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Official Committee Hansard

SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates)

FRIDAY, 17 FEBRUARY 2006

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SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

Friday, 17 February 2006

Members: Senator Payne (*Chair*), Senator Crossin (*Deputy Chair*), Senators Bartlett, Kirk, Mason and Scullion

Senators in attendance: Senators Brandis, Fierravanti-Wells, Heffernan, Kirk, Ludwig, Ian Macdonald, Mason and Payne

Committee met at 9.03 am

ATTORNEY-GENERAL'S PORTFOLIO

Consideration resumed from 14 February 2006

In Attendance

Senator Ellison, Minister for Justice and Customs

Attorney-General's Department

Management and Accountability

Mr Robert Cornall AO, Secretary

Mr Miles Jordana, Deputy Secretary, Criminal Justice and Security

Australian Customs Service

Mr Michael Carmody, Chief Executive Officer

Mr John Drury, Deputy Chief Executive Officer

Mr John Jeffery, Deputy Chief Executive Officer

Mr Jon Brocklehurst, Chief Financial Officer

Mr Murray Harrison, Chief Information Officer

Rear Admiral Russ Crane, Director-General, Coastwatch

Mr Tom Marshall, Deputy Director-General, Coastwatch

Ms Marion Grant, National Director, Border Compliance and Enforcement

Ms Sue Pitman, National Director, Cargo and Trade

Mr Dane Cupit, National Manager, Cargo Systems

Ms Gail Batman, National Director, Border Intelligence and Passengers

Mr Andrew Rice, National Manager, Trade Measures

Mr Mathew Corkhill, National Manager, Cargo Systems

Australian Federal Police

Mr Mick Keelty, Commissioner

Mr John Lawler, Deputy Commissioner

Mr Andrew Colvin, Chief of Staff

Mr Trevor Van Dam, Chief Operating Officer

Mr Mark Ney, Acting Chief Operating Officer

CHAIR—I declare open this public meeting of the Senate Legal and Constitutional Legislation Committee. The committee will today continue its examination of the Attorney-

General's portfolio, proceeding according to the order on the circulated agenda. The committee will begin with questions to the Australian Customs Service, followed by questions to the Australian Federal Police. 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 31 March 2006 for receipt of answers to questions taken on notice and additional information. The committee requests that answers be provided to the secretariat in electronic format wherever possible. If you have a mobile phone in the hearing room, please either turn it off or to silent operation while the proceedings are under way.

I welcome Senator the Hon. Chris Ellison, the Minister for Justice and Customs and Minister representing the Attorney-General, and Mr Robert Cornall, Secretary of the Attorney-General's Department, 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 discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. I also draw to the attention of witnesses the resolutions agreed to by the Senate on 25 February 1988, '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.

I also draw attention to resolution 1(16), which states:

An officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister.

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. For the record, I note that there are now no outstanding responses to questions taken on notice from the supplementary estimates round of October 2005.

I particularly would like to welcome to this estimates hearing this morning the Chief Executive Officer of the Australian Customs Service, Mr Michael Carmody. Welcome to your interaction with the Legal and Constitutional Legislation Committee, Mr Carmody. We hope it is a mutually enjoyable one. Minister, do you or Mr Cornall have an opening statement?

Senator Ellison—I have some housekeeping matters. I think the committee is looking at meeting subsequent to today for the Director of Public Prosecutions, Mr Bugg, to appear to finalise his evidence.

CHAIR—Yes.

Senator Ellison—Can I confirm the times and the date for that so that we can all work towards that. I understand it was an hour on—

CHAIR—Monday, 27 February, at 8.30 pm, I believe.

Senator Ellison—I understand that was Mr Bugg's preference. Normally I would not do that, but he is available then so I am prepared to accede to that. If we can set that in the diary.

CHAIR—Yes.

Senator Ellison—Secondly, for today do the usual lunchtime break rules apply?

CHAIR—I am hoping we will not need a dinner break. In relation to a lunch break, it may be that we decide to work through rather than take a lunch break and extend proceedings unnecessarily. But if it looks like I am about to breach the Geneva convention against torture in relation to that, then we will take a lunch break in case people starve! I do not want to be the cause of people starving.

Senator Ellison—We will play it by ear. Apart from that, we have no opening statement.

CHAIR—Mind you, Senator Ludwig does not actually eat, so it is not a big problem! We might have a coffee break between the Customs Service and the Federal Police.

Senator Ellison—That is a good idea.

CHAIR—Mr Cornall?

Mr Cornall—Madam Chair, I have just one matter. I am required to attend a meeting of the Secretaries Committee on National Security at 10 am. With the committee's indulgence, I will attend that meeting and then return.

CHAIR—Leaving Mr Jordana in your place?

Mr Cornall—I will leave Mr Jordana in attendance.

CHAIR—Senator Ludwig has indicated to me that he thinks we will probably go with Customs until about half past 11 and then with the Federal Police, after a short break, from then on.

Mr Cornall—That is helpful.

Senator IAN MACDONALD—As a participating member of this committee, can I ask if Senator Ludwig can give an indication of how long he is likely to want the DPP back again?

CHAIR—I understood it was for about an hour.

Senator LUDWIG—Yes.

CHAIR—We had agreed on an hour: 2030 to approximately 2130 hours.

Senator LUDWIG—I am happy for Senator Macdonald to use some of that time.

CHAIR—He is prepared to share.

Senator IAN MACDONALD—I have already indicated to Senator Ludwig my displeasure at his blaming me for having six hours solid of questioning and allowing me a mere 10 minutes. I have done that privately.

CHAIR—Gentlemen, perhaps you could deal with this outside the sandpit! Shall we commence questions to the Australian Customs Service.

[9.09 am]

Australian Customs Service

Senator LUDWIG—I will start in the area that perhaps we can call illegal fishing, but that may not be an appropriate title. There was a newspaper article—you may or may not be aware of it; I am happy to hand it up if you are not—on 9 September 2005 in the *Australian* titled ‘Surge in illegal fishing vessels’. There were a number of others, but the questions go in part to figures that I suspect you may have. That newspaper article states that the sightings of foreign fishing boats in Australian waters have leapt by over 50 per cent in the past two years. Are you able to confirm from your own annual report and your current figures whether those figures are right, that there has been a 50 per cent increase?

Rear Adm. Crane—I am aware of the newspaper article. Interestingly, it talks about a doubling of vessels. What we have seen is an increase over a long period of time in the number of sightings. I need perhaps to remind you of what a sighting is. A sighting is a report from the aircraft of the sighting of a vessel or a number of vessels. Those sightings figures have multiple figures in them. For example, if an aircraft were to see a single vessel in the morning, an aircraft in the same area that afternoon might see the same vessel again and it would be reported as a sighting. If there are multiple vessels there—say, four or five—then five vessels would be double reported and, if we flew another flight, triple reported. We have not seen any figures to suggest that the number of sightings has doubled, so I am unaware of where that newspaper report received its information.

Senator LUDWIG—Could you provide on notice the sighting figures for the past two years. If they could be updated from the annual report—the annual report would take you up to September—and then if you could include the ones up to now it would be helpful. In terms of the sightings, do you disaggregate those to take into account multiple sightings of vessels, as you have described, both in the morning and in the afternoon? What I am trying to ascertain is whether you have a reasonable idea of the number of actual boats that you have sighted.

Mr Carmody—As I have asked the same question, perhaps I can answer it. The answer is that at the moment we do not have a reliable basis to reduce sightings down to actual foreign fishing vessels.

Senator LUDWIG—Is there any work in progress to establish that? I understand that what the Navy do in some respects is to take photos of various boats. That way they can identify the boat itself and can establish whether or not it is a primary or secondary sighting. They then sometimes monitor it. That is a bit more sophisticated.

Mr Carmody—I am not sure we are anywhere near that point. However, I have asked Russ to determine whether there is any statistically reliable basis on which we could get to that point. We are not there at the moment.

Senator LUDWIG—So you cannot distinguish between vessels at the moment?

Mr Carmody—The point is, as was explained, that there are just sightings along the way. These vessels—I have seen the photos—are remarkably similar at times and it is very difficult to get down to the level that you are asking for and that I would like to have, by the way. I

have asked whether we can do it. People are working on this. It will not be wholly accurate, but I would like to get to a point where there is a statistically reliable basis to reduce sightings down to actual vessels.

Senator LUDWIG—At the moment, in terms of sighting, it is either a visual sighting recorded on a sheet or it is a photograph that is not of sufficient clarity to be able to individually recognise or delineate a vessel so that it can be checked again?

Rear Adm. Crane—That is correct. It is a source of frustration for us, I would have to admit. We do have a body of work going on in some of our scientific support agencies to try and come up with a way in which we could associate a sighting with a particular vessel through photographic work or some other external application. These foreign fishing vessels look very much alike. It is impossible with what we have available to us at the moment for us to be able to clearly annotate a vessel as being the same one we saw the day before. In all likelihood it may be, but there is no way of being absolutely sure that it is the same vessel. We are working to see whether there might be some application in photographics that would help us get to a level of certainty that we could be comfortable with.

Senator LUDWIG—I guess they are not cooperative enough to put a name plate on the ship!

Mr Carmody—It would be nice if they put an electronic transponder or something on their vessels!

Rear Adm. Crane—A registration number would be ideal!

Senator LUDWIG—That is unlikely to happen. Are you able to confirm that, in your annual report from 2004-05 and then going back to the previous year, there has actually been a decrease in the number of Coastwatch flights? When you examine the figures, the annual report seems to show a decrease in flights.

Rear Adm. Crane—In the last financial year there has been a 2.9 per cent underfly in terms of our hours. We need to be careful about interpreting that in terms of flight numbers. We plan on the basis of hours that are available to us. As I think was explained in the annual report, there are a number of reasons for that underfly and they go to issues of having sufficient people available for crew duty. As you would be aware, the aviation industry has some very strict rules about how often people can fly and the time they need to have between flights before they can embark on another flight. That needs to be managed very closely. That is an issue for us in terms of managing flight hours. We do have a number of mechanical issues from time to time. Unscheduled maintenance has an impact on our flight hours. We are within less than three per cent of our target in terms of flying hours.

Senator LUDWIG—But, if you take into account the 2003-04 financial year, you actually flew fewer hours.

Rear Adm. Crane—I do not have those figures with me, I am sorry.

Senator LUDWIG—My understanding is that you also flew fewer hours then. What I am looking at is an aggregate over the last two years, which seems to suggest there has been a decrease. You have indicated some reasons, but does that also mean that you do not have

enough staff or pilots committed to be able to maintain the same flight numbers? Surely you could take that into account?

Rear Adm. Crane—We actually program our flights in excess of the notional rate of flying that we would have for the year to account for any levels of unscheduled maintenance et cetera. We do take that into account with our flight planning. In terms of crews that are available, we are comfortable that our contractor is on target with the crews that he needs to have available for the performance of the contract. The issue comes to the programming of flights in terms of duty hours and their availability, and we continue to work that.

Senator LUDWIG—I wonder if you could provide the 2003-04 hours and also whether there are any different reasons for the decrease there, other than you have indicated today.

Rear Adm. Crane—Yes.

Senator LUDWIG—It seems that the same problem exists with the national marine vessel sea days. They also look like they have suffered a fall in 2004-05 and in the preceding year, 2003-04. Can you confirm that they have in fact decreased?

Ms Grant—The annual report does show that we achieved slightly under 2,400 sea days in the last financial year. The previous year we were slightly over the 2,400 sea days. We aim to reach that target but, as you would appreciate, for vessel maintenance or crewing reasons sometimes you come slightly over and sometimes slightly under the target. But on a two-year basis, I think we are slightly ahead of the target.

Senator LUDWIG—What was the percentage fall from last year?

Ms Grant—I have not calculated the percentage, but I think we reached something like 2,372 days—from memory—which would be 28 days under the target. The previous year we were something like 59 days over the target.

Senator LUDWIG—As to the reason for the 28 days, was there any mechanical problem or a shortage of crews?

Ms Grant—No, it is just the combination of getting the vessels to sea in the right places at the right time. We would consider that we basically met our obligations to use the National Marine Unit to its best capacity. Just where 30 June falls sometimes can determine whether you are on, over or under target.

Senator LUDWIG—Whether it is mid-week or the beginning or the end of the week—is that what you mean?

Ms Grant—It could be that a patrol has started towards the end of the financial year but the patrol finishes at the start of the next financial year. It is a bit of swings and roundabouts on a target when you have a drop-dead date to calculate the numbers on.

Senator Ellison—I think the days are not calculated until the patrol is finished; could that be the case?

Ms Grant—The number of days that we utilise the vessels and the crew is calculated when the patrol is finished, yes, but for annual report purposes it is where we were at as at 30 June.

Senator LUDWIG—In terms of the planes that are utilised for the flights, they are the Dash 8s, are they, that are part of the contract?

Rear Adm. Crane—Yes, that is correct. We have Dash 8 aircraft; we have a Reims aircraft, which is a hybrid of electronic and visual aircraft; and we have Islander aircraft, which are purely visual aircraft. We also have helicopters in the Torres Strait area.

Senator LUDWIG—They are all being provided under contract?

Rear Adm. Crane—Yes, they are. There are 15 fixed-wing aircraft provided under the contract with Surveillance Australia Pty Ltd, and two helicopters provided under a separate contract with Australian Helicopters Pty Ltd.

Senator LUDWIG—And they are required to provide the availability that they have tendered for and you have contracted for?

Rear Adm. Crane—That is correct. A performance management system is in place under both of those contracts that goes to required levels of availability for aircraft and crews plus mission-critical equipment to be available for any particular day.

Senator LUDWIG—Have there been any non-performance issues in respect of availability of aircraft that you have then had either to take issue with or take up with the provider?

Rear Adm. Crane—Not recently. I understand a number of years ago there was at one time an issue with nonperformance that related to availability of crew. I think the contractor was under some pressure for crew numbers. I am going back, I think, four or five years. But certainly recently the crew numbers that are to be provided under the contract have been met.

Senator LUDWIG—When you take a look at both the sea days and air availability in this financial year, it appears—although it seems to be a swings and roundabouts effect—to be decreasing, whereas in fact the number of sightings seems to be increasing. However, we cannot establish whether there is an increase in vessels, unless you have data that might provide that and would be helpful. Does it mean that there is an increase in vessels and that you are not meeting that with sufficient detection and capabilities deployed in the north?

Rear Adm. Crane—I may be able to help you with respect to the sightings. I have some sightings data here for both calendar and financial years. This is in terms of foreign fishing vessels. In calendar year 2004, there were 9,639 sightings by both Coastwatch and ADF assets. In calendar year 2005, there were 13,018 sightings. That is an increase of about 35 per cent. There was a similar trend in financial years 2003-04 and 2004-05. I do not think there is any doubt that there has been an increase in the number of vessels that we have sighted inside the Australian EEZ. Our difficulty is in coming to an absolute figure. The trend is certainly that there is an increasing number of vessels, but coming to an absolute figure is the problem.

Senator LUDWIG—There is a trend, a significant increase of 35 per cent, yet your sea days and numbers of surveillance flights have either remained static or decreased. What are you doing to meet that increase? Clearly, there is then the potential for boats to get in, such as the ones that we have now, with large vessels approaching our shores.

Rear Adm. Crane—In terms of our flying, our strategic flying program is constructed around our clients' risk assessments of the areas that we fly in. We would only change our strategic flying program where our client perceives that there is a higher level of risk, and that is what drives the development of the flying program. Each flight is multitasked, so it is

servicing a range of clients while it is operating on that flight route. In terms of response assets, the Coastwatch responsibility is to coordinate that response asset. We prioritise the response assets as we get the requests from our clients to respond. It is a prioritisation issue.

Senator LUDWIG—Correct me if I am wrong, but your clients are not meeting the increase in illegal fishing vessels as an aggregate and/or as a sighting by increasing flights or by increasing maritime surveillance. Is that because they do not see that as necessary?

Rear Adm. Crane—No.

Mr Carmody—Perhaps I could add another dimension that might help paint the picture. There has been an increase in sightings, and we have been talking about the flying hours. But, over that period, there has also been an increase in apprehensions.

Senator LUDWIG—Yes, I was going to get to that as well. Thank you, Mr Carmody. My concern is that there seems to be an increase in sightings and an increase in vessels—absolute—and it seems to be ramping up significantly. Thirty-five per cent is a significant figure. But the number of flights and the number of maritime sea days is not increasing to meet that. You then have to come to the conclusion: are we then sighting and apprehending as many as we could otherwise be doing if we were meeting the reality that there is an increase in the number of vessels entering our EEZ? It seems that the vessels are coming into our EEZ at an increasing rate, yet our surveillance is either static or decreasing. Therefore your apprehension rate might go up as a consequence of the increasing number but, if you increased it to meet the number, I suspect the apprehensions would also ramp up as well. There is a gap where we may not be apprehending as many as we could otherwise apprehend. That is what I am trying to establish.

Rear Adm. Crane—In terms of the flight program, I think that there is sufficient flexibility in our flight program to be able to accommodate the increasing numbers. I think the issue is the prioritisation of response assets in order to be able to deal with the sightings. I suspect that any increase in surveillance assets at this stage would probably increase the number of sightings, but, in terms of whether it increased the number of real vessels that we saw, going back to my earlier point about our seeing the same vessel again, we would need to be careful about that.

Senator LUDWIG—Does that mean it is not a priority?

Rear Adm. Crane—It certainly is a priority.

Senator LUDWIG—So where does that—

Mr Carmody—I do not think Russ is saying that. I think Russ is saying that we have certain flight patterns and that, when you go over those flight patterns, if there has been an increase in the number of sightings, it is not as a result of more flying. You are flying the same hours, covering the appropriate flight patterns, but there are more vessels coming in. The change is in the number of vessels coming in, which is not related to the sighting. Take a simple example. We might be covering an area in the north and we cover it reasonably well. That is where our risk is seen, and we cover it with a certain number of flight hours. The reason you would see increased sightings is not a product of trying to increase the number of flight hours, as you are covering that pattern; it is a result of the number of vessels coming in.

Senator LUDWIG—Yes, I understand that. But, if you increase the number of patterns by increasing the number of flying hours, then you would, I suspect, increase the number of sightings. Potentially it would then give you greater availability to apprehend more boats that are coming in; otherwise they are coming in through areas that are not under surveillance. In other words, if you think about it logically, if your surveillance remains static, there are the same number of gaps, overlaps or periods where there is no surveillance operating. If you know as a consequence that there are more boats, they are not necessarily going to pick those gaps but just simply by the number they will be in those gaps. As a consequence, they will not be apprehended. They will not be sighted and subsequently not available for apprehension. Therefore, they will be illegally fishing in our waters in the EEZ and not be under surveillance, not be sighted and leave with their booty on board. I think it is a concern.

Mr Carmody—The point is that the pattern of the flights is adjusted to meet the risks as we are seeing them emerge. To be able to cover the whole of our waterways is probably unrealistic, and so what is done is that we look on a risk basis where these vessels are travelling. We keep monitoring that and we would adjust our flight patterns accordingly.

Senator Ellison—If I could put it this way, if you look at the total number of flights and hours flown, and say we increased them by 1,000 hours a year but we increased them in Tasmania, where there is no risk, the total amount would look good but it would not give you a better result. What I am illustrating is that you need to increase the flights and have that concentration in the areas of risk. So, when you look at the total number of hours flown, that does not necessarily give you the whole picture. It is how they are flown and where they are flown, are they in an intense fashion, inshore, where there is a higher risk, or out by the Ashmore Reef or Rowley Shoals in the north-west? I think the issue really is where it is targeted. If we flew an extra thousand hours and it was in the middle of nowhere with no risk, we could boast we had an extra thousand hours and it would sound good but it would be of no effect, because those flights are in an area of no moment. I think that also has to be taken into account.

Senator LUDWIG—I assume that you are not doing that now and never will.

Senator Ellison—No, but I am just saying—

Senator LUDWIG—I do not take that really as an issue. I assume that you are not going to have hours flying in non-priority areas. I assume that you are going to target and task, as I think Rear Admiral Crane has told me many a time before, and that you then prioritise the areas with the available sea days and flight days. You will continue to do that, I expect. You will not just increase hours in areas where you do not think there will be sightings. What I am concerned about is that, as a consequence, there are more vessels coming in and they are landing. I do not think that statement can be refuted. I do not know it for a fact, but it seems to be the facts that others have conveyed to me. As a consequence, they are also increasingly taking fish from our shores. I do not see, with respect, an increase in the prioritisation by Customs vessels or the effort from both the air and the maritime surveillance.

Senator Ellison—Let me give you the example of the Truscott Air Base. We made renovations to that airstrip to allow Dash 8s to take off from that air base, which is between Broome and Darwin. That allowed more flying time on the station, rather than transit time,

and that was, I think, a strategic improvement—and it was. At the time we put out a statement about it and I went up there and saw first hand how having that air base available to take Dash 8s improved our ability to put them on station, rather than chewing up time transit flying out to a point and flying back. That is an example where there has been an increase in the quality time, if you can put it that way. That is what we did at Truscott.

Mr Carmody—You can look at the individual components, be it flying hours, flying patterns or vessels, whatever. The bottom line is that the totality of those is directed at appropriate apprehensions, legislative forfeitures, or whatever is appropriate. That is why I was making the point that, over recent years, we have seen an increase in the number of apprehensions and the use of legislative forfeiture. That has come about for a number of reasons, including additional funding from government in relation to facilities and the development of facilities for processing illegal fishers. This is an integrated system. You have to have the sightings, the apprehensions, but then the ability to process fishers all operating effectively to achieve it. The point I am trying to make is that, while you can look at individual components, the bottom line is the number of apprehensions, legislative forfeitures and processing of illegal fishers. Over recent years, including because of funding from government, that outcome has been increasing.

Senator LUDWIG—Are you able to give the percentage increase for the number of illegal fishing vessels coming in?

Mr Carmody—That goes back to the issue of sightings. We can see more sightings but, as Russ has explained, that is not an accurate measure of the number of vessels. I, like you, would like to have that information. I have indicated that. We are attempting to get it, but to date we have not been able to achieve a reliable figure.

Senator LUDWIG—But the number of apprehensions has been increasing?

Mr Carmody—Yes.

Senator LUDWIG—How many have they gone to from the last financial year?

Mr Carmody—I can give you the trend, if my arithmetic is right. In 2003-04, there were 134 apprehensions; in 2004-05, there were 204 apprehensions, and in the first seven months of this year, there were 194 apprehensions.

Senator LUDWIG—In short, the number of apprehensions is dramatically increasing?

Mr Carmody—Yes.

Senator LUDWIG—As a consequence, we can surmise that there are more boats, but we do not know?

Mr Carmody—The indicators are that there are more boats. We just cannot accurately determine the level of that.

Senator LUDWIG—So you do not know how many have slipped through, then? You do not know how many are actually not sighted and not being apprehended?

Mr Carmody—We have been through that. We are not in that position.

Senator LUDWIG—The other area—and I think I touched on it a little bit earlier—was that flights had been cancelled as well. I wanted to come back to that. There seems to be about

a 10 per cent amount cancelled due to aircraft unserviceability or, as you indicated earlier, unavailability of crew. Is that an issue that you have raised with the contract provider recently?

Rear Adm. Crane—Again, it is a complex management issue. The fact that a flight is cancelled means that it is cancelled for the period that it was due to fly. We prepare our flight program in our Coastwatch command support system. We prepare what is called a flight strip. That is locked into the flight program. If, for some reason, that flight is cancelled, it is taken out of the flight program, but in most cases that flight is reprogrammed and it will fly perhaps later that afternoon or in the same period the next day. Cancellation of flights is a figure, again, that we need to be careful about. Cancellations could happen for a range of reasons. It might be that, during the preflight checks, a piece of mission-critical equipment went unserviceable that could be fixed in an hour and a half, in which case the flight is reprogrammed and flown later in the day.

Senator LUDWIG—Are there more moneys being made available in this area for increasing flights or increasing availability of aircraft or sea days? Have you asked for more flights?

Rear Adm. Crane—We provide the information that we are seeing with our apprehension rates, as you would have seen. We do constantly work on what additional assets we might need. We look at what rates of achievement we might be able to achieve and we work with government on those issues reasonably constantly.

Senator Ellison—I think any other question in relation to resourcing is a matter for the budget, which we cannot comment on.

Senator LUDWIG—Do agencies such as AFMA and other clients put in bids for places, locations, times that are unmet? Do you report back to those agencies? They would all have priorities that they want met. Are they all met, or how do you provide feedback to those agencies, right through from the AFP to AFMA and other clients, such as the quarantine service?

Rear Adm. Crane—The way in which we develop our flying program is through an assessment process, as I mentioned earlier, where the clients identify where they see significant risks. It is developed through the Coastwatch risk assessment methodology, which was formalised on 1 July last year in terms of being in place. We now have a very transparent and open mechanism for bringing all of our client taskings together and risk assessing them, applying weighting factors and then generating a risk score for each client risk. That is put together into the Coastwatch risk assessment methodology tool, and that risk assessment, or that outcome, is provided to each of our clients so that they can see where their particular risks have been accommodated in our flying program. We then fly the program. Each quarter we come together in the operational planning advisory council, which I chair and which has on it, at my level, representatives from each of my client agencies. I report to each of the clients the flights that I have achieved, or the risks that I have achieved. That is provided to them in terms of high-, medium- and low-priority tasks. I can tell you that we meet all high-priority tasks from our clients. But that is the mechanism whereby I report back to my clients in terms of satisfaction of their requirements.

Senator LUDWIG—But, in terms of the contract, you do not have the ability to ramp up the number of flight days or sea days, do you, at the moment over a short term?

Rear Adm. Crane—We have provision within the current contract to increase our flying hours short term if required.

Senator LUDWIG—Have you done that in the past six months?

Rear Adm. Crane—We have for limited periods where there has perhaps been additional flying for a tactical task—perhaps a drug operation or something like that—where we have required a greater level of flying over a period of a week or a month and we have surged our flying capability during that particular period.

Senator LUDWIG—That would be for an operation such as surveilling a vessel that might be of interest for drugs or something like that?

Rear Adm. Crane—It would be for any operation where the client had a high priority that we needed to satisfy and that priority generated a requirement for us to fly it.

Senator LUDWIG—In terms of AFMA, then, and its priorities, have you met all of its high-priority requests?

Rear Adm. Crane—Yes.

Senator LUDWIG—Do you provide it with feedback or does it provide you with feedback as to whether it is satisfied with all the high-priority targets being met and what number of medium targets are being met?

Rear Adm. Crane—I would have to check. I think we are meeting a number of the medium priorities. Exactly how many per client is something I am not sure of at this stage. I would have to check. But we certainly meet the high-priority tasks.

Senator LUDWIG—I am happy for you to take that on notice. Do they provide you with feedback as to whether they are satisfied with only the high-priority and some of the medium-priority targets being met?

Rear Adm. Crane—That feedback is provided through that quarterly OPAC, Operational Planning and Advisory Council, meeting. At this stage, in the time that I have been chairing those meetings, the feedback has been very positive.

Mr Carmody—My arithmetic did fail me. I need to be accurate. The 2004-05 apprehensions were in fact 2,203, not 2,204.

Senator LUDWIG—Thank you.

CHAIR—We will make a very careful note of that.

Senator LUDWIG—What concerns me is that it just seems to be that this area does not have a significant surge capacity. It seems, as Lionel Woodward indicated, I think, in his annual report, that many of the functions have been cut to the bone. I think his report said of Customs' compliance capabilities, which is within this area, that it had been 'cut to the bone', in other words, there were not sufficient resources to meet all of the requirements.

Mr Carmody—I do not think he was referring to this area.

Senator LUDWIG—He was not?

Mr Carmody—That was revenue compliance activities, as I understand it. In fact, as a result of the government's review of funding of the Customs Service last year, that has been increased.

Senator LUDWIG—That is out of that health check?

Mr Carmody—Yes.

Senator LUDWIG—That is not available to the committee either, is it?

Senator Ellison—But 'cut to the bone' did not relate to border protection, it related to revenue measures. I just want to make that clear, because there was a misunderstanding about that comment made by the then CEO.

Mr Carmody—As I said, there has been additional funding provided as a result of the health check into that area.

Senator LUDWIG—Can we get the findings of the health check?

Senator Ellison—That, I think, was a report to cabinet. I will check. I will take that on notice. I think it was a cabinet document.

Senator LUDWIG—I have asked this before, but I thought I would rephrase it and ask for the full report. I thought if I rephrased it—

Senator Ellison—I should have remembered my answer from that time.

Senator LUDWIG—It was the same, let me tell you.

Senator Ellison—You nearly got me.

Senator LUDWIG—What about the recommendations, then?

Senator Ellison—That is the same question.

Senator LUDWIG—Is there a summary? What about the directions—

CHAIR—I think this is bordering on tedious repetition, Senator Ludwig.

Senator LUDWIG—That was pretty obvious.

CHAIR—And I do not have any friends, I am afraid. It is just me.

Senator LUDWIG—I was just going to see if you had any support there.

CHAIR—Just me, as usual. I am thinking of going and sitting down there and leaving you up here by yourself.

Senator LUDWIG—It would reflect on me as well, I suspect. Is the funding discrete in terms of the compliance section or, for argument's sake, has the CMR sucked money out of all areas, including this area; in other words, to support its continuation? We know that it has increased in cost substantially. I will get to that a little bit later. What I am concerned about is that there seems to be a threat to our northern shores from illegal fishers and it is reflected everywhere across Western Australia, in the Northern Territory and in my state, Queensland. I cannot see—and you have not been able to show me—that there has been an appreciable response from you to meet that increase. There are still the same static sea days, give or take, and the same flights. Everything seems to be rolling along as though this threat is either

illusory or not there. Certainly, you are stumbling upon a few more in terms of apprehensions, but that is because of the number, I suspect, coming down.

Mr Carmody—As far as I am aware, the CMR had no impact on the resourcing for this area. As I have indicated, we certainly take the area of illegal fishing seriously. I repeat that there has been additional funding into the total chain of activities that allows more effective operations, and that the greater effectiveness resulting from some of those initiatives is evident in the apprehensions. We have certainly been taking it seriously.

Senator Ellison—One aspect of the recent announcement about \$90 million extra for the processing side included the four vessels to be based in Broome, Darwin, Groote Eylandt and Horn Island. I think that is right. That was to service the ACVs, that is, if someone was apprehended out at sea, they could go out, collect the person and bring them into shore for processing, freeing up the ACV, which could then carry on with its patrol. That was another aspect of freeing up the vessels for more patrol time.

Senator LUDWIG—In terms of illegal boats found, do you arrest the crew, or who arrests the crew and detains the vessel?

Ms Grant—We apprehend the vessel. Either the Australian Customs vessel or a naval vessel will make the apprehension. The Customs or naval officers will then bring the apprehended vessel with the foreign fishers onboard to the mainland, at which point Customs takes those people into the first stage of processing. They are not arrested by us, but they are read a notice under the relevant fisheries management legislation. It says that they are in fisheries detention, that that is a seven-day period, and that AFMA will determine at the end of that period whether it wishes to pursue prosecutions of any of the masters or crew of those foreign fishing vessels. The exception to that is that juveniles are not read the fisheries detention notice. They are immediately placed into immigration detention.

Senator LUDWIG—Why is that?

Ms Grant—I am not sure of the policy behind it, whether it is an AFMA policy in relation to the prosecution of juveniles. We are operating on its behalf, so we put them into the appropriate detention.

Senator LUDWIG—Perhaps you could just step me through that. Do you have a copy of what AFMA requires you to do? Is there an MOU?

Ms Grant—We have the relevant notices from AFMA that we read to the foreign fishers.

Senator LUDWIG—Perhaps you could provide a copy of that? That would be helpful.

Ms Grant—I can. I have those here and can leave them.

Senator Ellison—Could we have those copied now, to assist Senator Ludwig in his questioning?

CHAIR—The officer is going to do that for you.

Senator LUDWIG—What language are they read in?

Ms Grant—The notices are printed in English and we will read them in English but, on many occasions, we will have an Indonesian speaker on board who will then explain in the

Indonesian language, and we try to identify somebody amongst the crew who also understands English and who can act as the interpreter for the crew.

Senator LUDWIG—What happens after the notice is read?

Ms Grant—After the notices are read, Customs puts these people through a medical clearing process to determine their fitness to fly. We need to engage with the local state health authorities to provide that medical screening. We need a doctor to check X-rays of these fishers before they are able to fly. We undertake these activities in Broome, Gove, Darwin and Thursday Island at present. Once we have cleared the people for their medicals, we then charter aircraft to fly them to Darwin, where they go into immigration detention. There has been a transitional period in which they have been flown to the Baxter detention centre while the facility in Darwin has been prepared, but that is a transitional measure.

Senator LUDWIG—What happens to the equipment and the boats?

Ms Grant—Decisions are made at the time of the apprehension as to whether the vessel is seaworthy or unseaworthy or whether it contains a quarantine hazard. Ones that are unseaworthy, contain quarantine hazards or are a hazard to navigation are destroyed at the point of apprehension. Otherwise the vessels are towed back inshore and we hand the vessels over to AFMA for it to pursue destruction.

Senator LUDWIG—Do you follow up as to whether the vessel has been destroyed or towed in, how many vessels are lost on the way and how many are released—that is, they have made good their escape?

Ms Grant—We could provide those statistics on notice. I do not have the complete breakdown. A very small number make an escape. We do have that situation from time to time, but we tend to be able to reapprehend a vessel that might cut a tie rope as they are being towed in. In terms of the break-up for how many we destroy and how many we tow in, I just do not have the specific numbers with me.

Senator LUDWIG—Or those that might sink of their own accord; they may not be able to suffer the towing?

Ms Grant—Yes, some do start to sink as they are being towed. We will then cease the towing and destroy.

Senator Ellison—Do you want broken up in the question on notice those that sink of their own accord, those sunk at sea and those that make it to land for destruction?

Senator LUDWIG—Yes, and those which do not make it at all, which manage to slip.

Senator Ellison—Escape?

Senator LUDWIG—Yes.

Senator Ellison—So there are four parts to the question, just to make it clear.

Ms Grant—I should amplify what I said. I talked about a fisheries detention notice. At the end of the seven-day period, if AFMA decides not to prosecute, people are read an immigration detention notice and are placed into immigration detention, on the basis that either they will not be prosecuted or they will be prosecuted. Those notices are generally read by immigration officers, because they have been passed into Immigration's care by that stage.

Senator LUDWIG—Do you receive reports about these boats as well, outside of what the sightings are?

Rear Adm. Crane—We get reports from a number of different organisations. We have, obviously, our own aircraft. We get reports from Australian fishing vessels that encounter foreign fishing vessels. We get reports from remote communities, if they were to observe a vessel near shore or within their line of sight. Those reports are passed through to the Customs hotline and through that centre come back into the National Surveillance Centre. Then we respond to those reports.

Senator LUDWIG—Is there any statistical data that you provide, or that you have, about the number of sightings and how many then lead to either an apprehension or a sound sighting and an actual confirmation of that vessel? In other words, do you tie the information that you are gathering to an actual result, or simply have a statistical table of the number of sightings that you get from the various areas?

Rear Adm. Crane—Certainly, I can look to provide a table of reports that we have had from other areas. On a number of occasions, however, we would respond to those reports with a flight to relocate and sometimes these reports can be a couple of days old. We will respond with a flight and may not see anything. That is a complicating factor if you are looking for a direct correlation between an independent report and a reaction. If we did not sight anything, if the report was a couple of days old—which is not unusual—then we might not sight anything and there would be no response.

Senator LUDWIG—Does AFMA provide you with an overview of the laws it requires you to enforce at sea?

Ms Grant—Yes, they provide information training sessions to our officers.

Senator LUDWIG—What laws is it seeking you to engage? Is it the UN conventions or the Commonwealth Fisheries Act?

Ms Grant—It is the Fisheries Act. Customs officers are Fisheries officers for the purposes of that act. All of the marine unit crew can act as Fisheries officers at the same time as they exercise powers under the Customs Act, and likewise for the Migration Act.

Senator LUDWIG—You do not prosecute them for any Customs breaches?

Ms Grant—In relation to the fisheries apprehensions, AFMA will prosecute in relation to those offences once Customs has handed over the fishers to them. If there were any concurrent Customs Act offences, we could make a decision as to whether we should also pursue those offences.

Senator LUDWIG—Have you done so in relation to any of those apprehended fishing vessels?

Ms Grant—I would have to take that on notice to be absolutely definitive, but I cannot recall in recent times where we have prosecuted both customs and fisheries offences, mainly because there has not been a relevant customs offence. We would usually pursue offences under the Customs Act if there were any such offences.

Senator LUDWIG—What are the typical offences you have pursued in the past?

Ms Grant—We can consider pursuing offences of importing prohibited items but, given that the penalties for the fisheries offences tend to be greater than the penalties for such customs offences, we tend to prosecute on the fisheries matters rather than the more minor customs matters. In those instances we would tend to seize the prohibited items and issue a warning rather than pursue prosecution.

Senator Ellison—There have been some prosecutions recently for behaviour that was threatening. That was quite different. I think it was under the Crimes Act. Some sentences have just been handed out. The prosecution there, I think, would have been done by the DPP.

Senator LUDWIG—Which one was that?

Ms Grant—Yes, it was.

Senator LUDWIG—What about things such as first port of call notifications, those sorts of issues, under the customs legislation? Do you ignore those or do you say that they are minor compared with what AFMA might be able to provide under the fisheries Act?

Ms Grant—The relevant provision, I think, that you are referring to is section 58 of the Customs Act, which makes it an offence to land anywhere other than at a proclaimed international port.

Senator LUDWIG—Yes.

Ms Grant—There is a \$50,000 penalty attached to such an offence. The difficulty in prosecuting those offences is the burden of proof in proving that the master deliberately intended to commit such an offence. We did try fairly recently to prosecute on that very basis, but we were advised by the DPP that the case was not sufficient; it is quite easy to mount a defence against a section 58, in that you can say, ‘We took shelter from the weather.’ That is a defence, as is, ‘We didn’t mean to come here,’ and ‘My vessel broke down,’ so it is actually quite a difficult prosecution to mount.

Senator Ellison—I might add that the government—both the minister for fisheries and me—are looking at this issue of offences, as to whether there could be any legislative amendments that could carry stiff penalties. I understand there is a fisheries convention that prohibits terms of imprisonment being imposed on illegal fishers, but I understand that is being reviewed by the minister for fisheries, and I am looking at any amendments to the Customs Act. Recently the Western Australian government announced increased penalties for offences within three nautical miles, where the state has jurisdiction, and it has mentioned stiff penalties in relation to that, and I have publicly supported that move.

CHAIR—Thank you, Minister. We look forward to that.

Senator LUDWIG—Are you going to fix it in relation to Customs?

Senator Ellison—As I said, I am looking at possible amendments to legislation that we could use in conjunction with the minister for fisheries. It is being looked at. If we can do it under the Fisheries Act and get around that convention that I mentioned, that may be the way. Or it could be done through a Customs amendment. That is something that both the minister for fisheries and I are looking at.

Senator LUDWIG—What is the timetable for that?

Senator Ellison—I have not put a timetable on it, but it is a matter of priority for both of us and we are getting advice on it.

Senator LUDWIG—Will it be this year?

Senator Ellison—Are you talking about its being passed or the drafting of some legislative amendment?

Senator LUDWIG—It is your timetable, Minister.

Senator Ellison—I would presume we would have some cooperation in relation to any potential legislation; no doubt this committee will be looking at it.

Senator Ellison—As soon as possible, and this year certainly, we will draft some legislation or put forward some proposals.

Senator LUDWIG—It seems to be that there has been an explosion in illegal fishers and the response is slow. The compliance capabilities you had cut to the bone, so let us fix that bit—we accept that. But you have decreased the number of flights; sea days do not seem to have increased. What else, really, are you expecting to happen? I suspect more illegal fishing boats will turn up. You would expect that, wouldn't you?

Senator Ellison—Firstly, can I just say the compliance activity cut to the bone, I repeat, did not relate to the border protection area that we are talking about. That was not what the former CEO was talking about; it was another area, which Mr Carmody has mentioned. In relation to action taken, in my visits to Indonesia last year I raised with the Indonesian government our great concern at the increase in illegal fishing. Senator Macdonald went there, when he was minister for fisheries, in December last year. Minister Downer has also raised it. We will continue to raise it. It will be raised at the Indonesian Ministers Forum when we meet in June. I also raised it as recently as last week with the Indonesian ambassador, who has indicated that it is an area that he wants to address with the Australian government. We have announced a number of initiatives, awareness campaigns, in Indonesia. We have Immigration, Fisheries, AFP and Customs working together on this issue, particularly through our mission in Jakarta.

I have also previously announced that we are looking at the aspect of organised criminal syndicates being involved. At this stage there does not appear to be any evidence of any transnational crime that we have seen with Patagonian toothfish, but there are increased organised attempts. Certainly, the recent apprehension of the vessel—I think a Cambodian flagged vessel—which has been towed into Darwin indicates an increase in the sophistication of illegal fishing. I believe it will require a regional action, as we did with people-smuggling. I think we can employ the same methods that we used on people-smuggling for illegal fishing. But it will not be solved purely by apprehension alone. It will require working with Indonesia and regional partners to fix this. Of course there has to be a deterrence in, as we have seen, some stiff penalties recently, which I have welcomed, and the destruction of vessels, which I endorse, and also in the fact that these people will be, and have been, detained in either Baxter or Darwin. That was covered by Ms Grant in earlier evidence. We want to send a clear message that it is not just a question of coming here and getting a slap on the wrist if you are engaged in illegal fishing.

I also want to look at the markets where things such as shark fin does end up, and that requires investigation. I want to pursue that, as we have done with Patagonian toothfish. As I say, that is a more transnational aspect. But it really is a comprehensive whole-of-government approach to this issue. It is a high priority and one which we will continue to treat very seriously.

Senator LUDWIG—Have you looked at the idea of the Greens of paying them not to fish here?

Senator Ellison—Let me put it this way. The awareness campaign I think is being conducted by AusAID. I really do not want to stray into areas of foreign policy that the Minister for Foreign Affairs might be looking at. Certainly we need to look at the cause of the illegal fishing. You have the traditional fishers, who have been doing it for years, and then you have the more recent and more sinister aspect of the organised illegal fishing that is going on. I mentioned that vessel in Darwin, for instance. There is nothing traditional about that. You have two different problems and you need to treat them differently. One is with the traditional fishers, and there may be a requirement that we can work with Indonesia in relation to that and how we treat it at the cause—that is, at the villagers' level. But the organised illegal fishing does not require that sort of action; it is very much more a law enforcement type issue. There are a number of aspects that the government has under consideration that I cannot divulge at the moment.

CHAIR—It was raised yesterday at the Foreign Affairs, Defence and Trade estimates with AusAID as well. This is an ongoing discussion at these committees.

Senator LUDWIG—I did not hang around for that; it seemed it was going to take a long time to get there.

CHAIR—It did.

Senator LUDWIG—Going to CMR, what is the current cost to date of that project? My last figure my records show is \$196.5 million.

Mr Carmody—Our chief finance officer has just had to walk out, but looking at the documentation I have here, total cumulative expenditure, including capital and expenses, \$202.1 million is the figure I have.

Senator LUDWIG—Of the equity injection that was pumped into Customs to prop it up, can you indicate how much of that went into the CMR project?

Mr Carmody—I will need my chief finance officer to get to that level of detail.

Mr Jeffery—Senator, are you referring to the \$43 million two years ago?

Senator LUDWIG—No. Of all the equity injections from then onwards, how much have you split out to fund CMR?

Mr Carmody—The gentleman in question has returned.

Mr Brocklehurst—In terms of the total expenditure on CMR, to the end of June 2005 that was approximately \$190 million, and the estimates at the end of June 2006 will be somewhere in the order of about \$202 million. That is our current forecast at the moment. In terms of how that has been funded over the last couple of years in particular, there was the additional capital

injection that Customs received in the 2003-04 financial year of \$43 million. I should point out that not all of that related to CMR, however.

Senator LUDWIG—How much related to CMR?

Mr Brocklehurst—In that year we used \$35 million of that \$43 million injection. In terms of how much of that \$35 million was used, it was a large portion of it but I do not actually have that number with me today.

Senator LUDWIG—And the balance?

Mr Brocklehurst—The balance was carried over to the 2004-05 year.

Senator LUDWIG—Do you call that ‘rephased’ or ‘carried over’?

Mr Brocklehurst—It was carried over.

Senator LUDWIG—What is the difference between carried over and rephased?

Mr Brocklehurst—Rephased, in essence, is the same thing. You can seek agreement from Finance to carry funding over to a following year. One of the reasons for that could be the rephasing of the expenditure on a particular program.

Senator LUDWIG—Because it has not been spent?

Mr Brocklehurst—Yes, but the requirements are still there.

Senator LUDWIG—How much of the carried over amount was then spent on CMR?

Mr Brocklehurst—All of that carried over amount was allocated to CMR.

Senator LUDWIG—About \$8 million?

Mr Brocklehurst—Yes, \$7.7 million. There was a further capital injection that was received through the outcome of the review of financial position, and that was a further \$6.1 million, I think.

Senator LUDWIG—Where was that spent?

Mr Brocklehurst—On CMR.

Senator LUDWIG—Have there been any other capital injections or other equity injections that have been spent on CMR since the \$43 million?

Mr Brocklehurst—No. The remainder of the project, in essence, has been internally funded.

Senator LUDWIG—How do you internally fund it? Where does the money come from?

Mr Brocklehurst—For all agencies, in their appropriation funding there is an allowance in there for depreciation. That funding in essence is available to meet the internal capital program of an agency. That can be for the development of new assets, the replacement of assets and so on. In the portfolio additional estimates statements the number in there for depreciation for Customs in the current year is \$53.7 million and then in the out years it grows to in excess of \$60 million per year. In essence, that funding is available to Customs to fund its own internal capital program.

Senator LUDWIG—Then is there a recurrent cost to CMR?

Mr Brocklehurst—There will be ongoing supports and maintenance costs, yes.

Senator LUDWIG—What is the estimate of that?

Mr Brocklehurst—I do not have those readily available for the years beyond the current year. I do have them available, but not with me.

Senator LUDWIG—I am happy for you to take that on notice if you want to. What I was also interested in is what was the original estimate and how that estimate has changed over the last three or four years to what it is now.

Mr Brocklehurst—I guess the recurring expenditure I am referring to is the ongoing cost to support the running of the system.

Senator LUDWIG—Yes.

Mr Brocklehurst—We did not have running costs over the last three or four years because the system was not actually running. So any estimates that we have for the future years just relate to the 2005-06 year onwards, in terms of what we expect the cost to be to support the system.

Senator LUDWIG—When it was first introduced, would you not have had an estimate as to its annual running cost?

Mr Brocklehurst—Do you mean when it was implemented, say, late last year?

Senator LUDWIG—When it was on the drawing board.

Mr Brocklehurst—Yes.

Senator LUDWIG—It seems sensible to me that, when you first planned it and when you then first started to develop a business case model, planning it, implementing it and then getting a tender, you would have some idea of what the recurring costs would be annually, wouldn't you?

Mr Brocklehurst—Yes, we do have forecasts of what the recurring support cost will be.

Senator LUDWIG—Perhaps I will rephrase the question to ask what those original forecasts were and then how they have changed and then your estimate for the 2004-05 year. Is that closer to what you can provide?

Mr Brocklehurst—Yes.

Senator LUDWIG—That would be helpful. The date mentioned in the cargo advice number 2005/10 to have the fully functional system in place is 3 February. I was told it would be fully functional on 12 October, before turn-on. I was told it was fully functional at the November estimates. Mr Woodward, the then CEO—you may or may not have read the transcript, Mr Carmody—said back then:

Mr Woodward—There is functionality—

Senator LUDWIG—What, full functionality?

Mr Woodward—There is, and I will pass over to the CIO in just a couple of minutes, but a point that I want to make is that one could get ...

And he goes on from there. But, according to the cargo notice, the replacement system for COMPILE achieved full functionality as at 3 February. I do not recall—and I am happy to be corrected—a letter correcting that. It seems that I was advised that there was full functionality, but when you look at the cargo advice on 3 February, that is not the case.

CHAIR—I do not have in my head all the correspondence to the committee, no matter how hard I try, so I cannot respond in relation to that, but I am sure our officers can.

Mr Carmody—I suspect during those hearings there was reference to the fact that COMPILE was still being operated as a transitional measure, so I think it was quite open to the committee at the time, an understanding that during that transitional period because of the difficulties some people were having COMPILE would be continued. I am sure that is in the record there somewhere.

Senator LUDWIG—The difficulty that I have is that I asked in November about this, because there were at least statements made that it had achieved full functionality. In other words, the system had been turned on and there was full functionality. That is not the case, is it, Mr Carmody? It did not have full functionality on 12 October?

Mr Carmody—I think a number of people were having—it is self-evident—difficulty with it. As I was pointing out, I am sure that during those hearings it would have been pointed out that COMPILE was being maintained to assist in the transition.

Senator LUDWIG—So there was or was not full functionality as at 12 October in relation to the switch-on of the new system?

Mr Carmody—I am sure that there would be a lot of definitional issues about ‘full functionality’, because as you know systems are continually being evolved and functionality improved. The point I am making is that I am sure it was evident during the hearings that COMPILE, which you were referring to as evidence of not full functionality, was in fact being maintained to assist users during the period.

Senator LUDWIG—So by 3 February 2006—this is the Australian Customs cargo advice—the full functionality had been met.

Mr Carmody—Again, it is an issue of the definition of ‘full functionality’. I am not satisfied that the integrated cargo system is operating as smoothly and as well as it should be even now. But the point of 3 February was that we were able to get to a point where all the people involved were able to use ICS to meet their requirements under the Customs legislation, and we worked very closely with the industry to achieve the smooth switch-off of COMPILE.

Senator LUDWIG—What about the issues register, on which hundreds of errors were listed? Were they all finalised by 12 October?

Mr Carmody—There are still issues being dealt with now, and this is where I get into the question of what is the definition of ‘full functionality’. The system was being used by the vast bulk of people progressively and then, through the actions we took, those that were using COMPILE in part to assist were able to use ICS. However, ICS is still, as I have indicated, not operating as easily or as smoothly for everybody as it should. There are a number of issues that are being addressed progressively, so there is a list of issues that have been raised with us

by industry and we will continue to work through with those and, as you are aware, I have also commissioned a review to take the next step forward, which is about really materialising the full potential benefits of an integrated system.

Senator LUDWIG—I guess the difficulty that I have is that full function to me means full function. I do not buy a car if they say the petrol tank is full and I get in and it shows three quarters full and I go, ‘Oh well, it is nearly full’. It is either the engine will start, the doors will open and shut and they sell it to me as a car where I have asked them, ‘Does it have full functionality?’; they say, ‘Yes it works,’ and I can drive it away. So I do not understand the definitional issue quite frankly. It escapes me; either you have a system with full functionality or you have one that lacks full functionality, and if it lacks full functionality, what did it lack at October 12 and what is still outstanding to date, in terms of what it was designed to do and what you said it would do on October 12—if not you, then certainly Customs, which you now represent?

Mr Carmody—My understanding is that a number of users were able to use ICS to process their cargo, but there were difficulties for a number of people and we have acknowledged that. It is a definitional issue, as you say, but as I pointed out a number of people were able to use it and, during the evidence, it was made clear that COMPILE was necessary for some people to enable them to do the work they needed to do. I do not know that I can say too much more than that.

Senator LUDWIG—So CMR did not have full functionality at 12 October for all users?

Mr Carmody—No. I was not there at the time.

Senator LUDWIG—No, I know. I have no-one else to ask unfortunately.

Mr Carmody—But in looking back at it there were difficulties that created delays for a number of people and that had to do with—in as easier terms as I can understand—while there were a number of individual things that could be improved, in large part it came about because when they used ICS, I do not want to go back over the evidence of the previous time, there is a rigour to the required information and the matching of information. When they failed to get clearance in my terms, there were then difficulties for people in understanding why that failed, and then those difficulties led to a compounding effect by going on to our interactive system and as more people came on to it and as people phoned, it created its own dimensions, problems and delays.

Senator LUDWIG—Yes, I can use my own descriptions to say that under the inertia it in part collapsed and in some places collapsed completely, but what I am trying to discern, and that is not a functionality issue either, is that there is a mismatch in data which created then an overloading of the system. I think that is what you were trying to describe, but there are issues about whether or not the system had full functionality. In other words, whether it had all the design to meet the design specs that it was designed to meet and that some of the users then did not have those functions. As I understand it—and I am happy for you to confirm this if you want to go back and talk to Customs about it and provide an answer on notice—it then was stripped of some functions to get it working again. I am happy for you to say whether that happened.

Mr Carmody—I understand that we had to refine profiles to enable things to operate more smoothly, yes.

Senator LUDWIG—So matters were then taken away and it was then a question of when those matters were to come back on line or get back up and running, notwithstanding the other fixes to fix the mismatch, if I can describe it that way.

Mr Carmody—I think the best I can say is that patently there were people at the time who experienced delays. Patently if you are looking at the system in operation as we want it to operate now and as the industry wants it to operate now, there are issues that have had to be addressed and there are more issues being addressed, but in terms of basically cargo going through now, well that is operating.

Senator LUDWIG—Is there a time line of outstanding functions or outstanding matters or issues that have to be resolved to date?

Mr Carmody—Certainly, as a result of the industry action group established by the minister, there are a number of issues on the table. Some have been addressed: the detaching of the cargo side from the import declaration side was something that they were particularly interested in and that has been addressed. Some other issues have been addressed, but there are further issues that we are working on. We have agreed we can make the system operate better by addressing some of them. Some of them come to the balance that was always there from the start, and that is we need in this day and age accurate reporting of cargo coming into the country. We were not always getting that previously and we need that. On the other hand, industry needs the system to operate smoothly and for them to clear their goods. There is always going to be some tension in those two things and some of the answers to their requests will be going back to their various business models and the various players in it, because it is not just one part of the industry that you deal with, it is a complex web. So part of the answer will be that we can make system changes to help; some of it we will have to look at industry practices and where up the chain we can get better information and so on. But there are issues that are being addressed.

Senator LUDWIG—Just to get a bit more refined about it: in terms of the September issues register, are you able to say how many of those which were on the register were not addressed at 12 October and then subsequently when they were addressed or, if they still remain unaddressed, and then if there is a view about when they are likely to be finalised? When do we get to a position of the system operating as it was designed to do on 12 October.

Mr Carmody—If it is okay, that is a level of detail I am happy to provide but we would need to take it on notice. I would just repeat that, with experience, exactly how you want the system to operate is going to continue to evolve.

Senator LUDWIG—And then of course if there are additional matters since 12 October that have come out that require remedial work or new issues that have been put on the register, I wonder if you could provide those on notice as well.

Mr Carmody—Certainly the industry action group has raised a number of issues and we can provide those details. As I said, the exact solution, whether it is a systems fix or a procedural approach aspect, or whether we have to find some different balance, is not always clear at the moment.

Senator LUDWIG—In terms of how the system is operating now, is it operating to the extent that industry is satisfied with it? Have you received any feedback from industry?

Mr Carmody—The feedback from industry, as I think I have indicated, is that they would like to see a better ease of operation of the system, and some of that is the complex interplay between different players in the field. I am just explaining the realities of life here. If you deal with the shipping industry, the brokers, the importers and so on, they all raise genuine issues, but their solutions are sometimes to get the other party in their chain to do something differently. So we have to work through those, but clearly industry believes that the system could operate with a greater level of ease of operation than it does at the moment.

Senator LUDWIG—Is there an assessment on speed in a comparative way between COMPILE and how speedily it operated and the current system in operation now?

Mr Carmody—We could look to see whether there is any measure that we could provide in that regard. I think we would have to recognise of course that COMPILE suffered from not ensuring that we got the level of accurate information that is necessary, so we just have to acknowledge or recognise that.

Senator LUDWIG—So are you saying it operates slower than COMPILE?

Mr Carmody—No, I do not have the detail with me. I am happy to provide that.

Senator LUDWIG—Industry seems to suggest that.

Mr Carmody—I think there are a variety of views in industry, but certainly there are views, and I have responded to those, that the system could operate easier for them. The only point I was making is that, when you are comparing two systems, one is actually designed to achieve an objective that I think you would share—the objective of more accurate reporting.

Senator LUDWIG—In terms of now moving forward, is there any additional functionality that has been recognised as needed? Is there a review of ‘where to next’ underway?

Mr Carmody—There are two levels of that. As a result of the industry action group I have already indicated there are issues that have been raised and we will share those with you. They are immediate responses to dealing with issues now. However, the purpose of the review that I have commissioned from Booz Allen Hamilton is to determine whether, while those immediate issues are being addressed, we can plot a way forward to materialise improved benefits both for industry and for ourselves? That is the intended result of that report, which I have indicated I will share. Industry will be involved in that consultancy and I will share the outcomes with them and I will share the way forward—how we progress that with them.

Senator LUDWIG—Will you share that with the committee as well?

Mr Carmody—I am quite happy to do that.

Senator LUDWIG—Was there an open tender system for the consultancy or was there a closed selection system?

Mr Carmody—Given the urgency with which I processed the matter, it was a restricted tender.

Senator LUDWIG—Are you able to say what the cost of the tender was, the cost of the program, the cost of the consultancy?

Mr Carmody—Can we take that on notice?

Senator LUDWIG—Yes. Is it in the hundreds, less, in the twenties, a thousand?

Mr Carmody—If I want a quality review, you do not get it for \$20,000. That is the reality of life.

Senator LUDWIG—That is why I started at the hundreds.

Mr Carmody—That is probably a fair area to start.

Senator LUDWIG—You are not able to provide a gross figure now?

Mr Carmody—The ball park figure I have been indicated is between \$300,000 and \$400,000.

Senator LUDWIG—That is a lot of money for a restricted tender, isn't it?

Mr Carmody—But it was competitive. There were four entities that we went to.

Senator LUDWIG—Who was on the selection panel for the four?

Mr Jeffery—We had a tender evaluation committee of three, a representative from our procurement area and Ms Pitman and Mr Harrison. They presented a report which I signed off on.

Senator LUDWIG—Is that something industry had asked you to do?

Mr Carmody—It was my initiative.

Senator LUDWIG—The minister had not asked you to do it?

Mr Carmody—It was my initiative.

Senator LUDWIG—Does the minister sign off on it?

Mr Carmody—No.

Senator Ellison—I made it clear I fully supported the action taken by the CEO, for the record.

Senator LUDWIG—I had not asked that but, thank you, Minister.

Senator Ellison—I thought I should add that.

CHAIR—The minister is just helping, Senator Ludwig, as he always does.

Senator LUDWIG—In terms of processing the containers through the port, and it is always difficult to find a way to frame this, but is there still a backlog or has the backlog which I guess was generated by CMR now been cleared through the ports?

Mr Carmody—To the best of the information available to us there is no particular backlog caused by ICS, and that was cleared through.

Senator LUDWIG—What about the under-bond warehouses? Are they cleared?

Mr Carmody—I am not aware that there is any remaining backlog issues associated with this.

Mr Jeffery—To the best of our knowledge we are not getting any reports that they are holding above normal levels. They go up and down, there is no doubt about that, but it is not the sort of comments we were getting in late October.

Senator LUDWIG—In terms of just trying to understand the number of outages, and I am happy for you to take this on notice, from 12 October I would like to know the number of outages, the number of hours that they were out, or when you then had to revert to your contingency plan, and then how many times you have had to utilise manual Excel spreadsheets or paper systems or fax systems to operate. So there is a broad range of information I have asked for in that, but I am happy for that to be taken on notice.

Mr Carmody—We have some detail we might be able to provide here.

Mr Jeffery—I have a document here which gives outages from Thursday the 13th to Friday, 10 February, and it has got some availability figures too, which I am quite happy to table and provide to the committee. If we just clarify also, it is not reflected in this document, which I will hand up in a moment, there is an outage on Tuesday, 24 January. That is the only outage on which we called contingency.

Senator LUDWIG—That is not reflected in that document.

Mr Jeffery—I have not written it in, no. It was just drawn to my attention that it is not reflected that the contingency was called.

Senator LUDWIG—Why would it not have been in that one?

Mr Carmody—This is just a list.

Mr Jeffery—It is a list of outages.

Mr Carmody—It is for our appearance here; we were not quite sure what you were going to ask. We tried. We missed one point, so we are just clarifying that now.

Senator LUDWIG—You missed the only time you were using the contingency one. Well, what can I say?

Mr Carmody—We were 98 per cent right, as has been availability of the system.

Mr Harrison—We identified the outages. We have just not written it in.

Senator LUDWIG—No. I will not make anything of that.

Mr Carmody—That is very kind of you, Senator.

Senator LUDWIG—Will that also show the way the system is operated during some of those outages or some of those periods when you have had to revert to alternative systems; that is, when the ICS was not operating or when customers—I call them that—were then trying to access the system and could not access it because of a range of circumstances such as mismatch or for other reason, where you then required them to use Excel spreadsheets or phone or fax?

Mr Jeffery—The point I was trying to make is that the outage on the 24th is the only time that we called contingencies which would require that use of alternative clearance mechanisms. You will recall at the last hearings, in the early period from 12 October through, we were using a variety of clearance methods. They are not reflected in that, but during those

times there were a number of systems outages, and I have not got the details in front of me now, but they were relatively short. That reflects times the system was not available for use.

Senator LUDWIG—But there were times when you put material up on your website in relation to access to Excel spreadsheets and to get containers and matching them.

Mr Jeffery—That involved the contingency arrangements we put in place from the 12th through to—I have forgotten when. Ms Pitman can probably tell me when we formally withdrew that.

Senator LUDWIG—I am happy for you to take that on notice.

Mr Jeffery—I will take that on notice.

Senator LUDWIG—Put the time and then, post that time, whether you reverted to those types of practices or needed those practices.

Mr Jeffery—We will take that on notice.

Senator LUDWIG—In terms of the outage on the 24th, what happened then? What was that about?

Mr Harrison—The outage on the 24th was a failure in our computer centre in Burwood. There was a cooling fan that failed. The cooling fan triggered a power shutdown. The power shutdown affected a number of racks of servers and that essentially led to the external access to the ICS being unavailable. Once we had investigated that afterwards, we got it back up within two and a half hours, but the discovery afterwards was that the power cabling inadvertently linked both the production system and the redundant system on the same power cable, which should not have occurred. We have since done quite an extensive review both by the contractors who run the centre and independently to review that power system to make sure that that is not in place in the future. In other words, the way the place is set up is intended to have redundant systems kick in when the production system fails for one reason or another. The reason that did not occur on this occasion was because these particular servers were on the same power supply that failed, and that was a mistake.

Senator LUDWIG—How much is a cooling fan worth?

Mr Harrison—I do not know, but these are quite elaborate hardware arrangements. I would be surprised if it is worth a lot in the scheme of things.

Senator LUDWIG—\$100 or so, I guess?

Mr Harrison—I suggest it is more than that, but I do not know the answer.

Senator LUDWIG—So why were they on the same power system? Back-ups would be independent of one another, I would imagine. Certainly if the lights go out here I believe they have got a separate back-up system that kicks in. If they are on the same system the back-up system would not kick in, as they clearly did not do in this instance.

Mr Harrison—We are talking about quite an elaborate construction of machines. These are some of those servers—I think it was two out of many—and the redundant server was on the same power supply as the production server. We do not know why that was. It could have been any number of reasons. It could have been the way it was constructed. What is most

likely, we believe, is that electrical contractors who are continually commissioned to do work simply inadvertently made that connection.

Senator LUDWIG—So it was not a design issue.

Mr Harrison—No. It was certainly not designed to do that.

Senator LUDWIG—It would have been pretty dumb if it was, wouldn't it?

Mr Harrison—It was designed to do quite the opposite.

Senator LUDWIG—Why was there not any check to ensure that it had changed or that had happened? What are your follow-up procedures to make sure that—I have got an earth leakage device at my house that I test every now and then. I throw it off and I use a drill and I expect it to work and it does work. It throws everything out. Press a little test button and away it goes. It flicks the switch. I reset it. I know my earth leakage device is working. I know your system is more complex than that, but it is the analogy I use: when do you test your system, or have you not tested it?

Mr Harrison—The specific follow-up action is an extensive review both by the contractors and independently of the complete power system in the Burwood centre. That has identified a number of actions and we are undertaking those actions as required. On the specific question: do we routinely test things like whether redundant systems are not connected to the production system—the ongoing maintenance of that centre is the responsibility of the contractor and we believe that our contract arrangements are sufficient to ensure that that will occur. I cannot give you an answer today as to times, dates and places where those things have taken place, but I do not doubt that our contractual arrangements ensure that they should be.

Senator LUDWIG—I am happy for you to take it on notice. It just seems stunning to me that you would not have a maintenance program in place to test your back-up systems to make sure they work, and then a follow-up by you to ensure that they do work. In other words, you then check to see that the maintenance schedules have been done and that there is a physical check at some point. Because if it goes out, then what happens is you have a catastrophic failure of your system. The system does not work.

Mr Harrison—As I say, it is not designed to fail when a piece of equipment fails. It is designed to be quite the opposite. It is designed on a principal of high availability. This exposed a weakness in the practice and we are taking action to correct it, but it was not designed to be subject to those sorts of single points of failure.

Senator LUDWIG—When did you last test your redundancy arrangements to see whether the system was redundant and worked? That is why I used the analogy of the earth leakage device. There is a little button you press. I know it is a little more complex than that, but when did you last push the button to check to see that the system worked?

Mr Carmody—It has been indicated that we would like to take that on notice, because we need to go back to the contractor. Not being as technically literate as I might like to be, there might be questions about testing if one system went down whether the other came in that might run independent and this was a wiring issue that might well have run independent of that. We will get details of what testing was done and attempt to determine why it did not

reveal this. I just want to reassure, as Mr Harrison has said, we have had an independent review including by our contractors to go over the system again.

Senator LUDWIG—Have you caused an investigation to tell you exactly what I have asked? It seems that the first question you would ask is: why was the system wired on the same circuit and why was it not checked at the time? More importantly, why was your redundancy system not on a routine checking program?

Mr Carmody—My focus has been on making sure that this does not happen again and that that error was first of all corrected, but secondly that we have had an independent review working with the contractors to look again at the whole procedure.

Mr Harrison—We are talking about physical infrastructure versus technical infrastructure to some extent. There has been extensive testing of the technical infrastructure and whether it works or not.

Senator LUDWIG—I know I am talking about the physical infrastructure.

Mr Carmody—The end question is: does it work or not when something goes wrong. I do not care whether it is the technical or the physical. My concern is to make sure that we do everything we can to make sure that it is as right as it possibly can be, and that is where our focus has been.

Senator LUDWIG—That is why I used the earth leakage device as an example, because we are talking about physical infrastructure. If that fails, as we saw on the 24th, it falls over and then the customers, let me tell you, were screaming. Do you need a diesel generator down there as well, or do you have one and it did not cut in either?

Mr Carmody—There was alternative power supply. It was the configuration of the wiring that caused the problem.

Mr Harrison—The problem, and proceeded to fix it—it did not require the alternative generator.

Senator LUDWIG—Are you reviewing the contracts with the maintenance people? It seems really pedantic I know, but one of your basic problems was that the systems were put in the same circuit.

CHAIR—As I have been listening to the discussion, Senator Ludwig, I understand that the officers have taken the details of this particular matter on notice to respond to you in some detail once they have access to the appropriate records. I do not think that there is going to be anything added to it at this point by continuing to pursue those questions in detail when the material is not available.

Senator LUDWIG—Thank you, Chair. Are there any contractual issues now between the maintenance and yourselves? Have you sought to renegotiate or review the contractual maintenance arrangements?

Mr Harrison—Not as a direct result of this incident.

Senator LUDWIG—You will provide that review of the maintenance arrangements at Burwood as well if it is available?

Mr Harrison—The review is particularly related to the current configuration of the physical infrastructure in the Burwood centre, and that is what it is reporting on.

Senator LUDWIG—Will that be available to the committee when it is finalised?

Mr Harrison—By all means.

Senator LUDWIG—Has anyone, any of the clients, sought compensation over that outage?

Mr Harrison—No. Our contingency arrangements have been the subject of discussion with industry. Some say they may or may not be appropriate, but our contingency arrangements are such that there is a two-hour period, if there is a failure of the system, for us to determine what that problem is and to call those formal contingency arrangements. That is the standard procedure that we have established in this environment. In this case, in that two hours the activity was to discover what the problem was and we did so. Because the outage was extending past the two-hour window we thought, we did formally call on the contingency arrangements. It was back up within two hours and 25 minutes.

Senator LUDWIG—Has there been any contractual sanctions considered or implemented over that?

Mr Harrison—No.

Senator LUDWIG—Was any consideration given to whether or not you should implement contractual sanctions?

Mr Harrison—The process is not finished. We are looking at the report and the activity that needs to follow from there, but it has not highlighted contractual difficulties at this stage.

Senator LUDWIG—More broadly with the compensation issue, where are we at with that in terms of the ICS or the CMR project and the like from 12 October?

Mr Carmody—You would be aware that Customs wrote out at the end of last year to people on that. We also engaged legal advisers to give us advice on that. The issue is at the point where our legal advisers are looking to review a cross-section of the claims lodged so that they could give us advice on whether it has to be every individual item looked at or whether there can be some pattern or acceptance of areas. At the moment, I think up to 13 February, we had only received around 30 or so completed claims for application. They are looking at those, but it has not really provided our legal advisers enough of a cross-section at this stage to give me advice on how to progress it. We did send out an email to those who had applied originally for a package of material asking—this does not prevent any claims—they if they could to get them in some time early in March so that we could take the full evaluation.

Senator LUDWIG—Has any evaluation been made about the full cost, or is there an amount that has been set aside?

Mr Carmody—It has been very hard to put a handle on it. Originally when this happened there were some very large amounts stated but, for example, in that 30 or so that we have received to date, and this is not necessarily a cross-section, the total claims are around \$60,000. It is early and very difficult for us to quantify at the moment.

Senator LUDWIG—Has there been any guesstimate or estimate as to what the size of the claims are likely to be?

Mr Carmody—It is very hard to get because, like a number of people who had applied for the packages have said, ‘No, we are not going to make any claim.’ So it is just too early to get to any reliable estimate of that.

Senator LUDWIG—Have you set aside a contingency amount?

Mr Carmody—We do not have a specific contingency amount, as far as I know.

Mr Brocklehurst—No. We do not have a contingency amount.

Senator LUDWIG—Are all these primary claims—in other words, from primary customers, users of the system?

Mr Carmody—For example, the major claim is in relation to storage costs which is borne at the end event, by the end customer—the importer—but, of course, the valuation of the claims requires details from their broker, for example, to enable us to make the decisions.

Senator LUDWIG—These are from importers.

Mr Carmody—From the ultimate—

Senator LUDWIG—Perhaps rather than guess, so that we get a breakdown of those, as far as you are able to provide—

Mr Carmody—I am happy to provide—

Senator LUDWIG—I do not want identification.

Mr Carmody—This will be a moving feast because the last figure I had was 12 or 13 February. I think we have received more since then, particularly as we asked. We will provide the committee with a breakdown of what we have got.

Senator LUDWIG—I did not want them identified in that sense.

Mr Carmody—No, I am sure you did not.

Senator LUDWIG—Will that show where containers have been delayed or pulled or slots lost and that, as a consequence, they pay additional days on the wharf? Because they get three free days and when they lose a slot they get hit with that fee.

Mr Carmody—The form that we sent them details the basis of their claim. As I said, the primary amounts claimed to date have been additional storage costs.

Senator LUDWIG—So they are the claims lodged. Has there been a list of how many have lodged expressions of interest?

Mr Jeffery—When we say the claims lodged, the bulk of these have not got a dollar figure on them. They are people that have indicated to us that they intend to lodge a claim. As the CEO said, there is 30 now completed with costings in them, but that is out of expressions of interest, is probably a way of putting it, of around 2,000 that we have had. As the CEO said, we will split them up, but they come from a variety of intermediaries: importers, brokers, on behalf of. So we will do that split-up, but at the moment across the number of expressions of interest, which is my term, we have not got sufficient of those to say how much each claim is.

A lot of them have got no amount in them at all and that is why we went out with the form to obtain that information.

Senator LUDWIG—So there are 2,000.

Mr Jeffery—It is in the order of 2,000 pieces of correspondence that we have received. At least one of them is multiple. He is representing in the order of 1,000.

Mr Brocklehurst—Yes, but that is in that 2,000 number.

Mr Jeffery—It is within the 2,000.

Senator LUDWIG—Within the 2,000 then, say, one piece of correspondence is then representing X more.

Mr Jeffery—One individual is representing—

Mr Brocklehurst—No.

Mr Carmody—No.

Mr Brocklehurst—That is within the 2,000.

Mr Carmody—The 2,000 covers the total potential field, but I would stress that is a potential field.

Senator LUDWIG—Yes. Things like spoilage and loss and container fees and warehouse fees, you will be able to break down in terms of the general area.

Mr Carmody—In terms of the specific completed forms that we have got, we can provide you that. We do not have the information. The others were just a general expression of interest, if you like.

Senator LUDWIG—I see. How are you proceeding from here? Is there a formal framework that you have set in place to deal with the claims? Is there a specific way that you are going to set about the negotiation?

Mr Carmody—The first steps are as I have indicated, that Customs engaged last year legal advisers to give us advice on the validity of the claims. The steps involved initial analysis, but then they wanted to be able to examine the detailed claims. To put it as simplistically as possible: does every one have to be considered on its individual merits or are there some categories you could put together that you would be able to satisfy that there is a liability or not? We have not been able to reach that stage as yet, because there have not been sufficient completed claims come in, so that is the step that we are looking for at the moment.

Senator LUDWIG—Is there a time frame that has been set in train?

Mr Carmody—We have a number of steps that we would like to take but they are dependent on receiving the information.

Senator LUDWIG—We might have to come back to some of that as it progresses.

Mr Carmody—Yes. Sure.

Senator LUDWIG—Has anyone indicated that they are intending to not pursue through claims and pursue directly legal action with any file?

Mr Carmody—We do not have anyone indicating that, no.

Senator LUDWIG—Has any legal action been filed?

Mr Carmody—Not as far as I am aware.

Senator LUDWIG—Coming back to Booz Allen Hamilton, were terms of reference given to them?

Mr Carmody—Yes, there were. We specified on our website when we went out to tender the services we were looking for. I have a copy here.

Senator LUDWIG—I saw the website.

Mr Carmody—If you would like a copy, I have a copy here.

Senator LUDWIG—It was really a question of whether, outside what is on the web, there were the services you were looking for and whether you were then going to engage them with specific instructions, additional instructions or things of that ilk.

Mr Carmody—They have come back and there will be formal contractual arrangements, but in essence the statement of requirements on the web is what we are looking for.

Senator LUDWIG—You have also got a current investigation under way; is that right? The ANAO has also announced a review.

Mr Carmody—Yes, they have announced a review.

Senator LUDWIG—Then Booz Allen is the way forward, if I could use that expression.

Mr Carmody—Yes.

Senator LUDWIG—Are there any other investigations on foot into CMR or the ICS?

Mr Carmody—I think that is sufficient for us.

Senator LUDWIG—No internal one?

Mr Carmody—I think getting independent reviews both through the ANAO looking back over the project and Booz Allen looking forward to the potential benefits is an appropriate balance.

Senator LUDWIG—Just on that compensation issue again, I keep thinking new issues and I do not want to be accused of you not filling out a blank that I think up subsequently. What I got was also people had spent a lot of time going back, in other words to get their system working again. A lot of the customs brokers and freight forwarders and customers—the small importers—are not large entities and, as a consequence, during that post-October 12 it is reported that they then had to extend the time they operated, bring people back on overtime, work overtime on weekends and issues like that. Are those part of the issues that you are going to look at compensation for as well?

Mr Carmody—In going out we certainly asked for storage costs because that was high on the agenda, but we did not restrict it to that. We provided facility for people to put other claims based on other issues, and I think one or two have put in overtime as a potential claim.

Senator LUDWIG—So is it a matter that you accept that businesses can indicate in their claims the range of issues for loss or damage?

Mr Carmody—There is an open-ended area for them to lodge what they see as appropriate compensation issues.

Senator LUDWIG—There is another matter, Minister, that I have been following with you for a while now. I use the phrase ‘the Tomson case’. Where are we with that? The last time I spoke to you it looked a little bit more positive than it seems to have turned out. It certainly pre-dates your involvement, Mr Carmody.

Senator Ellison—That is the first inquiry, yes. We have not responded and the government is still considering its response. There were a number of aspects which needed to be looked at which required a more whole-of-government approach, if I remember correctly. In any event, it is still under consideration by the government.

Senator LUDWIG—Is that on top of the department of finance determination?

Mr Carmody—Sorry?

Senator LUDWIG—There was an act of grace.

Mr Carmody—Yes. They made an application to the department of finance.

Senator LUDWIG—For an act of grace.

Mr Carmody—That is right.

Senator LUDWIG—That I know is not Customs—

Mr Carmody—That is right.

Senator LUDWIG—but that looked like it was refused.

Mr Carmody—That is a matter for the department of finance.

Senator Ellison—I was not aware it had been refused.

Senator LUDWIG—That is my understanding.

Mr Carmody—To the best of our understanding it has been, but I think that is a matter you would need to take up with the department of finance.

Senator LUDWIG—What I was going to do was also ask the department of finance—

Senator Ellison—Because that could also have some bearing.

Senator LUDWIG—in respect of that matter, but that still does not preclude Customs independently looking at it. Or is that what you are referring to: it is now finalised as far as you are concerned with the act of grace payment being refused by Finance. What I am trying to establish is the state of play in respect of Customs. I understand the state of play in respect of Finance.

Mr Jeffery—There are two issues. They made an act-of-grace application, which anyone is entitled to do, to Finance, and that has been dealt with. The second part of it is the committee’s report, which the minister has said is with government awaiting finalisation. That is the part that dealt with a number of issues including a recommendation in relation to compensation. That is with government and is still to be finalised and responded to in the normal way by government.

Senator LUDWIG—Is there a time line for response? When do you think you will respond?

Senator Ellison—The act of grace was a matter being considered. Now that has been finalised, I think it could have some bearing on matters now. I cannot give you a time line, but I was not aware that had been determined. I have just learnt that. I will chase up this matter. There were six recommendations, five dealing with legislation and one which dealt with Mr Tomson, and there were matters to be considered in relation to the amendment to legislation. That was also being considered. I cannot give you a time line, but that decision by the finance committee now will factor into the consideration of this matter.

Senator LUDWIG—It would not have any bearing though, would it, because that is a separate matter that Mr Tomson can make.

Senator Ellison—If it is defective administration he was applying for in relation to the same matter, that was very much part of the inquiry. Not only defective administration, there were other aspects, too. I would understand that that application for an act of grace payment could well overlap the issues which were the subject of hearing by the committee.

Senator LUDWIG—In terms of the department of finance, are you able to provide what information they requested from Customs, or what information Customs provided to the department of finance?

Senator Ellison—We will certainly take that on notice and if we can provide you with anything in that regard we will.

Senator LUDWIG—If it is a significant amount of documents, then perhaps a list of those documents with the germane documents on them if they are—

Senator Ellison—There could be substantial—

Senator LUDWIG—I am not sure of the size—

Senator Ellison—We will do that. You can appreciate that, if there was a payment under act of grace, it could well cover part of the matters covered in the committee of inquiry and the recommendation by the committee.

Senator LUDWIG—I am not going to make that admission. I am just asking the question.

Senator Ellison—That is why it was relevant.

Senator LUDWIG—It may be relevant.

Senator Ellison—In my view it was relevant.

Senator LUDWIG—Yes. The only point I was making, I suspect, was that they are separate pieces of legislation and they do act independently. They do not have to have a bearing on one another. Whether they have a bearing in your mind is I guess for you to have. It is a small point.

Senator Ellison—No. It actually means that payment could be made to a person twice for the same reason, and that does have relevance for revenue.

Senator LUDWIG—That is the payment, not the determination of it.

Senator Ellison—It does. No. I do not want to go into the detail of this, but hypothetically let us just say if someone was claiming against the Commonwealth for a certain issue, call it fact A, and then went for an act-of-grace payment in relation to fact A, the Commonwealth would not pay them twice, if you know what I mean. It would not be double-dipping.

Senator LUDWIG—No, but that would be the point that would be taken into consideration as to whether or not there was already a payment made, not the substantive matter itself for the determination. So what you could have is a determination ‘no act of grace’, but a determination of payment by Customs or vice versa.

Senator Ellison—Yes. Vice-versa but not a positive in both cases. It was either/or, not both, if you see what I mean.

Senator LUDWIG—Yes. I understand what you are saying.

Senator Ellison—In fact, there are a number of permutations of it.

Senator LUDWIG—I thought of a place where you could have the same payments being made. One is in relation to Customs involvement with the matter, resolved by Customs, and an act-of-grace payment in respect of involvement by others outside of Customs where you could have then two payments being made—

Senator Ellison—That is also a possibility.

Senator LUDWIG—because they are two separate issues, although they come from the same matter.

Senator Ellison—But it could lessen the amount that Customs paid because it could cover in part—

Senator LUDWIG—Or it may not.

Senator Ellison—The bottom line is that I think it is relevant.

Senator LUDWIG—I am not sure I am convinced.

Senator Ellison—It is not irrelevant.

Senator LUDWIG—You are able to indicate whether the department of finance contacted Customs about the act-of-grace payment.

Senator Ellison—We will take that on notice.

Senator LUDWIG—Is the neutron scanner now late and over budget?

Senator Ellison—The CEO and I were up in Brisbane yesterday.

Senator LUDWIG—Am I right or wrong?

Senator Ellison—It is like the question, ‘When did you stop beating your wife?’

CHAIR—Senator Ludwig, could you return to the estimates?

Mr Carmody—The neutron scanner is obviously leading-edge technology, and we are doing everything we can to make sure not only that the technology operates appropriately, but I am sure you will consider, given our recent discussions on ICS, we want to make sure that the logistics work well for industry, too. I do not know whether it is late in those terms, but certainly we are not going to implement it until we are satisfied with the technology. The

more significant issue for me at the moment is that in practice, that is in full operation, from planes landing to clearance, that we test it in that mode to make sure that the logistics of the exercise work well for industry as well as us. As the minister indicated, we met with industry groups only yesterday and they are certainly cooperating with us in doing that.

Senator Ellison—It is a great initiative for Brisbane Airport. For Queensland. For Australia.

CHAIR—The world?

Senator Ellison—It could be, too. It is leading technology. It could lead the world.

CHAIR—That is encouraging, Minister, that we can think globally.

Senator LUDWIG—We do not know whether the minister needs any encouragement there.

Mr Carmody—The universe next.

Senator LUDWIG—I might put some questions on notice about that. Have the trials begun at this point in time, or are they still—

Mr Carmody—Trials of the technology have begun.

Senator LUDWIG—More physically in terms of the—

Mr Carmody—Only in terms of putting cans through, but that is the point that I was making: we want to operate it in real operation and the dynamics of real operation and that is what we were talking about yesterday.

Senator LUDWIG—I will put those on notice in relation to the budget. It will be easier.

CHAIR—The budget?

Senator LUDWIG—Of the scanner. Unless you have a question to ask, Chair, I was just going to check which ones I can put on notice between now and—I really wanted to conclude about 11.30.

CHAIR—I did have some questions about neutron scanners, Senator Ludwig, but I will save them.

Senator Ellison—Whilst we are doing that, the AFP is to follow after a short break. Is that right?

CHAIR—Yes.

Senator Ellison—Do we have any idea how long we might be with the AFP, or is that still too early to guess?

CHAIR—I am thinking that there may be more than one senator with issues to raise with the Australian Federal Police, so just asking Senator Ludwig for his guidance, valuable though that would be, would not necessarily give us an answer.

Senator Ellison—I think you are right. I agree with you, but I just wondered if there are any other senators that we are thinking of.

CHAIR—At least two I know of other than Senator Ludwig.

Senator Ellison—Do you know if there is anything we could assist them with in advance? I am trying in relation to one.

CHAIR—I am not aware of any other information we could provide in advance, other than the matter you are already assuming.

Senator Ellison—I thought if they could give a heads-up of areas so that we could prepare rather than take it on notice.

Senator LUDWIG—In terms of the SmartGate project, has more money been allocated, Ms Batman, to that project?

Ms Batman—Not in total. The funding that was provided in the last budget for 2005-06 is still being expended, so we have not gone over budget at this stage.

Senator LUDWIG—So there is more—

Ms Batman—I do not wish it to sound like that, but we have not gone over budget and we are not intending to go over budget.

Senator LUDWIG—What was the \$270,000 allocated for? The answer to question 178 said:

Another \$270,000 in addition to the \$100,000 that was previously allocated above budget has been allocated to the SmartGate system.

So you are already over budget.

Ms Batman—No. It is still within the total amount. It is a reallocation. That money is not for the new build of SmartGate which will roll out from next February; that is to make an adjustment to the interim SmartGate that we have in operation at the moment, that we have had as part of the trial phase. Last year the international community made an adjustment to the way that the e-passport would work. We had been trialling with the passport office here an e-passport for quite some time with the SmartGate kiosk. Towards the middle of last year they decided to improve the security features of that and they added a component called 'basic access control' which, in essence, meant that you have to read something in the machine-readable zone of the current sort of ID page of the passport before the chip would open. At that stage we made an estimate that to modify our interim solution so that the e-passport holders that had that could use it until we got the full roll-out would cost us about \$100,000. However, at that stage there were not any commercially manufactured readers that would read and use the basic access control feature. So we have been trying to source one since that time, and in fact we had to work with a manufacturer to build one specifically for that purpose. It has come in at a higher price than we estimated, but we will still manage that within the total budget for the year.

Senator LUDWIG—What is the total amount spent so far? This is the second iteration of SmartGate, isn't it? There was the original machine, there is the second machine; there is now a basic access control being added.

Ms Batman—We are modifying the second lot of machines.

Senator LUDWIG—Have you abandoned the first lot?

Ms Batman—The first lot are still working. They are the ones that are based on an enrolment system where you enrol and it uses the passport. There was one kiosk in both Sydney and Melbourne that was trialling the e-passport, so it was using the passport rather than the enrolment. They are the ones we are currently modifying on an interim basis only. Then there is a third version which we are building for the full roll-out.

Senator LUDWIG—That I did not understand. There is now a new version, a third version. What is that built on? I have seen the two types.

Ms Batman—Yes.

Ms Batman—The full roll-out will look different and will be eventually going across all airports and many more kiosks and things. That is still in the design stage, using all the lessons that we have learnt through the trial, so we have got that working through the design.

Senator LUDWIG—They have not been built or trialled yet.

Ms Batman—No. The first airport will implement in February 2007.

Senator LUDWIG—Is there a budget amount for that?

Ms Batman—There is. It was provided in the last budget. The amount provided in 2005-06 was \$8 million. Overall the total over four years was \$61.7 million.

Senator LUDWIG—So at the end of four years you will have a roll-out of the—do you have a name for the third iteration?

Ms Batman—There has been a bit of a debate about this because it is confusing. I think we are calling it SmartGate version 1. I am not sure we have settled on this.

CHAIR—Did it take long to get to that point?

Mr Carmody—We still have a committee working on it!

CHAIR—Yes. It is important. A strong reporting process?

Mr Carmody—We are thinking of letting a consultancy out!

Ms Batman—SmartGate has got quite a level of recognition, but the indications are at this stage that the new kiosks will look quite different, so it is a toss-up what we call it.

Mr Carmody—SmartGate sounds good to me.

Ms Batman—Over time people will forget that there were the earlier versions and we will just go with that.

Senator LUDWIG—I suspect I will be the only one with memory of the earlier versions.

Ms Batman—You and I.

Mr Carmody—You no doubt will say this is version 1, of course.

Senator LUDWIG—No. If you call it version 1, I will take your word for it. When is the trial expected of the roll-out of the full—

Ms Batman—‘Testing’ would be a better word than a trial, but we are still waiting for the final schedule around that. We are looking at starting maybe laboratory testing from the middle of the year and that will lead to the full build. It is being built for us by SAGEM

Australia, which is a company that has quite a lot of overseas international experience with this sort of work. Then we will be putting it into place in the first airport in February next year.

Senator LUDWIG—Effectively they will be a passport reader of some description.

Ms Batman—Yes, passport reader, facial recognition using the chip and the photo in the passport, verifying that they are an eligible user for that and then to go through a gate.

Senator LUDWIG—That will require the passport to be opened.

Ms Batman—It will, yes. The modifications that were made by the international community last year require that you open the passport and hold it still for a number of seconds to do that basic access control. It is going to be a slightly longer process than we had in the trial.

Senator LUDWIG—Is that to eliminate the problem of smiling at the camera?

Ms Batman—It will make that a bit more of a problem, because you will have to hold the passport still in the one place and not smile for that amount of time.

Mr Carmody—You have to hold it up in the air.

Ms Batman—No, no.

Senator LUDWIG—It will be on a table, I suspect.

Ms Batman—Yes. We are working on that design so that it is more stable and easier to hold in place.

Senator LUDWIG—There will be a little sign there with a red circle and a line through a smiling face?

Mr Jeffery—The reason for that is that the international community decision was to stop the possibility of skimming and unauthorised access to the chip, because the previous thing we were looking at was to have the closed passport but the international community decided that there was an ability, potential or real, to skim the chip. This has got more protective features on it and it means you have to do it a different way.

Ms Batman—Yes. It will just make it a bit slower in the processing.

Senator LUDWIG—That will be the same issue with talking or smiling and, I guess, head movement.

Ms Batman—Yes. That is no different. To get a good read and a match of the facial image that is stored in the passport with the live image of somebody standing there, you need to not have exaggerated facial features and it needs to match up with the photo. That is only quite a small part of the process. That is fairly quick. The longer part is for the verification that this is the right passport and the chip to open. That internal verification is longer.

Senator LUDWIG—What about head dress?

Ms Batman—No. The trialling shows that it does tend to work better if people take off their hat, sunglasses and those sorts of things. Trying to get the average traveller to be using it in the way that we have had with the experienced travellers using it will take a fair bit of work, certainly in the early stages, to assist passengers to do it in the correct way to get the

best result. They can have more than one go. The aim is to try and get as many eligible people through that way as quickly as possible to help with the build-up of numbers, but if it does not work the alternative is to just go through the manual process.

Senator LUDWIG—People with veils will not be able to use it.

Ms Batman—At the moment if you have a veil you are required to expose your face and lift it for a Customs officer to make the face-to-passport verification, so that will not be any different.

Senator LUDWIG—I am not familiar with the international standard. Have you provided that to the committee before? I may have asked, but I cannot recall.

Ms Batman—I cannot recall. It is the ICAO, International Civil Aeronautical Organisation.

Senator LUDWIG—It is part of that.

Ms Batman—It is part of that standard.

Senator LUDWIG—Is there an amendment to that?

Ms Batman—Yes.

Senator LUDWIG—I have heard of ICAO standard. I just was not aware they had a facial recognition standard contained within it.

Ms Batman—They have an e-passport standard, and the standard is to have facial recognition as the prime means of identification. We can certainly provide you with the ICAO standard.

Senator LUDWIG—In relation to e-passports, or where I can find it on the web, whichever is easier.

Ms Batman—Certainly. If it is a small thing we will attach it. If not, we will point you in the right direction.

Senator LUDWIG—The Customs intermittent employees; is that trial finished?

Mr Jeffery—It is still ongoing.

Senator LUDWIG—Has there been any review or part review of the program?

Mr Jeffery—We have been monitoring the progress of it and the usage of people and the way it has operated, but we are going to run it for 12 months and have an evaluation. I think the evaluation is due in the next couple of months.

Senator LUDWIG—When is the 12 months up?

Mr Jeffery—Middle of this year, I believe. I will clarify that but I think we started it in June-July. It might be a little bit later, but we will give you that answer.

Senator LUDWIG—I might put some of these on notice, but the turnover of those number; how many are still original employees of the intermittent scheme from when it began?

Mr Jeffery—I would have to give you the answer to that on notice. We have lost a few but not a great number. I can give you the numbers from what we started with and what we have still got. I do not believe we have added any more to it, so we have run the trial number.

Senator LUDWIG—AFMA have a detention centre in the Torres Strait, or funding for one. Does Customs make any contribution to that?

Mr Jeffery—I do not believe so.

Senator LUDWIG—On the revenue side of Customs, have you, Mr Carmody, from your previous iteration, started any discussions with ATO about both the way Customs recover the taxes and then the other, which is the GST, and then also the revenue side, which is the excise and tariffs? Customs, as you know, have significant responsibilities in charging or excising tariffs. That all goes straight through Customs into consolidated revenue and Customs play an integral role with that function. Have you had any discussions, or are you intending to have any discussions, with the ATO about whether that function should remain with Customs or whether it should be somewhere else?

Mr Carmody—Excise is presently with the tax office. That moved to the tax office some years ago. Duty is collected by the Customs service. GST, although most of that is under the deferred arrangement scheme. Amongst all the issues in my first six weeks of coming to grips with the operations of Customs, that has not been something that has been at the top of my radar.

Senator LUDWIG—I guess revenue is a better way of describing it.

Mr Carmody—Yes. The issue is of course that the imposition and collection of duty is integrated into the cargo clearance operation, so it falls out of that, which makes some sense, rather than duplicating that process, but I have not raised this at all.

Senator LUDWIG—I will put my other questions on notice.

CHAIR—Thank you, Mr Carmody, and your officers for your appearances this morning. The committee will adjourn for 15 minutes. We will resume at 11.50 with the Australian Federal Police.

Proceedings suspended from 11.36 am to 11.50 am

Australian Federal Police

CHAIR—The committee will resume. I welcome the Commissioner of the Australian Federal Police and his officers. We are going to begin with questions from Senator Heffernan and then go to Senator Ludwig.

Senator HEFFERNAN—Can I just inquire of the Chair whether Mr Cornall will be here at all today?

CHAIR—Mr Cornall was here this morning. He had a commitment at 10 am. He will be returning.

Senator HEFFERNAN—I have a question or two in follow-up to my questions of him the other day. Obviously, Mr Keelty, I have been pursuing a chain of questions which is to set up a case for the establishment of a federal judicial commission in Australia. I was pleased to see that the Law Council and Mr John North, the president, came out in support of that

proposition yesterday. But at the last lot of estimates, which is a slight diversion, there were some questions asked about a break-in at the child-care centre at DFAT. I actually paid a visit to the child-care centre at DFAT. Among the things that happened was that the files for all the children in the child-care centre were broken into. I have no idea what that was about, but I do know that when the alarm went off, back at wherever they monitor the thing—and I presume that comes under the scope of the AFP, does it?

Mr Keelty—Madam Chair, can I apologise, our Deputy Commissioner is interstate and our chief operating officer is at another parallel meeting.

CHAIR—Thank you, Commissioner. I think you want to respond to Senator Heffernan's question.

Senator HEFFERNAN—I think to assist—if you cannot answer it—

Mr Keelty—I was just going to point out that I am not sure about the creche or the child-care centre at DFAT, but certainly the DFAT building is protected by the Australian Protective Service.

Senator HEFFERNAN—We will put that on notice, because the point I was trying to make is that, when the alarm went off, whoever was monitoring the alarm thought it was the cleaner and turned the alarm off and did not do anything about it. I would have thought that was a substantial error in judgment. I have some questions on Mr Scoble, which I will come to in a moment but, in the meantime, on 30 November I sent a package of documents to the Minister for Justice and Customs with a request that they be passed on to the AFP for validation of some of those documents. Have you received the documents?

Mr Keelty—Yes, we have.

Senator HEFFERNAN—Has anyone read the documents?

Mr Keelty—The documents are being examined at the moment. As you would be aware, there are a large number of those documents. They are being examined at the moment.

Senator HEFFERNAN—Two days ago—and I am sure he was giving the right answers—I asked Mr Cornall, 'Have you had them verified?' He answered no. I asked, 'Do you intend to have them verified?' And he answered no. I asked, 'Why not?' He replied: 'The documents are, on the surface of it, copies of documents. I take them to be what they purport to be.' Having learnt from hard experience that that is not a really good answer, can you at some stage of the game come back to me and verify those documents?

Mr Keelty—If that becomes part of the process of the examination of the contents of the documents, if they allege certain offences. Obviously, as part of any inquiry that may or may not take place, it will be important to establish the authenticity of the documents.

Senator HEFFERNAN—Would you not do that before you took the first step though? Would you not do that because you would waste a lot of time if you put the cart before the horse, as it were?

Mr Keelty—I am not sure that the documents that we have are original documents.

Senator HEFFERNAN—They most definitely are not the originals, I can assure you of that.

Mr Keelty—That then in itself presents a problem. We are dealing with two issues here. One is the content of the documents and whether we have to go any further. I do not accept what you are saying in terms of it being the first thing you would do, because it is the content of the documents that would be important to us before we establish the origins of them.

Senator HEFFERNAN—I am the woolclasser/welder; you are the policemen. Have you ever seen the Cori report?

Mr Keelty—No, I have not.

Senator HEFFERNAN—You are now in possession of it; the AFP have it.

Mr Keelty—The organisation—if it forms part of the documents. I have not seen the documents, nor would I normally see the documents you refer to.

Senator HEFFERNAN—In answer to your question the other day, I asked Mr Cornall whether he thought any of the documents were significant. He had read the documents and I understand that he may have been confused by my question, but when I said, ‘Have you ever seen Cori before?’ he did not know what I was talking about. Has the AFP ever had referred to it at some other time the Cori report?

Mr Keelty—I am not aware whether we have.

CHAIR—Senator Heffernan, it is—

Senator Ellison—I would indicate, just for the record, Madam Chair, that Mr Cornall and I had a chat about that afterwards. I think it was misunderstood when you said, ‘Are you aware of Cori?’

Senator HEFFERNAN—Yes.

Senator Ellison—He misunderstood the question, in fairness to Mr Cornall.

CHAIR—Also, in fairness to Mr Cornall, he will be able to return to estimates, I understand, and I would appreciate any matters pertaining to him being taken up with him rather than indirectly in this manner.

Senator HEFFERNAN—I am sure that he was confused.

CHAIR—I am not sure whether I interrupted the commissioner or the senator. Commissioner?

Mr Keelty—Thank you, Chair. The Cori report, I am instructed, is an internal New South Wales police report, so in the normal course, unless it disclosed an offence that would be within the remit of the Australian Federal Police responsibilities, it would not normally be referred to us. But you are telling me it forms part of the documents that you provided to the minister.

Senator HEFFERNAN—It does, yes.

Mr Keelty—I, like the secretary of the department, have not looked at the documents. That would be done by an investigation team.

Senator HEFFERNAN—At a more appropriate time I would like to ask you some questions about some of the issues that are raised in those documents. Can I just refer you to

one particular thing which might be something to think about? In one of these documents, in reference to quite a serious investigation, the document records the investigation in this way:

There was cock-up, chaos and confusion in the handling of the case involving both the federal, New South Wales police, ICAC, the Ombudsman, police internal affairs and, finally, the Royal Commission.

This is an inquiry over a particular person. The document continues:

There is a real concern over the conduct of this particular individual and a fear that his position is compromised.

Part of the documents, by the way, includes an application to put someone under surveillance:

Because of the location of his home, efforts to mount a surveillance operation have proved difficult if not impossible to achieve. The federal police have clearly got cold feet over the request for details of his commitments and nothing has been forthcoming.

That is the tone of some of the documents. Can I also say that in police intelligence information systems and a reference to that, there is a reference, which was made on 19 January 2005, to person of interest 1, who happens to be a Sydney lawyer; person of interest 2, who happens to be a convicted criminal; person of interest 3, who happens to be a judge; person of interest 4, who happens to be an occupant of a premises at Flat 54, Ballina Apartments, Darley Street, Darlinghurst. There is in that document serious evidence of serious impropriety and use of prostitution, so I intend to return to that in due course, because I am not going to be burdened with the concerns that these documents raise in me, but they are seriously concerning to me. In those documents there is evidence that it is possible for a person—and I feel sorry for the senior partners of Allen Allen & Hemsley—

Senator Ellison—Madam Chair, could I just make a point here. I will not go into the details of naming individuals because that could well affect operational aspects potentially—I do not know. But I think Senator Heffernan has made very clear the concern and the areas that he is looking at, and that no doubt will be part and parcel of the examination that the AFP carries out when it looks at the documents. I wonder if Senator Heffernan has a series of questions that we could take on notice if need be, rather than going through all the documents in detail.

Senator HEFFERNAN—I might come back to that when Mr Cornall returns, if I could, Madam Chair, because—

CHAIR—I would be interested in some advice on the timing on that, if it is possible. There is still Mr Jordana.

Mr Jordana—Mr Cornall is attending a secretaries committee meeting and the timing of that is rather like how long is a piece of string, I am afraid. He expected to be here certainly before the session concluded today.

Senator HEFFERNAN—Could I move on until—

Senator FIERRAVANTI-WELLS—Just following on, Mr Keelty, what could be useful for us is perhaps sort of a broad outline of your procedures when you receive documents. For the benefit perhaps of Senator Heffernan and myself and other senators, could you tell us what your normal procedures are in dealing with that, so that we get a clear outline of what the normal procedures are when you do receive documents.

Senator Ellison—Shall we deal with that question first, and then we can come back to what Senator Heffernan is talking about, because I think that would be of use.

Mr Keelty—Chair, with your consent, before I answer the last question, there has been a description about the AFP having cold feet as part of an investigation. Obviously, this is an extract from an allegation made by somebody, and even the first line of questioning in regard to the alarm, or the alleged alarm, and the response to that alarm at DFAT, I have no context of what date that is alleged to have occurred or the context of the circumstances. I do not think the questions that I am receiving here are fair.

Senator HEFFERNAN—Fair enough.

CHAIR—I think the point I was going to make is that Senator Heffernan is at some advantage having the material in front of him now. There are procedures which are undertaken within the Australian Federal Police to deal with matters that are put in front of them in this way. The commissioner is not really in a position to respond in the way Senator Heffernan may be seeking.

Senator HEFFERNAN—I accept that.

CHAIR—The material that is going on to the record puts the commissioner in a difficult position in that way.

Senator HEFFERNAN—Madam Chair, what I was trying to do is reinforce to the committee that this—I asked Mr Cornall the other day—

CHAIR—Again, Mr Cornall—

Senator HEFFERNAN—Yes. This is the question. Yes, but he will answer it when he comes back.

CHAIR—Yes, I know but it is not very—

Senator HEFFERNAN—Were you alarmed by any of the stuff that you read—

CHAIR—Senator Heffernan, please, just for a moment. It is very difficult to put the secretary in a position where he is unable to respond in real time and the material goes onto the record and there is no capacity for response, which is why I am seeking your agreement to deal with matters relating to your concerns, and questions and answers that you engaged with Mr Cornall, until Mr Cornall is here. I do not think that is unreasonable. Minister, I am prepared to be guided by you on this, but I do not think it is unreasonable.

Senator Ellison—I do not think we should go anywhere until Mr Cornall comes back. I think that is fair. That is how we operate.

CHAIR—Thank you.

Senator HEFFERNAN—Can I just give my reflection of how I felt about receiving these documents. To say that I was alarmed, concerned and surprised would be the greatest understatement I have ever made, so I am seriously distressed. I want someone else to deal with them; I understand there are more to follow.

Senator Ellison—That is being done.

Senator HEFFERNAN—I will return to this shortly when Mr Cornall turns up. Could I go to some questions through you, Madam Chair, about a Mr Scoble?

CHAIR—Yes, you can. I just wanted to assure you that the committee in no way diminishes your concern or the concern of the committee over the sorts of issues that you are raising. I want to make that perfectly clear.

Senator HEFFERNAN—The committee may like to receive the documents, for all I know.

CHAIR—I do not think that is appropriate, but I understand the seriousness of the points that you are making. I want to make that clear.

Senator Ellison—We have some questions on the matter now. There was a question from Senator Fierravanti-Wells about the process of the AFP. That could be useful.

Mr Keelty—In a matter like this, when documents are referred to the AFP, they are assessed to see whether there is any criminal offence being disclosed. If there is—

Senator FIERRAVANTI-WELLS—That is a criminal offence under the Commonwealth?

Mr Keelty—Under a Commonwealth legislation. If there is, that offence is then subjected to what we call a case categorisation and prioritisation model, which is a process that the committee is largely familiar with, that talks about the priority of the investigation, the amount of resources that would go into the investigation and the impact of undertaking the investigation. We can give you a briefing on that should you require it.

Senator FIERRAVANTI-WELLS—Thank you.

Mr Keelty—If there is no offence disclosed, then we would write back to the minister in this case, because it was the minister who referred the documents to us. If there was an offence disclosed then we would carry on with the investigation, provided that it met the framework of the prioritisation model. If it disclosed offences in relation to another jurisdiction, we would forward the information to the other jurisdiction and reply to the minister accordingly.

Senator HEFFERNAN—That of course is a serious problem and one that bears weight on the need for a judicial commission, because there are lots of things that may not be of a criminal nature which are a serious problem for entrapment et cetera and compromise. There are people named in these documents who the police think are seriously compromised even though they might not be criminals. Nothing has ever been done about it. There has always been a blind eye turned to it. It is all too hard. I unfortunately have ended up with all this and I am damned if I am going to wear it.

Senator Ellison—I think I can give Senator Heffernan an undertaking that the AFP, of course, can only act within the area of their responsibility, as the commissioner has correctly outlined. But as for any subsequent ministerial action in relation to government policy and how this might impact on the areas that Senator Heffernan has talked about in relation to a judicial commission, we had questions on that the other day. That is something which is being looked at by the Attorney-General, so I can give an undertaking that, insofar as those matters are raised, they will be taken into consideration by the government.

Senator HEFFERNAN—Could I, through you, Madam Chair, ask, if that is the case, I have in front of me a police running sheet, an interview with a person who in this running sheet gives evidence that he sought and was given written advice on a matter that he was providing to a firm of overseas solicitors. He sought and was given that advice by a judge who then sat in judgment on that advice. Where do we go with that?

Senator Ellison—That I think Senator Heffernan can provide to me, if he wants to, in a similar fashion as before.

Senator HEFFERNAN—Minister, you already have it. It is in the documents I have sent you.

Senator Ellison—It is hard to identify it when I do not have the document in front of me.

CHAIR—I do understand us to be discussing a significant volume of documents as well.

Senator Ellison—I have had a look at the documents Senator Heffernan gave me. They are being actioned in an appropriate fashion. If there is something new then that could perhaps be raised. Senator Heffernan mentioned Mr Scoble; there were some questions on that and of course there was some involvement by myself in relation to that issue. I am happy to take questions on that.

Senator HEFFERNAN—Thanks very much. I await Mr Cornall. While Robert Scoble was in the Australian Diplomatic Service from 1976 to 1985, did he come to the attention of the AFP as a person of concern?

Mr Keelty—I know that the AFP has at one stage looked at allegations concerning Mr Scoble. I am just unsure as to whether that was while he was still a serving diplomat or not.

Senator HEFFERNAN—Perhaps you could take that on notice. I will try and save time for the committee. How many times, when and what were the reasons for Mr Scoble being a person of concern on each occasion? You may like to take that on notice, perhaps.

Mr Keelty—I am not sure whether I could even answer that question if I was in possession of the answer. To provide to the committee details of investigations into individuals would depend on whether the matter is the subject of any judicial oversight.

Senator HEFFERNAN—Fair enough. Specifically, in June 1984, what happened that again brought Mr Scoble to the attention of the AFP as a person of concern? Were there other Australian diplomats also involved? What was the material seized by Mr Scoble's superiors? Was it seized in Australian diplomatic premises? Where? Was it circulated to Australian and other diplomats through Australian diplomatic bags?

CHAIR—Are you placing these questions on notice?

Senator HEFFERNAN—No, I mean—

CHAIR—These are not matters I think—

Senator Ellison—The commissioner has already said that he does not have the detail to hand and that in some circumstances this would be inappropriate to answer because, where you have an investigation, or even not, in the past the practice has been that we do not comment.

Senator HEFFERNAN—Fair enough.

Senator Ellison—But if Senator Heffernan wants to place those questions on notice, perhaps that would be the way to take them, but I just place that caveat on the record. I have referred to what the commissioner has said, but perhaps if we just take it on notice.

Senator HEFFERNAN—I have a list of very complex questions which I think I may place on notice, so if I could just move on to a couple of other questions.

CHAIR—So you will place those detailed questions on notice?

Senator HEFFERNAN—I will indeed.

CHAIR—Thank you.

Mr Keelty—Can I just point out to you that these allegations are over 20 years old, so it is not a matter that we would have been ready to respond to the committee about in the first instance.

CHAIR—Thank you for that qualification.

Senator HEFFERNAN—I appreciate that. Did Robert Scoble's arrest in a joint operation between the AFP and the Thai police on 21 March 2004 result in the seizure of a large volume of child pornography, including photographs and home videos depicting western males engaged in sex with young Asian children? How many such photographs, books, videos, films or DVDs were located in Mr Scoble's home in Bangkok? Did Mr Scoble admit that all the pornographic material were his personal possessions?

Mr Keelty—I can indicate that Mr Scoble was arrested by the Royal Thai Police. In terms of what he had in his possession, I do not have that detail with me.

Senator HEFFERNAN—I appreciate the answer. I have to say that I am disappointed that he has been let loose in Australia. In its 21 March 2004 media release, the AFP noted that the Royal Thai Police search of Mr Scoble's home in Bangkok had located this large volume of material. Of the large volume of material seized and described by the AFP in your press release, Commissioner, as 'a large volume', how much was used by the Royal Thai Police to lay successful charges against Mr Scoble and what was the nature of that material?

Senator Ellison—I wonder if we could take these questions on notice, because we do have a time constraint today as well, but I do not think the AFP have necessarily the extent of the detail.

Senator HEFFERNAN—I will include that matter in the matters I have already placed on notice.

Senator Ellison—I might just advise Senator Heffernan that the whole issue, which this caused some interest in a little while ago, will be discussed at the Australian Police Ministers Council. I put it on the agenda. I have written to my state counterparts and I can say that largely, I think it is fair to say, my state colleagues are interested in looking at—I do not want to be specific to this particular case—how the Australian National Child Offender Register works. I cannot speak for others, but I think the feeling is that, if there are any loopholes, then they should be closed. So this is a matter which will be discussed at the Police Ministers Council.

Senator HEFFERNAN—Thank you very much, and I commend you on the actions following my earlier questions. Following the *Current Affair* expose on Mr Scoble, you, Minister, have said that Mr Scoble's passport has been cancelled?

Senator Ellison—Yes, that was on 5 February 2004.

Senator HEFFERNAN—Is the AFP aware of any other passports Mr Scoble possesses or is entitled to?

Mr Keelty—No, we are not. But can I point out, Chair, that the line of questioning is extremely similar to the line of questioning that I received before this committee on 31 October last year—questions in terms of the arrest by the Royal Thai Police and what was allegedly in the possession of Mr Scoble at the time. So these matters are already on the record before the committee.

Senator HEFFERNAN—We will move to something else. Has the minister or commissioner seen recent media coverage of allegations raised against a recent Refugee Review Tribunal member, a former Australian ambassador, Mr Ian Lincoln?

Senator Ellison—I am not aware of the allegations.

Senator HEFFERNAN—Mr Keelty?

CHAIR—Are these public matters to which you are referring?

Senator HEFFERNAN—There is media coverage. I am just wondering if they have read the media.

Mr Keelty—I am unaware of the allegations against Mr Lincoln.

Senator HEFFERNAN—It has not come to the attention of the AFP?

Mr Keelty—Certainly not to my knowledge. If that is not correct, I will correct the record.

Senator HEFFERNAN—I have two questions and then I will conclude until Mr Cornall comes. I am asking because, while Mr Lincoln was in the Australian Diplomatic Service from 1967 to 2002, did he come to the attention of the AFP as a person of concern?

Mr Keelty—The answer to that is no.

Senator HEFFERNAN—Prior to his appointment to the Refugee Review Tribunal for a period of two years commencing on 1 July 2002, was Mr Lincoln subject to a top secret security clearance? He had already had one.

Mr Keelty—That would not be within the purview of the AFP.

Senator Ellison—I think that has to be directed to Foreign Affairs, but certainly not this committee.

CHAIR—Are you going to place that question on notice?

Senator HEFFERNAN—Yes. I have a question about Operation Arizona as well as Operation Mandrake, so I will put those questions on notice, thank you, Madam Chair, and that will conclude my questions until the arrival of the secretary.

CHAIR—Thank you.

Senator Ellison—Madam Chair, at the outset could I just raise a matter which Senator Ludwig mentioned last Tuesday. He mentioned a financial framework bill, from memory, section 58, which I think allows the AFP or law enforcement agencies more broadly to have undercover accounts. At the time I said I would take the matter on notice. I could not recall it offhand. The issue was: did the matter, this issue, come from the AFP? The AFP became aware of the issue and raised it with my office. I forwarded a letter to Senator Minchin's office on the subject, so that was how it was progressed. I am happy to take any further questions on that if Senator Ludwig has follow-ups.

Senator LUDWIG—Thank you. I might put those on notice. In the intervening time I have had an opportunity to speak to the ANAO and I think we are now in a much better position than we were, so I might put some questions on notice. I wanted to ask questions, Chair, about the AWB.

CHAIR—Would you?

Senator LUDWIG—I said I was not going to give up. I must say the time is getting late, but I will try again, just briefly in the time available. It is really a question of whether the AFP has looked at the Volcker report, whether or not there are charges that they should be investigating or are investigating, as the case may be, whether they have looked at the conduct of the AWB in terms of the allegations that have come forward and whether they have been referred matters to be investigated or are starting their own investigations in relation to the conduct of AWB?

Senator Ellison—Madam Chair, I think there is a clear position on this and perhaps the commissioner can put that, and I think it will make things a lot clearer for everybody.

CHAIR—Commissioner?

Mr Keelty—At this stage the AFP has not commenced any investigations into the allegations surrounding the AWB. We have been liaising with the Cole inquiry and we are awaiting any referral from the Cole inquiry. In order to maintain the integrity of any investigation that may have to take place, it is probably appropriate that we say little more than that, other than that we await any referral that might come from the Cole inquiry.

Senator Ellison—Madam Chair, that is standard procedure with inquiries which have been conducted in the past—royal commissions and the like. I think on that basis we really cannot take the matter any further.

CHAIR—Thank you, Commissioner and Minister. Senator Ludwig?

Senator LUDWIG—Were there any investigations on foot prior to the Cole inquiry that the AFP have taken or been referred to in respect of the AWB and the allegations that have been made about their conduct recently?

Senator Ellison—I think the commissioner has put the position very clearly, that the AFP is awaiting the outcome of the inquiry and it really is inappropriate to take it any further.

Senator LUDWIG—I might ask some questions about another matter. Just turning to the issue of the Bali nine, there are obviously some constraints which I recognise, but more generally I am sure you have had an opportunity of reading Justice Finn's decision in respect of the matter. Are you able to say whether or not you have looked at the issue of examining

the arrangements for mutual assistance, both in terms of procedures and protocols followed by members of the Australian Federal Police, and whether or not you intend to examine that area or review that area? I recall from earlier conversations that, in terms of mutual assistance, the one that now is on foot does not go to the issues of the AFP examining their protocols and the like. Is it the intention now, given Justice Finn's decision, to broaden that out or to conduct a separate inquiry into the protocols and procedures of the AFP?

Senator Ellison—From a government point of view, we are quite happy with the arrangements which are in place and the guidelines which have operated under the prior government and this one. I made it very clear that we do not intend that review to be expanded. I read carefully Justice Finn's decision and, although there was some recommendation that the guidelines be looked at in a very narrow sense, I did search for his honour's reasons for that suggestion and took advice on that, too, from AGS. I think that Justice Finn was basically directing his remarks at the coverage of requesting information from another country and providing it to another country. In a number of parts, he mentioned the guidelines being quite clear. As you know, the decision by Justice Finn was a very strong endorsement of the AFP's actions being within the law, and they were not inappropriate. But I have looked at it carefully. I do not think from a government point of view there is sufficient in the judgment to warrant any expansion of the terms of review of mutual assistance and the guidelines. But, in relation to the AFP, I think that question is then best directed to the commissioner on what the AFP intends to do, but that is from a government point of view.

Senator LUDWIG—I am disappointed that you do not intend to expand the review to include the protocols and procedures, because you may receive invaluable information from a wide range of submissions on that point. But it seems to be a decision of government that you have taken.

Senator Ellison—It is a decision of government in that regard. Looking at the judgment, it was in a very narrow context that Justice Finn's remarks were made. If you search that judgment paragraph by paragraph, you do not get a detailed reason set out as to where these guidelines are insufficient or warrant clarification. The start of the judgment makes the comment that the AFP and the minister should look at the guidelines. Then I searched very carefully to see where they are deficient and whether they warrant such review. With the advice I have taken, after considering it very carefully myself, I do not see that being made out in sufficient form to warrant an expansion of the mutual assistance review. I think our guidelines are clear. I think the AFP have operated within them, and I think that this case demonstrates the need for close cooperation between overseas law enforcement and Australian law enforcement.

Senator LUDWIG—I think that point is not well made. The judgment does say right at the very start:

The circumstances revealed in this application for preliminary discovery suggest there is a need for the minister administering the Australian Federal Police Act 1979 and the commissioner of police, to address the procedures and protocols followed by members of the Australian Federal Police when providing information to the police forces of another country in circumstances which predictably could result in the charging of a person with an offence that would expose that person to the risk of the death penalty in that country.

It seems plain to me—

Senator Ellison—He says ‘the circumstances’, but then I went on to read very carefully in his honour’s judgment where those circumstances were. With respect, I could not find them except for the point that I made earlier, that it was in a very narrow context. I sought legal advice from counsel on this and, without going into the detail of the advice, it did not persuade me that there should be any broader appreciation of that other than a very narrow one.

Senator LUDWIG—Then, as far as the Australian Federal Police is concerned?

Mr Keelty—We also were placed in an awkward position by the way the judgment read because, as you have just read into the transcript, it seeks for me as the commissioner to review the guidelines, but it in no area of the judgment says why that is required or identifies a problem raised with the guidelines necessitating a review. But we do review our policies on a regular basis and we are looking at the guidelines to ensure that they conform with government policy, they are unequivocal and members of the AFP are aware of the guidelines.

Senator Ellison—The government, I might say, is happy with that. I think that is a sufficient course of action.

Senator LUDWIG—I note that in the judgment it quotes from a letter sent from a Mr Paul Hunniford, the AFP senior liaison officer in Bali, to the Indonesian police. In part the letter states:

If identified by INP it is strongly requested that no action is taken until interdiction commences in Australia, as early interdiction will hamper the identification of the organiser’s recipient in Australia.

Then it says that later in the judgment Justice Finn provides another different quote saying Mr Hunniford sent a further letter to the INP. Then the judgment states that this was sent on 12 March. However, that is a month before the previous letter and the judgment indicates the second letter was subsequent to the previous one. What is your understanding of when the letters were sent?

Mr Keelty—The letters were sent on 8 and 12 April, so there is an error in there in terms of the chronology of the letters.

Senator LUDWIG—There was also another letter to the AFP. Could you clarify the date of the letter with the subject, ‘Suspected heroin couriers from Bali to Australia’? Was that 12 April as well? I think you have indicated that.

Mr Keelty—The first letter was on 8 April and the subsequent letter was on 12 April.

Senator LUDWIG—The second letter reads in part: ‘If arrests are made on 14 April it is likely that Nguyen and Rush will become suspicious of the arrest and decide not to attempt to board the Saturday flight with narcotics. I therefore request that you consider searching Nguyen, Czugaj and Rush soon after the first group are intercepted.’ Then the letter goes on. But the first letter strongly requires, or it seems to suggest, that no action be taken. The second letter seems to then indicate a different course of action. It seems to be that you consider searching which, I guess, is tantamount to being intercepted and arrested by the INP—my words, not yours. Was there a reason for the change?

Mr Keelty—I guess the real answer for that would be in the mind of the person who is the author of the letters. But, understanding that this was a live operation and it was developing with time, I think what has been lost in the public statements about this operation is that not all of the so-called Bali nine were identified by the AFP; part of the syndicate was identified through the operations of the Indonesian National Police. There is also the supply of the heroin by a particular person to the syndicate. That has not been the subject of much public comment and that is part of an ongoing operation, in any event. So my only response to your question is that, as the operation got bigger, if you like, and taking into account the fact that what was a suspicion that an activity might occur suddenly turned into the reality of a much larger operation, it was fair to make a call to the Indonesian National Police to deal with the matters as they saw fit.

Senator LUDWIG—Have there been any further arrests in respect of that particular case?

Mr Keelty—Yes, there have.

Senator LUDWIG—What have they been? Are you able to say?

Mr Keelty—Yes, I can. There have been six arrests in Australia, one most recently earlier this week, and we anticipate there will be further arrests.

Senator LUDWIG—Are you able to say what level they are at in terms of whether they were organisers, higher up the chain or lower order couriers and the like?

Mr Keelty—The operation is continuing and of course, as I have said here before in October last year, the focus of our attention has been on the suppliers into Indonesia using the AFP's international network, particularly in Thailand, and we are continuing to work down that path. In a sense, it is a moot point in terms of the roles of the individuals—and I do not want to comment on the roles of the individuals who have been charged and are before the courts in Australia—but clearly some of these people had had previous travel to Indonesia, to Bali. Clearly there is an inference that there were successful importations in the past, and we certainly know of an aborted importation in November 2004. Quite obviously we were never going to be talking publicly about that while these people were facing the courts in Indonesia.

Senator LUDWIG—Do you know whether there have been arrests in Thailand in relation to this operation?

Mr Keelty—We are aware of a detention of a person in Thailand and we are working with the Indonesian and the Thai authorities to see through what course of action can be taken now and what the most appropriate course of action is. But of course I do not want to sit here and pretend that we, as the AFP, or even as Australians, would have any influence on extradition or any other matters that might require attention between Indonesia and Thailand. It is not our brief; it is not our case to do anything other than point out where the intelligence is.

Senator LUDWIG—I understand that. Have you sought to interview the person or sought to get access to the person in Thailand for interviewing?

Mr Keelty—Yes, we are working actively with the Thai authorities on that person, remembering that for any offence that that person is alleged to have committed at this point in time, to the best of our knowledge, the jurisdiction for that offence is in Indonesia. Had there

been jurisdiction for that offence in Australia, we would have bilaterally gone to the Thais to try and deal with the matter ourselves.

Senator LUDWIG—Yes, and it is probably that you put that on the transcript. I understood that.

Mr Keelty—That outlines the complexity of the issue we are dealing with.

Senator LUDWIG—There are no other offences that you are investigating—money-laundering offences or other associated offences—in that matter?

Mr Keelty—Yes, there are. The whole operation is an ongoing operation. I know there has been a lot of attention focused on the Bali nine, but there are at least now 15 people charged over the operations of this syndicate and, as I indicated to you—and I do not often do this—we do anticipate further arrests. I am confident that there will be further arrests

Senator LUDWIG—So some of it is still ongoing. I do not want to compromise any existing operation, so it is always the caveat that I am sure you will no doubt inform me when you cannot answer a question because of that. There are a number of matters that arose in the judgment by Justice Finn and a number of wider media reports about controlled operations more generally. Are you able to indicate or provide a list of those controlled operations in the last 12 months which you have undertaken—to the extent that the annual report will indicate the number—and the transnational nature of them, the ones that are projected overseas or those where you have arrangements in place?

Mr Keelty—Yes, if I could take that on notice. We table a report in parliament—and I think it is an important point that is not obvious to people outside this committee that we do table a report each and every year in parliament of our controlled operations, so they are accountable back to the parliament. But, if the transnational nature of it is not detailed in there—and I am not sure that it is, but I do not want to take the time of the committee now to read it—I will have that included in a response to that question.

Senator LUDWIG—Thank you, that would be appreciated. Please do so to the extent that you can. It may identify—

Mr Keelty—There is a misunderstanding here, which I think goes back to the words that you read onto the transcript from Justice Finn. With all due respect to Justice Finn, to make a comment that ‘predictably’ somebody would be involved in something is very difficult to do operationally. We get 13,000 pieces of information that are transmitted overseas to overseas law enforcement agencies each and every year. We get something in the order of 11,000 back. Of the 13,000 that go overseas, there are not 13,000 Australians arrested overseas. Clearly, a lot of that information is useful intelligence but it does not result in the arrest of an individual. We cannot predict the activities of individuals. We cannot predict that at the last moment an individual will decide to pull out of a criminal enterprise. There are some things we cannot predict. As an example of this, in this particular case some of these people went over to Bali with the intention of conducting an importation and the heroin did not arrive in Indonesia. We only became aware of that of course after the initial arrests in Indonesia, so we had no idea that this syndicate is as big as it is or had tentacles in all the places that it had the tentacles; we had no idea about that whatsoever.

In terms of the transnational nature of the controlled operations, the majority of them are transnational; that is why we have had a deliberate strategy in the past seven or eight years since the introduction of the National Illicit Drugs Strategy in 1998 to expand the presence of the AFP overseas. That has expanded not only to new countries but also within countries. We were at one time only in Bangkok. Now we are in Bangkok and Chiang Mai. We were at one time only in Yangon in Myanmar—Rangoon in Burma—and we are now Mandalay as well. We have been in Laos, as we identified Vientiane and Laos as a weakness in our intelligence gap across South-East Asia. We have expanded our operations into Vietnam to open up an office in Ho Chi Minh City, specifically directed at trying to do what policing is about, which is crime prevention. The way to achieve crime prevention is to stop the crime at its source. That is why I have federal agents sitting by themselves in places like Bogota, Colombia, with no Australian embassy and no Australian mission, trying to stop the flow of cocaine to Australia. The success of operations such as the one regarding 1.4 tonnes of a precursor chemical in the Philippines on its way to Australia to make amphetamines is an example of the sorts of successes we have had. One tonne of precursor chemical in Fiji was stopped before it came to Australia. There has been the closing down of chemical factories. In Jakarta late last year we closed down an amphetamine factory with the Indonesian National Police. They would have had absolutely no knowledge about it without the transfer of the intelligence between the AFP and INP.

Senator LUDWIG—Let me make it clear that Labor does appreciate the efforts that you are making in both destroying and preventing those types of networks and criminal activity. There is no doubt about that. We think the work that you are doing is of high order. Broadly, in relation to controlled operations, is there an operational procedure as to how you might determine whether or not you use controlled operations? In other words, with some it might clear cut where it is coming in a container, it goes through a Customs CEF, a drug is detected within the CEF environ and a substitution can be made if a decision is made to have a controlled operation to see where the product goes, or you or Customs might intervene at that point, so there are decisions like that. But in terms of both entering and leaving this country, if there were people hypothetically leaving this country, are there procedures that would then say, ‘We will use a controlled operation in this type of circumstance’?

Mr Keelty—There is a policy surrounding controlled operations that obviously mirrors the legislation, and controlled operations need to be approved by an assistant commissioner or above. But the principle driving controlled operations is the safety and welfare of the Australian people. We would not have a controlled operation, for example, where we did not feel we had control over the narcotics because, if we allow the narcotics to arrive here, we are actually culpable and complicit in the drugs reaching the streets of Australia, so the very description of the legislation of control is critical to the decision making about what is going on here. If it is possible for the drugs as you describe to be substituted with an inert substance—and even then we have to be careful of the safety and the welfare of people who may consume the inert substance, that it does not create any harm to them—then we will substitute, but this is driven by the activities of the criminals themselves, not by us. If we cannot control it then we have to make an operational call—that is, someone has to make an operational call—to interdict. The Bali nine is a classic case where you had some of the people in one hotel, some of the people in another hotel, some of the people about to board

the plane and some of the people about to board the plane with no drugs at all—they were simply overlooking, and some would say that they have got a bigger role than the others to play. You have to leave it to the operational police on the ground to make the call. I, even as Commissioner of Police, am not going to second guess my own staff, let alone an international police force, about when the most appropriate time to interdict is.

Senator LUDWIG—If you use the Bali nine as an example—I had not—regarding body packers and the like, if they were leaving the country, in terms of controlled operations how easy is it to do that with someone body-packing a substance? And do you do that, or is it the case that those sorts of arrangements are impossible to do?

Mr Keelty—There are a large number of scenarios. More often than not, once it gets to a body pack, if you have not substituted before it has been given to the courier then your options to substitute are minimal. They have basically dissipated. Then the decision has to be made about whether the courier is the person who will be arrested or whether you want to do a broader operation and try and take down the whole syndicate.

There are a lot of things to be considered here, but first and foremost is the control of the drugs and therefore the welfare of anybody who may receive the drugs. But secondly, the question is: where is the evidence? Where is the majority of the evidence in these matters and will that evidence reflect appropriately the criminal enterprise that is under way? The difficulty we have is if all of that evidence and all those activities are occurring in another jurisdiction, we have to respect the sovereignty of that jurisdiction to call it as they see it. We cannot give over a piece of information, have it become a broad operation and then say, ‘Look, we are sorry about that—can we take that information back, please?’ That goes back to the predictability question that was raised by Justice Finn. No-one in the AFP would have predicted that this one piece of the 13,000 pieces of information we have sent overseas would have played out the way it played out—even some of the people identified only through the activities and the surveillance of the Indonesian National Police. We do have sympathy for the innocent people in this, who are the parents and the relatives and the family friends, but we have to look at the greater good and I think even Justice Finn points that out. We have to look at the greater good of the Australian people and the legislation and the ministerial direction under which we operate.

Senator Ellison—Madam Chair, for the record, on the government’s part it stands by everything the commissioner has said and wholly endorses 100 per cent the actions taken by the AFP in this matter in fighting transnational crime.

Senator LUDWIG—I guess even further, Commissioner Keelty, Australia is obliged to cooperate under UN conventions and is required by those conventions to cooperate internationally in the fight against transnational crime.

Mr Keelty—That is correct. I think one of the important pieces of Justice Finn’s decision that it is important to highlight is in respect of a case dealing with Scott Rush. I need to place it on record that the AFP did not directly deal with Lee Rush; it was through at least a third party, being a Queensland Police officer attached to an AFP investigation team, a Queensland Police employee. Whoever gave Lee Rush the assurance that his son would be prevented from travelling acted dishonourably. There is no way known anyone in the AFP would have

provided that assurance, because there was simply no power to detain him. He was not wanted for warrant and there were no conditions of his bail that prevented him from travelling overseas so, as Justice Finn points out, even if the officer at Sydney airport the day that Scott Rush left thought there was a moral obligation to stop him—remembering that that officer would have had no knowledge at all about the wider operation of the AFP in terms of the information provided to the INP—in stopping him he or she would have been acting outside the law, outside the ministerial direction and outside the United Nation conventions that you have highlighted. The corollary of someone being tipped off because they had a mate in the police before they travel overseas is that we should have acted corruptly. What does that say to the parents of the other children who did travel—that because someone had a mate in the police, they got rescued but their children are subject to the circumstances of the Indonesian judicial system? It is simply a nonsense to even project that as being a way that the AFP should operate.

CHAIR—Senator Heffernan, I understand that you have some questions you wish to put to the secretary.

Senator HEFFERNAN—Yes. Thank you, Mr Secretary.

CHAIR—I would like you to follow that up now.

Senator HEFFERNAN—I am sorry to do this. When I asked you about Cori the other day I now realise you were confused. You obviously had seen the Cori document.

Mr Cornall—I very carefully read all of the documents that you gave to Minister Ellison. When you first mentioned the name I did not clearly hear you, and then I secondly did not remember it as the operational name.

Senator HEFFERNAN—I tend to talk too fast anyway. My kids do the same. One thing that you did not answer—and we moved onto something else; you may not choose to answer it—was whether you were alarmed by any of the stuff, as I call it, that you have read. I have to say that, just from an ordinary old bloke out on the street, I am pretty concerned about some of the material. What was your reflection? Did you have a personal reflection on the material?

Mr Cornall—I was looking at it from the point of view of whether or not any of this material would be capable of being used in any evidentiary capacity and, secondly, whether it indicated any conduct that could be considered, if it was applied to a judge, to be grounds for dismissal on the basis of misbehaviour. Against those criteria, it did not seem to me that it reached that standard. The material you gave me comprised a lot of documents. I remind you that some of it was press clips and some of it was transcripts from our estimates hearings as well. So there was a whole range of material there—it was a collection of documents from a variety of sources. As I said the other day, some of the material was clearly taken from other commissions of inquiry or another commission on inquiry.

Senator HEFFERNAN—And police intelligence files.

Mr Cornall—It was not entirely clear to me what all of the sources of the material were.

Senator HEFFERNAN—But I could point you to the police intelligence files. It has never seen the light of day.

Senator Ellison—Yes, but I think what he is saying—

Mr Cornell—But that was not apparent. It was clearly part of a bigger picture and the material by itself, to me, did not constitute material that took us to drawing any conclusions. Whether or not you would say as a citizen that it gave rise to some concerns is a subjective judgment, but I was not looking at it from that point of view.

Senator HEFFERNAN—Can I take a legitimate point. Mr Keelty, the comments about the—pardon the expression—cock-up and all those other things were not a throwaway by a witness. That was the conclusion of the report. That is a police conclusion in the strike force report, so it is not a throwaway.

Mr Cornell—I think I have dealt with this in my response to the minister. I cannot recall all the details. I am sorry, I do not have all this material with me because I was not anticipating that we were going to go back into this today.

Senator HEFFERNAN—No, that is all right.

Mr Cornell—But my recollection is that, when I read that document, while there was that statement, when you read the balance of the paragraph it came to some conclusion but it did not affect the outcome.

Senator HEFFERNAN—You may have noticed the conclusion of the surveillance operation that was proposed. It fell apart because of a lack of cooperation between the various agencies. But an ordinary citizen saw evidence in a police interview where a person sought advice and was given advice, some of it written, that was used in proceedings that cost a law firm millions and millions of dollars as an outcome of the hearing. I am not saying that this would have in any way influenced the outcome, but in those documents there is evidence coming out of the horse's mouth of a person who sought advice because it was too complicated a matter from a judge and in the police interview—he would not like to know I am telling you this because he would have had to have stood aside from the hearing—who then went on and actually sat in judgment on his own client.

CHAIR—I think the minister has already responded to that.

Senator HEFFERNAN—That is not a matter for the police.

CHAIR—No, and the minister has responded to that.

Senator HEFFERNAN—That is not a matter for the police, but a point that I am trying to make is that—

Senator Ellison—Which is relevant to the judicial—

Senator HEFFERNAN—Blind Freddy could see the need for a process. There is no process to deal with that sort of stuff.

CHAIR—Which the minister has responded to and indicated is under active consideration both on the Tuesday and today.

Senator Ellison—In relation to a judicial commission.

Senator HEFFERNAN—Thank you very much.

Senator Ellison—That is the context in which it is being looked at, and I think that achieves Senator Heffernan's purpose.

Senator HEFFERNAN—Can I just reinforce the message that it is obvious that we need a process.

CHAIR—Thank you very much, Senator. Thank you, Mr Cornall, for your assistance in these matters. Senator Heffernan, are there any further issues to wish to raise at this point?

Senator HEFFERNAN—No.

Senator Ellison—It is back to Senator Ludwig, I think.

CHAIR—Yes. I just have to confer with Senator Ludwig for a moment.

Senator LUDWIG—I had a couple more questions in relation to the Bali nine, but I might put those on notice given the time we have, unless there were matters that you had not finalised or needed to add in respect of that matter.

Mr Keelty—I just make the point that I am here now and I stand ready to answer any questions about the Bali nine and say that the AFP acted lawfully—and not only lawfully—in quite difficult circumstances. The matter is still running. If ever I have seen a phrase coined that is most appropriate in the ABC's documentary earlier this week, to call it 'Australian half story' is perhaps the most appropriate way to describe it. The AFP has received considerable criticism. I am not oversensitive to criticism, but we have seen even in yesterday's Fairfax press images of the Australian Federal Police as executioners. That just does not warrant the work that the AFP has done in preventing 10 tonnes of narcotics reaching our shores as part of our crime prevention strategy in interdicting drugs at their source. The many thousands of lives that that has saved in Australia since the creation of that program does warrant us to be looking after the wide Australian interests. Whilst we do have sympathy for those innocent people involved with the Bali nine, we have to look for the greater good and apply the law without fear or favour, affection or ill will. That is what we have done.

Senator Ellison—I just want to say something because of what has appeared in the press. In fact, there is some very good comment today in the *Australian*, but I certainly join with the commissioner on the comments about that depiction in the press and also the comments that the AFP has blood on its hands or that the AFP are executioners. The government of Australia totally rejects that, and I condemn those comments.

CHAIR—Thank you very much, Minister, for putting that on the record.

Senator LUDWIG—Let me say—and I am happy for you to convey this to your staff as well, that I and the Labor Party give you our full support. We have always understood you to operate well for this country and to protect our borders and our shores and the people in the community.

Mr Keelty—Thank you, Senator, I will pass that on.

Senator KIRK—I have some questions in relation to AFP staffing. First, what is the total number of AFP staff currently?

Mr Keelty—The total number including state police that are attached to the IDG is 5,288. If it would make it easier for the committee, I have a breakdown of staff, where they are

working and how many recruits we have in training that might assist the committee. I am happy to provide that to the committee.

Senator KIRK—That would be helpful. Also in that breakdown, perhaps you could advise us how many of those staff are unsworn?

Mr Keelty—Yes, it is in here. There are 2,385 sworn staff and 1,423 unsworn staff, which is a ratio of 1.7 to 1. In the Protective Service there are 1,224 sworn staff and 182 unsworn staff, which is a ratio of 6.7 to 1. Just in providing you with those figures, it is a little bit like the quantitative and qualitative analysis you might make. A lot of those unsworn staff in the AFP actually perform very critical roles. It might be in the forensics area or in the electrical engineering area, particularly given the role the AFP now has with terrorism. I guess I am asking that you don't put any weight on the unsworn staff. They are not all secretaries and typists; they are people who are playing real roles and some of them are at the forefront of some of the most difficult work the AFP does. It is because of their professional skills and experience that we have brought them into the organization. There are a lot of intelligence analysts as well.

Senator KIRK—Is the number who are involved in forensics, intelligence analysis and the like contained in the breakdown?

Mr Keelty—It is not in the breakdown I have here, but I am more than happy to provide that to you.

Senator KIRK—If you could take it on notice, that would be helpful. You mentioned that the total number as 5,288. How many of those officers belong to the Canberra community policing contingents?

Mr Keelty—There are 897.

Senator KIRK—How many belong to the counter-terrorism first response component?

Mr Keelty—We may have that figure here, but if not I will take that on notice. If we do have it here, I will give it to you during the proceedings. The figure is close to 460 for the counter-terrorism first response roles at airports.

Senator KIRK—Of those remaining, about 4,000 or thereabouts, how many of those are operative and how many are inoperative?

Mr Keelty—Some 1,935 are involved in international and national operations. I mentioned to you that ACT policing has 897. We have 74 state police attached to us and 1,406 Protective Service. That leaves 976 in what we describe as enabling services. I think you asked as part of an earlier question how many are in intel, how many are in forensics and how many are in secretarial or support positions. I will give you that breakdown.

Senator KIRK—Those 976 are inoperative; is that correct?

Mr Keelty—They are the unsworn. That is not to say they are inoperative because, as I mentioned, some of them may well be at the front end in the operational role.

Senator KIRK—I am interested in the same figures over quite a long period—and obviously you will have to take these on notice—from 1996-97 through to 2004-05. Perhaps you could take those on notice so that I can get some kind of overview.

Mr Keelty—Certainly, we will provide that to you.

Senator KIRK—If I can come now to the particular questions I was wanting to ask. These arise out of this newspaper article from the *West Australian*, of which you may be aware, dated 7 January 2006. Are you aware of the content of that?

Mr Keelty—Yes, I am.

Senator KIRK—I just want to try to get to the bottom of it and see whether or not the claims that are made in the article are correct. Is it the case that the WA police commissioner, Mr O’Callaghan, wrote to you regarding the secondment of officers to the International Deployment Group?

Mr Keelty—That is correct. He wrote to me in December 2005.

Senator KIRK—According to the article, he indicated that 12 officers who had been selected for the next round of IDG secondments would not be sent; is that correct?

Mr Keelty—That is correct. Those officers would have otherwise been deployed to the Solomon Islands in February of this month. I should point out that we still have four Western Australian police officers attached to the International Deployment Group. In fairness to Commissioner O’Callaghan, I should point out that I did contact him to test the veracity of the statements that were ascribed to him in that article. There were two articles, I think. One appeared on a Saturday and one appeared on a Monday. He certainly indicated to me that he did not contribute to the article that appeared on the Saturday.

Senator KIRK—You mentioned that there are still four WA police officers involved in the IDG.

Mr Keelty—That is right. In fairness to you, just so you know the complete answer, in the letter that came to me in December last year from Commissioner O’Callaghan, he indicated that he would allow those people who were already part of the IDG to finish their time with the IDG, and that is where those four are. I think they go out to September this year before the last one finishes.

Senator KIRK—This additional 12 is an additional 12, not amongst the—

Mr Keelty—That is right. It was going to be part of a new contingent.

Senator KIRK—Of those 12 officers, those individuals, have any of those been approached by the AFP to work with the AFP beyond their employment with the Western Australia Police?

Mr Keelty—No. When the 12 were advised they were no longer going—and that was a decision of the Western Australia Police—through the office of the deputy commissioner of the Western Australia Police, we did say that if any of the officers wanted to go on leave without pay or by some other arrangement then that would be a matter for the officers themselves. As I recall it—and I stand to be corrected by Mr Ney, who is the acting chief operating officer—the process that went into place was that those officers were given the website of the AFP to contact if they wanted to contact the AFP directly. We obviously had to deal with those 12, because we had been dealing with them right up until the time of the notification that they were no longer to travel. Whilst there was some communication between

the AFP and those 12 individuals—who, by the way, were identified to us by the Western Australia Police as part of their process of who was to come forward—there was at no stage any suggestion by us that we were then going to go through the back door to recruit them. We have been working cooperatively with all the state police agencies to create the International Deployment Group. Ironically, the thrust of that article is inimical to what we have been trying to create here since it was launched in Western Australia two years ago, and that is a policing reserve to go to these missions, paid for by the Commonwealth. What I have since established with Commissioner O'Callaghan is that he has a very high attrition rate, and they were concerned about losing staff to other areas, but I can tell you that that attrition rate is not to the AFP. As best we can tell, it is to the resources industry in Western Australia.

CHAIR—For better pay.

Mr Keelty—I had better not comment. Since 1 January 2004, we have had more than 700 unsolicited applications for appointment to the AFP. I have a breakdown on a state-by-state basis of those. Most of those are current serving police officers. Just for the record, the attrition rate of sworn staff from the AFP as of this date is 2.8 per cent, the lowest attrition rate we have ever experienced in the AFP of sworn police. We had an online recruitment program placed on our website from mid-December last year with no campaign to advertise for people to join the job. On the last figures that I saw, we have had in excess of 500 unsolicited applications to join the AFP to the end of January this year. There is considerable interest in coming to the AFP from experienced police. We are not actively taking resources from the state police. As part of the aviation security and community policing at airports, we are in negotiations with the states to provide those police. We have been very understanding of the fact that police forces do not have spare capacity and we are not about pinching other people's resources to bolster the stocks of the AFP.

Senator Ellison—I might add that all the state and territory police I have spoken to, and there have been many of them during the time I have been minister, particularly in overseas deployments, have found those deployments to be of great benefit to their career, to their professionalism, and that includes Western Australian police officers, to whom I have spoken. I think that of the IDG, which is some 305 personnel, only 87 of them come from the states and territories, I would add, so the vast majority, two-thirds easily, are Commonwealth. It does provide policing in Australia with the professionalism and breadth to their career that otherwise would not be there. I would challenge anybody in Australia to say that Australian police across this country do not regard that service as being beneficial. That is demonstrated by the fact that just yesterday when the commissioner and I were in Queensland farewelling the first contingent of Queensland police, for 10 positions they had 150 applicants to go on that deployment. I placed on record the Australian government's appreciation of the Queensland police contribution, and also that of the Northern Territory, because it had three officers there as well, and the governments' cooperation. We are seeking that cooperation in Western Australia. We do not want to interfere with their operational requirements, but I certainly am urging the Western Australian government to consider involvement in this, because I think it is of value to policing across the border and it is also in Australia's interests; Western Australia in particular, East Timor and Indonesia, which happen to be on that

seaboard, the Pacific being of great interest of course to Queensland, it being on that seaboard. I am just saying that you need to think a bit laterally, too.

Senator KIRK—Going back to the 12 officers, you indicated that you were in correspondence with them and that they were given the website address and the like. Did any of them make their own applications to join the Federal Police?

Mr Keelty—We are not aware that any of them did. In case I was not clear, the provision of the AFP website was actually done through the Western Australian deputy commissioner's office, so it was not done directly by us. It was done with the full knowledge of the West Australian Police.

Senator KIRK—You talked about the online recruitment that you now have in place. I think you said you have had about 500 unsolicited applications in the past couple of months. How many jobs are actually available for those who do apply? That is an awful lot of applications.

Mr Keelty—There are. We have now in excess of 1,000 people who have expressed interest in joining the AFP. This year, we plan to recruit 350 sworn police.

Senator KIRK—Just returning to this matter with respect to the Western Australian police force, has there been any other occasion when either this police force or one of the other state police forces has done the same thing, that is, declined to permit its officers to join the IDG or is this the first occasion?

Mr Keelty—The New South Wales police service currently does not contribute to the IDG. Largely, we have left it with the individual jurisdictions. Of course, the demands on policing within jurisdictions is something over which we have no control. The answer to your question, though, is that we have had no-one in there who has then withdrawn. I suspect that that is what created the tension here, that these people thought that within two months they were heading off to the Solomon Islands and, suddenly, the permission for them to go was withdrawn.

CHAIR—Senator Macdonald has a couple of questions on the same area. Senator Kirk, if you could indicate when you are going to go off this area, and I will let Senator Macdonald ask those questions.

Senator KIRK—From what you have indicated, there is no direct recruitment of AFP officers from other police forces; there are no approaches made by the AFP, it is left to individuals to make their own applications, if they see fit, to the AFP?

Mr Keelty—That is correct.

Senator KIRK—Can you indicate to the committee what bounties are paid to the states for their police officers on top of cost recovery?

Mr Keelty—For the engagement of people for the International Deployment Group we provide a \$40,000 administration fee for each person who is recruited from the state or territory police. That fee is paid in respect of having to backfill and advertise the backfilling. We do not have to pay for the salaries twice, we only pay for the salaries once. But there is an administration fee that we have negotiated, and I think it is the same with every jurisdiction but I stand to be corrected.

Mr Ney—The amount of money that we pay to each of the jurisdictions is determined by whether the individuals come on a leave-without-pay arrangement or whether they in fact come over as continuing employees with the home state. Where they are continuing employment with the home state, we pay the \$40,000 as the administrative fee. That is a general fee. Where they come in on leave without pay, obviously we take up the administration of payroll and all the other administrative costs that go with administering an employee, so the amount is reduced depending on the overheads associated with that administration.

Senator KIRK—What is the breakdown? Are most people recruited or seconded on the basis of leave without pay or continuing employment?

Mr Ney—No, the majority of the current police from the various jurisdictions come on secondment arrangements from their home state. There are some difficulties between the different states at the moment around compensation coverage and the ability of commissioners to actually grant secondments around their respective schemes. That is where the leave-without-pay arrangements are in place.

Senator KIRK—It is approximately \$40,000 per individual, then, from what you are saying?

Mr Ney—Approximately.

Senator KIRK—That is a pretty hefty amount, then, is it not, when you total up the number of state officers—87, did you say?

Mr Ney—Obviously, there are the payroll issues in terms of administration of that, which is very marginal. The costs start to mount up where there is a continued requirement to backfill roles and actually go out to the market and recruit new staff and the training associated with that. The police officers that are brought on board as part of the IDG have a minimum of six years service, and there is a requirement that there is an awful lot of training involved to actually get those individuals to a significant point in their careers where we are prepared to send them overseas.

Senator KIRK—What I am coming to here is: why is it that there is such a reliance on seconding state police officers? Obviously this has been occurring over a long period and quite hefty amounts of money are involved. I understand what you are saying about their experience and the like. Why is it that the AFP is not itself training these people, taking these people in, giving them the relevant training and using them for these operations?

Mr Keelty—There are a number of reasons for that. First and foremost, most of these are new programs. For example, the Solomon Islands started three years ago, and it involves a large number of police. It is in the order of 200. While the AFP provided all of the police for the first contingent, we were never going to be able to sustain that in the longer term. East Timor was similar. The first contingents to East Timor were all AFP. A lot of these were unforeseen by governments and certainly the AFP. The irony of it is that we are going to places like the Solomon Islands, Papua New Guinea, Jordan, Sudan and Cyprus to build the capacity of other police forces. Inherent in that is that the people we send are skilled and experienced. You cannot grow this skill and experience overnight. Like many professions, getting through the recruit training is but the first stage in receiving your experience. So we

relied then on the state and territory police to supplement us, as they have done in an extraordinarily cooperative way for things like the tsunami and the Bali bombings.

More broadly, it is a good policy position to be in because, as the minister said, it brings back to the communities of Australia police with skills and experience that they would not otherwise have. Without sounding altruistic about it, it actually does create, I think, a much better rounded officer to be doing their normal day-to-day policing in their own organisation. There are tremendous examples here where organisations have embraced it. I think we have 60 Victorian police on our books at the moment. Some of the policing organisations have actually seen the benefit of this. We have been the recipient of that benefit, but hopefully it has been mutually beneficial. It is hard to get experienced police, particularly when the role that we expect them to play is to provide that experience to developing police forces elsewhere in the world.

Senator KIRK—Is it the long-term plan to continue this type of arrangement rather than attempt to recruit people into the AFP from the outset, to train them up and then send them overseas? I understand what you are saying about the benefits that accrue to state police.

Mr Keelty—The vision of the IDG, the International Deployment Group, was that we would have in the order of 500 police. This phenomenon that we are going through is not unique to Australia. If we were sitting in New York talking to the United Nations, you would hear people talking about how in other parts of the world they do not have enough police. Defence forces around the world have standing capacity waiting to be deployed. Police forces do not. I do not want to speak on behalf of my minister, but certainly my experience, in over 30 years, is that you do not have police ministers saying, ‘We have too many police.’ You do not have the police commissioner saying, ‘I have too many police.’ You do not have communities saying, ‘There are too many police walking the beat here. I feel too safe.’ Try and close a police station and you get a clear and loud message about what people think about their policing. The vision of the IDG is that we would create over time a standing capacity, provided that, of course, in the out years there was a commitment to places such as the Solomon Islands.

What has happened here is that a lot of these have been unforeseen. We are growing with this as it occurs. The tensions and stresses we are going through at the moment are a phenomenon of where we are at this point in time. But I am sure that, by the year 2010, for example, we will have a standing capacity. You see the same sorts of principles applying to the community policing at airports, where state and territory police simply do not have the resources to put into the AFP. Because it is community policing, the AFP does not have, outside the ACT, a lot of areas where we can grow the community policing experience. We do not want to have the ACT as, if you like, a launching pad for police careers outside the ACT, because the ACT government would frown upon that, and so would I as commissioner, because we cannot deny the community of the ACT experienced police. It is all very much a balancing act.

CHAIR—In terms of the time frame, Senator Ludwig had better raise this one issue he wishes to raise and then we will come back to the finalisation of the discussion.

Senator LUDWIG—On staffing I have a brief one. Are you not shutting down the Coffs Harbour office?

Mr Keelty—The Coffs Harbour office has been closed for some time. I stand corrected—I might be thinking of Townsville. We are closing Coffs Harbour.

Senator LUDWIG—There you go.

Mr Keelty—But that is a business decision.

Senator LUDWIG—Sorry, I know that was gratuitous. In terms of implementing the Wheeler review, where are we with that in a broad statement in terms of the airport or the airport police chiefs? Have they all been appointed?

Mr Keelty—Yes, they have. If it is of interest to the committee, I have a matrix here that I am happy to provide. It has all of the airports, the airport commanders and whether they are in place or not, the joint aviation investigation teams—if they are in place and, if they are, how many are there—the community policing numbers and what police forces are providing them in what numbers, the time frame for community policing to commence and the status of the memorandums of understanding that we are striking with each of the state and territory jurisdictions. If that would help the committee—

CHAIR—That would be excellent. We have not had a good AFP matrix for a long time.

Senator LUDWIG—It sounds like you second-guessed that question.

CHAIR—Ten out of 10, Commissioner.

Mr Keelty—Never second-guess the committee.

Senator LUDWIG—Is the community policing in place yet?

Mr Keelty—No, the negotiations are still taking place with states and territories and they are at various stages of being implemented. The matrix points that out. I have lost it now so I cannot answer your question.

Senator LUDWIG—The chiefs are in place but not the Indians?

Mr Keelty—The chiefs/commanders are all in place. All of them except for New South Wales were in place by 30 January, and the New South Wales commander was put in place on Monday of this week.

Senator LUDWIG—The Indians are coming?

Mr Keelty—Yes.

Senator IAN MACDONALD—Have you shut Townsville yet?

Mr Keelty—I think we have. There is a resident agent in Townsville. There is not a full-time office there.

Senator IAN MACDONALD—A resident agent?

Mr Keelty—Yes. Working with another one of the government departments, the Australian Taxation Office.

Senator IAN MACDONALD—What used to be there before it was shut?

Mr Keelty—It has had various iterations, as you would be very familiar with. It started off as an airport policing role many years ago and, I think, at its peak—in fact, Mr Ney, I think, has actually worked there—we have had there probably no more than eight.

Senator IAN MACDONALD—This was not my question; it just came up. What is the reason for that?

Mr Keelty—As with all of our officers outside the metropolitan area, we look at the work that is coming in. One of the benefits of the AFP now is that we are all on a single information management system and we can move our staff around quite flexibly and put them in a place at short notice. That is what we have been doing.

Senator IAN MACDONALD—What that really means is that you should have your Queensland state office in Townsville and they can fly down to Brisbane when they are needed. Remember, regional Australia needs support as well as the capital cities. But I am sure there are lots of other good reasons why you have them in the capitals.

Mr Keelty—I should point out, to complete that answer, that we also have a second person attached at Centrelink in Townsville.

Senator IAN MACDONALD—I was intrigued by the questions about the Western Australian situation. Without going into details, are your rates of pay and conditions equivalent to those of the state police forces, or are they seen to be much better? I do not mean the overseas allowances, which would obviously be substantial.

Mr Keelty—We are not equivalent. In some cases, we are well behind, and that is reflected in the difficulty we do have at senior levels to attract police from some of the larger states; their terms and conditions, and particularly their superannuation schemes, are vastly different from what the Commonwealth can offer.

Senator IAN MACDONALD—Yet you were indicating before, as I understood it, that you have an enormous number of applications to join your force that you cannot accommodate. There are more applicants than you either need or are able to pay for; is that right?

Mr Keelty—That is correct.

Senator IAN MACDONALD—Obviously, your force is seen by the police service—as it is seen by people like me, I might say—as a very professional and qualified group of people. Do police officers see that, although the conditions might not be quite as good, it is still good for their professional development to get involved in the AFP?

Mr Keelty—There are various reasons. Clearly, someone who works for state police only has the option of being transferred within that state and rarely gets an opportunity to work somewhere else. Of course, with modern employment where partners are involved, quite often partners can be transferred from state to state. I think some people see the advantage of the AFP being a national organisation. As you point out, some of them see the opportunities to work internationally also as being attractive. It will vary from person to person.

Senator IAN MACDONALD—I am trying to give you the opening to say, ‘Yes, we’re so highly regarded everyone wants to join us.’ That is my perception, but you are not taking it up.

Mr Keelty—Humility prevents me from doing so.

Senator IAN MACDONALD—I am not wanting you to say that if it is not true, but I am not wanting you to be too full of humility. Is it a fact that your police service is seen in a much higher light than, for example, the Western Australian Police Service?

Mr Keelty—I would not want to say that, but what I will say is that those people who transfer laterally into the organisation have been an outstanding success, particularly those at the executive level who have come across. I do spend some time talking to them about their experiences. The AFP is a different experience. In fairness to the state police, we have described—year in, year out for as long as I can remember sitting before this committee—the case categorisation and prioritisation model. That in itself indicates that the AFP does not do all the work that comes through the door; we do not get the domestic disputes, we do not get the immediate response work that some of the state police do.

Senator IAN MACDONALD—I understand that.

Senator Ellison—I might just say, Senator Macdonald, that I think you are right. It is because the AFP is so highly regarded and because it is such a great police force. That is the reason.

Senator IAN MACDONALD—Senator Kirk was talking as I was walking up here. I was not quite listening to it as fully as I should have been. Did I get from Senator Kirk's questions that there were a number of Western Australian police officials who had been seconded to your operations but who had been withdrawn, either in the throes of getting there or after they had been there a little while?

Mr Keelty—It is not quite like that. They had been identified by their own department as being the Western Australian police's contribution to the next contingent to the Solomon Islands, which the minister spoke about, that we farewelled yesterday from the Northern Territory police and Queensland police. They were to be part of that and a decision was made to withdraw them in December last year. Quite clearly, they and their families had an expectation that they would be off doing this work.

Senator IAN MACDONALD—Was any explanation given to you of why they were withdrawn?

Mr Keelty—The only explanation that has been given to me is that it is because of the problems with attrition in the Western Australian police. They have such a high attrition rate that they can no longer afford to provide police for police work outside of Western Australia.

Senator IAN MACDONALD—Again, I did not hear all of the evidence, but I did hear Senator Kirk refer to some articles in the *West Australian*. Why anyone would take any notice of what appears in that newspaper I would be at a loss to understand. It would have to be, quite frankly, the worst newspaper in Australia, and that is saying something. I think your answer, as I heard it—

Mr Keelty—After this week, I think I have a few other contenders for that award.

Senator IAN MACDONALD—If they are worse than the *West Australian*, it must be a hugely criminal reporting activity. In fact, I want to ask you about criminal defamation shortly. You indicated, as I half-heard, to Senator Kirk that the Western Australian Police

Commissioner had been reported in two articles, one of which he denied. What was the element that he had been reported on that he denied actually having said?

Mr Keelty—As I recall it, it was the active work by the AFP to approach staff in the Western Australian police. I forget the headline. I am not sure if Mr Ney remembers the headline. It was to do with the active poaching of Western Australian police.

Senator IAN MACDONALD—You have indicated that that was quite incorrect from your point of view and also the Western Australian commissioner has indicated it is quite—

Mr Keelty—That is correct, because we had been working through his office, through his deputy commissioner. Mr Ney will correct me if I am wrong, but as I recall it he was away in the week preceding the publication of the article on the Saturday. We had been working through his deputy commissioner's office. He was back at work on the Monday. I had spoken to him on the Monday, and that day—

Senator IAN MACDONALD—Was he quoted in the article?

Mr Keelty—He was quoted in both articles, one appearing on the Saturday and one appearing on the Monday. He informed me that he had not contributed to the article on the Saturday, but the article on the Monday, about the fact that he had written to me and that he had recalled his police from the contingent, he had contributed to.

Senator IAN MACDONALD—I do not want you, obviously, to get involved in anything political, but in a former life I used to run the same thing happened in relation to Western Australian fisheries officers who were seconded to the Australian Fisheries Management Authority. They were also withdrawn on the eve of an operation—a secret operation, Operation Clearwater. The departmental officials in the Western Australian fisheries had made the arrangements and were anxious that that continue, but they indicated that, at the political level, they were told that that was not to happen. Without drawing you into the politics of it, was there any suggestion from the Western Australian Police Commissioner? I do not suppose you could disclose anything he might have told you, but has there been anything publicly said on the basis that the decision was one not of the Police Service itself but of the minister in Western Australia?

Mr Keelty—The former police minister, Michelle Roberts, did make a statement in the Western Australian parliament about moving Western Australian police to the AFP, but my recollection is that that was in the context of the airport policing role.

Senator Ellison—I am in the same boat as the commissioner. I cannot quite remember those remarks particularly, but there was comment made by the then minister. I will take it on notice and get back to you or do some research on that.

Senator IAN MACDONALD—It just seems to me that both in fisheries and in police—

Senator Ellison—There is a similar modus operandi.

Senator IAN MACDONALD—the agency levels are getting on very well and working very cooperatively, but then, from a political level, there comes a direction that this cooperation is to cease.

Senator Ellison—Your observation is a good one. Madam Chair, on that point—

CHAIR—I understand, Minister.

Senator Ellison—It is a matter of keen interest to me, but I really have to leave now.

CHAIR—Indeed.

Senator IAN MACDONALD—I will try not to embarrass you too much, since you are a Western Australian, but when the name of the *West Australian* newspaper was raised, I could not control myself.

Senator Ellison—We are very happy with Queensland at the moment, and the contribution made by Queensland.

Senator IAN MACDONALD—At times we have problems with the *Courier-Mail*, but it is nothing compared with the *West Australian*.

Senator Ellison—Madam Chair, please excuse me.

CHAIR—Thank you, Minister.

Senator IAN MACDONALD—I will only be another two seconds. I heard you say that New South Wales never gets involved in AFP external operations, but all of the other states are, generally speaking, cooperative and willing partners in your operations?

Mr Keelty—Yes, but in the context of New South Wales, it was not that they did not work with us operationally, it was that they have not contributed to the International Deployment Group. I can understand that the pressure is on the New South Wales police at the moment. I think they are on an enormous recruiting drive to provide additional police. It probably highlights the problem that I mentioned before about police not being like a defence force, where there is a standing capacity. We are all playing catch-up with new roles.

Senator IAN MACDONALD—Your involvement with the Western Australian police, then, in recruiting has officially ceased, has it?

Mr Keelty—The correspondence sent to me by Commissioner O’Callaghan was that they would review the situation after 12 months. I have no difficulty with Commissioner O’Callaghan or that decision. Clearly, he has to manage his police force, as I have to manage mine, on the available resources.

Senator IAN MACDONALD—But a Western Australian policeman could, in confidence, apply to you for a job and, if he got your job, he would resign from the Western Australian police force and come across as a new employee; you would accept them in that sort of situation, would you?

Mr Keelty—We actually have accepted people in that situation. I should add, for completeness of the picture given to the committee, that we are negotiating with the Western Australian police quite actively on the provision of community police for the airport at Perth under the Wheeler review.

Senator IAN MACDONALD—I am sure you would get very good cooperation from the police force, as you have in the past. There seems to be influence coming from other angles, which I will not involve you on. Suffice to say that—not having seen these two articles referred to—I take it from what you said that the Western Australian Police Commissioner

denied knowledge of anything he was quoted saying in at least one article? Do you know if he intends to take that any further? I suppose, again, that is not a fair question of you.

Mr Keelty—I do not, but I am aware that there was to be a third article. After the commissioner and I spoke, that article did not materialise. I suspect that he has something to say to the newspaper, but I do not know.

Senator IAN MACDONALD—He has been lucky, as he has been able to talk to the editor. I was never able to manage to get through to him. Would you know if you or the Western Australian commissioner have been criminally defamed in what was said in the article?

Mr Keelty—No, on my reading of the articles, it would not amount to criminal defamation.

Senator IAN MACDONALD—What a pity.

CHAIR—Thank you, Senator Macdonald.

Senator IAN MACDONALD—I think I might leave it there and wait to read another article in the *West Australian* on Monday.

CHAIR—Indeed. Thanks, Senator Macdonald. Senator Ludwig? Unfortunately, the minister has left; you cannot ask him his view.

Senator LUDWIG—No, but I can ask Commissioner Keelty whether he shares the view of Senator Macdonald in relation to the *West Australian* newspaper.

Mr Keelty—No, well, let's not—

CHAIR—The commissioner is not required to answer questions on his opinions, actually.

Senator IAN MACDONALD—He may wish even ratbag newspapers to be on side. I do not.

Senator LUDWIG—I will ignore my question, then. The intelligence secretariat in the AFP, as I understand it, is a body to provide high-level secretarial and administrative support to the secretariat and is staffed by one member. That seems to be the answer that I got to question on notice No. 284(c). It seems to say that the funding provided for the employee cost is about \$68,824, which seems to me must be for the one person involved, if I understand that cost. There is a supply cost of \$731,136. I was curious how this one employee has managed to spend \$731,136 on supplies for the secretariat. That is a lot of notepads.

Mr Keelty—I understand that the first figure, the \$68,824, is the cost of the individual. The supplier cost is the work of the individual, which includes the drawing together of the intelligence work right around the region, including capacity building in the region, where we have established under the remit of the counter-terrorism initiatives for fighting terrorism at its source. We have provided equipment, training and other materials to these other agencies in the region. If you would like, I will provide a further breakdown of that \$731, 136.

Senator LUDWIG—That would be helpful; otherwise it looks like it is out of balance. Question 238 was a question in respect of the rapid-response capability program. Your answer indicated that you had purchased one four-by-four truck and heavy duty trailer and two six-

by-six trucks and heavy duty trailer and forensic IT and communication equipment. Whereabouts are they based? Are they still in use?

Mr Keelty—Yes, they are. They are based around the country, some in the west and some in the east.

Senator LUDWIG—Perhaps you could take it on notice. I am interested in knowing where they are based, their location, not so much to identify where they might be but, more generally, and the odometer readings of the vehicles. Are they used regularly?

Mr Keelty—Yes, they are used for major operations and to supplement other operations outside counter-terrorism. Part of the reason for that is so that people maintain their skills and familiarity with the equipment and the vehicles, but I can give you a breakdown of that.

Senator LUDWIG—Are they based in capital cities such as Brisbane, Melbourne and Perth?

Mr Keelty—Brisbane and Perth, certainly. Sorry, I stand corrected.

Mr Colvin—If you are referring to the vehicles that we can deploy rapidly by putting them onto a Hercules or something of that nature, they are covert in terms of exactly where we have them, obviously, but we can indicate that we have two in Sydney, one in Perth and one here in the ACT.

Senator LUDWIG—I see. So they are designed for rapid deployment; they will fit on a Hercules and the like?

Mr Colvin—They have different specifications, but in a general sense, yes, they are deployable onto a Hercules. It depends which vehicle we wish to use.

Senator LUDWIG—Have they been used that way in the past 12 months?

Mr Keelty—Not for deployment on a Hercules, but certainly used as part of Operation Pendennis.

Senator LUDWIG—Where is the personnel component of that program based?

Mr Keelty—They would be subject to where the counter-terrorism teams are but, certainly, the people in Sydney, Melbourne and Canberra are trained on the vehicles. Other people outside those areas are trained as well. I know, for example, that in Brisbane they are trained to operate the vehicles. I would expect that, in the absence of any other statement from the officers, that would be across-the-board.

Senator LUDWIG—Why did you call it ‘supplier costs’ in that answer to the question?

Mr Keelty—To separate the employee costs and the supplier costs. We will give you a breakdown of what those supplier costs are, but it is for our expending money to provide those other resources to the other organisations, which may include purchasing, for example, a number of computers or a number of pieces of equipment from the one supplier.

Senator LUDWIG—Rather than as an expenditure, it is your costs as a supplier of equipment to others in capacity building?

Mr Keelty—Yes, it picks up all the operational costs such as travel and so on.

Senator LUDWIG—This is a difficult one. Do you have the annual report there with you?

Mr Keelty—Yes, I do.

Senator LUDWIG—What I am having a little difficulty with—and I will take the responsibility for that—is that it seems, if you go to page 18 or even 16 to 25, all the headings are of the same size and font and are in bold, except some are italicised. Occasionally it is littered—my word—with slightly different fonts, but basically they are all of the same nature. ‘Intelligence’ has a different font and then there is ‘Counter-terrorism’ on page 16 and then page 19.

CHAIR—Is this a design issue or a personal preference?

Senator LUDWIG—It is extraordinarily difficult to work out where functions are separated from actual programs, because there are the intelligence functions—and you can trace that back and have a look at the outputs and then you can have a look at investigative service, protection service, international services and guarding—but you then have a program that does not have a heading as such. It has the same heading as all the rest, so it is difficult to then determine where you have parts of what would be your outputs which require reporting and then which are programs that would then fall underneath those outputs. It is all in the same font. You read through and you see there is counter-terrorism investigations, counter-terrorism training, advanced counter-terrorism investigation program, and illicit drugs and heroine investigations. I know that you have gone to a functional system, but what I was trying to follow is how your outputs relate to your hierarchy. It seems to me, with all respect, that you are at the top and it does not separate it out into portfolio areas, where it is easy to then say, ‘This is what I have done in the outputs and these are the outcomes I am reporting on,’ and then I can track back to expenditure, because how much I have spent in that area would be in the output statements later on.

It is a minor matter, but it then creates a position where I might want to ask you at some stage whether you can provide an up-to-date overview of how your hierarchy—in other words, your organisational chart—sits with the outputs, because at some point I have to be able to relate it back to your output and the cost of that output to where it fits into your organisation so I can track where it has been spent; in other words, whether you have spent your money appropriately. The annual report does not separate portfolios from subsidiary units. I guess that is a criticism.

Mr Keelty—I guess it is a matter of whom we do the report for, and if the report is not satisfying the parliament then we need to have that feedback. However, for the record, I point out that the areas that you are highlighting under chapter 2 are largely narratives up to page 49 where they do run through them specifically by output 1.1, 1.2, 1.3, carrying over to page 69 where output 1.4 commences. If I understand the thrust of your question, it is why you do not overlay them together—in other words, under the output, where you are describing much of the same material.

Senator LUDWIG—They get repeated. It is hard to separate them, at least from my perspective. Perhaps Senator Payne finds it easier. You look at output 1.1, on page 51, and then you have to work out the narratives at the beginning which relate to output 1.1, under Investigative services, and then you have to be able to say that that program is under that output and it cost X amount of dollars to run.

Mr Keelty—I hear what you are saying. It is obviously an issue of form, as the chair pointed out. You are the only one to have made that observation, so obviously I need to take up with my minister whether he is satisfied with production of the annual report in its current form or whether he thinks we ought to amend it to better reflect what you are saying.

Senator LUDWIG—I guess he wins that tussle.

CHAIR—Thank you, but I think the commissioner has taken on board your concern. Would you like to raise the issue of the colour or would you like to see the photos in a different spot?

Senator LUDWIG—There is no need to be like that.

CHAIR—It ill-becomes me, I understand, as my father would have said!

Senator LUDWIG—Of the 13 officers assigned to the people-smuggling strike teams, how many are deployed permanently on those strike teams?

Mr Keelty—When you say ‘deployed’, do you mean internationally?

Senator LUDWIG—There are 13 officers assigned to that people-smuggling strike team. Do they remain in that group or does it change?

Mr Keelty—The resource of 13 people can move around in terms of the capacity, but by and large they remain the same people.

Senator LUDWIG—Do they relate to full-time duties or do they do other functions as well?

Mr Keelty—They are full-time duties. You will obviously get movement from time to time of people around the place while other priorities come to the fore, such as counter-terrorism. Operation Pendennis, which we did last year, obviously drew resource capacity from other areas such as people-smuggling. By and large, they are earmarked for people-smuggling and that is what they do.

Senator LUDWIG—Are they based in Canberra?

Mr Keelty—Yes, they are.

Senator LUDWIG—It strikes me as unusual if you had a people-smuggling strike force based in Canberra when there is really no border around Canberra. There might be an explanation for that. Why would they not be based where it is likely to occur, such as Cairns, Northern Territory or Western Australia?

Mr Keelty—It is like any of the other crimes. If we put them in Cairns, then people being smuggled might start to arrive into Darwin. A lot of inquiries by that team not only are through Immigration, which is based here in Canberra, but also take them offshore into the source countries. Again, it highlights the work of trying to prevent this type of activity at its source. The convenient place for them to be is in Canberra, from which they can be readily deployed to any of the detention centres to interview people or to receive intelligence, to the office of the department of immigration here in Canberra or indeed offshore.

Senator LUDWIG—Is it a strike team or a task force?

Mr Keelty—The language is something that is not so important here. We have the department of immigration working with us and so we call it a task force.

Senator LUDWIG—That does lead me to confusion when you look at the annual report.

Mr Keelty—The word ‘strike team’ just indicates that they are readily and rapidly capable of being deployed anywhere in Australia or indeed overseas.

Senator LUDWIG—Are there 13 persons in that team as we speak today in Canberra?

Mr Keelty—As best as I know, yes.

Senator LUDWIG—Does that number fluctuate? You indicated that in answer to question on notice 276(a)(iv).

Mr Keelty—Yes, it can. I gave you an example of that. Operation Pendennis required a significant amount of the AFP’s resources to be temporarily diverted to that operation, and there are often examples of that in policing where you will put the resources to the highest priority of the day.

Senator LUDWIG—Of the new funding for the rapid deployment capability, which was in answer to question 286, there is an allocation of \$39.3 million and there are no officers permanently attached to the rapid deployment teams; rather, the funding merely provides a surge capacity. How does the money then get utilised if there are no persons attached to the money? In other words, I am wondering how you draw down the \$39.3 million.

Mr Keelty—There would be a number of ways. The surge capacity will be to try and overcome the high costs associated with people being moved from one part of the country to another to provide additional resource in a particular place, so you have travel costs, you have accommodation costs but you also have the lengthy hours that are then attributed to that crime type. The surge capacity is about putting more resources into it without necessarily having to employ or recruit full-time people to do the work, which is a different cost altogether.

Senator LUDWIG—I think I have asked questions about this before and I have to say that I am still not particularly clear as between ‘strike teams’, ‘task forces’, how many there are and where they fit within the output structure. I am concerned that the same persons end up on three different strike teams all at the same time; that is an impossibility but they might be counted as such. In other words, you ask what A team is doing and it is doing X with a person nominated to be on strike team A. Then there is another strike team over here with funding attached to it, and another strike team further on, but they are drawing from the same pool of officers. If you need a strike team or multiple strike teams, there is going to be a problem—that is, you will be drawing from a pool that is diminishing. This person has a hat that says if strike team A, B or C is needed, away they go. If you need multiple strike teams, clearly that is an impossibility.

What I might ask you to do, although I am happy for you to take it on notice, is to just unpack some of that strike team capability so I can get an understanding of how many strike teams there are, when they are deployed, how they are deployed and where they are deployed to in the past 12 months, providing of course that it is not an undercover operation.

Mr Keelty—We can certainly do that. To alleviate any fears you might have of double dipping or—

Senator LUDWIG—I did not want to call it that, but I guess that is what it is.

Mr Keelty—I got the question. The time attribution that we do enables us to detail to you how much time people are spending on particular crime types, and we can backtrack that against the funding. It will be a considerable exercise to do it, but it can certainly be done. It can tell you the target figures, for example, for where work needed to be done or was assessed at the beginning of a financial year to be done and whether we are meeting those targets. We can also, in addition, give you the time attribution for people's work.

Senator LUDWIG—With respect to the surge capacity that I understand you have been building, do you have numbers that you say form part of that surge capacity within the AFP?

Mr Keelty—The surge capacity covers a variety of areas, such as the ones that I pointed out to you in moving staff from one part of the country to another. The salaries will be the same, but the costs in moving them will be different and the costs in accommodating them will be different. The costs of equipping them in another place will be different, because we need vehicles et cetera to put them in those places. Some of it is salary related and some of it is enabling costs to enable them to operate in those areas. By and large, the people who are part of those surge teams are temporarily put into those surge teams. It is just a capacity to meet contingent emergencies.

Senator LUDWIG—In terms of the answer to question 283, you indicated that there have been only five Australian arrests made by the AFP for online child sexual exploitation. Has that figure changed since then? There have been no arrests, it seems, to date, although you may have ongoing investigations—and I do not really want to ask about those—for the offences of grooming children on the internet or in chat rooms or child pornography. The Virtual Global Taskforce is in operation as well. Have there been any arrests associated with that?

Mr Keelty—With the OCSET team?

Senator LUDWIG—Yes.

Mr Keelty—The question was in November 2005 and the response appears to have been provided to you in December last year, so there would have been additional work undertaken by that group in the interim. I happen to know of some of the operations that they have been involved in, one very recent operation in the last week or two. In terms of the OCSET team, I do not have their outputs here with me but, if you would accept it, I would take that on notice and provide you with their outputs.

Senator LUDWIG—The two areas that I am interested in are, firstly, whether you can indicate why there have been no arrests for grooming children on internet chat rooms or for child pornography since those offences and, secondly, whether there are any ongoing investigations.

Mr Keelty—On 22 January we closed down the first identified Australian hosted website trading in child pornography and arrested and charged a male person with offences under the legislation. The first arrests made by the Online Child Sex Exploitation Team were made in September last year. They consisted of five arrests relating to 14 charges and six anticipated summonses in respect of the use of a carriage service to access child pornography and

possess, control, produce, supply, use or obtain child pornography material contrary to the Criminal Code.

Senator LUDWIG—Why have there been no arrests from the information gathered by the Virtual Global Taskforce?

Mr Keelty—The Virtual Global Taskforce is not only the AFP; it also involves police in the United Kingdom, the United States and Canada. I am not sure that it is true to say that there have been no arrests as a result of the Virtual Global Taskforce. The Virtual Global Taskforce is not a name that the AFP invented; it is a name that was created out of the arrangement with Canada and the United Kingdom. It is actually work undertaken by the people who are doing the online analysis of the trawling of the internet, if you like, who are also the same people who are doing some of the other work. It is not a task force and it is not separately funded as a task force in the context of the questions that you asked earlier.

Senator LUDWIG—That might be my mistake. I might put those on notice.

Mr Keelty—I can understand your confusion. The Virtual Global Taskforce is different from the Online Child Sex Exploitation Team, for which we receive funding—the latter. The former is a task force that is basically an initiative of three countries where the work has been undertaken at the same time as the other work that we have been doing. It is actually something that has been used as a promotional issue for children on the internet and for mums and dads using the internet. There would be a symbol to give you online access to the Virtual Global Taskforce, and that symbol would be the same in each of the countries, but behind it would be the various jurisdictional arrangements that we have for it. In the case of the AFP, that is the high-tech crime centre or the Online Child Sex Exploitation Team, but I will spell that out more clearly for you.

Senator LUDWIG—I do not have any further questions.

CHAIR—Do you have any further questions, Senator Kirk?

Senator KIRK—No.

CHAIR—Commissioner, I thank you and your officers for your attendance here today. The committee should acknowledge the receipt in the Australia Day honours by Mr Ney of the Australian Police Medal. The committee congratulates you on behalf of all of its members. Mr Cornall, we thank you and your officers for your assistance over the past several days of estimates. Your endurance capacity has been stretched like ours, I suspect. Do you need to add anything to the record?

Mr Cornall—No, Madam Chair.

Senator LUDWIG—I have put some questions on notice.

CHAIR—Indeed, I understand there are to be questions placed on notice. Commissioner, I am sure there will be some of those coming your way.

Mr Keelty—We would be disappointed if there were not.

CHAIR—I knew you would be. I remind officers of the agreed reporting date for answers to questions taken on notice. However, I am cognisant of the discussion we had at the beginning of our hearings on Tuesday morning, so if there are matters that need to be taken up

with the committee, Mr Cornall, I think it is important that that happens sooner rather than later. Thank you to our secretariat and to Hansard. I declare this meeting of the Legal and Constitutional Legislation Committee closed.

Committee adjourned at 2.16 pm