there was something improper in the process. But it was a process that started in March last year with the appropriate involvement of relevant ministers and the appropriate consultation with the ex-service community undertaken by the Minister for Veterans' Affairs. All that has happened has happened, in my view, appropriately.

Senator LUDWIG—From the committee's perspective, the issue really boiled down to what legislative authority was there to ground the—

Mr Woodward—The regulations were amended, and what happened was lawful.

Senator LUDWIG—When does the Coastwatch aerial surveillance contract expire?

Mr Woodward—In 2005.

Senator LUDWIG—Is the existing size of the contract going to be extended? Have you started negotiations about the size—the significance—of Coastwatch itself?

Mr Woodward—Again, it is not as simple as that. There was an inquiry by the Joint Public Accounts and Audit Committee, and Senator McKiernan knows a fair bit about that. As part of the public accounts committee inquiry, we put in a submission, and I believe that the committee basically endorsed the philosophy that, before we next renew that contract, we ought to have a look at all the available technologies. In other words, we would not make a simple assumption to continue to have all of our civilian surveillance based on fixed-wing and rotary wing aircraft; we would be looking at a range of other technologies that are emerging, including satellites, unmanned vehicles and other advances in technology. Whatever happens, I have no doubt that there will be fixed-wing and rotary wing surveillance, but we may well be using other technologies as well. That part of the work has started—in other words, the assessment of technology we will be needing in 2005—but we are certainly not into renegotiation, at this stage, with the company. In fact, we need to go out to tender after our specifications have been developed.

Senator LUDWIG—So you are not up to the development of the tender process yet?

Mr Woodward—The first thing we have to do is determine our requirements. Once we have determined our requirements, we will get into that phase. So, no, we are not into preparation of tender documentation.

Senator LUDWIG—I had a couple of questions in that area, but if you are nowhere near the development of the tender process—

Mr Woodward—There is still a fair way to go between now and 2005. We have a small group of people working furiously on the technical specification side now, looking at the broad nature of the technologies we will be looking for.

Senator LUDWIG—When do you think you will be at the point of tendering? I want to go to a question regarding the development of the tender process to ensure that the problems with the tender system in 1987, which did not reflect well, do not happen again. I also want to ask about the type of tendering process that will be undertaken.

Mr Woodward—I do not think there were those difficulties with the last tender, which was finalised around 1994-95. I think you may be going back one more contract than you need to. I cannot recall there being any problems with the last contract at all.

Senator LUDWIG—In respect of the budget itself, it provides an additional \$9.5 million for each of the next three years to increase by 1,600 hours—

Mr Woodward—That is for the existing supply. That is not 1,600 hours of Dash 8 flying time.

Senator LUDWIG—Is that \$9.5 million—I am moving out of the contract to another area; I am going to the budget now in relation to the existing contract—a variation?

Mr Woodward—Within the existing framework, it will be variation of the existing contract to get more hours flown by the five Dash 8 aircraft we have. A heavy component of that relates to flight crew, but maintenance, fuel, spares et cetera are also built into that \$9.5 million.

Senator LUDWIG—So they are simply an additional variation of the current contract?

Mr Woodward—It is a variation of the existing contract, yes.

Senator COONEY—I want to raise one question. I am raising it now because it appears not to arise out of an incident—and you will see what I mean by that—but rather out of something that was put me as a practice. I will give you an account of what happened, only to see whether or not this is the practice. It concerns an incident that happens on 27 April at Tullamarine, when a Catholic priest was returning from Rome—he had been there for a while—and he was not dressed as a priest. He said he was asked no questions as to Customs, but he was asked if he had something to do with the Catholic Church, what he had done in Rome and his purpose in coming to Australia—even though he had an Australian passport. He said that he was not in clerical gear but looked like an elderly gentleman. He asked the person interviewing him why he was being asked these questions and got the answer, ‘This is my job.’ He said he thought it was intrusive. This is somebody I knew 50 years ago at school, so I have known him for a long time. He has gone back to Rome now, though he intends to return to Australia. Are there issues that Customs are after in addition to what people are bringing into Australia?

Mr Woodward—Our interests are far and wide because we act on behalf of many agencies. Some of the agencies can be intelligence, the Federal Police and state police, so we ask questions that might reveal not just whether a person is carrying drugs; it could be currency—indeed, there is a possibility of terrorism. I am not sure whether I am being intolerant in talking about men of the cloth, but we have certainly found men of the cloth—or people who were purportedly men of the cloth—who have concealed products underneath their cloth.

Senator COONEY—He was not wearing his cloth. Perhaps he should have been wearing his cloth; that was probably the big mistake he made.

Senator Ellison—In my experience as minister of a number of portfolios, agencies and other things, Customs has one of the best mechanisms for dealing with complaints that I have seen. In fact, Customs won a public service charter award for the way it dealt with complaints from the public. In this case, if the priest concerned felt like it at the time, it would have been a good idea if he had written to Customs saying, ‘I am not happy about the way I was treated.’ Believe me, every one of those goes to the minister. There is a thorough inquiry carried out by Customs in relation to a complaint from the public, because every complaint is regarded seriously.

Senator COONEY—It was just that phrase, ‘This is my job,’ and I think Mr Woodward has explained it.

Mr Woodward—We have a broader interest and we act on behalf of many agencies.

Senator COONEY—Do you just report to them? What happens?

Mr Woodward—It depends on the nature of the interest. It could be that our interest was in fact for prohibited imports, which is a Customs responsibility, but if our interest related to the possibility that the person had committed a law enforcement type offence, we would be acting on behalf of other agencies.

Senator COONEY—Would you then tell the person what it was about? This is not said as any sort of criticism.

Mr Woodward—It depends very much on what it is. Indeed, the way our system operates, in the event that the questioning was prompted by an alert, even the person questioning might not have all the information that the officers in our control room and the direct links back to the other relevant agencies might have.

Senator COONEY—All right. If that person wants to take it any further, he can do so from Rome. Thanks for that.

Mr Woodward—I would be quite happy for him to write to us if there is any complaint at all, and we will certainly pursue it.

Senator COONEY—I do not think he wants to do that. It was just that phrase, ‘This is my job,’ and I think you have explained that. I will ask about contracts tomorrow.

CHAIR—I have one question on asset management. Mr Woodward, on page 102 of your annual report, under the heading ‘Asset management’, you refer to Commonwealth properties occupied by Customs, and there is a brief reference to the property on Ben Boyd Road in Neutral Bay, New South Wales, which I think is occupied by the Marine Centre. What are you laughing at, Minister? I am not supposed to represent my New South Wales constituents?

Senator Ellison—You are doing it very well. Continue.

CHAIR—I am not sure that I understand the humour, but I am sure somebody will explain it to me later. Mr Woodward, could you provide the committee with information on the state of play in relation to the property that the Marine Centre is occupying?

Mr Woodward—The minister laughed because he is actively involved in that particular matter. We do occupy the premises. We use it to tie up our vessels and for other facilities, including certain training. We believe that it is a specialised facility and ought to remain in Commonwealth control, because there is no other obvious location that we can find to moor our vessels.

CHAIR—Does ‘Commonwealth control’ mean Commonwealth ownership?

Mr Woodward—It is formally owned by the Department of Finance and Administration, and there has been a desire on the part of that department to sell it.

CHAIR—Quite. I think they list it in their divestment program, don’t they?

Mr Woodward—Yes. We have asked our minister to raise with Senator Abetz the possibility that it might remain in Commonwealth ownership, and I know he has been actively involved in pursuing that.

Senator Ellison—I do not know if you are pushing for it to be sold, Senator Payne.

CHAIR—I am not pushing for anything, Minister. I am simply seeking information. In fact, no, I am not pushing for it to be sold.

Senator Ellison—Nor am I.

CHAIR—More heated agreement in the committee.

Senator Ellison—I have written to the minister concerned about it and put to him the argument for it to remain in Commonwealth hands.

CHAIR—My interest is simply in knowing what is going to happen. I regard it as having significant historical and heritage value for the Sydney Harbour foreshore area, for maritime history in Sydney and for Sydney generally—particularly the contribution of Ben Boyd himself to those developments.

Senator Ellison—The local member is very keen on that.

CHAIR—Indeed, he is. My colleague, Mr Hockey, is very keen on certain aspects of this. If it is a very appropriate place for Customs to be located in that capacity—as you indicate, Mr Woodward—I am keen that we get some certainty both for Customs and for the local community as to how this will be proceeded with.

Senator McKIERNAN—I think it is an admiral quality in a senator that they will, in a public forum, represent their constituency. I am being parochial and we should not be criticised for doing that.

Senator Ellison—We get criticised in Western Australia all the time.

Senator McKIERNAN—I know, but I think it is an admirable quality and it should happen, so I encourage you, Senator Payne. That is not to say that I would encourage all of the senators who have participated in these hearings to be quite as parochial as perhaps some of them have been.

CHAIR—I do not know if you have had a chance, Minister or Mr Woodward, to look at the evidence from Finance at their estimates yesterday where they confirmed that they still intend to dispose of the property.

Senator Ellison—I was not aware of that and I have not had a reply to my letter yet, so I am grateful for that knowledge and I will chase it up.

Senator McKIERNAN—I can assist in providing advice on picket lines, if you want it. I have a couple of questions on the National Marine Unit—and I am cognisant of what the minister has had to say about letting people go early. Perhaps if I go through the headings of the question areas that I have, it might just assist your staff to make decisions about whether they are needed here tonight or not and we will try to move through as quickly as we possibly can. I have some questions regarding the coordination of the various agencies on the border control matters and increased border protection, the container and pallet X-ray machines, the National Marine Unit—which I will go to next because it has been raised just now—the matter of recruitment and training of Customs officers, copyright and then some general questions about illicit materials coming through the borders. Is that of any assistance to your staff here?

Mr Woodward—That is fine. I think that covers most of our staff who will remain.

Senator McKIERNAN—Well, I did try. I am cognisant of the trials and tribulations of public servants coming here. Is the operation of the National Marine Unit conducted with Customs own resources?

Mr Woodward—The vessels are leased. Is that the part you are looking for?

Senator McKIERNAN—Do you actually operate them?

Mr Woodward—Yes, we operate them. The exception that Mr Drury mentioned is the *Samson Explorer*, which has been mentioned before as a vessel that has been used in the past, in a sense, as a ferry between Darwin or Broome and Ashmore Island, but it is not heavily utilised at the moment.

Senator McKIERNAN—Given the huge increase in the usage and depreciation of these assets, is there a need to upgrade the capital resource or are the existing capital resources sufficient?

Mr Woodward—We do have a concern. You will see in the budget papers that the government has agreed to funds to double the crewing of the Marine Unit—that is, to use the eight existing hulls to twice their current usage. Instead of using them for 150 days a year they will be used for 300 days a year. When you are doubling the usage of vessels of this kind then inevitably it has an impact on the life of the vessels.

Initial thinking has already begun but more intensive work will be under way in the second half of this year to look at a replacement vessel for the existing Bay-class vessels. In light of the experience that we have had with them and the challenges ahead that we see, that work would need to be done reasonably quickly so that when the vessels start to come up for replacement—and I think they start to come up in about 2006—we have actually got vessels there and available.

Senator McKIERNAN—Will that 2006 date be brought forward because of this increased usage that you described earlier? Perhaps a better way of framing the question is: is there a possibility that it could be brought forward?

Mr Woodward—I do not think there is anything in the existing assessment of the vessels to say it would have to, but we have not actually got up to full double crewing yet; we are getting reasonably close to it. I think we would be making an assessment of that over the next year or so.

Senator McKIERNAN—In Budget Paper No. 2 on pages 133 and 178 there is a figure for expenses of \$77.4 million over five years. How is that \$77.4 million broken down into the expense categories?

Mr Woodward—That \$77.4 million is for the expenses of the Marine Unit.

Mr Hawksworth—That is over four years.

Senator McKIERNAN—Over four years, is it? I have not got the book open in front of me.

Mr Hawksworth—I have a different book open but mine says \$77.4 million over four years.

Senator McKIERNAN—Right.

Mr Hawksworth—Basically it is \$20 million per year but in the first year it is only \$14 million because of the ramping-up process that was going on. In fact we have some money from this year which we will move into the coming budget year, so in reality we are doing \$20.4 million worth per year from July onwards.

Senator McKIERNAN—And none of the \$77.4 million will go to any capital? It is all for expenses, is it?

Mr Hawksworth—An element of that is to accelerate our depreciation on the vessels, so we have taken that into account.

Senator McKIERNAN—That concludes my questions on the National Marine Unit. I turn now to the matter of the coordination on border control. There are a variety of agencies involved in border control functions; I will not go through them all but they include AQIS, Fisheries, DIMIA, Therapeutic Goods Administration, Environment Australia and so forth. You would be familiar with these agencies. What mechanisms are currently in place to ensure the cooperation and proper liaison at the border between the various agencies and departments?

Mr Woodward—There are many agencies involved at the border but the principal agencies are obviously Customs, Immigration and the Australian Quarantine Inspection Service. Following an independent review that was conducted shortly before the election before last, there was a ramping-up in the formal processes of coordination between those agencies. While there are various committees, working groups and working parties that are meeting throughout the year, the head of Immigration, Mr Farmer—who appeared before you earlier today—the head of Agriculture, Mr Taylor, and I meet regularly. We are each accompanied by our deputies and we have continual updates presented to us of work that is going on in the border area. We discuss this comprehensive documentation—with a summary—of any major problems that are either there already or are emerging. That is the principal mechanism at the most senior level. We have committees and groups that are working on particular subjects throughout the year.

Senator McKIERNAN—You have described what I think would be considered a relatively narrow group but with the key players involved. Are there other meetings that take place that would include, for example, representatives of Attorney-General's, Defence, the department of trade, Australia Post, AFP and so forth?

Mr Woodward—We have numerous meetings that involve them, some thrust upon us. For example, the group on counter-terrorism, which was chaired by Mr Cornall, included all of the relevant border agencies and the security intelligence agencies and met frequently on that exercise. As for supporting groups, we chaired the border working group on counter-terrorism. That is one example of the way in which we coordinate. A group called the Heads of Commonwealth Law Enforcement Agencies, HOCOLEA, which includes the Commissioner of Taxation, the head of ASIC, the head of APRA and Allan Fels, meets several times a year. So there are numerous forums where we get together. There are also informal discussions, which some of us have over lunch or dinner.

Senator McKIERNAN—So in terms of a formal consultative body or coordinating body, it would be that first group, which would include the leading agents?

Mr Woodward—As the principal border agencies, that would be the main grouping, but there are many others that are focused on projects or functions or because it is useful to meet regularly, as HOCOLEA does.

Senator McKIERNAN—In specific operations—obviously you would know more about more recent operations than I would—how are matters of seniority determined between the agencies?

Mr Woodward—It depends on what it is. In relation to drug matters coming across the border, Customs obviously has prime responsibility at airports and seaports until the drugs are detected. From that point, once there are reasonable grounds to suspect that a product that has

been brought across the border is a narcotic, the AFP is brought in and immediately assumes primacy. We have a continuing interest, principally because of the intelligence that the subsequent inquiries will produce, but it is a handover of that kind. Similarly with major drug operations where drugs are carried by vessel, for example by yacht, the principal responsibility for tracking that vessel—and we have had many examples of this with Coastwatch aircraft, military aircraft and our own vessels—is Customs. The AFP or NCA are involved and, in some cases, the state police are involved. We have the primacy in relation to the surveillance for the maritime resources that are involved but, as that vessel gets closer to the shore, there is a handing over of prime responsibility to the AFP. From the very beginning, the two forces work very closely together and there are operational instructions that are understood by both. But instructions mean nothing; it is people that make things like that work, and we have good working relationships with them.

Senator McKIERNAN—I am pleased to hear it. Thank you for that response. In the February estimates, the committee was informed through the Attorney's portfolio budget statement at page 333 that there was an additional amount of \$23.6 million allocated for increased border protection capacity to address unauthorised arrivals. That money was disbursed through Coastwatch, the marine fleet and Christmas Island. I have the information here as to what the money was to be spent on. For example, there was a 20 per cent increase in the Dash 8 flying time for Coastwatch, a doubling of the marine crew capability and a Customs presence on Christmas Island, which was in the region of \$400,000. Is it too early to say whether these targets that were set for these expenditures have been met?

Mr Woodward—They will not have been met. Because of the timing of the agreements to spend those funds, there will be a carryover of funds. The fact that some of those funds would be carried over is being taken into account by ministers in the funds that had been agreed for the next full year.

Senator McKIERNAN—We will press that matter further here. In the matter of data sharing between DIMIA and Customs, Customs has received additional funding through the budget to facilitate better data access. Can you inform the committee of the security and privacy limitations that are currently placed on the dissemination of intelligence between the various border agencies? I am not revisiting debates that the committee had with Customs in the recent round of security legislation hearings.

Mr Woodward—I will hand over to Ms Batman because she has been very heavily involved in the negotiations.

Ms Batman—Senator, could you clarify the question? Are you asking about the data access to airline reservation systems?

Senator McKIERNAN—I think I am being more general than that. Perhaps I will follow up your question with another question. Is the \$42 million that has been allocated—

Ms Batman—That is the one.

Senator McKIERNAN—Thank you. That is fine.

Ms Batman—I just wanted to make sure that I was addressing the right question. That is a program that will allow us to expand our access to airline reservation systems. The connection that we are setting up will be directly into Customs. We have a separate local area network with a firewall. That protects it from access by other Customs systems. The data analysis of this system is done in a separate, secure area of Customs. All of the staff that work in that area are briefed very carefully, and they sign an undertaking in terms of their use of the data. It is

monitored very closely. The records are kept separately. We do not keep records of innocent people that we have looked through. Any provision of that data to anybody else is done within the requirements of the Privacy Act and section 16 of the Customs Act. We have recently entered into some discussions with the Privacy Commissioner about an ongoing monitoring and audit program. We have worked with the Privacy Commissioner before but, given that we are expanding these arrangements quite a lot, they will have a look at the systems that we have in place and monitor these on an ongoing basis. That provides us with a significant level of reassurance that we are abiding by the legislative requirements.

Senator McKIERNAN—Are the persons undertaking this additional work already within the Customs Service or have they been recruited from outside?

Ms Batman—They are existing officers, and they are experienced officers. We operate this centre in Canberra, but we staff it primarily with experienced staff from the regional airports on a transfer basis. We have some staff that come for a two-year term, and others that come for three months. Essentially the work is the same work that the officers do out at the airports—talking to passengers. You need a fair amount of experience to look at the same sort of information in the computer system, so very experienced officers do this work.

Senator McKIERNAN—You have obviously had to recruit additional officers for the work, if not for the centre here in Canberra, certainly to replace the people who have been coming from other airports and places.

Ms Batman—We have not yet, but we will. The numbers are not large. I think we will be getting another 12 staff. They are on shift, so it is a 24 hour a day, seven day a week operation. I think we currently have about 18 staff there. There are not large numbers of staff that work this. It is predominantly an automatic system. It is a profile engine that runs, looking for a number of characteristics. It produces the names of some people that match the profile, and then the officers have a look at those, look at our research—the visa data that we have from DIMIA, the intelligence system and those sorts of things—and assess that.

Senator McKIERNAN—Will there be additional equipment brought in? It seems to me that with \$42 million—and I know it is over a period of time—the bulk of the expenditure will be—

Ms Batman—It is on the system. I suppose one way to describe it is that we are setting up a sort of mini airport check-in area. If you go to an airport, they have a range of check-in terminals there—computers sitting on the check-in desks—and one day they will be used by, say, Qantas, and for the next flight Korean Air might come along and use them. So a range of airlines use those terminals to connect to their own reservation systems. It is called a common user terminal environment—CUTE. We are setting up our own CUTE environment where you can have the one terminal but a lot of reservations systems will connect to it. We are basically using the same international airline network that the airlines use. The major part of it, then, is to build a profile engine and analytical tools that enable you to look at that information fairly quickly and fairly automatically. Essentially, the officers are not looking into the reservation system. There is some analysis that goes on and a small group of names emerge. It is those ones that are looked at in more detail.

Senator McKIERNAN—Without going into any possible security breaches, is it possible to break down the expenditures on hardware, in the first instance; on software, in the second instance; and is the software being developed in-house, or is it something that has been commissioned from expertise outside?

Ms Batman—At this stage, I could really only give you some of our estimates about how we think it is going to go. We are working with a number of companies which have that sort of expertise in airline systems to develop a system. We currently have one developed by Sabre, called Qik-Analysis, and that enables us to connect to a limited number of systems. We are going to have to significantly upgrade it. But there is quite a lot of this activity around the world. A lot of countries are taking the same sort of action, and we are working closely with the US, the UK and Canada to see if we can leverage off each other in terms of sharing a lot of the development costs. So I could, perhaps, give you some idea, but it is really an estimate. We are still at the development stages.

Senator LUDWIG—You talk about development costs, but you then talk about leverage from other countries like the UK, Canada and the US. Then you talk about a bought system such as QIK. So I am not with you in understanding exactly where you are coming from, and perhaps we can slow down a little bit. Is there a system that comprises hardware and software to connect to customs?

Ms Batman—Yes.

Senator LUDWIG—Then there is a profiling system?

Ms Batman—Yes.

Senator LUDWIG—So, simply put, there are three components: two software components and one hardware component?

Ms Batman—I think I am with you there. Part of the system is to connect all of these airlines, and that is the one that I was talking to you about—the one that looks a bit like a mini airport. All that gives you is 20 or 30 airline reservations systems.

Senator LUDWIG—Yes, I understand that.

Ms Batman—Then you need to do something with that information.

Senator LUDWIG—You need tools to manipulate the data.

Ms Batman—You need an analytical tool that will profile it, and then you need a range of other tools that will connect it to your other research tools—our intelligence system or the DIMIA visa files, or even the AusTRAC files. It is essentially three elements.

Senator LUDWIG—And perhaps quarantine and, when people come into the airport, their cards, and those sorts of issues. But my interest, amongst others' on the committee's interests, is in ensuring that the money is spent well. What we were trying to ascertain is how much money was apportioned to each of the processes and the process of ensuring that you are getting good value for money, ie what tender process are you going through. What I do not want in 12 months time is to be asking the question, 'What happened to the off-the-shelf purchase of XYZ system, now that you have thrown that in the bin because it did not produce what you wanted to produce?' I ask if you produced a tender process and you say no, so that is what I am trying to get out of you at this point in time.

Ms Batman—There will be some tender processes for various parts of this, but in other elements there is really only one supplier. For example, with the connections to the international airlines, the SITA network—the Societe Internationale de Telecommunications Aeronautique—basically runs the worldwide international aviation systems. We are dealing with them and we are certainly negotiating, but there is no other way to get at these systems, whereas some other parts of it, when they come to the profile engines and the connections,

will be provided by our normal IT supplier. Our outsourced supplier provides the servers and the LANs and those sorts of things as part of its normal provision.

Senator LUDWIG—Who is that?

Ms Batman—That is EDS Australia.

Senator LUDWIG—What happens to Tradegate as part of this?

Ms Batman—No, it is not connected to Tradegate—it is nothing to do with Tradegate.

Senator LUDWIG—Just checking.

Ms Batman—No Tradegate! That is the boxes and things like that. The profile engine and that part of the data elements is the work that we are doing internationally, looking at what other countries are doing so that the way we connect and the information that is in these is somewhat standardised around that approach.

Senator LUDWIG—In terms of that area, have you prepared a model, a role or what you want, so that I can identify an appropriate tendering process based on what your requirements for the system are?

Ms Batman—Yes. I am just struggling to remember what the acronym stands for—

Senator LUDWIG—Probably an RFT.

Ms Batman—but we have a system that we have out for tender at the moment—I think it closes tomorrow—for the main analytical part of this system, and it is called RAPS, a reporting analysis of the passenger system.

Senator LUDWIG—How much is that tender contract for?

Ms Batman—It has not closed yet. I am not sure what the value of the bids will come in at. Of the \$42 million, I am expecting it to be of the order of a couple of million for that part of it.

Senator LUDWIG—How much of the \$42.3 million is that? There are obviously parts of that which are forward estimates.

Ms Batman—We have about \$6.6 million this year. We are expecting to do most of the capital work in the next calendar year when we get another \$9.3 million capital funding. We are looking at most of the software development at the moment. The costs will rise because, as we build the system, the number of airlines that we connect to will grow. There is a large number of airlines and there is a lot of work, so initially we are looking at connecting to six by early next year and then it will grow from that. As the system gets bigger, the demand for more boxes, LANS, servers and those sorts of things grows.

Senator LUDWIG—The tendering process will close soon, and then how long before the final analytical tool will be up and running? Do you have a critical path and dates to achieve?

Ms Batman—I do. I just need to hold this far enough away to read it.

Senator LUDWIG—If you hold it up to the light, I can also read it.

Ms Batman—It is very small print.

CHAIR—Being a Customs graph, though, I am sure it is coloured, Ms Batman.

Senator LUDWIG—It is.

CHAIR—You never disappoint us, Ms Batman. It is very good.

Ms Batman—Sorry, Senator, I have lost track of the question. I apologise.

Senator LUDWIG—I knew you would develop a graph, that the graph would have a critical path and that the critical path would then demonstrate the dates by which these matters would have to be dealt with. The profiling of the analytical tool to interrogate a database would have to be developed by a certain date. I was looking for those sorts of dates.

Ms Batman—We currently have one airline that is connected. We have another airline with a stand-alone terminal that is not connected to our analytical tools at the moment. We are looking at getting the first six airlines—including the one that we have now which is unfortunately redeveloping its own reservation system, so it will be different—connected by January 2003.

Senator LUDWIG—What about the data sharing with the other agencies? At the moment, as I understand it, it is internal. Will DIMIA and Customs have an office where they will interrogate databases?

Ms Batman—We are not sharing that data. I think that the portfolio budget statements perhaps misstate that. The only connection we will have with other agencies is with DIMIA in terms of getting access to the visa files in a different way. We already have access to their system for the passenger processing function but we are not sharing this data with other agencies.

Senator LUDWIG—Right. So I read that wrong?

Ms Batman—Perhaps you read it right. It may not have been quite accurate in the way it was written.

Senator LUDWIG—I was going to ask about the Privacy Commissioner's role in that data sharing and those links and whether there were sufficient firewalls in place. Are you saying that I do not need to go there at this point?

Ms Batman—No. There is no routine data sharing around this. We are using it for our own purposes. There may be, on occasion, some transfer of information. If, for example, we detect a drug courier from this process, we may well hand over the information about that person from the reservation system as part of the evidence to the AFP.

Senator LUDWIG—You have second-guessed where I might be going to.

Ms Batman—We would do that within the framework that we have under section 16 of the Customs Administration Act for handing data to other agencies.

Senator LUDWIG—So there is already a protocol in place?

Ms Batman—Absolutely.

Senator LUDWIG—And there is an agreement with other agencies for the sharing of that data?

Ms Batman—There is, and they are bound not to pass it on. It is very formal.

Senator LUDWIG—Is there a name for that document?

Ms Batman—We have an MOU. It is a requirement under the act that you have an MOU with an agency before you can pass data on, so we have MOUs with the agencies.

Senator LUDWIG—So you have an MOU with the Australian Federal Police? By all means, if I am going beyond what is permissible in terms of security—

Mr Woodward—No, it is not a problem. But we also write to the agencies and the head of the agency has to write back personally, committing them to comply with the requirements of section 16 of the act. There is that sort of formality in it as well.

Senator LUDWIG—So how many agencies are the MOUs with: the Australian Federal Police, ASIO, and some we cannot mention, I suspect?

CHAIR—We could but we would have to kill you, Senator Ludwig.

Senator LUDWIG—Yes. They might at the end of this anyway.

Ms Batman—Probably all of the agencies that Senator McKiernan was referring to before. It would be a very large number in that sense, but quite specific if it was a Quarantine or Environment Australia matter, which is rare.

Senator LUDWIG—What if it were internal to Customs itself? Customs takes on a drug fighting role as well, doesn't it?

Ms Batman—Yes, indeed. Predominantly we use the information for that purpose.

Senator LUDWIG—Is there a protocol to ensure that privacy is kept in interdepartmental sharing of information?

Ms Batman—There is perhaps not a formal protocol, but there are operating procedures that we work within. All of the officers specifically sign an undertaking, particularly the officers working in the passenger analysis unit, which is the unit that does this work.

Senator LUDWIG—Yes, he mentioned that earlier. Is that the only form of protection?

Mr Woodward—No, it is not the only form. The systems are devised in such a way that limited numbers of people can have access to particular forms of information.

Senator LUDWIG—This was built on top of that, in a sense. I will let you finish your answer but my question, if it was misunderstood, was more towards whether that information was utilised by that section and then passed on if something of interest was found to investigate within Customs. That is the point.

Mr Woodward—Obviously if someone in a particular area looks at information that has come out of the system and sees that there is an offence that must involve another part of the organisation, that information would have to be passed on for that other part of the organisation to undertake its work. For example, if someone were looking at a part of the information that would be on this system and it involved one of our own officers, we would inevitably have to involve our Internal Affairs Unit in the investigation and they would have to have the information. That is the mechanism.

Senator LUDWIG—That is the point I was getting at: what happens if you are looking at offence X and it throws up offence Y which is still within Customs—and Customs is an enormous organisation with many different parts—but needs a different part of Customs. I was then looking at whether the Privacy Commissioner also looks to see when information is passed from one part to another internally, and what safeguards you have in place to ensure the integrity of that information.

Ms Batman—I should clarify that this is not a database that is kept. Basically, it is real-time analysis of a flight that is on its way to Australia. Some analysis happens, the flight arrives and the data disappears from the reservation system within 24 hours. We look in; we do not take and keep it, so it is not part of our database or our system. It is an access that we can use in real time. There may be an operational need. With an operation that is looking at a

major importation in a container or via a yacht, there may be some operational need to have the people coming to meet the mother ship or to be the shore party. We expect them to arrive in Australia, so we might use this system to look at their arrival, but this set of data is not available for use after the flight has arrived.

Senator LUDWIG—I am not challenging you on this, but I imagine that an analytical tool would allow you to create logs which would then have real-time data stored historically. I guess I am challenging you, in the sense that you would be able to keep logs that are stored on the hard drive or in another storage facility. I would be surprised if you, or the systems you use, could not.

Ms Batman—We do, but we strip out the identifying data in all cases where it has not had a result. We keep some of the variables that we have profiled on, so that we can refine those and try to get better, but we take out the identifying data.

Senator LUDWIG—So you do in fact store data.

Ms Batman—But not identified data.

Senator McKIERNAN—You talked about cooperation with the airlines. Is there any additional cost to the airlines by virtue of their cooperation with you?

Ms Batman—Not substantial costs. There may be some minimal costs in cooperating with us. They will have to tell us things, but essentially we are paying for the systems and the connection. They will need to have some of their staff talking to us, and to give us some manuals and that sort of assistance, but there will be very limited costs.

Senator McKIERNAN—Are you starting that cooperative process with Qantas in the first instance and branching out to the other major airlines that come into Australia?

Ms Batman—I would rather not say exactly which airlines, if you do not mind.

Senator McKIERNAN—Fine. Thanks very much.

CHAIR—Thank you very much. I think we have come to a point of natural conclusion for this evening. Again, I would like to thank Mr Woodward and the Customs officers for making yourselves available to commence estimates this evening. In terms of the program for tomorrow morning, the committee is meeting at 9.00 a.m. in this room. The first witness in the morning is Mick Keelty, Australian Federal Police Commissioner, followed by a recalled witness from the High Court and followed then by Customs. I do not expect either of those two appearances to take a significant amount of time but I just give you that information as some guidance for you, Mr Woodward, and your officers. The committee will then continue with the program. Once we have concluded the Australian Customs Service we will move on to the outcomes for the department.

Senator Ellison—In relation to the areas of Customs tonight, can we put a line through any of them or are we still going on with the whole lot tomorrow?

Senator McKIERNAN—The areas that we have addressed tonight—I read them out earlier—I would not be seeking to revisit. There are some general questions on illicit materials crossing the border.

Senator Ellison—Is there any need for the witnesses from coastguard to come back?

Senator McKIERNAN—Coastguard?

Senator Ellison—I mean Coastwatch; I should wash my mouth out!

CHAIR—Minister, it is extremely late. It has been a very long day; in fact it has been four very long days.

Senator Ellison—It proved you are awake!

CHAIR—Yes, you were just testing us, Minister, weren't you?

Senator Ellison—Yes, just testing.

CHAIR—We are still here, just.

Senator Ellison—Yes, you will not be getting a coastguard tomorrow.

CHAIR—Was there a response from my colleagues on Coastwatch?

Senator McKIERNAN—Let me just confirm.

CHAIR—We do not want the Admiral and his colleagues to spend their time here if they do not need to.

Senator McKIERNAN—I think it would be safe for Coastwatch not to be called tomorrow. If we are making that announcement, if there are questions which I have overlooked in this—and it would not surprise me if there are—we will put them on notice rather than calling the witnesses back. Thank you very much.

CHAIR—So, Admiral Bonser, that clarifies that for you. Are there any other issues that need clarifying before we conclude for the evening? Given that there are not, I adjourn these proceedings.

Committee adjourned at 11.02 p.m.