

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Program: Australian Federal Police

Question No. AE17/085

Senator Pratt asked the following question at the hearing on 28 February 2017:

It was recently reported that the Australian Federal Police had lost an appeal against a ruling for it to pay the CFMEU's costs over an illegal raid on the construction union's Canberra offices.

1. The costs are reported to in the vicinity of \$200,000. Is this figure correct? If not, what were the costs payable?
2. How will this be paid for and out of what funding stream? Will this be paid out of general revenue for the AFP or the AFP's allocation for the TURC taskforce?
3. Has the AFP undertaken any review into the incident which resulted in these costs? If so, has there been any change of procedure or protocol to prevent similar issues, including unlawful raids, arising in the future?
4. How much money was spent by the AFP on legal representation for this particular matter?
5. How much money was spent by the AFP's appeal against the initial ruling for the AFP to pay the CFMEU's costs?

The answer to the honourable senator's question is as follows:

1. The AFP is in negotiations with the solicitors for CFMEU in order to substantiate their costs as is the usual process, and to reach agreement on an amount payable.
2. Litigation expenses associated with Trade Union Police Taskforces matters will be funded by the Trade Union Police Taskforce funding stream.
3. In his decision of 2 December 2015 (CFMEU v AFP [2015] ACTSC 362), Justice Refshauge found the second warrant was invalid, and ordered the return of one item seized under that warrant: at [161]-[162]. In relation to the first warrant, Refshauge J held that while the AFP failed to comply with some of the procedural provisions of the *Crimes Act 1914* (Cth) in relation to the execution of the search warrant; given there were no adverse consequences for the occupier, the first search warrant and actual search were found to be valid and items lawfully seized.
AFP, as a matter of course, routinely review performance and make recommendations as appropriate and applicable. AFP Investigations Standards and Practice provide best practice recommendations, promoting consistency and standards in investigations.
4. As a matter of course, the AFP does not comment on the cost of legal representation for individual matters.
5. The AFP did not appeal this ruling, but lodged submissions in accordance with the directive of Refshauge J. In his decision CFMEU v AFP [2015] ACTSC 362, Refshauge J ordered the 'first defendant pay the plaintiff's costs of these proceedings, unless any party seeks another order by submissions...'. The AFP made submissions to which the plaintiff responded. On 2 February 2017 Refshauge J found the AFP liable to pay 85% of the plaintiff's costs.