



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## **SENATE**

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

**Consideration of Budget Estimates**

WEDNESDAY, 30 MAY 2001

CANBERRA

BY AUTHORITY OF THE SENATE



---

**SENATE**  
**LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE**  
**Wednesday, 30 May 2001**

**Members:** Senator Payne (*Chair*), Senators Coonan, Cooney, Greig, Mason and McKiernan

**Senators in attendance:** Senators Coonan, Cooney, Ludwig, McKiernan, Payne and Schacht

**Committee met at 9.03 a.m.**

**IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO**

Consideration resumed from 29 May.

**In Attendance**

Senator Ellison, Minister for Justice and Customs

Senator Abetz, Special Minister of State

**Refugee Review Tribunal**

Ms Paula Cristoffanini, Senior Member

Ms Katherine Matic, Deputy Registrar

Mr Gregory Parkes, Acting Manager, Finance and Property

**Migration Agents Registration Authority**

Laurette Chao, Chairman

Andrew Cope, Vice Chairman

Ray Brown, Immediate Past Chairman

Len Holt, Member from Queensland

David Mawson, Executive Officer

**Migration Review Tribunal**

Mr Steve Karas, Acting Principal Member

Mr Noel Barnsley, Acting Registrar

**Department of Immigration and Multicultural Affairs**

**Department Executive**

Mr Bill Farmer, Secretary

Mr Andrew Metcalfe, Deputy Secretary

Mr Ed Killesteyn, Executive Coordinator, Business Solutions

**Outcome 1: Lawful and orderly entry and stay of people**

**Output 1.1: Non-humanitarian entry and stay**

**Output 1.2: Refugee and humanitarian entry and stay**

**Output 1.3: Enforcement of immigration law**

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

Mr Todd Frew, Assistant Secretary, Temporary Entry Branch

Mr Bernie Waters, Assistant Secretary, Business Branch

Mr Chris Smith, Assistant Secretary, Migration, Branch

Mr Peter Job, Director, Business Employment Section

Mr Robert Illingworth, Assistant Secretary, Onshore Protection Branch

Mr Vincent Giuca, Acting Assistant Secretary, Humanitarian Branch  
 Mr John Okely, Assistant Secretary, International Cooperation Branch  
 Ms Philippa Godwin, First Assistant Secretary, Detention Task Force  
 Ms Christine Sykes, Assistant Secretary, Unauthorised Arrivals and Detention Branch  
 Ms Rosemary Greaves, Assistant Secretary, Detention Policy Branch  
 Mr Greg Kelly, Director, Detention Operations Section  
 Mr Jim Williams, Director, Unauthorised Arrivals Section  
 Ms Linda Webb, Executive Coordinator, Detention Strategy  
 Ms Mary-Anne Ellis, Assistant Secretary, Detention Strategy Group  
 Ms Lesley Daw, Acting Assistant Secretary, Detention Services Contracts Branch  
 Mr Dario Castello, Acting First Assistant Secretary, Border Control and Compliance,  
 Division  
 Ms Nelly Siegmund, Assistant Secretary, Border Protection Branch  
 Mr Des Storer, First Assistant Secretary, Parliamentary and Legal Division

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

**Output 2.1: Settlement services**

**Output 2.2: Training and Interpreting Services**

**Output 2.3: Australian citizenship**

**Output 2.4: Appreciation of Cultural Diversity**

Mr Peter Hughes, First Assistant Secretary, Multicultural Affairs and Citizenship Division  
 Mr David Doherty, Assistant Secretary, Citizenship and Language Services Branch  
 Mr Peter Vardos, Assistant Secretary, Settlement Branch  
 Lynne Gillam, Director, Community Programs Section

**Internal Products**

Mr Vincent McMahan, PSM, First Assistant Secretary, Corporate Governance Division  
 Mr Steve Davis, Assistant Secretary, Resource Management Branch  
 Mr Bernie Hackett, Acting Director, Budget Strategy Section  
 Mr Douglas Walker, Assistant Secretary, Visa Framework Branch  
 Mr Hamish Lindsay, Acting Assistant Secretary, Ministerial and Communications Branch

**Australian Government Solicitor**

Mr Bert Mowbray, General Counsel (Immigration)

**CHAIR**—We resume this public hearing today of the Senate Legal and Constitutional Legislation Committee on its examination of the proposed expenditure of the Immigration and Multicultural Affairs portfolio. The committee is required to report to the Senate by Wednesday, 20 June 2001. We will begin today by considering the Refugee Review Tribunal and will then return to questioning of the department. As I recall, we were up to outcome 1.3. I welcome Senator Chris Ellison, the Minister for Justice and Customs and Minister representing the Minister for Immigration and Multicultural Affairs, Mr Farmer and officers of the Department of Immigration and Multicultural Affairs and agencies. Officers will not be required to answer questions relating to policy or the advice given in the formulation of policy.

[9.04 a.m.]

### Refugee Review Tribunal

**CHAIR**—I welcome Ms Cristoffanini, Ms Matic and Mr Parkes to the committee.

**Senator Ellison**—Before we start, I might just indicate to the committee that from 10.30 to 12.30 Senator Abetz will be standing in for me. I will be going to Government House for the Governor-General's group bravery award for officers who served in East Timor.

**Senator McKIERNAN**—We can just adjourn, can't we?

**Senator Ellison**—If I get an opportunity to do so, I can convey the committee's best wishes to those officers as well.

**CHAIR**—Please do. This is the first detachment, I think.

**Senator Ellison**—I do not think I am speaking today, but if I am, I certainly will do that.

**CHAIR**—Please do. We would appreciate it. Thank you for advising us of that.

**Senator McKIERNAN**—The PBS tells us at page 93 that an amount of \$175,000 has been identified by the Department of Finance and Administration as savings which would be realised had the ART come into being. I had similar questions about these savings for the MRT yesterday, and we talked with the AAT earlier in the week, I think on Monday. I would have thought that the RRT was a lean and mean organisation with very little fat in it that could be siphoned off to fill the coffers. How have I been misled in the past in regard to that? Where is this \$175,000 going to come from?

**Ms Cristoffanini**—My understanding is that it is a proportion of the savings that were expected to be achieved by the ART which were nebulous—not specific at the time they were calculated. It was simply a proportion of the expected savings.

**Senator McKIERNAN**—But I want to know where they are now. How many extra bodies do you have floating around in the tribunal doing nothing? Do you have surplus furniture that can be sold off to make up this \$175,000? Do you have space that is leased that can be renegotiated to somebody else? Is there \$175,000 within the tribunal that can go back into consolidated revenue?

**Ms Cristoffanini**—Nothing has been identified, to my knowledge, in the tribunal to make up for that. I think there has been an expectation that there will be savings that can be achieved as a result of sharing of services between tribunals, but I am not aware of any identified saving.

**Senator McKIERNAN**—Where can the tribunal share resources, then? How many registries does the tribunal have?

**Ms Cristoffanini**—I think that is something to be explored.

**Senator McKIERNAN**—There are two registries, Melbourne and—

**Ms Cristoffanini**—You are asking how many registries we have?

**Senator McKIERNAN**—Yes.

**Ms Cristoffanini**—We have two registries, the one in Sydney and the one in Melbourne.

**Senator McKIERNAN**—You could have a saving by consolidating and only having one. Is that an option?

**Ms Cristoffanini**—Not really.

**Senator McKIERNAN**—Do you currently share resources with any other tribunal in the Sydney and Melbourne registries of the RRT?

**Ms Cristoffanini**—No. We only have the one registry in Sydney.

**Senator McKIERNAN**—Could you save money by sharing offices and office space with the SSAT, the AAT or the MRT?

**Ms Cristoffanini**—I am not in a position to say. I think those are things that would have to be explored.

**Senator McKIERNAN**—I am a bit disappointed, because here we have it in a budget that was introduced over a week ago now, and it is a significant amount of money. I would have thought the tribunal would be in a position to tell this committee where the fat is within the tribunal. Or is this something that the bureaucrats in DOFA have decided—to have an arbitrary figure and an arbitrary saving to put together and build up a surplus that may or may not exist?

**Ms Cristoffanini**—Let me see if Mr Parkes can answer that.

**Mr Parkes**—At a meeting with the Department of Finance and Administration and the tribunals, a survey was done by Deloitte last year as to the savings which would be realised in the event of the ART coming into being.

**Senator McKIERNAN**—‘In the event of the ART’—you would know it as well as the government would know it that the bill has been defeated. It has not been reintroduced in its current form or in an amended form.

**Mr Parkes**—That is correct.

**Senator McKIERNAN**—That is not something that you should really be building figures on and, if you are, I want to know about it. Are you?

**Mr Parkes**—No. The savings for the RRT showed savings of \$700,000. At the meeting with DOFA, they deemed that there could be savings of 25 per cent of that amount. At that point in time, it had not been explored. The registrars are currently in the process of looking at that.

**Senator McKIERNAN**—That is going back to February?

**Mr Parkes**—No, the actual meeting was in April.

**Senator McKIERNAN**—What have you come up with in that time to find this \$175,000?

**Mr Parkes**—Nothing as yet. The registrars are getting together to discuss that.

**Senator McKIERNAN**—How many registrars do you have?

**Ms Cristoffanini**—The registrars of all the tribunals that were involved to try to explore ways of achieving savings as a result of sharing functions. But no, we do not have an answer for the savings of \$175,000.

**Senator McKIERNAN**—With a bit of luck there will not be a further estimates committee hearing this year. I am not going to say any more. If there is, I would have very strong expectations that this tribunal, the MRT and the AAT will be able to come in to this committee and identify where the surpluses are within the tribunal. I will make this point: there are long waiting lists—we will get into this matter in a few moments—for applications within the tribunal. In some instances—and I am not going to point a finger at individual tribunals—that is caused by a minimum amount of resources being available to them. If there is fat in the

tribunals, it should be directed towards the waiting lists in the first instance. If we do come back here in November, I have an expectation that we will have very firm detail of where the surpluses are within the tribunals—where the fat is within the tribunals. I have an expectation that we will not be coming back, but that is something that is not within my control. That is a six-month warning, which is not a bad period of notice to be given, to tribunals on something that is pretty serious.

**Senator LUDWIG**—I have had an opportunity to have a look at your Refugee Review Tribunal annual report and I am curious about what percentage of the consultancy that you pay is a portion of your budget. When you look at something like PricewaterhouseCoopers for financial management, it is—without a calculator—well over \$60,000 that you have paid to them. It begs the question that you have not already looked at all of these things, and that concerns me, because the more money you can take out of that area and put to reducing your waiting periods and doing your main work would be a boon for those people in line, I suspect. There may be very good reasons for all of that, that there is no fat to be saved out of consultancy services, but I suspect it could also contribute to people attacking your budget if there is something in the order of \$400,000 dedicated for consultancy services.

**Mr Parkes**—That is right. With the current budget we have made allowances for those fees. The financial management fees will not be incurred in the following financial year. So they are savings we will be making.

**Ms Cristoffanini**—But the tribunal has little by way of discretionary expenditure. Anyway, we are on notice, Senator.

**Senator McKIERNAN**—DOFA think you have—to the tune of \$175,000. In a budget that the RRT receives, that is not an insignificant figure, particularly after what has been happening over a number of years. I know that some extra funding has been granted in recent times.

Do the appropriations and the resources on page 98 represent a real cut in the allocations to the tribunal from \$21 million to \$17 million?

**Ms Cristoffanini**—The tribunal has been funded for the last few years out of a purchasing agreement reached with DOFA. It also receives additional funding when it exceeds the targets of the purchasing agreement. Generally, for the last few years we have been able to exceed that target to the tune of about \$3 million. This year, for a range of reasons, we are not exceeding the target, and we are going to have to dip into some of the savings that we have.

**Senator McKIERNAN**—Why aren't you reaching the target?

**Ms Cristoffanini**—For a range of reasons. It had to do with the difficulty of the cases that we are currently doing, increasing difficulty as a result of changes in the law, uncertainties about the RRT. We have lost a number of members. We currently have 53 members. We are operating with a full-time equivalent of 43.1 members and we are expecting a new intake, but it will take some time for those members to become fully productive. So, yes, there have been a number of reasons why we have not exceeded our target.

**Senator McKIERNAN**—What has that done to the processing times of applications before the tribunal?

**Ms Cristoffanini**—Are you talking about from the time of application to the outcome?

**Senator McKIERNAN**—The processing time, which is from lodgment to finalisation.

**Ms Cristoffanini**—I do not have that figure with me. I will take it on notice.

**Senator McKIERNAN**—Have you got the processing time in terms of applications from persons in detention?

**Ms Cristoffanini**—Yes, we are actually dealing with all those cases. We have a target of 70 days for processing, and we are coming under the target. I understand that 72 per cent of the cases are done within the 70 days. In the case of people who have arrived by boat, the average time is 61 days.

**Senator McKIERNAN**—That is well within the targets.

**Ms Cristoffanini**—Yes. The situation of detention cases is slightly different in that they are constituted within a week of being lodged and then they are processed within that time. Applications from the community are different. Applications are lodged and then there may be some time before they are constituted. We do have a strategy that aims to give priority to detention cases but also keeps tabs on the others so that we do not have cases from any one country that get too old. We try to balance it all out. But I will give you some processing times from lodgment to—

**Senator McKIERNAN**—Yes, thank you, Ms Cristoffanini, for that. Regarding the appointment of tribunal members, you have indicated to me that the tribunal is down by some eight members—is my calculation.

**Ms Cristoffanini**—We are hoping for 10 new members.

**Senator McKIERNAN**—You are hoping for 10. What are the termination dates of appointment for those members currently serving on the tribunal?

**Ms Cristoffanini**—My understanding is that it is 30 June. I do not know whether there is anyone else on a slightly different date.

**Mr Storer**—The current members, yes.

**Senator McKIERNAN**—How long away is that?

**Ms Cristoffanini**—Not very long.

**Senator McKIERNAN**—One month?

**Ms Cristoffanini**—Something like that.

**Senator McKIERNAN**—How many members of the tribunal are there—53?

**Ms Cristoffanini**—There are 53.

**Senator McKIERNAN**—So there are 53 people doing a stalwart job on behalf of Australia in our refugee determination system who do not know whether in 31 days—do you know why it is 31 days?—they are going to be working for the tribunal or not. Has that had an impact on morale within the tribunal?

**Ms Cristoffanini**—The members have been dealing with a lot of uncertainties, as I said before, as to whether the ART was going to come into being and so on. At the same time, they do know that they are doing an important job.

**Senator McKIERNAN**—Has it had an impact on morale within the tribunal?

**Ms Cristoffanini**—There is the whole uncertainty at the time. I do not know that I can identify an impact on morale of this particular issue in the last few months. There has been a great deal of uncertainty this year, and that has led to a decrease in the number of members and so on. This is just part of that uncertainty.

**Senator McKIERNAN**—If Mr Godfrey were here I would press this point, because I would expect Mr Godfrey to know what the morale in the tribunal was like. Mr Godfrey is not here. I am not going to press you to find out, to get an indication. What we were aware of as a committee—I will not talk for the committee—during the inquiry into the bill to establish the ART was that that was having an effect on the morale within the tribunals, all of them. It did have an impact. That is going back many months. The uncertainty at that time was that their employment was going to terminate on 31 January and the ART was supposed to start on 1 February. It did not. That date was put out subsequently. It is has gone out to 30 June, with the new tribunal coming into effect on 1 July.

The bill to establish the tribunal was defeated in the Senate late on 26 February, I think, and here we are now, some three months later, and nothing has been done about the appointment of members to this very important tribunal. I do not think it is good enough. The criticism that I am making is the same criticism I made yesterday with the MRT. It is only fair that I repeat that criticism here today on behalf of the people. As I say, if Mr Godfrey was here I would press this morale issue, but I think I would be putting you in an unfair situation, Ms Cristoffanini, to press it with you.

**Ms Cristoffanini**—Mr Godfrey said to me that the recommendations for reappointments had left the tribunal in early March of this year.

**Senator McKIERNAN**—Early March.

**Mr Farmer**—In relation to the Refugee Review Tribunal, the points we made yesterday about the process for reappointment also apply—that is, we expect decisions to be made quite soon, very soon in fact.

**Senator McKIERNAN**—It must be having an impact on morale within the tribunal. It is having one—I am aware of that—and I am not going to press that any further at this stage. There is uncertainty, and when people are living in uncertain conditions it does impact upon how they carry out their duties. You can look at members of parliament in the lead-up to an election, for example—not that it will bother me.

**Mr Farmer**—Senator, secretaries of departments are really day labour, you know.

**Senator McKIERNAN**—I am not so sure, Mr Farmer, that that is a particularly constructive comment, because I recall what happened in 1996.

**Mr Farmer**—But the bottom line is the uncertainty; there can be no disagreement about that. I think that will be resolved quite soon.

**Senator McKIERNAN**—Thank you for that.

**Senator LUDWIG**—Perhaps you could help me, Mr Farmer, in relation to the agency budget. I know Senator McKiernan has taken the tribunal to it and asked about the savings. What I was curious about was the tie-up between paragraphs. I will read one:

The amount of \$175,000 has been identified by the Department of Finance and Administration as savings which would have been realised, had the Administrative Review Tribunal (ART) come into being on 1 July 2001, from expected efficiencies ...

Perhaps you may have asked them about it, but is this a penalty that has been imposed because the ART did not come into being and because Finance expected to get those savings? So, because the Senate did not pass the legislation for all the reasons that the Senate had, the Department of Finance and Administration has decided to visit a penalty upon everybody for it. Is that as I read it, or am I missing something? Perhaps it is too early in the morning for me.

**Mr Davis**—When the budget measure for the Administrative Review Tribunal was established last year, the amount of savings for the RRT was identified as \$700,000 going into the ART. As for that \$700,000, there were savings of a relative proportion in the other tribunals as well from efficiencies—co-location of registries, bringing together leases and matters of that nature in the corporate areas of the tribunals. It was also agreed that a capital injection would occur into the ART so it would be able to invest in information technology or whatever other assets or investments were required to achieve those efficiencies.

As for the way it is presented here, as Mr Parkes mentioned, there were meetings between the tribunals and relevant departments and at a meeting there was some decision on what was achievable, given that the ART bill was not passed. It was identified that the tribunals were to try to work together to achieve whatever economies they could, outside of being one body, through greater cooperation, sharing registries and things of that ilk. The figure of \$175,000, as I see it, is essentially a target that the department of finance have identified as what they believe is achievable. There is a process that the tribunals need to work through together to put some testing to those figures and some robustness behind the calculations. As mentioned there, the department of finance will be considering looking at the capital injection issue in the additional estimates context in light of the work the tribunals have been requested to undertake. So that is essentially where the \$175,000 has come from and what the department of finance have requested the tribunals to do over the next period of time.

**Senator LUDWIG**—Thank you for the assistance, but that did not explain what the department is saying to you.

**Mr Davis**—Sorry?

**Senator LUDWIG**—Is it a penalty for not passing the ART bill?

**Mr Farmer**—Certainly our experience of working with Finance is that they do not think in those terms.

**Senator LUDWIG**—I have written it down; I know they normally do not.

**Mr Farmer**—Could I just draw your attention—and this actually might be helpful—to page 71, talking about the MRT, because I think that it is set out a little more clearly there where it says that the savings are expected to be achieved but:

This will be addressed further at Additional Estimates.

**Senator LUDWIG**—Yes, I know that. Have you queried whether or not it is a penalty that has been visited upon the RRT singularly? When you look at the wording that you have just brought to my attention to on page 71, it is set out in at least a neutral sense whereas it is not in relation to the RRT. The last paragraph goes on to say that the department of finance—as has been pointed out by Mr Davis—may then give you some more money. How much and when?

**Mr Farmer**—Our expectation is that the same process will apply for both tribunals. In other words, there will be a working through of this in the lead-up to additional estimates.

**Mr Davis**—The amount of the capital injection last year was identified at nine point something million dollars—I cannot remember the exact figure. As to what the figure of the capital injection might be, that depends on what is identified and how it is worked through over the next few months and to which tribunals that will go to in the light of their being separate bodies.

**Senator LUDWIG**—And a zero base costing process?

**Mr Davis**—The tribunals have been requested to have a look at their underlying cost structures and to identify from the bottom up of their organisations the costs they have associated with their activities. The tribunals in our portfolio are probably at an advantage in that context because they both underwent pricing review processes over the last couple of years, so they have some recent history of data available to them to assist in these processes.

**Senator LUDWIG**—When was this request made for them to have a look at their cost structures?

**Mr Davis**—That was the meeting in March-April that Mr Parkes referred to. That was the period when these discussions were proceeding, leading up to this budget.

**Senator LUDWIG**—I was not sure that I had heard a date for the meeting, but I will take it that it was in the April-May prior to the budget being announced.

**Senator COONEY**—Ms Cristoffanini, no doubt you have an ambition to see this tribunal run well and efficiently. I use the word ‘efficiently’ not necessarily in the sense of saving money, which is the general way in which it is used, but ‘efficiently’ in the sense of getting a right position according to the law. You would like to see that happen?

**Ms Cristoffanini**—Indeed.

**Senator COONEY**—And you would like to obey the law itself that sets up the tribunal and act in accordance with the statute. Is that your position?

**Ms Cristoffanini**—Yes.

**Senator COONEY**—As far as you know at the moment, there is some uncertainty as to whether or not you will be able to do that after 30 June; you have had to rely on assurances given to you that you will have some staff by then. Is that reasonable?

**Ms Cristoffanini**—I think it is not an unreasonable expectation.

**Senator COONEY**—You have told Senator McKiernan about your being very loyal to the government. You said that there was some uncertainty within the tribunal as to what is going to happen.

**Ms Cristoffanini**—I said that tribunal members have been under a level of uncertainty for some time for a range of reasons—initially the ART and now they are expecting to hear about their appointments.

**Senator COONEY**—Can I ask this of the minister and Mr Farmer: we pass laws in parliament of which we have some sort of expectation. I do not know whether it is often realised that they might be obeyed. We as a parliament set up a refugee review tribunal, which we contemplated would be a confident tribunal which would go ahead and make decisions according to the law. The department has now created a situation through not making appointments. At this point in time—there is only a month to go—from the evidence given yesterday and today, this has left a deal of uncertainty in tribunals which parliament has set up. Do not only your department but other departments feel they ought to try to obey the spirit of parliament or do they just say, ‘Oh well, those couple of houses of parliament don’t really matter; we will give a general tip of the hat to parliament and then go on without really obeying the laws that parliament makes’? Is that a mood that has crept not only into this department but into other departments as well?

**Mr Farmer**—I can be quite clear about that. In this portfolio—certainly in the department—we have as one of our fundamental responsibilities the administration of the law.

We do that in a highly accountable environment. We go to great lengths to ensure that to the best of our ability we are upholding the law. In this case, there is no doubt appointments will be made. So the continuity of the tribunal is assured. Of course, we are talking here in the context of some uncertainty about the future of the tribunal. We have gone through an open public process, which is coming to its conclusion now. In general, I would say there is no uncertainty as to the fact that appointments will be made. But I have agreed with Senator McKiernan that particular individuals might well have been feeling uncertainty, and I think we have heard that both from the RRT and the MRT, certainly about their own positions.

**Senator COONEY**—Parliament is supposed to be, within its jurisdiction, the supreme body. We have set up some tribunals—not only the Refugee Review Tribunal but the Migration Review Tribunal and the Social Security Appeals Tribunal—and I think you would find that parliament expected that they were there to work well and to do justice. There is no doubt, if you read the literature, that for tribunals to work well there has got to be certainty and there has got to be some security in the whole show for the people who are going to sit. As a result of what has happened here, those qualities have been taken from the Refugee Review Tribunal and the Migration Review Tribunal, so—I think it is quite clear—they are not working in the way that parliament would hope for them to work. You can disregard parliament in a number of ways. You can just blatantly break the law and commit a criminal act or you might just not do what was intended by parliament to do—like not appoint people—in which case the will of parliament is frustrated. I think that is what has happened here.

**Mr Farmer**—There has been no intention on the part of the department, and I believe no act, which could reasonably be construed as in any way attempting to ignore the wish of parliament. As for the operation of the tribunals, we heard both from the Migration Review Tribunal yesterday and the RRT this morning that members are continuing their work. In relation to both, appointments will be made, continuity of operation will be assured.

**Senator COONEY**—The way you put that really expresses the worry I have got here. You say, ‘Look, there are people sitting on benches who are making decisions.’ But in the whole analysis we have heard in the last couple of days very little weight has been given to the quality of decisions. I would have thought that parliament would want quality decisions from this. But what the department has let happen, I suggest to you, is a situation where the quality is likely to be affected. I do not suppose there is anything parliament can do about it except debate it. I take the whole thing seriously, and it would be good if other people did. That is all I am saying.

Now when we are trying to run a tribunal we say, ‘No date has been specified but it will be sometime soon.’ It is the sort of thing I used to say to the children if they wanted to go to a park. When you do not want to go yourself you say, ‘We’ll be going soon. You can be guaranteed that you will be on the swings soon.’ How often they were disappointed, and how often they remind me of that. It is that sort of thing here. We come along as parliamentarians and we say, ‘We have passed a bill that says we are going to get an RRT or an MRT or an SSAT going’—all those acronyms that we use—and you say, ‘Senators, don’t you worry about it: we’ve got all this in charge. We’ll take you down to the park soon. There will be somebody appointed soon.’ You have no idea how soon.

**CHAIR**—Nobody is offering to take me to the park, Senator Cooney!

**Senator COONEY**—The whole culture and mood of the thing seems a bit strange. It does not, I must confess, give me the feeling that the department is very anxious to carry out the will of parliament.

**Mr Farmer**—Senator, if there is anything else I can do to persuade you to the contrary, I will try. I would like to say a couple of things. The first is in relation to the quality of decision making. There are means of trying to do that; for example, the number of decisions that are appealed, the number of decisions that are overturned on appeal—that sort of thing. You can look at that in the fullness of time. Secondly, the phenomenon we are talking about at the moment—this question of appointments—is one that involves the department in the provision of advice and ultimately it is a decision for the government and appointment by the Governor-General in Council. When you think of the timing that has been involved here for a nationwide, open process, I do not think that the timing is disproportionately long. I have already said that I understand the uncertainties for individuals, but in the context in which we have been operating I think this process has been pursued quite reasonably.

**Senator COONEY**—What the government is saying is, ‘We are going to get a form of administrative tribunal up, or we hope we will, and we are going to try to negotiate it through the Senate. Because of that we are going to temper what we do with the present situation.’ That is presuming on parliament—there is nothing you can do about it, I suppose—and in the meantime not carrying out the present law, except in terms of its letter rather than in terms of its spirit. For the law to work it has to work not only in terms of its letter but also in terms of its spirit.

**Mr Farmer**—I cannot say anything about the parliamentary angle. What we heard yesterday from the MRT—and it is good to emphasise that—is that they are continuing with their work.

**Senator LUDWIG**—A matter came up last night and I do not wish to open it too broadly. You may have seen a report in the newspaper in relation to the use of the Federal Magistrates Service for some work in the immigration area. I will not put it any more sharply than that. Has your area been consulted in relation to the use of the Federal Magistrates Service for immigration work?

**Ms Cristoffanini**—I am afraid I would not be able to comment. I am happy to take it on notice.

**Senator McKIERNAN**—Regarding the recruitment process for members of the RRT, has there been a full-scale recruitment for the new members that you have appointed from 1 July? I am aware that there was a recruitment process and an advertising campaign for members of the ART. That happened early in the year. What has been the situation for members of the RRT whose terms expire on 30 June?

**Mr Storer**—As Mr Farmer and others have said, there is a process for the reappointment of members, and, as Ms Cristoffanini has said, there have been a number of vacancies within the RRT and MRT. Those vacancies were advertised sometime in early April. They closed in late April, and we are currently in the process of carrying out interviews, short-listing and so on.

**Senator McKIERNAN**—Did the current serving members have to reapply?

**Mr Storer**—No.

**Senator McKIERNAN**—Was there a separate stream?

**Mr Storer**—There was a separate stream for the reappointments where the government was given advice from the principal members of both tribunals—performance appraisals, if

you want, for current members. The reappointments process that Mr Farmer mentioned is coming to fruition very shortly.

**Senator McKIERNAN**—What did the interview panels consist of in terms of personnel?

**Mr Storer**—I have been asked to chair the interviewing panel to give advice to the government. There are also representatives of the tribunals on those panels. Mr Karas is involved. There is Mr Aristotle from the torture and trauma service from Victoria. A Mr Robert Lee, who is a private consultant who was involved in refugee work in the RRT some time ago and is an education consultant in New South Wales, is a fourth panel member.

**Senator McKIERNAN**—When we were talking with the representatives of the AAT on Monday, we asked questions about the type of questions that were asked of candidates for positions within the AAT. One of those questions concerned the attitude of the applicants to the concept of an administrative review tribunal. Was a question of that nature asked of applicants for positions as members of the RRT?

**Mr Storer**—We have not carried out the interviews yet, but I can say that we have carried out interviews for senior member positions of the MRT. There were some vacancies there. I can say that was not one of the questions.

**Senator McKIERNAN**—I want to put a couple of questions on notice. I would normally ask Mr Godfrey or the principal member to give us an update of the applications that have been lodged—what the nationalities of the applicants are and details about the backlog. Usually that information is on hand. He usually has it to hand to update it. We already have the processing times for people in detention, but I would be interested to receive details of the nationalities of, say, the top 10 countries, and the set aside rates and refusal rates, with the nationalities of those persons. I appreciate that we are close to the end of the financial year and that this detail that I am asking for would be included in the annual report which will be produced shortly after 30 June. I do not want to put the tribunal to additional work—though maybe I should rethink that and say that if you do have surplus within the tribunal you will be able to find money!

**Ms Cristoffanini**—I have some figures. I do not have the set aside rates per country or refusal rates per country, but I do have some figures. In terms of the backlog, as of 30 April 2001, we had a backlog of 5,769 cases. In terms of the country make-up of the 10 top countries, of cases received—community cases—the top 10 countries were the People's Republic of China, Indonesia, India, Fiji, Iran, the Philippines, Sri Lanka, Afghanistan, Bangladesh and Malaysia. In terms of detention cases, the top 10 were Iran, Afghanistan, Iraq, Syria, stateless persons, Palestine, the People's Republic of China, Sri Lanka, Pakistan and India. In terms of the finalised cases up to 30 April, in community cases, we had Indonesia heading the top 10, followed by China, the Philippines, India, Sri Lanka, Iran, Fiji, Malaysia, Burma and Thailand. In terms of detention cases, they were Iran, Iraq, Afghanistan, People's Republic of China, Syria, stateless people, Sri Lanka, India, Palestine and Fiji. In terms of cases on hand, if you are interested in that, I have overall set aside rates. The across-the-board set aside rate, if I recall correctly, is 10.3 per cent of the total case load. Our detention set aside rate is 47 per cent.

**Senator McKIERNAN**—Thank you very much. Is that information in a form that can be passed to the committee? It might also assist Hansard, but I will let you make that decision.

**CHAIR**—Let us be very careful that it does not have any identifying material.

**Ms Cristoffanini**—This is part of a report that was prepared for different purposes, but it would be easy to edit. Could we send it in?

**Senator McKIERNAN**—Yes, thank you.

**Senator COONEY**—Ms Cristoffanini, the cases that are coming before you are people from the Middle East, are they? Is that right?

**Ms Cristoffanini**—In the detention cases, yes.

**Senator COONEY**—So problems, if you can call them that, are problems in respect of countries from the Middle East. Is that a fair statement?

**Mr Storer**—Would you repeat that, please?

**Senator COONEY**—Your organisation deals with problems that you want to solve, the problem being that you have somebody who is dissatisfied with the decision of a primary decision maker. You have to see whether or not that decision maker is correct. That is called a problem. Do you follow that?

**Ms Cristoffanini**—Yes.

**Senator COONEY**—Are you happy with that term?

**Ms Cristoffanini**—I think I understand what you are saying.

**Senator COONEY**—What term would you like to use, because we ought to talk in your terms?

**Ms Cristoffanini**—I do not think of them as problems; I think of them as decisions in individual cases that have to be assessed against the standard, which is the United Nations criterion. We are not dealing globally with problems; we are dealing with individual cases that need to be reviewed.

**Senator COONEY**—So, even though you deal with cases individually, if you looked at those individuals as a group, they come mainly from the Middle East. Is that correct?

**Ms Cristoffanini**—In the case of detainees, a significant proportion come from Middle Eastern countries, yes.

**Senator COONEY**—What proportion is that?

**Ms Cristoffanini**—We have received a total of 828 cases. Of those, Iran was 286 cases, Afghanistan 154, Iraq 94, Syria 36, stateless, a lot if not all of whom would be Middle Eastern, then Palestine. That certainly represents the bulk of our detention cases.

**Senator COONEY**—All the countries you have given us are in the Middle East, I would suggest.

**Ms Cristoffanini**—We do have detention cases from India, Pakistan, Sri Lanka and the People's Republic of China. They are the bottom four countries of the 10—

**Senator COONEY**—What proportion come from China?

**Ms Cristoffanini**—Twenty-three cases—let me just add it up—some 70 cases. Under 10 per cent of the cases are not Middle Eastern cases.

**Senator COONEY**—Thanks for that.

**CHAIR**—I thank representatives of the Refugee Review Tribunal for assisting the committee this morning.

[9.55 a.m.]

**CHAIR**—As the committee resolved last night, this morning we will begin by considering 1.3—enforcement of immigration law.

**Senator COONEY**—The case I ask about is the ongoing one that is making the news at the moment—the people that have been arrested at Port Hedland. Can you clarify for me why they were arrested?

**Mr Farmer**—Senator, would it be helpful if we were to give you some background to the event which would touch on that issue and then describe what happened, just as an introductory—

**Senator COONEY**—No, I am sorry. I would just like that specific question answered, if I could.

**Ms Godwin**—The reason that the 22 people were removed from the centre and charged on Saturday morning—

**Senator COONEY**—We probably could shorten it if my question was answered. I did not ask why they were removed. I asked why were they arrested.

**Ms Godwin**—They were arrested because they were involved on Friday, 11 May in a violent incident at the detention centre. Following that incident, a process of investigation undertaken by the AFP identified those 22 people as key participants in that violent incident on the 11th and identified them as people against whom we had evidence of them having committed crimes under the Crimes Act.

**Senator COONEY**—So you are telling me that they were arrested simply on the basis that they had committed a crime on the eleventh?

**Ms Godwin**—That is correct.

**Senator COONEY**—On what day were they arrested?

**Ms Godwin**—They were arrested on Saturday, 26 May.

**Senator COONEY**—So on 26 May, these 22 people were arrested on the basis of an act that they had committed on 11 May.

**Ms Godwin**—That is correct.

**Senator COONEY**—And they were charged.

**Ms Godwin**—On 26 May they were charged.

**Senator COONEY**—We have been told that they were charged under section 76 of the Crimes Act.

**Ms Godwin**—That is my understanding.

**Senator COONEY**—That is a crime that has a maximum penalty of two years attached to it. Is that right? Is that the maximum penalty for a crime committed under section 76 of the Crimes Act?

**Senator Ellison**—I understand that to be the case. If Ms Godwin cannot answer that, that has been my advice. If it is not dealt with summarily; if it is dealt with summarily, it is 12 months.

**Senator COONEY**—Summarily 12 months, otherwise it is two years if convicted by a jury. Let us get this clear. They were arrested on 26 May in respect of a crime that they

allegedly committed—I do not say that in any sense to reflect on you; it is just that it is probably the proper term—on 11 May. The alleged crime that they committed was under section 76, which has a penalty of two years attached to it.

**Ms Godwin**—That is correct, Senator.

**Senator COONEY**—So the arrest was because they had allegedly committed the crime?

**Ms Godwin**—Yes, we have reason to believe they have committed that crime, based on the evidence before us.

**Senator COONEY**—From what you have told me, that would seem to take no account of section 3W of the Crimes Act.

**Ms Godwin**—The investigation was carried out by the AFP. The incident was referred to the AFP for investigation by DIMA on 15 May, I believe. The action, in terms of what charges were to be laid and under what section of the Crimes Act, was a matter for the AFP, as I understand, in consultation with the Director of Public Prosecutions.

**Senator Ellison**—To clarify that, the section that Senator Cooney is referring to, from memory, is the one which says that a constable—meaning a member of the AFP—can arrest someone who is suspected of having committed an offence or who is committing an offence where it is believed that a summons would not be appropriate. I think that is the point that Senator Cooney is making: why weren't these people summonsed as opposed to arrested?

**CHAIR**—Thank you, Minister.

**Senator COONEY**—Yes. I have asked the Federal Police and there is nothing that they said that would indicate that section 3W should not operate, and there is nothing that I have heard now that indicates that section 3W should not operate. This is the point I was making before to Mr Farmer—there seems to be a certain sort of sense of unlawfulness or disregard of the law that seems to flow though the department, with respect.

**Mr Farmer**—Senator, with respect, I find that an extremely difficult proposition to accept. My officers and I have the strongest possible regard for the law. I have colleagues who bend over backwards and who work under extreme pressure to make sure that the right thing is done, that the legal thing is done. We are dealing in many instances with people who do not have regard for the law. I am sorry, but I find it very hard to accept that proposition. We are very ready to throw light on anything we have done or, indeed, to explain the circumstances in which we operate, where there were certainly unlawful things being done. We are ready to pursue that discussion. But *prima facie* I just do not accept that characterisation of a group of public servants who are working under extremely difficult circumstances and, in my view, doing an outstanding job.

**Senator COONEY**—You have made those statements. Tell me how section 3W became relevant in these circumstances, on the basis of what you have told me so far.

**Mr Farmer**—I believe that is a question for the police, not for DIMA.

**Senator Ellison**—Madam Chair, I might be able to assist here. Under section 3W, I am not sure that ACM, who run the detention centre, could have effected an arrest at the time of the melee. I think that is perhaps what Senator Cooney is looking at—that is, could they have been arrested on the spot or summonsed? Let us look at the options. I do not think an arrest on the spot was possible because certainly there were no AFP present, or state police or, as I understand it, ACM—and I am not sure that ACM could have effected an arrest on the spot. So you then go to summons. That question was raised during the estimates hearing with the

AFP. They answered that question in relation to the arrest and about why it was done that way. I think that is more of an operational matter for the AFP, with respect.

**Senator COONEY**—But the people that got this operation under way were DIMA, as I understand it. DIMA reported it to the police. Is that not right?

**Ms Godwin**—That is correct—after the incident on 11 May.

**Senator COONEY**—And nothing happened from 11 May to 26 May? That is a period of over a fortnight.

**Ms Godwin**—With respect, a lot happened between 11 May and 26 May. First of all, the focus on 11 May was on restoring order to the centre so that the vast majority of detainees who did not participate in the incident and were disturbed that other detainees were taking such action could have the centre restored to normal operation. That was the first focus on 11 May and the days after. Then attention turned to who had participated in the incident and whether there was a basis for taking action against those individuals. A lot more than 22 people were involved, so the issue became what investigation should be undertaken to ensure that people who had participated could be specifically identified and linked to a specific offence.

At that point, the appropriate thing to do was refer it to the police, and that happened. The AFP then became involved and an active investigation was undertaken which involved viewing the videotapes of the incident, as well as taking witness statements. On the basis of that investigation, a group of 22 people was identified who could be specifically linked to an offence. We know that a lot more people than 22 participated in the incident, but the question became one of whether there was sufficient evidence to link them to a specific offence that could form the basis of appropriate action against an individual. It was the advice of the police that 22 people could be so identified. They were the 22 people who, after careful planning, were located in the centre on 26 May and charged.

**Senator COONEY**—Once they are charged—you know the provisions of 3W of the Crimes Act—you are the person who is in charge of—

**Ms Godwin**—That is a matter for the AFP. We were acting on advice after an appropriate investigation.

**Senator COONEY**—The Federal Police say that they did not go into the centre. I think three police went in there and did not actually go ahead and take the people out—

**Ms Godwin**—That is correct. The AFP were involved in the investigation—on the morning of the operation they were present at the centre but in the admin area.

**Senator Ellison**—As I recall it, just for the record, there were six AFP members, plus one agent stationed in Port Hedland.

**Ms Godwin**—Thank you, Minister—that is my understanding as well. Those officers were in the admin area at the centre and other officers—a combined group of Western Australian police, Australasian Correctional Management officers and APS officers—undertook the operation within the accommodation areas of the centre. As they located people, they moved them to the admin area, where the AFP took charge, and people were then processed and charged.

**Senator COONEY**—I want to take you through 3W and see what you have to say. I know you know what it is, but I will just read it out for you again. It reads:

(1) A constable may, without warrant, arrest a person for an offence if the constable believes on reasonable grounds that:

- (a) the person has committed or is committing the offence;

That is a section 76 offence, two years jail; sort of a street offence in the old days. It continues:

and

- (b) proceedings by summons against the person would not achieve one or more of the following purposes:

- (i) ensuring the appearance of the person before a court in respect of the offence;

That cannot apply, because you could proceed against them by summons there in the institution run by the ACM. So that does not apply. It continues:

- (ii) preventing a repetition or continuation of the offence or the commission of another offence;

That cannot apply, because the offence in respect of which they have been arrested occurred on 11 May and 14 days have gone by without there being any further incident in respect of those 22 people. It continues:

- (iii) preventing the concealment, loss or destruction of evidence relating to the offence;

That cannot apply, because you yourselves have just told me that you were collecting evidence over that period. It continues:

- (iv) preventing harassment of, or interference with, a person who may be required to give evidence in proceedings in respect of the offence;

That is again not one that applies. It continues:

- (v) preventing the fabrication of evidence in respect of the offence;

That cannot apply. It continues:

- (vi) preserving the safety or welfare of the person.

And that cannot apply. So these people have been arrested in contravention, it would seem, of section 3W. As I understand it, you say it is not DIMA's problem; it is the AFP's problem. This is the washing of the hands, so that the Federal Police cop any blame rather than DIMA. That would seem to be the situation, would it not?

**Senator Ellison**—Madam Chair, I take issue with Senator Cooney. I think four of those apply, just on a quick reading.

**Senator COONEY**—Which ones?

**Senator Ellison**—Really, application of the facts will tell you that. We have got to be careful that we do not go into the facts of this case either, because it is sub judice at the moment. Preventing a repetition of the conduct is a most relevant feature here, because if you summons them there could well be some reaction to that summons. People who receive summonses often are not very happy at receiving them, and you could well have a reaction to that. It is not unreasonable to assume that people would be unhappy at receiving a summons. Destroying or concealing evidence is again directly on point from a policing point of view. It has been reported in the papers that implements were obtained. These were not readily identifiable during the interim period 11 May to 26 May, and this was evidence allegedly

found on the day of the operation. Those items could have been destroyed or concealed quite easily.

Summoning everybody and giving them a date henceforth to appear in court could allow suspects—and I am talking in a generic sense here—to get together and fabricate evidence. That is one of the reasons that you do look at arrest rather than summons. The safety and welfare of the people concerned could well be an issue here, because there may well be people—and I speak hypothetically here—who if summonsed and identified by others as being summonsed might be the subject of influence, one way or another, having regard to the fact that those other people might not have taken favourably to the participation of the summonsed people being involved in an offence. I do not want going into the cases, but from a policing point of view four readily seem relevant, and I would want to look at the others.

Section 3W talks about the constable, not DIMA. It is squarely a decision of the AFP—and I do not think the AFP shied away from that when it gave its evidence. It said that the matter was referred to it by DIMA. It said that the investigation took place as a result of a referral by DIMA. So what we have here is section 3W, which talks about the constable making that decision to arrest or to summons—the constable here being the AFP. I really think that the referral is DIMA, the carrying out of the investigation is the AFP and the conduct of the operation is law enforcement, not DIMA.

**CHAIR**—I am not sure whether Mr Farmer wants to add something at that point.

**Senator COONEY**—I would not have thought that he would want to add anything to that. That was a fairly brilliant submission, if I may say so. That is a matter of evidence to be fought out. People were charged with an offence that is almost a street offence, Minister—a crime with two years as a penalty is not exactly one that would shock people. But, if what you say is right, it means that the people controlling this detention centre are not in control of it. If the sort of thing that you have talked about can happen, I suggest to you that this is a detention centre that is out of control and that the people who run it, ACM, are just not doing the job that they are supposed to; otherwise, what you have said would not follow.

**Mr Farmer**—There is no doubt that the detention centres have had a history of trouble. We had trouble in the early nineties where detainees were causing themselves injury by jumping off the roof at Port Hedland, and that was to make a point. Was the centre out of control at that stage? I think that the answer is that the officers involved were dealing with an extremely difficult situation. Over the years, the composition of the case load of detainees has changed, and now we have a number of people who have in effect been screened out of the process or have been given a negative decision on their applications for asylum. So they are awaiting removal. In a sense, they have nothing to lose, and the population in the centres has become manifestly less compliant over the last 18 months. Everything possible is done to apply the legislation, the regulations and the detention standards in the centres, but if you have a group of detainees who are hell-bent on rioting, it is manifestly difficult to stop that. What happened on 26 May was in my view a very successful police operation—because, in a situation where there was the potential for things to go wrong, things did not. The police, I believe, did a very good job.

**Senator COONEY**—You have used some phrases there which I want to take you up on. You said people ‘hell-bent on rioting’. That indicates to me that you have a mind that says, ‘A substantial proportion of these people in these camps are hell-bent on rioting; it is their fault throughout all this.’ I put this to you in terms of ACM. In answer to that, you came back and said that it is the people in the camp who are the problem. That indicates to me an attitude to

ACM which is very sympathetic, to say the least, at a time when the government in Victoria has dispensed with the services of the ACM. I just put this to you for your comment, but it would seem to me that the Secretary of DIMA is a person who is very sympathetic to the position of ACM.

**Mr Farmer**—I believe that ACM does an extremely difficult job. It has to perform an extremely difficult job. It is not just my view that people were hell-bent on riot. *PM* the other night—

**Senator COONEY**—That is all right. I just asked you a question.

**Mr Farmer**—But it is not an isolated view of mine.

**Senator COONEY**—Hang on, you will hear from my question what my point of view is. Where there is a contract coming up as to whether or not ACM or somebody else should run these detention centres, we have a secretary to the Department of Immigration and Multicultural Affairs who is very sympathetic to the way ACM have run things. Is that a fair proposition?

**Mr Farmer**—I would not answer it in those terms, and I have not done that. Nor did I do that the last time we discussed this at estimates. We, as you know, have announced a tender process for a contract, and that process I think imposes a number of obligations on me and on other officers of the department. Very substantial probity issues are involved there. I am very careful not to say anything which would indicate any view on the part of the department about the future of the contract, or anything that would influence any officer involved in that process.

**Senator COONEY**—But when I was asking about how things were conducted, you read the *Hansard* and said that these people were desperate people in effect because they have no hope in terms of keeping themselves here, that they have a propensity to riot and that ACM was doing a very good job—I suggest that is what you were saying—in these very difficult circumstances.

**Mr Farmer**—I think I said they were doing a difficult job.

**Senator COONEY**—The inference was that they were doing it well, I suggest to you. Do you say they were not doing it well?

**Mr Farmer**—I think we have had this discussion before.

**Senator COONEY**—Your mind is much keener and sharper than mine and your memory is much better—I concede all this—but could you just answer that proposition.

**Mr Farmer**—As a general proposition, in answer to the question ‘Is ACM doing a good job or not?’, I have not turned my mind to that proposition.

**Senator COONEY**—So we can take it this way? You have not made up your mind whether ACM is doing a good job or a reasonable job?

**Mr Farmer**—In the terms that I will be required as the decision maker in relation to this contract, no, I have not turned my mind to that question. As I said before, we have a quite extensive arrangement, a contractual arrangement, with ACM, which enables us to examine on a regular basis their behaviour, their conduct, the performance of their contractual obligations. We do that in ways that have been examined very fully.

**Senator COONEY**—Have you read the whole contract from go to whoa.

**Mr Farmer**—I signed the contract.

**Senator COONEY**—But did you read it?

**Mr Farmer**—Yes.

**Senator COONEY**—All of it?

**Mr Farmer**—Actually I sign everything I read. It is a long contract—

**CHAIR**—I think you mean you read everything you sign.

**Mr Farmer**—I beg your pardon, yes.

**Senator COONEY**—How thick is this contract?

**Mr Farmer**—It is quite large. It is about three-quarters of an inch or so, or whatever that is—two centimetres. I read it in February 1998.

**Senator Abetz**—Senator Cooney still understands inches.

**Senator COONEY**—I do. Who prepared the contract? I do not want to know the details, but who prepared it?

**Mr Farmer**—I will have to hand that over to one of my colleagues.

**Mr Metcalfe**—The contract that was prepared was part of the 1997 tender process. From my recollection, our legal advisers were Minter Ellison, a major Australian law firm, and of course there was departmental input into that.

**Senator COONEY**—Who was that?

**Mr Metcalfe**—Minter Ellison were the legal advisers at that stage. The final contract involved a negotiation process between the successful tenderer and us and, similarly, ACM was provided with advice by lawyers.

**Senator COONEY**—Do you know whether it came off a word processor?

**Mr Metcalfe**—Most documents these days come off a word processor, but if the inference to draw from that comment is was it a standard contract with standard clauses I would say that there are probably many standard clauses, such as those relating to privacy and commercial issues, that would have been suggested. But, of course, there are many specific clauses relevant to the particular objectives of this contract: for example, the detention standards, which are unique to this contract.

**Senator COONEY**—Would it be fair to say that the detention system for people who come to Australia and are detained is at present being run by ACM?

**Mr Metcalfe**—The detention system is administered by the department under the laws of the parliament. The delivery of guarding, catering and medical services, et cetera has been contracted to ACM.

**Senator COONEY**—But the actual face of the department to boat people coming to Australia and being detained is represented by ACM?

**Mr Metcalfe**—That is a fair comment. The people who are involved in delivering the services on a day-to-day basis are ACM employees; but, as you know, the department has centre managers and deputy centre managers at each centre and I think most detainees understand the respective roles of the department and of the company.

**Senator COONEY**—I have been to only a couple of detention centres. At one, at Maribyrnong, I think you had one person, Mr Vardos, when I went there. He was an excellent operator.

**Mr Metcalfe**—As a matter of fact, Mr Vardos is at Woomera today with your colleagues Mr Sciacca and Mr Kerr.

**Senator COONEY**—When I went there, there was one person from DIMA and lots of people from ACM.

**Mr Metcalfe**—That is consistent with what I said.

**Senator COONEY**—When we face a contest as to what went on in these detention centres, we are faced with evidence from ACM on one side and evidence from a group of people mainly from the Middle East on the other side, it seems.

**Mr Metcalfe**—Certainly our current detention population comprises many people from South Asia and the Middle East—and that reflects the pattern of unauthorised arrivals to Australia—but, of course, it is not exclusively those people from those parts of the world.

**Senator COONEY**—I do not think South Asia. From what somebody was saying before, it seems as if they all come from the Middle East.

**Mr Metcalfe**—In South Asia I include Pakistan and Afghanistan.

**Senator COONEY**—Yes. So, if people were hostile to people from the Middle East and thought they were not as worthy as others—if that approach were taken—and you heard evidence from them and then you heard evidence from ACM, who in effect run the actual proceedings in respect of these people and who have, it would seem, attracted the respect of the department, it is going to be a pretty uneven contest, is it not, as to whom is believed?

**Mr Metcalfe**—It is an important point that you are driving at and we have had discussions before this committee and a number of other committees of the parliament about the accountability mechanisms and the checks and balances. As the secretary said earlier, this is a very difficult area of public administration. On the one hand, we have the obligation and the duty to uphold the laws of the parliament, which has made it very clear that there is an expectation that all unauthorised arrivals in Australia must be detained until they either qualify for a visa or can be removed. So that is a fundamental obligation of the department in administering that law.

The administration of that law is a most complex matter. We are dealing with many people who have come to Australia with high expectations, quite often informed by people smugglers who are making a considerable profit and exploiting people through that mechanism. They have high expectations as to what may happen. Sometimes they are completely false expectations. So there is an immediate issue of how you deal with that aspect of handling expectations of people who may have been told that they may be in detention or may not be in detention, that certain things may happen to them or may not happen to them. We are at pains, when people first arrive in Australia, to explain to them their circumstances and what Australian law requires, the law of this parliament requires, and the sorts of people who have responsibilities in relation to them.

The point you were making, I think, as to whether there is the capacity for some sort of institutional bias towards people of certain backgrounds is something that we are acutely conscious must never occur. That is why the immigration detention standards were developed. They were not in place prior to 1997. It is something that this new arrangement brought with it and it was probably overdue in many respects. Cultural awareness and cultural training are important issues. That is not to say that incidents never happen or do not happen. But if they do happen then obviously they are of great concern and they must be addressed. How can that

concern be manifested, how can a detainee express a concern, when some people would say that they are in a vulnerable situation? That is very strongly recognised by accountability mechanisms such as the Ombudsman, who has an unrestricted right of access to the centres, and HREOC. Members of parliament have regularly visited detention centres and, indeed, many other people regularly visit detention centres.

Given the resources the department employs in responding to allegations, many unproven, in relation to incidents in detention centres, I can assure you that there is a very healthy accountability mechanism in place where incidents do occur and, when they can be established and corroborated, action is taken. But what we do find is that the vast majority of allegations in fact do not have substance.

**Senator COONEY**—What you are putting to me, and I accept it from you, is that department plays it straight down the line. You would like to accept that. But then you see news articles and the media saying—I came across one the other day—‘30 Palestinians did this’. The *Australian* of Tuesday, 29 May, at page 3, states:

Those charged include eight Palestinians, six Iranians, five Iraqis, a Kuwaiti, a Tunisian and a Moroccan. Most did not seek bail, but the Iraqi mother argued unsuccessfully that she needed to return to the centre to care for a six-year-old daughter and an 11-year-old son who remain at the facility.

Why are those nationalities stressed and why do you get the media running the line that these are Middle Eastern people, these are these strange people from Palestine?

**Mr Metcalfe**—The simple answer is that, as I have said earlier, the current population of our detention centres largely comprises people from the Middle East and South Asia and the nationalities you have described, of course, come within that. As Ms Godwin indicated earlier, the decision by the AFP to charge certain individuals is a matter for the AFP to talk about, but I understand they reached their conclusion as to who should be charged as a result of viewing the video evidence of the incident.

**Senator COONEY**—That is not the point I am making. The point I am making is: how does the media get to know all of this?

**Mr Metcalfe**—I imagine the media are in the court, Senator. The court is an open process. I imagine, in identifying those being charged, that their nationality, and possibly age and other issues, was indicated.

**Senator COONEY**—So the department would not tell them?

**Mr Metcalfe**—No. I imagine the gentleman and lady appeared in court on Monday and that those news reports emanated from reporters who were in the court. It is not something the department was briefing on.

**Senator COONEY**—So the department has in no way briefed the media on any of this?

**Mr Metcalfe**—To the extent we would have briefed, we may have confirmed reports that were already in the public domain, but we certainly did not issue a press release on Saturday saying that people of these nationalities had been charged. We did confirm that 22 people had been arrested by the AFP.

**Senator COONEY**—But the Federal Police say they did not.

**Mr Metcalfe**—I think if we were to look at it, those matters would have been indicated by the DPP’s representative in the court on Monday.

**Senator COONEY**—It is not only in respect of this matter. There is a whole series of matters. It always seems to be when these are Middle Eastern people. The department never issues any news releases along those lines?

**Mr Farmer**—In this committee in the past we have been asked questions about the nationality of boat arrivals and people who had done particular things. We will answer those in a generic sense to the best of our ability. Speaking on a point of principle, as it were, were there a media inquiry about the nationality of people involved in a riot—I am not talking about the identity but the nationality—just as we talk I would say I am not sure that there would be a reason for us not to make that information available.

**Senator COONEY**—I take it from that that you do make it available. If there is not reason why you should not, then clearly you may well have.

**Mr Farmer**—The answer is that I do not know whether we were asked in this instance. I am just saying to you that, were we asked, I do not think that there is a privacy or other reason for not making that available to the media.

**Senator COONEY**—I wonder how the cameras happened to be there on the morning of the arrest. Have you ever thought of that? There was the television—not that you would have wanted the media to put it this way—and the other media coming out as showing the courageous people from DIMA, the AFP, the Western Australian police, whom you have not mentioned yet, and the Australian Protection Service, rushing in to save Australia from these people from the Middle East who were going to infect our society if let loose. I wonder how they got there.

**Mr Metcalfe**—You are asking about how the media were present?

**Senator COONEY**—Yes, how that happened.

**Mr Metcalfe**—That is an interesting point. Certainly our motivation through this process was to ensure the peace and good order of the detention centre. Those are some of the issues we were discussing earlier. It would certainly not be in the interests of this portfolio to in any way indicate that arrests were imminent. Frankly, the potential for protest, and possibly violent protest, is simply a fact of life. My understanding is that the planning for the actual operations to effect the arrests was conducted with considerable secrecy within the agencies involved. Notwithstanding that, information that I became aware of on late Thursday was that the media had become aware of it. One could speculate as to how that occurred—

**Senator COONEY**—But you can assure us it would not come from this department.

**Mr Metcalfe**—I cannot give an unequivocal guarantee as to the actions of every member of staff of a department with 4,000 people, but certainly I am not aware, and there is absolutely no reason why—

**Senator COONEY**—So 4,000 people in the department knew about this?

**Mr Metcalfe**—No, very few people knew about it.

**Senator COONEY**—You just said that you cannot guarantee what 4,000 people in the department said. That would seem to indicate this to me. I want to take you up on this. You said—and you can look at it on the *Hansard*—that you cannot guarantee what 4,000 people in the department may have said.

**Mr Metcalfe**—No, I think I was talking in the abstract.

**CHAIR**—In a department of 4,000.

**Senator COONEY**—All right.

**Mr Metcalfe**—I cannot, obviously, speak for everyone, in the same way that I am sure senators and members present could not speak for the actions of every member of parliament. It is simply a matter of human nature. The point I was coming to, though, was that we did become aware that a media representative had somehow become aware of the operation on late Thursday.

**Senator COONEY**—How did they become aware? Perhaps out of the sky?

**Mr Metcalfe**—Let us look at the practicalities of this issue. Notwithstanding the fact that there was a strong desire for confidentiality in planning the operation, a large number of people would have been involved. Many people would have been involved in travelling to Port Hedland. Port Hedland is a small community and people talk and observe things that are changing. In the same way that these sorts of issues are magnified, it does not take much imagination to understand that something may be happening at the detention centre. The media were obviously aware of the riot two weeks ago. They were probably expecting that something would occur involving the authorities to effect arrests in relation to what had obviously been a very significant incident. But I have no knowledge of how it became publicly known. What I am saying is that the department had no interest in it becoming publicly known.

**Senator COONEY**—Can you see how people might doubt that? There is no doubt that there has been a program launched abroad to denigrate the people who are in these detention centres.

**Mr Farmer**—There is a lot of doubt about that proposition. We have not done anything overseas to denigrate the people in detention centres. We have made it quite clear that we regard people who arrive illegally using the services of people smugglers as in effect taking the places that would otherwise have been available to refugees and other people overseas. That is quite clear. But the way you put things there does not accord with what we have done overseas.

**Senator COONEY**—It is interesting. I will accept what you say—whatever you tell me, I always do accept—but we have displays of weapons that are obviously made available to the press. I am not suggesting for one minute that you do that. As you say, you do not feed the press. But somehow the press get hold of these weapons and photograph them and show pictures of people rioting and pictures of these people from the Middle East. I know that all happens without any part being played by the department, but it does happen. I was wondering what the department does to counter those sorts of things.

**Mr Farmer**—We try to demystify what goes on in the detention centres. We have had a program of visits for the media this year to Woomera, for example, for the media to actually see what the facilities are like. We will also, in response to press questions or if we think the record needs to be put straight, engage in the normal array of public affairs activities—producing factual material in response to what is often highly inaccurate, sensationalised media reporting. There is also no doubt that there is a need for another side of the story to be told about some of the illegal things that are done. This question of weapons is, I think, a very serious one.

**Senator COONEY**—So it was the department that showed that?

**Mr Farmer**—That showed what?

**Senator COONEY**—The weapons that had been discovered and laid out.

**Mr Farmer**—That is a factual question and I do not know the answer to that.

**Ms Godwin**—Senator, in response to a request from a media outlet as to what the nature was of the items that had been located, we did agree that they could photograph some of them.

**Senator COONEY**—So there are some things that the department will do with respect to what the press asks them.

**Ms Godwin**—As Mr Farmer said, in response to requests from the media, if it is a question of a factual presentation or setting the record straight, we will agree, but we are always very careful in that context because of the potential for people's privacy to be breached or things of that nature. So we usually limit those opportunities to static opportunities. Occasionally we have allowed the media to photograph damage in centres and, on this occasion, items that were located. We have also allowed the media, as Mr Farmer said, to go through the centres and see what they look like under normal operations.

**Senator COONEY**—Have you given interviews about the case we started off with here, the one where the arrests were made on the 26th with respect to offences that had been committed on 11 May?

**Ms Godwin**—I have not given any interviews. I am aware that our Western Australian state director provided some information to the media, again in response to requests for factual information.

**Senator COONEY**—So, if the media asks for material, you give it to them, as long as it is factual.

**Ms Godwin**—We make an assessment about whether or not it is an appropriate inquiry to respond to.

**Senator COONEY**—And on this occasion you gave them material?

**Ms Godwin**—We provided some responses to questions, yes.

**Senator COONEY**—When you did that, did you have in mind that these 22 people might be coming to trial?

**Ms Godwin**—Yes, Senator. I think the comments in the media by Mr Williams were confined to a general description of the operation.

**Senator COONEY**—Yes.

**Senator COONAN**—Can we clarify the status of these people. My understanding is that all of the 22 had had preliminary decisions which disclosed that they were not refugees and that some were being held for removal and others were in various stages of appeal. What trial is being referred to here?

**Ms Godwin**—Yes, all but one of the individuals who were charged on Saturday have had a refusal. Some have gone right through the process and are awaiting removal. Some are pursuing appeals.

**Senator COONAN**—Do you know how many?

**Ms Godwin**—Yes, I do. Seven are awaiting an outcome of an RRT appeal and 14 are past that point. Seven of the 14 are pursuing appeals in the courts. The others would all be, in effect, finalised and available for removal.

**Senator COONAN**—Thank you.

**Senator COONEY**—Leading on from that, I think it has been published that these people have all been refused refugee status.

**Ms Godwin**—All but one.

**Senator COONEY**—There are 22 and all but one have been refused.

**Ms Godwin**—Yes.

**Mr Metcalfe**—But the point we are making is that some are in continuing processes. Some are before the RRT, and so there is a merits decision still available to them on their refugee status, and others are before the courts or otherwise available for removal.

**Senator COONEY**—That has come over the news. Was the proposition that you put—that there are 22 and all but one have been refused—put forward to show that therefore they may have been more desperate than others and may have done the things that they are accused of doing?

**Mr Metcalfe**—Again, I think that was just a factual issue—their current status in Australia.

**Senator COONEY**—Facts usually have effects, Mr Metcalfe. It is a fact that they were clothed in a particular way, it is a fact that they had a nose and a mouth, all these sorts of things. They are facts, but I suggest that they are different facts in these circumstances from the fact that they have been refused refugee status. Why was that particular fact chosen out of all these other facts?

**Mr Metcalfe**—There are a couple of issues there.

**Senator COONEY**—But why were they?

**Mr Metcalfe**—The 22 were charged by the AFP, because the AFP made an assessment that they should be charged.

**Senator COONEY**—We know that any problems there we are offloading to the AFP. I can follow that.

**Mr Metcalfe**—We are not offloading—

**Senator COONEY**—We are going to keep DIMA clear of any of this.

**Senator Abetz**—Madam Chair, could the officer be allowed to answer questions without interference from Senator Cooney.

**Senator COONEY**—Can I just say this, Senator Abetz. We want to get away from here as quickly as possible. If we have answers that are not definitive, then we do not get away. It is self-interest that wants us to get answers to the questions. I freely admit that.

**Mr Metcalfe**—I can say that the department fully agrees with that proposition, but—

**Senator Abetz**—I think we are all in heated agreement on that.

**Mr Metcalfe**—the point I was attempting to make was that, firstly, I think Minister Ellison made it very plain where the legal responsibility in relation to the charges lies. It is not a question of DIMA offloading to the AFP or passing the buck to the AFP, it is the role of the AFP to lay charges, and that is just a point that we have made. One of the interesting things about references in the media to people in detention is that quite often they are described as refugees—refugee camps, refugees and so on. The simple fact here is that, of the 22, 21 have

been determined not to be refugees. They are illegal immigrants. They came to Australia, sought refugee status and have been found not to be refugees. They are not asylum seekers. They are not refugees. One person is still in that process; others are pursuing matters, and ultimately that status may accrue to them. So the factual issue of their status can be important.

The other aspect in relation to this—and this may be what you are driving towards—is that I think the minister has been making the point quite strongly that increasingly we are seeing our detention centres containing people who have been determined not to be refugees. In fact, there are now some hundreds of people who arrived here, presumably with hopes of living in Australia, where the processes—which are full, fair and thorough—have determined that they have no right to be in Australia and where we are seeking their removal from Australia. There does become an issue of motivation of people—and I am being very careful in my words here because of the matters before the Magistrates Court in Port Hedland—but there are issues as to whether people become very frustrated as to their circumstances. That goes to the difficulty that the secretary raised earlier. Detention centres do become more difficult when people are frustrated or people do not get the outcome that they have paid a great deal of money to achieve.

**Senator COONEY**—Would you agree that if somebody who was not a refugee pretended to be a refugee that is quite a reprehensible thing to do?

**Mr Metcalfe**—Again, there are shades of grey in this. It is a very good question you ask. Some people probably clearly know that they are not a refugee and that they are simply seeking a migration outcome, hoping to use the refugee process as a pretext for obtaining that migration outcome. I am sure other people actually do believe they are refugees, that their circumstances are—

**Ms Godwin**—A lot of them are seriously misled.

**Mr Metcalfe**—Precisely. So you cannot say people who claim refugee status and who are found not to be refugees deliberately did it. Some possibly do. Others may have been misled as to their expectations. Others may not understand the processes; they simply believe that the way to live in Australia is by going through this process and that everyone from this situation will be recognised as a refugee.

**Senator COONEY**—But any fair-minded person, any reasonable person, who was told that somebody was pretending to be a refugee when he or she was not a refugee would not hold such a person in high regard, I would have thought.

**Mr Metcalfe**—That is a matter for the individual as to what they think.

**Senator COONEY**—But can you imagine people thinking that?

**Mr Metcalfe**—I can imagine people think lots of things.

**Senator Abetz**—With respect, what officers might imagine or not imagine is not necessarily helpful to these committee hearings.

**Senator COONEY**—It is not necessarily helpful, but it is helpful in this case.

**Senator Abetz**—I was being polite to you, Senator Cooney, suggesting that there might be circumstances. I cannot imagine any circumstances, if I can use that term, where the imagining of officials is going to be of assistance.

**Senator COONEY**—When I was asking these questions—I make a point of this—and I was pursuing a line the department, though its minister, became very apprehensive of the questioning.

**CHAIR**—I am sorry, what did you say, Senator Cooney?

**Senator COONEY**—That will go on the record, I think.

**CHAIR**—I did not hear you. I wonder if you could repeat it.

**Senator COONEY**—What I am saying is that, when I was pursuing a line of questioning about a matter to do with the refugees and with what was happening in Port Hedland, the minister representing the department at the table put a stop to it.

**CHAIR**—I do not think that is what the minister did at all. The minister can speak for himself.

**Senator Abetz**—That is quite a preposterous suggestion. All I did was to suggest in a polite way that the question that was being posed as to the imaginings of officials was not necessarily helpful to the estimates process. What they imagine is not very probative—that might be a word that you know, Senator Cooney.

**Senator COONEY**—Thank you for correcting that, Minister. The situation, though, is that you have a series of statements in the media that these people had been rejected for refugee status and what have you, and the publicity is being made with the knowledge in the department that there is a trial coming on—possibly a jury trial—in respect of the whole 22 people. Does the department have any concern about that?

**Mr Metcalfe**—No, Senator. I think we are very confident that any comments we have made would not affect the conduct of the trial.

**Senator COONEY**—Is that the department's decision or did you get that advice from the DPP or somewhere?

**Mr Metcalfe**—That is my view, based upon the fact that we are acutely aware—given that we operate in a highly litigious environment—of our obligations in relation to the courts. The sort of public comment that has occurred has been very reasonable in response to a request for information about what did occur. It was a major event. As the secretary said, it was an event that was very well planned and very well carried out in the circumstances.

**Senator COONEY**—Have you any advice from the DPP about these statements?

**Mr Metcalfe**—Which statements?

**Senator COONEY**—The statements made to the press about these people being revealed?

**Mr Metcalfe**—I am not aware whether we have or not. I could check.

**Senator COONEY**—But you do not know. Do you know, Mr Farmer?

**Mr Farmer**—No, I do not know, Senator.

**Senator COONEY**—Did you get any advice from the Attorney-General's Department?

**Mr Metcalfe**—The point I made earlier is that I think we believe that we are sufficiently aware of our obligations to not require that advice. I think I know what the advice would be: that you need to exercise care and not go to issues that are relevant for the trial and the prosecution. That is something that we have done. The limited public discussion of the issue has been very much about advising what actually happened—that there was an operation on

the Saturday morning to ensure that 22 people could be arrested in circumstances where the other detainees would be able to continue going about their lives in an orderly way—and there was some media comment by one of our senior officers present as to how that particular operation was carried out. I think that is eminently reasonable in view of the situation and, indeed, the fact that there were many media comments being made by people who were not there, which were suggesting that all sorts of things happened or did not happen. It is probably important that the facts get out in relation to this sort of issue.

**Senator COONEY**—So you say that you put forward the facts?

**Mr Metcalfe**—Certainly. We always believe that we put forward the facts.

**Senator COONEY**—When I was talking about the actual processes being run by ACM you said that various checks are done, including checks from the Ombudsman. You know of the report of an own motion investigation into the immigration detainees held in state correctional facilities done by the Ombudsman in March 2001, and he made a series of recommendations. Did the department or the minister make any criticism at all of the Ombudsman's report?

**Mr Metcalfe**—Of that particular report, I think the vast majority of the recommendations we are very comfortable with, and we have indicated that we will continue to work through those issues. That particular inquiry was one where we had extensive interaction with the Ombudsman and we worked closely in relation to those issues.

**Senator COONEY**—And the department has a policy of accepting what the Ombudsman says?

**Mr Metcalfe**—Not always. We do our best to work with the Ombudsman, and there are some areas where we do believe that their view of matters has been well developed, is soundly based and where their recommendations make good sense. That is not always the case.

**Senator COONEY**—Can I ask you about the actual operation that took place. We have been told that the Federal Police were there. Is that right?

**Ms Godwin**—The Federal Police, the Western Australia Police Service, Australasian Correctional Management and the APS. Also, a couple of DIMA officers were in the control area of the operation but were not involved in the operation in an operational sense—in the actual activities in the compound.

**Senator COONEY**—We have been told that the charges laid were under section 76 of the Crimes Act. Is that your understanding?

**Ms Godwin**—Yes, Senator.

**Senator COONEY**—And that the public officers referred to there were ACM officers.

**Mr Farmer**—I think you have us at a disadvantage.

**Senator COONEY**—Section 76 of the Crimes Act says:

(1) A person must not intentionally and knowingly obstruct, resist, hinder, use violence against, threaten or intimidate:

(a) a Commonwealth officer who is carrying out, or attempting to carry out, a function or duty of such an officer; or

(b) a person who is exercising a power, or carrying out a function or duty:

- (i) under a law of the Commonwealth; or
- (ii) on behalf of the Commonwealth or a public authority under the Commonwealth;

or who is attempting to exercise such a power or carry out such a function or duty.

**Mr Metcalfe**—If you are asking whether the charges arise from allegations that the circumstances in section 76 applied to Commonwealth officers, the answer is, yes, it relates to the incident on 11 May whereby there was a riot and ACM officers, who for the purposes of the Migration Act are authorised officers for detention purposes, were the victims of that riot.

**Senator COONEY**—But they were the only Commonwealth officers in respect of whom an obstruction, a resistance, a hindrance, the use of violence or an intimidation was made.

**Ms Godwin**—That is my understanding. There was a point in the incident on 11 May at which there was concern for the safety of officers in the admin area, including DIMA officers, and they were withdrawn from the centre at that point. So my understanding is that the specific charges relate to threats against ACM officers, but I could take that on notice and specifically check.

**Senator COONEY**—That is what the Australian Federal Police said.

**Ms Godwin**—Yes, that is my understanding as well.

**Senator COONEY**—Who planned the exercise?

**Ms Godwin**—The exercise was jointly planned by ACM, WAPOL, AFP and DIMA, so it was a cooperative effort. Once it became clear that there were a number of people who had been allegedly involved in committing offences and that they would need to be moved from the centre, then an operational plan to achieve that was developed. As I say, that was developed cooperatively, involving those agencies.

**Senator COONEY**—I think it would be quite clear from that that the intelligence given to justify, to give a basis for, the raid would have come from ACM.

**Ms Godwin**—From ACM and DIMA officers in the centre, yes.

**Senator COONEY**—ACM are a private institution and are being paid money for this. Was there any concern that a body which had a contract with the Commonwealth that was up for review should have taken part in these actions against these people? I will tell you what I am getting at. You have ACM, who have lost contracts in Victoria, running detention centres around Australia, centres in which there have been lots of problems, not only in Port Hedland but in Woomera and Curtin too. Their contract is coming up for review and they have a riot on their hands in Port Hedland. Then they make accusations against people under their charge and the Federal Police, DIMA, the Western Australian police and Australian Protective Service come down and join with this contractor in carrying out an exercise in the context of there being a review of ACM's contract. Did that strike people as an unwise thing to do? Just to further put it in context, the exercise could well have been carried out by Australian Protection Service, the Federal Police and DIMA.

**Mr Farmer**—Can I say that the question of the contract was not a relevant issue in this matter and that, while ACM is performing its services, we expect it to perform services according to the contract. Can I seek the committee's indulgence here: I am not a lawyer, so my views and feelings on this are not informed, but I do have an uneasy feeling about some of the questioning here, that we are trespassing into areas that may become part of matters before a court. The sorts of things that happened and what sort of evidence was gained might be something that we should not be trespassing into. I just point that out before the committee.

**CHAIR**—Minister Ellison did indicate in his earlier remarks that the matter is, of course, sub judice and that the committee and also officers should have that in mind in the processes of questioning and answering. Senator Cooney, I take Mr Farmer's comment as a timely one and, of course, we have extended this questioning over a lengthy period of time. I am sure you have further questions which officers will endeavour to answer, but I think it would be more appropriate if we could refrain from trespassing into those areas.

**Senator COONEY**—I understand how Mr Farmer puts that and accepts that, but oftentimes in these places seeming virtue is used to justify real vice. I will explain what I mean by that, Mr Farmer, because I accept your absolute integrity, as I do Mr Metcalfe's and Ms Godwin's. But we have a problem. You oftentimes put your answers in context, Mr Farmer, and I must confess that I am often discourteous and will not let you do it, but now I am going to do it myself. I will just tell you where I am coming from. We have had real problems over the years with indigenous people. That has been a big issue for Australia. In regard to the way we are treating people who come from overseas—who may or may not be refugees; they are claimants—if they are wrong, I think it is outrageous. You have just heard me on that. We should be able to treat people properly and correctly, as a decent society, which I think we are; we are not Nazi Germany.

We have here a right which is pretty much confined to Middle Eastern people, who do not get a good press—they are seen as a strange sort of people. They do not have the 'right' background. The most perfect of countries, if you are going to come from anywhere, would probably be Ireland, I suppose. Everybody here would agree with that. You would agree with that, Senator Payne.

**Senator PAYNE**—Not on the record, Senator Cooney.

**Senator COONEY**—An Irish background would be the best. Then it deteriorates as you go east, and these people are well to the east. They come out here and they have got a very bad press indeed. These 22 people are about to face trial. I should imagine what will happen is that there will be additional charges brought against them. At the moment they have section 76, which carries a two-year penalty and probably would not be the worst of crimes. Nevertheless, they are going to face a jury. I would like to see the judicial system, the legal system, of this country run well. I have had this strange passion to see that happen. But, as a result of the detention camps, a pretty violent attack is being made on the legal system. There are some already in parliament waiting to reduce the cover that the courts and the rule of law have in Australia.

The latest example is that we are going to have people on trial. They have been arrested and they are going to go to trial. I think they ought to have a fair trial. The only way they are going to have that is to go there without any prejudice and what have you against them. So it is from that point of view I come to this. I tease all of this out to see what happens. You are going to down the path, they have been treated, on some accounts, pretty poorly and they have been carted off now. When you tease this out to see if you can get all this going well and to see where we are going, people say, 'The rule of law—sub judice—is going to come forward here.'

As I say, I have nothing but the highest regard for your integrity and that of Mr Metcalfe—and I have not only great respect but great affection for Ms Godwin. When I am testing all of this sort of stuff I am then met right at the end of all this by a department bringing forward legislation to reduce the cover of law and to keep the courts out of it and where the High Court is getting piled up with all this stuff and there does not seem anywhere to go. When I

point all this out, people say, 'It is sub judice—the rule of law.' With respect, it seems a strange sort of thing for the department to be saying, given its record in this area. That is why I am interested that you should raise that issue now.

**Senator Abetz**—In relation to—

**CHAIR**—Senator Cooney, with respect, it was in fact raised in the initial discussions by Minister Ellison.

**Senator COONEY**—In any event, it is time I finished. We should hear from someone else. I might come back to it.

**CHAIR**—I was wishing to note that the issue you referred to in the broad there in your placing of this discussion in context was in fact initially raised by Minister Ellison in early comments this morning. From the perspective of the chair of what is a very public hearing of this estimates committee, where everything is on the record and available as transcript, on the Internet and with a range of other routes of access, it was a very relevant consideration for the minister to raise. I would be concerned if the interpretation you are placing on that is an imputation that the minister has in some way raised that inappropriately. I do not personally believe that to be the case.

**Senator COONEY**—No, sorry. Perhaps I should put that down too. Sorry, Senator Abetz. Senator Abetz is somebody I have the highest regard for.

**Senator Abetz**—But not too much affection.

**Senator COONEY**—Respect and affection. He is a good Tasmanian. What else can he be?

**CHAIR**—We are going to continue questions in this area, which is broadly output 1.3. I know for a fact that there are questions from Senator Ludwig and Senator McKiernan. I think I heard Senator Coonan indicate she had some questions. Perhaps we can start with Senator Ludwig, go on to Senator Coonan and then come back to Senator McKiernan—as far as it is possible to do it in that ordered fashion.

**Senator LUDWIG**—I just need to take you to some mundane issues about updating some of the questions taken on notice at the last estimates. Could we turn to question on notice 56 at output 1.3, 'Enforcement of Immigration Law', asked by Senator Schacht. The answer was in relation to bridging e-visas and the average length of the bridging e-visa. I was wondering if you could update those figures. You could take that on notice as well. Perhaps we could identify we are at the same place.

**Mr Metcalfe**—Yes, the average length of time of bridging visas. We will update that on notice. That is for the current financial year to date, I imagine.

**Senator LUDWIG**—Yes. Whatever figures you have got available up to the time that we have given to answer and the ability of the department. In relation to question on notice 61, asked by Senator McKiernan, there is a range of questions and a range of answers. Perhaps we could have that updated to the current time.

**Mr Metcalfe**—I think our response on notice gave details up to February 2001; we will update it to the extent that we can since then.

**Senator LUDWIG**—By all means, when I am referring to them, rule them out or advise me if that is your latest position and therefore we do not need to update them any further. In relation to question on notice No. 57 asked by Senator Schacht, the issue relates to overstayers and the number. Similarly, could you update the figures on that? In relation to

question on notice No. 58 asked by Senator Schacht, similarly relating to the detection of overstayers, the answer that was given relates to what appears to be the 1999-2000 financial year.

**Mr Metcalfe**—Bearing in mind that those figures were for the last financial year, to every extent possible, we will certainly run reports for the financial year to date.

**Senator LUDWIG**—That is why I asked you to at least highlight that point, depending on when you turn your computer on or off. Your answer to question No. 58 is the latest advice that you have to date?

**Mr Metcalfe**—On No. 57, for example, there may not be enough data, but on No. 58 we may well be able to advise further. We will do what we can.

**Senator LUDWIG**—Similarly, could you provide us with detail on question No. 59, which relates to UK overstayers, and with an update on No. 76, which relates to a breakdown by sports of Olympic overstayers. The last figure was as at 6 March.

**Mr Metcalfe**—Yes, we will provide an update. We were down to 30 at that stage.

**Senator LUDWIG**—Yes. I think that number has gone down, at least according to media reports.

**Mr Metcalfe**—One would hope so.

**Senator LUDWIG**—And then question No. 77, which relates to the 30 ‘other’ Olympic position holders. On output 1.3, question No. 81, which Senator McKiernan asked in relation to negotiations with Vietnam, have they been concluded at this point? How many nationals would be affected as a result of the negotiations with Vietnam? The answer that was given to question No. 81 as of 20 February 2000 was 31 Vietnamese nationals.

**Mr Metcalfe**—Your question was: have the discussions been concluded? There have been further discussions since we responded, and it is our hope that they are very close to conclusion.

**Senator LUDWIG**—It says that this is the group that would be immediately affected by the conclusion of the negotiations with Vietnam. Am I to understand that the group is still waiting for the conclusion of the negotiations?

**Mr Metcalfe**—That is correct.

**Senator LUDWIG**—And you are now telling me that it is not very far away?

**Mr Metcalfe**—We hope so.

**Senator LUDWIG**—In relation to No. 82, Senator McKiernan asked for a breakdown of those nationals that are held in prisons awaiting deportation—perhaps by state or by prison or by length of stay.

**Ms Godwin**—We could do that by state and by length of stay, if you wish.

**Senator LUDWIG**—Yes. I think length of stay is what I really want to find out, but if state is possible then that might be helpful.

**Ms Godwin**—Sure.

**Senator LUDWIG**—No. 83, which Senator McKiernan asked, is in relation to the cost of the detention of detainees held in state correctional institutions. They send you bills, but what is the cost of each bill?

**Mr Metcalfe**—The actual question was:  
... do all the states send you bills?

**Senator LUDWIG**—Yes, it ended at that point. I added the extra bit. Perhaps you could tell us what the cost of each bill is, if that is possible.

**Mr Metcalfe**—We can take it on notice.

**Senator LUDWIG**—Has there been any examination of spare capacity in the various states for detention centres? From media reports, I understand that there is a current round of looking for another detention centre.

**Mr Metcalfe**—I think we had a discussion probably a year ago about announcements that the government made in last year's budget to begin processes to construct a detention centre in the Northern Territory and one in Queensland. Those processes are now under way and, indeed, I think you were probably—as were all senators and members in the relevant state and territory—provided with information about the fact that that process was now attempting to identify land and other issues. Those are matters that are not specifically related to the issue of detainees held in state correctional institutions but rather the need, as identified by the detention accommodation strategy last year, for there to be centres in Darwin and Queensland, and that process, which as you can imagine is quite complex, is now under way.

**Senator LUDWIG**—Is the process that is under way directed at a new construction? Has any consideration been given to whether there was any spare capacity in either detention centre in Queensland, if there was a vacant youth detention centre which could have met the needs, or was it simply a process of deciding that these were unique structures?

**Mr Metcalfe**—We have no detention centres in the Northern Territory or Queensland. The advice uniformly from state authorities is that they have no facilities that would be available for us to take over or acquire and so we are looking at building new centres in both those places.

**Senator LUDWIG**—Where is that process up to?

**Mr Metcalfe**—Essentially, we are tracking along several aspects. We are in the process of attempting to identify appropriate sites and we are consulting with, in particular, other Commonwealth agencies as to whether there may be Commonwealth land that we could utilise. There has been the commencement of a design competition for the facilities and we are going to work through a list of designs to come up with what we believe is the most appropriate design, given the unique aspects of immigration detention centres. Similarly, we have been assembling the necessary advisers—commercial, legal and others—who will assist us through what we expect will be quite lengthy projects until completion.

**Senator LUDWIG**—And you have already indicated that you have advised relevant state senators and members that that process is under way.

**Mr Metcalfe**—Yes. The minister wrote to the relevant state members and senators and to the Premier and Chief Minister and relevant ministers in those places some weeks ago to advise them of the fact that this process was starting to gear up and offering to remain in contact about the matter. Indeed, if there is any requirement for or interest in specific briefings, the minister made those an open offer.

**Senator McKIERNAN**—Have any consultations happened with local government representatives as well? Recent events would suggest that it might be fruitful to engage local government.

**Mr Metcalfe**—That is a very good point, Senator. My recollection is that there was also similar correspondence to the relevant local authorities in Darwin and in the greater Brisbane area, not merely the Brisbane City Council but other councils in the area surrounding Brisbane. The reason for that is that we have not yet identified a site. Once we start to identify a particular site, we will be in much more detailed contact with those authorities.

**Senator LUDWIG**—In relation to question No. 85 relevant to the 75 kits or booklets where the four-page question was removed and the kits were then apparently distributed, have more been produced or are they being used? In that sense, 75 is not many. It certainly will not deter only the 75 who may have read it.

**Mr Storer**—Nothing has been produced.

**Senator LUDWIG**—How much was spent on the 75 booklets?

**Mr Farmer**—I think I answered that last time, Senator. The booklets were used in part—there was a cover sheet and a variety of bits of paper and then there were some inserts which were not used.

**Senator LUDWIG**—Yes, I understand that. My question does not go to that. If you have answered it last time, fine. I will go back and look at the record.

**Mr Farmer**—The amount would have been negligible.

**Mr Storer**—I recall it was \$20.

**Senator LUDWIG**—What was the local reaction, if the book was used for that purpose? Did you collate the responses?

**Mr Farmer**—We did not distribute the bits of paper.

**Senator LUDWIG**—No, but the booklet itself.

**Mr Farmer**—The booklets were distributed to media outlets, for example, and we left them with the embassies in the posts concerned. Some copies, I believe, were given in some places to officers of UNHCR and/or ION.

**Senator LUDWIG**—Were they used, or intended to be used, to gauge local reaction to the message? Was that their intended purpose?

**Mr Farmer**—We certainly had an interest in gauging local reaction. We have had a request in with our posts that, if they have any views on the material or receive any views, we would like to know about them.

**Senator LUDWIG**—Have any views being returned to you in relation to the 75 kits?

**Mr Farmer**—I do not know that. I am not personally aware of any.

**Senator LUDWIG**—Is there any intention to produce any more kits to use in the Middle East or elsewhere?

**Mr Farmer**—I think the overseas information campaign, broadly construed, is something that we should continue with. We have spoken with other countries and international organisations about the prospects of an information campaign that would in effect be generic—it would not be generated solely by Australia. There is some interest in that. But on a purely national level we also believe that there is a point in producing quite targeted information of the sort that we have produced for the use in China and Indonesia, for example.

**Senator LUDWIG**—Is any of that currently on the drawing board or at a draft stage, or has a budget been allocated for the production of either a targeted booklet or a more broadly based booklet in relation to Australia's refugee immigration program?

**Mr Storer**—As the secretary mentioned, this is a constantly evolving process. We are trying to get the best products to move into this generic campaign. It partly involves discussions with other governments to make sure we get a common message to tackle the issue of people smugglers. I think that is the key criterion—all governments want to do that. We do not want the messages to be misinterpreted in any way or misunderstood, so it is constantly evolving. So at this stage we have not got any final products for the next stage of this campaign.

**Senator LUDWIG**—We have talked a lot about it, but we do not seem to have anything concrete. What is your time line for having something concrete?

**Mr Farmer**—We already have concrete things that we have done in China, Indonesia and the Middle East, both in 2000 and earlier this year. In terms of getting an international campaign going, these things are not done quickly, but we have been the catalyst, I believe, for the development of quite a bit of interest in this area. In that sense we have come quite a long way in a short time.

**Senator LUDWIG**—Perhaps you could take the following questions on notice. Perhaps you could have a look at your bookshelf and anything you have produced from January and, providing it is not too weighty, the committee would be only too happy to receive it. In addition, while you are looking at the bookshelf, could you have a look at what you will put on the bookshelf next. If that is not available for the committee, just tell us that you are then going to target A, B and C areas in more broad fashion.

**Mr Farmer**—We can certainly provide to the committee the information that has been produced. I have already spoken about the things that we are working on for the future, but I do not think they are available.

**Senator LUDWIG**—Perhaps you could at least detail in your response which booklet is going to be produced.

**Mr Farmer**—Can I take on notice your interest in the future of the campaign.

**Senator LUDWIG**—I think you understand what I am asking for.

**Mr Farmer**—Indeed.

**Senator LUDWIG**—In relation to question 88, could you take on notice that Senator McKiernan has asked for detailed costings on what occurred in the safe haven, including ongoing costs. It is really only a case of updating us as to whether there have been any additional costs that have come out of that since.

**Mr Metcalfe**—If there is anything further we can provide, we will.

**Senator LUDWIG**—In relation to question 49—

**Mr Metcalfe**—Was that 49?

**Senator LUDWIG**—They do not seem to have put them in any order in my book.

**Mr Metcalfe**—Fortunately, they did in mine.

**Senator LUDWIG**—Unfortunately, I have to admit to that. I shall be a bit more careful in future. We will not worry about question 49. Question 53 is on subsection 6, updating whether

or not that has changed. We have got records for the period 1 January 2000 until 9 March. Can we have an update just from 9 March?

**Ms Godwin**—Sure.

**Senator LUDWIG**—In question 44—I am going backwards again, unfortunately—Senator Harradine asked about providing an overall cost. That may have taken a considerable amount of time to detail. I would only ask if there has been any event that may significantly change that costing. If there is not, then simply we will continue to hold you to those, and more broad—

**Ms Godwin**—Can I say one thing on that. We could certainly update them, but could you agree to some latitude on timing? It is done on a whole year basis, when we actually see the outcome of the year. So we could provide that, but probably not until we have done a round-up for the year, which would probably take us later into July.

**Senator LUDWIG**—I am happy with that. I am also happy not to have it as part of the 9 July deadline. It is a matter for the committee, though, as to whether they are similarly happy for it not to be included in that.

**CHAIR**—9 July?

**Senator LUDWIG**—Otherwise, there may not be the ability to do it.

**Mr Metcalfe**—I think the answer is if we were obliged to reply by 9 July we would have to say we have no updated detail, but we could provide updated detail later in July—

**CHAIR**—The committee will accept it on that basis.

**Mr Metcalfe**—Thank you.

**Senator LUDWIG**—But I did not want to be included on the basis that it was an outstanding matter for 9 July.

**CHAIR**—I understand that. If that is acceptable to other members, the committee can accept it on that basis.

**Ms Godwin**—Thank you.

**Senator LUDWIG**—I have a 2000 edition of *Protecting the Border: Immigration Compliance*. Is there contemplated another edition to that?

**Mr Metcalfe**—Yes, there is. That document was published about a month ago, which, to be honest, is probably a bit later than we would really like it to be published. Certainly the intention of the minister is that we would continue to provide this document, which of course is a companion document to a more longstanding departmental publication, *Population flows*, which talks about the migration and refugee programs.

**Senator LUDWIG**—I was not sure whether my post was slow.

**Mr Metcalfe**—No, the material came together well into the financial year and, to the extent that we can, bearing in mind that a lot of data does have to be assembled, we had always hoped that we would have it available earlier in the financial year.

**Senator LUDWIG**—Perhaps I can make an editorial suggestion: that you do not use a yearly date—volumes.

**Mr Metcalfe**—Noted.

**Senator McKIERNAN**—But disregard it. It is handy when you are going back and comparing—

**Senator LUDWIG**—You put that in the front cover.

**Senator McKIERNAN**—previous years, rather than previous editions.

**CHAIR**—Perhaps we could let DIMA make the design decisions themselves.

**Mr Metcalfe**—The description of this as the year 2000 issue, even though it covered the 1999-2000 financial year, related to the first edition, the 1999 edition. That, in turn, keyed off population flows in the way that has described.

**CHAIR**—Gosh, I am glad we have pinned that down!

**Senator Abetz**—We know what is on the front page tomorrow!

**CHAIR**—Not you this time, Senator Abetz!

**Senator McKIERNAN**—It is dreadful to wake up to your voice in the morning, Senator Abetz!

**CHAIR**—No need to get personal, Senator McKiernan. Senator Ludwig, please.

**Senator LUDWIG**—I read all the transcript too. In addition, on page 31 there has been a legislative provision for safe third countries in a subdivision of the Migration Act. It then goes on to say:

A safe third country agreement is established by agreement between Australia and the country in question.

Can you update that area? That was as at 30 June. It indicated that the minister had not declared any countries under this provision. Has that changed?

**Mr Metcalfe**—The answer is no, Senator.

**Senator LUDWIG**—There is also another level of establishing, not a declared country, but an agreement. Has any agreement been entered into?

**Mr Metcalfe**—This is in relation to effective protection, Senator?

**Senator LUDWIG**—Yes.

**Mr Metcalfe**—The answer is again no.

**Senator LUDWIG**—What has been done about that, then? You have had 12 months. The minister has a provision that appears in your booklet on page 31, and you are telling me that neither of those options have been progressed.

**Mr Metcalfe**—I might ask Mr Okely to talk in a little detail about the extensive international engagement that the minister and Mr Okely's branch and other parts of the department have been involved with, because lying behind those statements in the document is the fact that there has been a great deal of work between Australia and other countries to build understanding and to try to develop ways of dealing with illegal trafficking of people.

**Mr Farmer**—In terms of looking at this sort of agreement, it is important to know that, as a result of activities by the minister and the department over the last year, we have, for example, reached an agreement with Syria on the return of Syrian nationals and, I believe I am correct in saying, some other nationalities with residence rights in Syria. That is not as a result of a safe third country agreement, but it is a bilateral agreement between Syria and

Australia. In relation to Vietnam, I think we have already said something here about the efforts that have been going on. We think it will soon come to fruition.

In terms of this broader area of securing agreement on returns, we have made progress in a number of arenas where we have had difficulties in the past. There are some, I believe, finite limits on what Australia, or indeed any country, can achieve by way of returns to some places. For example, returns of people to Iraq are extremely problematical. I do not believe any Western country has succeeded in returns to southern Iraq. Similar difficulties apply in the case of Afghanistan. We are pursuing ideas as energetically as we can in these areas. You would understand that, given the evidence we have given about the numbers of people in detention who are awaiting removal.

Another country that I would talk about in terms of our ongoing discussions for returns is Iran. The profile of Iranians in detention awaiting removal has risen over the last year and we are actively discussing with the Iranian authorities what arrangements we can make for returns there.

**Senator LUDWIG**—I understand what you have said, and I am not being too critical, but it was a measure that was announced in November 1999 and to date there is none. In relation to the second measure, that a person was to be offered a safe third country, there is one, and it has been quite longstanding. You are telling me that you are working hard, but do you consider it is maybe time to reassess whether or not that is a legitimate strategy, an effective strategy or even an efficient strategy?

**Mr Farmer**—It is a matter for agreement between two governments as to what sort of understanding or agreement you have. I think that the most important thing is the measure of its effectiveness. The agreement we have with Syria, for example, has proved effective in the sense that we have been able to return some people to Syria. It is really the criterion of effectiveness rather than the nature of the agreement you have that I think is the important thing.

**Senator LUDWIG**—So you are suggesting that you do not need the declared country with a safe haven? It is a matter of an agreement between each country? Have you considered whether it is a piece of legislation that no longer needs to be on the books?

**Mr Farmer**—No, I think it is important to have the legislation on the books, and we are continuing to work on this legislation. You have a variety of categories of people who might be returned—nationals of countries or nationals of third countries who have sought first asylum in a particular place. Agreements can be developed to take account of those various categories of people. If I could try to put this in context, what we have embarked on over the last 2½ years is a very ambitious program which we have developed from quite low legislative, regulatory and other bases for securing returns of people in various categories. We are not alone in this matter. The consultations we have with the Canadians, the Americans and the Europeans reveal a similar preoccupation with this question of returns. It is an agenda that will take us some time. Three years ago, my department did not have an international cooperation branch. The need was not there. We do now. We have a quite extensive array of consultations with countries like Iran, Pakistan, Jordan and Syria, and they are designed to, if you like, push back the frontiers in what is a quite difficult area.

**Senator LUDWIG**—Turning to page 76, the right-hand column is headed ‘The Work Rights Information Line—1800 040 070’. That is a pilot free call service. Is that free call service still part of the area? Am I jumping ahead?

**Mr Castello**—I am sorry, I was coming to the table.

**Senator LUDWIG**—I am happy to start again. There is a 2000 edition of *Protecting the Border: Immigration Compliance*. On page 76, the right-hand column is headed ‘The Work Rights Information Line—1800 040 070’. It is a pilot free call service, we are told. Can you give me an update as to whether that pilot service is still proceeding, whether it is being reviewed, how effective it has been, whether there has been any decision to extend it, to broaden its hours of operation, the cost and whether there have been any compliance issues that have arisen out of it that have resulted in any action to be taken by the department? I am happy for you to work through that or take it on notice.

**Mr Castello**—The line is still very much operational. As at 30 April this year, over 5½ thousand calls had been received by the information line. Most of the calls related to checking on employer responsibilities and who can in fact be employed. The line is one of the strategies that the government has put in place to enable employers to help to determine who has the ability to work legally in Australia. The three components of that, which are in place at the moment, are, first of all, the information line; secondly, the ability for employers to fax details of people who are seeking employment with them in order for the department to provide advice as to whether those people can be employed; and, thirdly, an information campaign to enable employers to have access to material which would enable them to check the work rights of people. All of those processes are working satisfactorily at the moment and we can provide some figures for you on those.

**Senator LUDWIG**—Also, do you have any information about the waiting time in relation to the 1800 number, whether you have done an effectiveness review, whether it is a five-minute, 10-minute—

**Mr Castello**—I do not have that particular detail, but we have carried out a survey of the users of the line. The recent results that we have are that 67 per cent of users are satisfied or very satisfied with the service that was provided by the information line.

**Senator LUDWIG**—Are any plans under way to expand the service?

**Mr Castello**—It is a pilot, and it will be reviewed and decisions made when the pilot is completed.

**Senator LUDWIG**—When will that be?

**Mr Castello**—I am not sure of the precise date but I think it was for at least another six months.

**Senator LUDWIG**—Who will review the operation? Has it already been put in place or is it ongoing?

**Mr Castello**—We are monitoring its use and its efficiency on a regular basis, and the department will be reviewing it at the end of the pilot.

**Senator LUDWIG**—I have one question that is a carryover from last night. It is to Mr Metcalfe. This is in answer to a question from Senator Cooney in relation to health checks—do you recall that general area?

**Mr Metcalfe**—Yes.

**Senator LUDWIG**—I turn to a booklet called *Face the Facts*, in which there are some questions and answers about immigration, refugees and indigenous affairs. It was produced in

2001 by the acting federal Race Discrimination Commissioner of HREOC. It refers to the health checks that refugees undergo. On page 16 it says:

Refugees undergo thorough medical examinations, the same as those required of migrants. These examinations are conducted by qualified physicians and radiologists who are approved by the Australian government.

I thought that to assist Senator Cooney you might be able to verify that the qualified physicians are in fact qualified on a state basis within each of the detention centres themselves, separate from, I guess, asking ACM whether or not they are qualified medical practitioners. I do not know how you verify all of these things yourselves but you must have an independent way of ensuring that the physicians that are used are obviously registered within each state. I think it is by state law. I am open to correction on that but it is a matter that you could verify. Please take it on notice and get back to the committee at some stage as to what it shows. Hopefully, it should show 100 per cent.

**Ms Godwin**—I can certainly take the fine detail on notice, but I can confirm that it is a requirement under the contract that all professional staff—nurses and doctors—employed by ACM are properly registered with the relevant state registration authority, and we have conducted, from time to time, a review of the staff employed and whether their registration is current. I can provide you with more details, but they are certainly trained and registered.

**Senator LUDWIG**—Perhaps you could come back on notice and tell me about them—I do not really want to know their names—state by state.

**Ms Godwin**—Without the names, we could give you the statistics about each of the people employed in each of the centres and their registration.

**Senator LUDWIG**—So we would then have a compliance rate—100 per cent, for argument's sake. I have no further questions on this area, Chair.

**Senator McKIERNAN**—In regard to that, while not following the theme or the question that Senator Ludwig was raising, I note the fact that he asked a question last evening and we do not have the *Hansard* of yesterday's proceedings available to us.

**CHAIR**—From dinnertime last night?

**Senator McKIERNAN**—Yes. I had cause, late yesterday afternoon, to seek the previous evening's transcript of proceedings and that was not available to me. I had an understanding that there were deadlines set for the transcript of Senate estimates proceedings and that the transcripts would be available on the next day. Inquiries were made on my behalf today and I have been told that there are no delivery standards, that there are no targets that have to be met, only that *Hansard* do the best they can. I appreciate that they always do that, but I do believe there is a need for some process to be in place to measure it.

The reason I go on the record on this is that I am aware there have been criticisms made about the new telephone system in Parliament House, and the defence of the new system has been that there have been no complaints about the system, which is driving mad all of the colleagues that I have spoken to about it. So I am putting this particular one on the *Hansard*. I would not want to have to complain every time something goes amiss on this. I am in awe of the delivery of services from *Hansard*, but the fact that we are not getting transcripts in a little bit more rapid fashion is something that is of concern to me and maybe of greater concern to, I understand, the minister who was previously at the table, who needed something from last evening. It may be of concern to him or to other ministers if the material is not there for them.

**Senator Abetz**—Clearly, it cuts both ways.

**CHAIR**—Yes, indeed it does, Minister. Thank you for putting that on the record, Senator McKiernan. It may be an issue that chairs of estimates committees in particular take up following this period of estimates.

**Senator COONAN**—I want to ask a few questions touching on Senator Cooney's questions. The riot at Port Hedland was obviously not an isolated incident in detention centres. If my memory serves me correctly, there have been riots going back into the early nineties. If I remember rightly, there was one where detainees sat on the roof for some period of time. Does anyone have information available as to how many there have been over what period?

**Ms Godwin**—I have some material that I can assist you with but I will give you a little bit of background to start with. In the period before December 1997 the way in which incidents were recorded was different from what it is now, so getting a straight historical perspective or account has been difficult.

In response to a question that Mr Theophanous put on notice last year, we did do a manual check of records going back into 1996 and 1997. That certainly showed that there were continuing incidents during that period. We then tried to do a comparison between that and a similar, more recent period. I can provide that information to the committee. Would you like me to go through it?

**Senator COONAN**—You can provide it in writing. If it is terribly long, I do not want to delay the committee, but it is very useful to get this in context. Also—forgive me, I should know the answer to this—when did ACM become involved in managing the detention centre?

**Ms Godwin**—December 1997. Perhaps I will give you a little bit of information now and provide all of the details in writing. It shows that in certain areas the number of incidents reduced in the two periods under comparison. In other areas, there was certainly an increase, but the other important factor was that in the pre-December 1997 period that we were looking at approximately 330,000 detainee days and in the period January 1999 to December 2000 we were looking at over 1½ million detainee days. So, although there was an increase in some incidents, proportionately we actually did not see as great a rise in incidents. To give you an example, we had escapes going up just over 100 per cent but, as you can see, the number of detainee days went up by a considerably larger number than that. I will provide that to the committee.

Also, since early this year we have been doing a monthly summary of incidents that occur in detention centres. Prior to that, you may be aware from earlier estimates that we have had a process of what we call incident reporting as part of our ongoing monitoring of the contract. When those incident reports are received in the department, they are individually assessed by officers in the detention operations area and, where necessary, they are followed up. If there are matters of concern that need to be raised at a management level, we have monthly contract management meetings with ACM and they are raised in that context. Until early this year, we were not doing a monthly summary. We have now started doing a monthly summary of the incidents and comparing them to the number of detainee days for the period. I can provide that information to the committee as well, just to give you a sense of the amount of activity.

**Senator COONAN**—What is an incident? Would a hunger strike be an incident?

**Ms Godwin**—Yes. We have done a list of the definitions of incidents. They include things like assault. It is called behaviour occasioning an incident report—that might be an altercation

or something of that sort. Other incidents are disturbances, hunger strikes, escapes, fire alarms, hospitalisation where there has been illness or injury, someone who has required rehydration, medical appointments, notifiable diseases, hunger strikes, people leaving the centre, theft and transfers between centres. There is a variety of incidents that we record.

**Senator COONAN**—Not only bad behaviour; it is a very broad description.

**Ms Godwin**—That is right, not only bad behaviour. We could provide that table to the committee.

**Senator COONAN**—I would appreciate that. Am I correct that what distinguishes the Port Hedland riot is that charges have been laid? Is this the first time?

**Ms Godwin**—No, we have laid charges on a number of other occasions. Sorry, Mr Metcalfe has corrected me—AFP have laid charges.

**Senator COONEY**—You should thank him. He just saved you a whole line of questioning.

**Ms Godwin**—Thank you. AFP have laid charges in relation to, for example, one of the major incidents in Woomera last year. There was an incident in Curtin earlier this year where some detainees were the subjects of charges. We always examine incidents to see whether there has been, first of all, a significant breach of Australia's laws, and if our advisers—AFP or in some instances the state police—believe that charges are warranted then we do seek to ensure that charges are laid. It is important for the other detainees who are not disruptive to see that we will take action where it is warranted. But it is not always possible—again, on advice from police, either state or AFP, in consultation with DPP—to identify either the offender or a specific offence with which they can be charged.

**Senator COONAN**—On a slightly different aspect, there was some allusion—I am summarising here, accurately I hope—to the frustration, which might be the best word, of unauthorised arrivals who are held in circumstances where probably their expectations are being quite unrealistically encouraged. It is obviously a very unfortunate and regrettable experience to be held in those circumstances. It relates to how long people are held. What steps has the department taken—I know this gets revised from time to time—to keep processing times to a minimum? Can you give the committee some idea of the current times it takes to go through the process?

**Mr Metcalfe**—There was a discussion last night with Senator McKiernan, I think, about processing times and Mr Illingworth did provide some information in relation to that. That does present a very clear picture that the measures we have taken over the last few—

**Senator COONAN**—You have really made strenuous efforts. I did try to access the *Hansard*, but I could not.

**Mr Metcalfe**—It is a first principle that we have no interest in detaining a person for a day longer than we need to. We have been able to look very carefully at the processes associated with considering applications for refugee status. While ensuring that applications are robust and that there is integrity in the system so that people who have claims are recognised but people who are not refugees are identified, we do try to make those processes work more quickly. I think the information that Mr Illingworth will be able to provide does indicate that there has been substantial movement on that. That of itself removes one of the principal issues—the tension in centres due simply to the length of time people are there.

We had a lengthy discussion about this earlier. Some people are not refugees—they do not have grounds to stay in Australia and have available to them processes, some quite lengthy, to call into question those particular decisions, including pursuing matters through the courts, and many people do, or indeed through international complaint mechanisms. So we do have a growing number of people in detention who have no right to remain in Australia on merits but who are contesting that in some way. We also have situations where we are seeking to send them home and those procedures can be quite lengthy, depending upon where they need to go to. So there are a growing number of people who are not in a process but who are pursuing appeal processes or who are available for removal and who naturally enough may have frustrations about that process.

**CHAIR**—Mr Illingworth, if you could give us that information again, that would be helpful.

**Mr Illingworth**—Certainly. The department reacted on a number of fronts to the increase in boat arrivals and to the change in the nationality composition of those arrivals. In 1999 one of the key responses was to examine the operation of the entry process, which is the immediate departmental reaction to unauthorised arrivals, and the protection visa process that sits behind that entry process, and we took a number of steps. Firstly, we re-engineered both processes to front load a lot of the checking requirements and procedures that hitherto related to the PV process. We put them into the entry process so that they were started at a much earlier stage. We engaged other agencies more closely.

**Senator COONAN**—What was the value of doing that: so you could start that process earlier and because it was more opportune to do it at that point?

**Mr Illingworth**—That is right. There was a financial risk inasmuch as they are requirements that need to be undertaken only where a person is heading towards being granted a protection visa. We were moving to implement, for example, the health checks, the security checks and the offshore penal requirements that would normally be undertaken only once a person had been assessed, that is, only once you have determined that their claims look as if they are engaging our obligations in a protection visa context. Those checks were initiated from the entry process, before the person got near a protection visa application or expressed any interest in applying for a protection visa. The lead times that were involved in checking offshore for security issues and in arranging X-rays and the additional visa related health clearances that are required before you can grant a visa were all undertaken on people and commissioned on people before they had even lodged an application for the visa to which those checks related. In reality that meant that we were saving about three or four weeks, and possibly more. But you have to make a presumption about the possible outcome of the entry process in terms of whether these people are likely to enter the PV process. Obviously, if you are dealing with nationalities where their interest in entering a protection visa process is low, or their likelihood of success is not all that high, it makes sense to initiate checks when you need to rather than run the risk and expense of doing checks which may not be necessary.

**Senator COONAN**—The downside to that would be that the process would be delayed a little.

**Mr Illingworth**—Yes, that is right. The risk we are facing at the moment is, in a way, a financial risk only—we are minimising detention but there is a financial risk inasmuch as we are conducting work on people who in the event may not enter the protection process. Other agencies were engaged more closely into our processes to participate on the front loading and also to become more closely involved in our work in relation to, for example, the security

screening that has to happen for a number of protection visa grants in relation to case loads we are dealing with. That sort of work was undertaken also as part of the entry process rather than awaiting later consideration as and when it was considered necessary. Apart from those sorts of exercises, we reviewed our decision record processes so that we had an abridged record for protection visa approvals which we considered were of a more straightforward nature so that we could minimise the administrative delay in preparing a full statement of reasons documenting every point of consideration where the outcome was very clear-cut. There was a great deal of effort put into our country information so that we could be sure we were dealing with claims as quickly and as reliably as possible.

We also streamlined our arrangements for file transfers between the primary stage and the Refugee Review Tribunal so that there were no delays in the transfer of files after a person lodged a review application if they were unsuccessful before the department. In practice, a person going to the review tribunal would make an application and the tribunal would then notify the department that an application had been made and ask for the files, which we would send across to the tribunal. There is a set period within which the secretary has to respond to those sorts of requests. The change that we put in place was to assume that, if we were making an adverse decision, the person would go to the tribunal, so we set in train the arrangements to complete the file and have it sent to the tribunal to pre-position it there in the event of the expected arrival of the review application.

In addition to those steps, we kept a very close eye on our processing staff levels and their capabilities. We have conducted training and a number of seminars, bringing experts from other countries—the source countries with which we are dealing—to Australia to discuss the challenges and the issues that relate to decision making on the case loads we are dealing with. In an administrative sense, we have been looking at managing the numbers and at the workload projections—as much as one can make reliable projections in a case load that is so volatile in arrival patterns—and making sure that we had sufficient trained officers on deck to handle the expected total visa processing requirements. We have also been ensuring that our standard priorities for processing protection visa applications, which rate detention cases at the top as priority one, were being properly applied. That meant that, if necessary, the detention case load and the demands of that case load are met as a priority from the available resources, even if there are fewer resources than we would have liked left for the community case load. The first tier of our strategy was making sure the priority setting was right and the second tier was making sure that, in any event, we had recruitment and training in place to still do all the case load.

**Mr Metcalfe**—Ms Godwin has some statistics of the age profile and length of detention across the centres, which may go also to responding to your question.

**Senator COONAN**—Thank you. I realise that it is very difficult to have averages because cases vary enormously, but I am interested in whether delays are in processing or removal. Is that statistic available?

**Ms Godwin**—To illustrate the point that Mr Illingworth was just making in trying to make sure people remain in detention for as short a time as possible, the case load in detention on 25 May, which was last Friday, was 2,764 people, of whom more than 55 per cent have been in detention for less than three months. Less than 13 per cent have been in detention for more than 12 months. The vast majority of people who have been in detention for that 12 months or more are probably people who are awaiting removal. That group is obviously the most difficult group to manage but, thankfully, it is the smallest group because we are also

managing people through detention if they are going to be visaed in very short periods of time. I have a breakdown for people awaiting removal by centre and the period they have been awaiting removal. I do not have all the other processing periods, but I think that is something we could provide on notice.

Just to give you a sense of the number of people awaiting removal, there are a total of 1,185 people in this situation. Of those, 703 are unauthorised boat arrivals. So the people in places like Woomera, Curtin and Port Hedland are, generally speaking, boat arrivals, and there are just over 700 of them awaiting removal. The others are people who are either unauthorised air arrivals or people who have been located in onshore compliance operations and are awaiting removal to their country of origin.

**Senator McKIERNAN**—It would help if, in giving us the numbers on those awaiting removal, you could also give us the numbers who are in primary stages—that is, who have not yet made applications—who are at the review tribunal and who are in the legal system involved in litigation in the courts.

**Ms Godwin**—We can provide that. That was my point to Senator Coonan—that we would have to take on notice the question of where people are at those other stages of processing. But that information is available. I just do not have it right here with me.

**Senator McKIERNAN**—You would normally have it for an estimates committee, would you not?

**Ms Godwin**—I have some of it. Mr Illingworth is telling me that he has got it. Perhaps I could just give you the information about those awaiting removal and let Mr Illingworth talk about the others. We have got 217 people in Curtin awaiting removal, 59 people in Maribyrnong, 36 in the Perth IDC, 135 at Port Hedland, 309 at Villawood and 349 at Woomera. We have got a number of people in other facilities—state corrections, hospitals and whatever—and there are 80 of them awaiting removal.

**Mr Illingworth**—The information I have, as at 18 May, covering all the detention locations, is that a total of 392 detainees are in detention who are not in the PV process.

**Senator McKIERNAN**—Would they be screened out or were they people who have not yet made their formal application?

**Mr Illingworth**—The figure I gave you includes some compliance pick-ups out of the community. So it would include both people who have not yet proceeded through the entries process who were unauthorised arrivals and people in the community who have perhaps just been picked up because they have overstayed their protection visa. Without any contact with the protection or entry process as yet, we have 392 people. In the primary protection visa process, we have 1,103, of which 1,059 are boat arrivals, 28 are air arrivals and 16 are compliance origin detainees. There was a total of 76 in what we call ‘the review window’—that is, they have been through the primary process and have obviously received a negative decision but they are within the period within which they have an entitlement to lodge an application for a review. Of those, 69 were boat arrivals, two were air arrivals and five were compliance. At the review stage, 304 people are before the tribunals—261 are boat arrivals, 15 are air arrivals and 28 of compliance origin. In terms of those remitted, awaiting grant, 47 are boat arrivals and three are air arrivals, giving a total of 50. In the judicial review processes, there are 162 people—136 boat arrivals, 12 air arrivals and 14 of compliance pick-up source.

Then we get into the numbers that Ms Godwin mentioned. Her date of the snapshot of the detainee population might be slightly different from mine. My figures are slightly differently compiled. I have 405 PV rejected, which would be final resolved either at primary end if they have not gone to review or they have proceeded through review and/or whatever judicial processes they wish to pursue. Some 232 of those were boat sourced, 90 air and 83 compliance sourced. A further 450 had been through the entry process but had not entered the PV process—that is, they had not been screened in and had not entered the process of their own volition. In terms of timeliness, of the primary process at least, just to add to Ms Godwin's comments, there is quite a bit of throughput at the primary level.

**Senator McKIERNAN**—We got some of that information last night on 1.2.

**Mr Illingworth**—Were you satisfied with that information?

**Senator McKIERNAN**—I am just thinking that there is an awful lot of material to go through in 1.3. We have done 1.2.

**Senator COONEY**—Following on from the important matters raised by Senator McKiernan, I would like to clarify some of those issues. Will I do it now before Senator McKiernan goes on or later? I do not mind.

**CHAIR**—I would like to give Senator McKiernan an opportunity to begin asking the questions he has in this program area. We may come back to you some short time after that.

**Senator COONEY**—It was in the context of what Senator Coonan was raising, but that can wait. I do not think it will make any difference.

**Senator McKIERNAN**—I do not know if it will help the committee and speed the process through, but I had intended to try to structure my questions with some degree of order—asking about the detention area, escapes, the trial that is going to occur at Woomera—and ask them in discrete areas where we might be able to complete one and then move on to something else. That might assist the committee in dealing with issues.

**CHAIR**—I think it would assist the department too.

**Senator McKIERNAN**—It will assist me. That was my primary aim. Can I go to the disturbances that have occurred. I want to confine my remarks to this financial year because of the difficulties in collecting statistics over a larger period of time. From the February estimates committees, from questions I have put on notice, the committee has been provided with details of the various damage that has been done during the disturbances at the detention centres, and we have been provided with details of charges that have been laid against individuals who were part of those disturbances, or allegedly part of those disturbances. In some cases, we have been provided with details of the convictions. Is it possible in a snapshot to provide us with details on each particular incident, updating through to January, February, April? I am just asking for instances by way of a snapshot now for the committee. I know that, for the latter, some of the information will have to be taken on notice, and I am very mindful of the fact that the most recent activities, and possibly even the April disturbance at Curtin, may still be being litigated. I do not want to do anything that might in any way be prejudicial to any legal proceedings.

**Mr Metcalfe**—Just to assist us in responding, do you have the number of the question on notice that we responded to so that we can have that in front of us?

**Senator McKIERNAN**—Unlike Senator Ludwig, I do not work on numbers. I have bits of paper. This bit of paper was No. 50, which gave us the details of the charges that were laid following the Woomera incident in June and August. The next was 51.

**Mr Metcalfe**—And 52.

**Senator McKIERNAN**—Which gave us details of the damage in some of the areas.

**Ms Godwin**—As you know, we were not able to lay any charges after the June incident. The August incident was the subject of a number of charges. I think all of those matters have now been finalised and none of those prosecutions were successful.

**Senator McKIERNAN**—None at all?

**Ms Godwin**—No. I could give you a more detailed—

**Senator McKIERNAN**—On notice, if you could.

**Ms Godwin**—Sure.

**Senator McKIERNAN**—The detail you did supply was that a number of charges were deferred pending trial.

**Ms Godwin**—Yes. In relation to question No. 51, that gives the information about the incidents in January at Port Hedland. Now we have the most recent incident at Port Hedland and we have already discussed the charges there. At Curtin, again there was an incident in January. There was a more recent incident in April which resulted in charges being laid I think against five detainees. Those detainees are due to appear in court in June. Again, I could provide more detail of the charges, if you wish.

**Senator McKIERNAN**—Do you know the amount of damage that has been done to the public property in those detention centres in this financial year as a result of those disturbances?

**Ms Godwin**—I do not have a financial year figure. We certainly have an assessment of the damage done as a result of the most recent incident in Port Hedland.

**Senator McKIERNAN**—I am cautious about the Port Hedland incident because that is still being litigated, as Curtin is still being litigated.

**Mr Metcalfe**—Can we take that on notice, Senator?

**Senator McKIERNAN**—By all means, and will you on notice provide us with an update of the convictions? At the Curtin incident last month where tear gas was used for crowd control, was that the first occasion on which tear gas was used in detention centres in Australia?

**Ms Godwin**—No, Senator. Tear gas was used at Woomera last August. That was the first incident that I am aware of.

**Senator McKIERNAN**—Who used the tear gas? Was it the state police service or ACM personnel?

**Ms Godwin**—At the August incident at Woomera it was ACM and at the Curtin incident it was also ACM. What happened on that occasion, as I understand it, was that three officers were surrounded by a much larger group of detainees and were not able to be reached by other colleagues. In an attempt to clear a path so that they could move out from this large and quite aggressive group, one of the officers used a tear gas canister. A tear gas canister is not something that is fired into the group; it is a little spray can.

**Senator McKIERNAN**—A hand-held object?

**Ms Godwin**—That is my understanding.

**Senator McKIERNAN**—Is that distinct from capsicum spray?

**Ms Godwin**—I think so. I would have to take that on notice.

**Senator McKIERNAN**—Would you also on notice find out when tear gas was used as a means of crowd control previously in Australia?

**Ms Godwin**—Do you mean prior to the August incident?

**Senator McKIERNAN**—Yes, August last year.

**Mr Metcalfe**—In any circumstance?

**Senator McKIERNAN**—In any circumstance.

**Mr Metcalfe**—I do not know whether the department would have knowledge of that. Potentially, that would go to all state and territory police forces and correctional authorities. We would have to rely upon the same research that you would probably have available through the Parliamentary Library or whatever.

**Senator McKIERNAN**—That is probably a fair answer.

**Mr Metcalfe**—I do not think we would have knowledge of it apart from what is publicly available to us.

**Senator McKIERNAN**—There is a water cannon located at Woomera which was used in August last year. Who owns that piece of equipment?

**Ms Godwin**—There are two fire trucks, owned by ACM. Essentially, they are there for firefighting purposes, but they can also be used as water cannons.

**Senator McKIERNAN**—Is there such equipment at any other ACM managed facility?

**Ms Godwin**—I am told that there is a facility at Port Hedland. I think at Port Hedland the issue is that the water pressure is such that the fire hydrants do not deliver the sort of pressure that would be required if there was a significant fire.

**Senator McKIERNAN**—We are getting into technical areas.

**Ms Godwin**—I think it is a water pressure problem.

**Senator McKIERNAN**—There have been a number of incidents and I am conscious of the fact that there is still litigation on foot in regard to some of them. Has all the litigation been completed in regard to the August incident at Woomera?

**Ms Godwin**—That is the one I referred to before, Senator. My understanding is that all of that has been completed.

**Senator McKIERNAN**—Has there been an inquiry either by the department or by ACM into that particular disturbance?

**Ms Godwin**—It is standard practice after a major incident, or a significant incident, for ACM to conduct an internal investigation, and they did that.

**Senator McKIERNAN**—So the answer is yes.

**Ms Godwin**—Yes, but in addition to that we also commissioned an examination not just of that incident but of the break-outs in June at three centres. There were four incidents that were the subject of that examination.

**Senator McKIERNAN**—Because of the time I was going to confine my remarks to this financial year's happenings and not go back to some of the detail contained in the answers to the questions that went on notice in February. I am going to contain myself to this financial year, but I am happy to go back even further if that—

**Ms Godwin**—No, I was simply making the point that, because we had the incidents in June and then another incident in August, that group of incidents was the subject of an examination.

**Senator McKIERNAN**—What was the result of that inquiry in the sense of what did it tell the department as to the causes of the disturbance?

**Ms Godwin**—I might need to take some of this on notice, Senator, to give you a bit more detail. It certainly pointed, particularly in relation to the June incidents, to the frustrations detainees were feeling at that point about what they perceived to be delays in processing. That was probably the major thing it pointed to. It also pointed to the fact that, at least in Curtin and Woomera, the nature of the fencing was probably inadequate to the numbers.

**Senator McKIERNAN**—The nature of the fencing would not have been the cause of it.

**Ms Godwin**—No.

**Senator McKIERNAN**—That is what my question was—the causes and the result of the inquiry. I am going to require some more detail on the results of the inquiry. You are not in a position to supply that now in more precision than you have given me, rather than 'I think'—and I am not being critical.

**Ms Godwin**—No, I am drawing from memory, so I am trying to be careful that I do not say something that is not 100 per cent accurate. Those examinations pointed to a sense of frustration on the part of the detainees about processing, about the fact that it did not accord with what they had been told to expect prior to coming to Australia—told by the smugglers. I think there was a sense of not just frustration at the timing but a question about whether people felt they had enough information about what was happening to them and things of that nature. As I say, I am drawing from memory and I would have to provide you with more detail.

**Senator McKIERNAN**—Were any causes or reasons directed to the management at Woomera as to the fact that it did get out of hand—and, let's face it, it did get out of hand?

**Ms Godwin**—I think the assessment was that, in view of the large number of people and the fact that particularly at Woomera there was no internal separation so that large numbers of people could congregate—

**Senator McKIERNAN**—That was a cause or reason, was it? Was that one of the findings of the inquiry?

**Ms Godwin**—You raised the question of why it got out of hand, to use your words. The point that the examination of the incidents pointed to was that, when you have large numbers of people who can congregate with no capacity to separate them into smaller groups, if they make a determined push at the fence, which they did, even with very large numbers of staff it would not have been possible for the service provider to contain that situation.

**Senator McKIERNAN**—That was one of the findings of the inquiry?

**Ms Godwin**—Yes.

**Senator McKIERNAN**—Who conducted the inquiry?

**Ms Godwin**—There were three levels. There was an assessment by ACM itself, an internal investigation. We got reports from our own managers—DIMA managers—at each of the centres. And we engaged a consultant to undertake an assessment for us.

**Senator McKIERNAN**—An assessment or an inquiry?

**Ms Godwin**—I would call it—

**Senator McKIERNAN**—The words are important, I am sorry.

**Ms Godwin**—I would call it an assessment. What happened, why did it happen and what could we learn in terms of future management.

**Senator McKIERNAN**—So if I ask you now if an inquiry has been conducted—now, with the benefit of what you have just told me—what is your response?

**Ms Godwin**—I do not want to be seeming to play semantics, but we conducted an examination of the incidents—why they had happened, could they have been managed differently, what should we learn from them. Those have all fed into subsequent actions—for example, the upgrading of fencing, the improvement in internal fencing and changes in some respects to things like processing and those sorts of things.

**Senator McKIERNAN**—If I ask the secretary to the department if an inquiry was conducted into the events at Woomera in August of last year, what would your expectation of the response be? Would he tell me that an inquiry had been conducted or that something else had happened?

**Mr Farmer**—I think we reviewed it, Senator.

**Senator McKIERNAN**—I am now asking formally, Mr Farmer: has an inquiry been done into the events at Woomera in August last year?

**Mr Farmer**—We did what I recall as being a review.

**Senator McKIERNAN**—So we have a review and an assessment but no inquiry. A number of other disturbances have occurred in the detention centres around Australia since then. I do not want to go through each and every one of them because of the time that is available to us. Has any—I am using the term very plainly—inquiry been conducted into any of those disturbances, leaving aside the most recent one, at Port Hedland, because it was only two weeks ago? Perhaps you could advise on that.

**Mr Farmer**—You are focusing on the word ‘inquiry’, with a capital ‘I’.

**Senator McKIERNAN**—Yes, I am.

**Mr Farmer**—If I were to think of the capital ‘I’ inquiries that have been conducted in this area, I would think there would be the inquiry by Mr Flood, the own motion investigations by the Ombudsman.

**Senator McKIERNAN**—I will have separate questions on those later on.

**Mr Farmer**—And we have done our reviews. I leave aside parliamentary examination, because again I do not know the words that attach to their examination of the issue—whether it is visits, motions, investigations, assessments. I just do not know.

**Senator McKIERNAN**—What I am dealing with now under this particular point—output 1.3—concerns certain disturbances that have occurred in the detention facilities of the department of immigration which are managed by ACM. There has been damage to public property, there has been damage done to people and there has been great distress caused in the

community with regard to those matters. I am asking now very pointedly what inquiries have been conducted by the department into each of those incidents over this financial year. I am using a capital 'I' in relation to 'inquiry'.

**Mr Farmer**—It is possible that one man's inquiry is another man's review. I would not want you to conclude that only a capital 'I' inquiry looks into matters because, as Ms Godwin has made clear, there has been extensive review, assessment and investigation of a number of the incidents. Your question is about the use of, *ipsisssima verba*, the word 'inquiry'—I am answering to the best of my knowledge—and I am aware of the Flood inquiry, but other things have been the subject of extensive inquiry. I think the words we use are other words—review, assessment and investigation.

**Senator McKIERNAN**—I suppose I am privileged in a way because I was a member of the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade of the parliament which visited Port Hedland in January of this year. Without divulging any of the committee stuff, we arrived in Port Hedland shortly after a disturbance. The committee was given certain information as to the causes of that disturbance, and since that time other information has come on the public record about what may or may not have been the causes of that particular disturbance. I do not think it is the role of a committee such as this to tease those matters out, and I am not going to do that here, but I do have a concern that perhaps a committee of the parliament was given one set of information in January which may not have been accurate and truthful information. That is why I am testing this with each one. I am not just chasing Port Hedland or being parochial and chasing Western Australia. There are great concerns in the community about what is happening in the detention centres at the moment. Events continue to happen, despite the very severe disturbance. Probably the worst one was in Woomera in August of last year, but they still continue to happen. I want to know through this process why, and I am not so sure I am getting that information now.

**Mr Farmer**—I think we have explained what happens after each incident. There is a review of the circumstances and then decisions are taken in consultation with the relevant authorities about what follow-up action is appropriate in each set of circumstances. I am concerned if you think that information you have been given about anything is inaccurate. If that is the case, we stand ready to give you what information of a factual nature that we can.

**Senator McKIERNAN**—There is a variety of reasons given by ministers after disturbances. There is also other information that comes on the public record about these happenings. Generally speaking, the full detail is never made public. That is why I am pressing the point on the inquiry—something more than a review; something more than a consultant's assessment. I actually think it is needed. I am not going so far at this stage to say that there is dereliction of duty if such inquiries are not made immediately following the disturbances. I will await the information that comes back on the questions on notice, because we have not finished this particular debate, but I know that you want to make some comments now, Mr Farmer.

**Mr Farmer**—I would not want you to be left with the impression that inquiries are not made. The question of an inquiry with a capital 'I' goes into a policy area where I think the minister has made his point of view clear.

**Senator McKIERNAN**—Can I test it further then. I was careful in asking about Woomera and whether all charges had been through the courts and are therefore exhausted. Could the

committee be supplied with a copy of the assessment—using your term—of the events in Woomera in August of last year?

**Mr Farmer**—I will take that on notice. We do not have the report. I do not know the details. I am not sure what conclusions are in there.

**Senator McKIERNAN**—Neither am I, and that is why I am testing it with you, Mr Farmer.

**Mr Farmer**—Yes—and I have said that I will take it on notice. It is something that I might need to consult the minister about. As at the moment, I think that is the appropriate thing for me to do.

**Senator McKIERNAN**—I accept that. Can I just reinforce the point a little further. I am talking about tear gas being used in Woomera and Curtin. It was also used in Port Hedland in recent times. The Port Hedland facility is differently located than either of the other two centres. Indeed, there is housing very close by, and when tear gas is used it does get into the atmosphere. I do not know how far it dissipates, but the atmosphere surrounding the Port Hedland detention centre houses my constituents and they have been expressing concerns to me about that.

I am really constraining myself because the Port Hedland incident is before the courts. I do not want to do or say anything that might in any way prejudice proceedings, but I think once is too often to use tear gas in Australia. It is far too often to use it in a detention centre. Now we have had three incidents where it has been used. We have now been told that we have a water cannon or a facility, a vehicle, that will serve as a water cannon. I thought there were only two at Woomera. Now we know there is one at Port Hedland as well. I know that the fences are increasingly getting more and more solid, more prison-like. I would not want our detention facilities to get like they are in the United States of America, which I visited very recently and which I saw over there. I think there are real problems in our detention facilities. I am not so confident from the series of questions that I have just addressed now that those problems are being addressed. I will give you a chance to respond and perhaps after lunch we will move on to a different theme—unless my colleagues want to press this one further.

**Mr Farmer**—Senator, one of the things that we have had to come to grips with over the last 18 months in particular is an increasingly non-compliant population. It is, I believe, a fact that the operators of the centre have been confronted with some quite difficult circumstances. We have had police being interviewed on the radio about the riot at Port Hedland on 11 May. One of them, I think I recall correctly, said that in his 12 years as a police officer it was probably the most violent riot situation he had ever seen. I do not know who that was. It was on the ABC. They were interviewing a police officer who spoke anonymously. The circumstances confronting the management of the detention centres have certainly changed in nature and quality, I think in quite a short time.

**Senator McKIERNAN**—I am going to conclude my questions on that particular element of 1.3. I have other questions on 1.3.

**Senator COONEY**—Mr Farmer, you have just told Senator McKiernan that a policeman at the riot of 11 May said that was the most violent riot he had every seen in his 11-year history. Then Senator McKiernan asked a whole series of questions which indicated real problems, to put it in a loose way. I think the sorts of things that Senator McKiernan brought out are very vital matters. I think, to be fair, you took them as vital matters.

He mentioned all these problems—the use of tear gas, the use of water cannons, in effect, from fire trucks. What he pointed out was a change in the sort of culture that we in Australia have been used to. Can I say, with great respect, that the mind fix that you seem to have is, ‘Isn’t this awful?’—and it is awful—‘All this comes from the sorts of people that we have in these camps.’ In fact, what you are doing—and I do not think you can do anything else because this is the process—is putting up a defence for ACM. You are saying, ‘We really can’t blame ACM. These are very violent people. There has been a change’—I think that is the proposition you are putting to us—‘in the nature of these sorts of things.’ What Senator McKiernan was asking you was whether it ever occurs to you that there ought to be some very widespread inquiry into this sort of thing. You say, ‘Oh, Senator McKiernan, I don’t think so. After all, we are looking at all these things.’ Can’t you see there is a real problem in the balance—the most violent riot this policeman has ever seen, the use of tear gas, the use of water cannons? When we see it on the telly from overseas we are shocked about it, but when it is put to you that there should be widespread inquiries you say there have been. But the sorts of inquiries you are talking about do not seem in any way commensurate with the problems that you are talking about. Has that ever occurred to you—the imbalance between the seriousness of the problem and the response?

**Mr Farmer**—You are really touching a policy question on which the minister has uttered. I really cannot—

**Senator COONEY**—Let me put it this way. Without you sort of ticking off on it, can you see merit in the sort of proposition that Senator McKiernan is putting—that there ought to be a wide-ranging inquiry?

**Mr Farmer**—Of course, I bend over backwards to see merit in almost anything, Senator.

**Senator COONEY**—Can you bend over far enough to see merit in what Senator McKiernan has said?

**Mr Farmer**—If I bent over that far, I would get six of the best in another quarter, Senator.

**Senator COONEY**—Touche. The other problem that arises is this. A lot of the evidence that you and Ms Godwin are giving about the riots comes from what you have been told by ACM. That just follows. It must be the situation. Ms Godwin was talking before about the way people were acting. A lot of that material comes from ACM. That is right, isn’t it?

**Mr Farmer**—A lot of it does, not all. Things like videos, for example—

**Senator COONEY**—But they are the videos that are under the control of ACM, aren’t they? Does the department have independent videos at these centres?

**Ms Godwin**—No, we do not, but we do have DIMA—

**Senator COONEY**—Sorry, I do not want to stop you but, Mr Farmer, when I said to you that most of the evidence you get comes from ACM, you said, ‘No, no, there are videos.’ That gave me the impression that you had some sort of independent video machine there. That is evidence from ACM, isn’t it?

**CHAIR**—Can I just clarify something, Mr Farmer. Are we are talking about closed-circuit television recording?

**Mr Farmer**—No.

**CHAIR**—Or specific video footage of the riots, so called?

**Mr Farmer**—In some circumstances it is material of the latter type. In other words, when an operation is going to be mounted, it is videoed. That is done because of the propensity of the media to carry stories which are manifestly at odds with what happened.

**CHAIR**—I understand.

**Mr Farmer**—That is not just my view. The Ombudsman did a report of allegations into matters in Maribyrnong that were videoed and found that the allegations were a complete fabrication.

**CHAIR**—I have read the report. Senator Cooney, if you conclude on this question—

**Senator COONEY**—On this very question. I can come back. That is what I am putting to you. I thought you cavilled at it. Most of the evidence that comes to you from these incidents comes from ACM. When you said ‘video’, you meant video provided by ACM.

**Mr Farmer**—Yes, but that does not necessarily come only to us. It comes to the people who have the responsibility for weighing evidence—that is, the police authorities and the courts.

**Senator COONEY**—I will stop you, because let us just think about this. What I am putting to you is pretty simple, I think. It has arisen from what Senator McKiernan was putting to you. The evidence we have to rely upon—that you have to rely upon, and, through you, we have to rely upon—is evidence from ACM, whom I would not attack, of course, except in these proceedings. Can’t you see that what is happening as a result of that is that we get you along here and put you through these mild mannered questioning sessions? What you are really doing is protecting—not protecting but answering for—ACM. Because of the way things are set up, ACM cannot be here. It seems to me to be unfair, in a sense, to the department that it has to come up and spend hours in our company answering questions which are really questions that should be put to ACM because they are the ones that are on the ground doing these things. All you can do is what you have done. You say you have checked with ACM, that this is what they have told you and that you will now tell us. Can you see that there is a problem in there for us as a committee? That is what Senator McKiernan was putting to you, and I thought fairly well. I thought it was a fairly telling point.

**Mr Farmer**—I think we are accountable to the parliament, and each of us, including ACM, is accountable for actions, whether in a contract sense or before the courts. The courts and the police have information not only from ACM or from us; they have information from others involved. You have police officers who have been involved in a number of these incidents. You have the interviews that the police have with detainees, for example. They take their own evidence from a variety of sources.

**Senator COONEY**—If you have a court case, you are going to have evidence in respect of that particular case. I think what has been put to you is what happens if there is an endemic sort of problem. That is what Senator McKiernan was saying. He seems to love these detention centres. Senator McKiernan goes round them all the time. If there is an endemic problem there, it seems to me that the committee is entitled to have a look at it. This committee is one way it can do that, but this committee is limited, because what it is presented with is people from the department. I seriously say that it is a department I have great respect for, but it is a department that is coming in for a lot of criticism—not because of what it does itself but because of what ACM does. Does ACM have to face the questioning in this committee? No. You do. De facto, in effect, you are becoming the advocates for ACM when you should not be.

**Mr Farmer**—No.

**Senator COONEY**—What ought to happen, and I think this is what Senator McKiernan was putting to you, is this. If there was an inquiry where ACM had to give evidence, it would do a couple of things. First of all, it would make it clear what is happening in the detention centres. Secondly, I think it would improve the impression a lot of people have of this department. I think this department, in the eyes of many people, or at least a significant number of people, is having its reputation prejudiced not because of its own actions but because of the actions of ACM, who never face a line of questioning in the way that you are doing.

**CHAIR**—I think Mr Farmer made the point earlier that he is not in a position to either accede to the view about a committee or not. As regards ACM, of course, there are other committees of the parliament which have examined ACM both in detention centres and in this building. The Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, as part of its processes, is visiting detention centres and is due to report later next month. It has done just that.

**Senator COONEY**—I had not understood that ACM had come before a parliamentary committee in the way that this department has had to come through and be examined at length over some days.

**CHAIR**—ACM have met with that committee. On that note, we will adjourn for lunch.

**Proceedings suspended from 1.05 p.m. to 2.07 p.m.**

**CHAIR**—We will continue with questions from Senator McKiernan.

**Senator McKIERNAN**—Before I get to questions, Chair, a short period of time before lunch I made a comment about being given incorrect information when I was with the human rights subcommittee in Port Hedland. I have since spoken to a number of the officers from the department about certain dates, about certain events happening during that time, and that discussion has put a serious doubt in my mind about the veracity of the comment that I made earlier—that is, being given incorrect information. I have had a quick examination of my files in my Parliament House office, seeing if I could find my notes from the meeting. I was not able to do it, nor were my staff in my electorate office, so I am not in position to either confirm or deny it. I am not even sure I have still got those notes. But I do put on the record that I have now got some very serious doubts about the accuracy of the comment that I made in regard to the dates and the events that were mentioned during the course of the meeting in Port Hedland, and I express regret for putting it forward, but at that time I sincerely believed in what I was saying.

**CHAIR**—Thank you for making that point, Senator McKiernan.

**Mr Metcalfe**—Further to the deputy chair's comment, if would assist the committee, the department will be happy to take on notice provision to the committee of a chronology, as we understand it, of the particular events. That may assist understanding in the future.

**CHAIR**—That might be very helpful.

**Senator McKIERNAN**—It would be helpful. It was something that I had thought of pursuing in the February hearings but, because the matter was before the courts at that time, I did not think it appropriate that it be pursued in an open forum such as a Senate estimates committee hearing. Again, I express regret if it caused any difficulty to the department or, indeed, to the officers concerned.

**Mr Metcalfe**—Thank you.

**Senator COONEY**—Just while you are on that, Mr Metcalfe, checking this through, there is something you might do for me. We had a discussion about whether ACM have lost a contract in Victoria. If in fact they have not, could we look at that and put it on the record? We cannot do it now, but that might be a way of doing it.

**Mr Metcalfe**—Certainly, Senator, on notice. Although it is not strictly a matter for the department, we would be happy to check and advise the committee. It is my understanding, although I will not be absolutely definitive, that their primary contract in Victoria is the administration of Fulham correctional facility at Sale. As far as I know, that still is within their business, but we can advise the committee as to their circumstances in that area.

**Senator COONEY**—That is a way to get it on the record.

**CHAIR**—Thank you, Mr Metcalfe. That clarification will be helpful to all of us.

**Senator McKIERNAN**—What can the committee be told about the trial that was announced last week to release women and children from detention in Woomera? Or is it still under policy consideration?

**Ms Godwin**—I can give you a fair bit of background. There are some elements of the trial that are still under consideration, but they do not go to the substance of the issue. Following his indication in late February that he was interested in establishing a trial, the minister has now announced that we will proceed with that and we are now working through the implementation issues. The trial will involve a group of approximately 25 women and children from the Woomera detention facility who will participate on a voluntary basis—in other words, no-one will be forcibly separated from family members in the detention centre. They will be accommodated in a small cluster of houses in the Woomera township. The basis for the trial is that they remain formally in immigration detention, and so the accommodation will be supervised by ACM officers. People will be required to remain within the area of the housing, within the yard—the fencing marks the boundaries. If they wish to move outside to go down to the park with the children or just to go for a walk, they will need to be accompanied, and that will all be part of the implementation.

We hope that they will be able to participate in the local school, but that is a matter for discussion with the education authorities in South Australia. Those discussions have not yet been undertaken. If it proves to be not possible for them to participate in the local school, they will have access to the education facilities at the centre. Provision will be made for people to visit their family members in the centre on a daily basis, but otherwise people will live in the houses and essentially go about their daily business there. The intention is that, while they remain in detention, the routines and the way in which they manage their daily lives will hopefully be a bit more like being in the community. For example, in the detention centre people are not able to prepare their own meals and they eat in a communal dining setting; obviously, in the houses they will be able to operate in family groups and in smaller groups. I can provide answers to further questions if you wish.

**Senator McKIERNAN**—Do you have an expected start-up date for the trial?

**Ms Godwin**—We expect it could take about a month to get the implementation organised. Essentially, we have to tidy up the houses. They are in a good state of repair, but they have not been occupied for about 18 months so they will need thorough cleaning and maybe painting. We have obviously got to equip the houses with furniture and incidentals, et cetera. The gardens need tidying up—there are leaves and things around. Obviously, we also have to complete discussions with ACM about what the requirements are for the trial. But, broadly

speaking, we expect that the detention component will be a bit like a group house supervisor, if I can put it that way—a ‘house mother’—but staff will be available 24 hours a day, and so forth.

**Senator McKIERNAN**—It is close to the shops, so if detainees want to go to the shops—and I think there is a swimming pool there, as well—they would need to be accompanied?

**Ms Godwin**—Yes.

**Senator McKIERNAN**—If guarding has to be provided, is it not going to lead to an increase in expenditure on detention?

**Ms Godwin**—People from the centre, particularly women and children, do already go down to town for excursions of one sort or another and they are supervised in doing that, obviously. So this would in a sense be a component of that. I guess from time to time, although the details have not been worked out, they may want to participate in other group activities with people coming down from the centre so that they are mixing with other people from the centre on an excursion. Or they may go out separately, as I say, to the park or whatever. Obviously, one of the questions that we have to test in this context is what the costs are and whether it is a reasonable way to manage the detention requirements. There may be additional costs, but that is one of the things we will need to evaluate.

**Senator McKIERNAN**—Will food be supplied to them for their own cooking, serving and consumption?

**Ms Godwin**—Yes. The broad expectation is that ACM would provide all the essential supplies—linen, all those sorts of things—but that people would then be able to prepare their own meals.

**Senator McKIERNAN**—You said that staff would be available 24 hours a day. Would that be security staff as well as other staff?

**Ms Godwin**—They will be detention officers. Obviously the detention officers will need to be carefully selected, and I understand ACM are thinking about what criteria they want to apply. Given that it is women and children, you would expect, I suppose, that the bulk of the staff would be female officers—and there are quite a number of female detention officers at Woomera who may be interested. I do not know—and this goes to a level of detail we have not yet pursued—whether all the detention officers would come from the existing complement at Woomera or whether they would seek to recruit additional staff.

**Senator McKIERNAN**—What type of housing is it? Are they freestanding homes or are they part of blocks of units?

**Ms Godwin**—They are freestanding houses but in a group. There are two houses with two backed onto them, so there is a group of four.

**Senator McKIERNAN**—Almost like clusters.

**Ms Godwin**—Yes.

**Senator McKIERNAN**—Have volunteers been called for—

**Ms Godwin**—We have not got to that point yet. As I said, there are still some things to finalise—selection criteria, the selection process, some of the discussions with other agencies—and we will work through all those in the next few weeks.

**Senator McKIERNAN**—I suppose that, when a person volunteers to be part of the experiment, they will at the same time be signing up and giving a number of commitments not

---

to move unescorted beyond the fences surrounding the cluster of homes. Is it expected that that would be part of the arrangement?

**Ms Godwin**—Yes. I think we have actually said that there would be an undertaking that people would sign, and if they break that undertaking that may be basis for their not continuing to participate in the trial.

**Senator McKIERNAN**—What thought has been given to those people who are part of the experiment receiving visitors? Has that yet been considered?

**Ms Godwin**—We have done some thinking on that, but again it is one of the things that needs to be finally resolved. Clearly, as a core of the trial, it is our intention that people be able to maintain contact with family members in the detention centre, and we expect that that would happen most likely by them going back to the centre to visit. There may be other people who wish to visit them, and of course we will need to finalise the circumstances around that. We obviously do not want them to have, for their own sake, a lot of unsolicited visitors. Some of those may well have a positive motivation, but we need to make sure that people are not receiving unwanted visitors.

**Senator McKIERNAN**—My last question in this area is in relation to the fact that there is not 100 per cent support from within Woomera for the experiment—and they are the words that the minister himself used in the media. What level would the support or the antagonism be within the community towards the experiment?

**Ms Godwin**—There are two elements to it. The minister has said publicly that it is not a vote. As I said, there are two layers: there is the question of people who have concerns about the trial and then there is the question of whether that would mean that they would be antagonistic to the people participating in the trial. I think the overall assessment is that there are a number of people in Woomera who have understandable concerns and questions about how the trial will work and what impact it will have on Woomera and the community there. But I think the overall assessment is that, despite those concerns, the community will not be hostile to the people participating in the trial and will allow them to go about their business in a reasonable atmosphere.

**Senator LUDWIG**—Senator McKiernan may have asked this question while I was out, but has there been a question in relation to an analysis of the costs? What I am looking for is an answer similar to that provided to us to question on notice No. 44 where there was an analysis of total expenses, total detainee days, costs per day and that sort of concept. I do not want to labour the point, because I know the issue that we are looking at may not be the cost but the welfare of the people concerned. Is their welfare of paramount consideration and is cost a secondary consideration? How is the overall package being developed in that context? There must be a tension between those two elements. Also, what would the cost of a detainee in a detention centre be compared with that of a detainee released into the wider community and we did not have detention centres in any event? But that is another story. As well as the additional costs of the security arrangements that are in place, there is the question of consultants. Do you want me to stop there?

**Ms Godwin**—Perhaps I should just tell you where we are up to, because in some respects the answers to the questions you are asking will emerge from the trial itself and our evaluation of it.

**Senator LUDWIG**—I was hoping you were not going to tell me that.

**Ms Godwin**—I am sorry. We have certainly done some assessment of what it will cost us to run the trial, and at this point clearly the objective is to run the trial in as thorough a manner as possible, so that we can evaluate it as a methodology. As part of that evaluation, we will clearly need to examine what the costs are and how they compare with other sorts of costs. I do not want to make any comment about what might be the judgment at the end of the day about the relative costs; I am simply saying that that would be one of the things that we would need to evaluate. At this point, we have a rough idea of what it will cost. Those costs will become clearer as we pin down all of the details. What we want to do is to run the trial in as thorough and constructive a manner as possible and evaluate what that means.

**Senator LUDWIG**—Has this been trialled overseas?

**Ms Godwin**—It is not unlike things that some countries do, but there are elements of it which are very different. I think the point to make is that this is a trial which has been established and which takes account of our specific context. If you will recall some of the background to this, what prompted this sort of examination in the first instance was members of the community raising with the minister the so-called Swedish model. The minister himself was in Sweden in January and looked at what they do.

There are some elements of what we are looking at which are similar to what they do in Sweden, but not all of them. For instance, in Sweden it is not voluntary. It is just a matter of course that the male head of household is detained and the family is allowed to live separately in a hostel; there is no choice. Secondly, in a number of the countries that have these sorts of arrangements, they have very extensive national ID systems. So if people move away from the hostel type of accommodation that has been provided, it is possible to work out where they are because they cannot go to the doctor, go to the bank, go to the post office or go for many services without using their ID card. We do not have that. There are elements of it which look similar to some of the things that other countries do, but I would not like to say it is exactly the same as any of the other things. It has been designed, as I say, specifically for the Australian context.

**Senator LUDWIG**—Have you had a look at the Swedish model in terms of security issues, visitation rights, the rules of how the centres operate?

**Ms Godwin**—We have certainly looked at some of those elements but, as I say, the circumstances are somewhat different. It is not a direct comparison.

**CHAIR**—Senator McKiernan, you are continuing?

**Senator McKIERNAN**—Yes, but on a different theme. During our dialogue this morning mention was made of the reports of the Ombudsman into the incident at Maribyrnong detention centre, the one that was videotaped. I was not aware that that one had been tabled. Can you tell me when that was tabled?

**Ms Godwin**—I do not know if they have tabled an individual report on it, but it was certainly referred to in the last Ombudsman's annual report.

**Senator McKIERNAN**—It was. I think I recall putting in a question about it at the time. I have not had a chance to follow it through since then. So you are not aware that an Ombudsman report on that particular incident has been tabled?

**Ms Godwin**—I am not, no.

**Mr Metcalfe**—Senator, I think our knowledge remains that it was referred to in the annual report and that it has not been tabled.

**Senator McKIERNAN**—There were two other reports by the Ombudsman which happened earlier this year around the time that the Flood report was tabled. It is mentioned in the PBS on page 8 that DIMA will effectively manage detention issues by implementing measures in response to Flood and two recent Ombudsman's reports. At the time of the release of the Ombudsman's report, I recall the minister being somewhat critical of the report and the content of the report. Is this an indication in the PBS that the minister is now accepting the commentary and the recommendations, if there were any—and I have not got them with me—that were contained in those reports?

**Mr Farmer**—No, Senator. The page 8 reference is 'implementing measures in response to the two recent Ombudsman's reports'. As is clear from those reports, the department accepts a number of the recommendations there. In fact, we had already acted on a number of those things before the report was done. But the minister did make comments on elements of the reports and those comments, I believe, still stand.

**Senator McKIERNAN**—The other report that is worth mentioning in this area is the more recent one by the Human Rights and Equal Opportunity Commission, *Report of an inquiry into a complaint of acts or practices inconsistent with or contrary to human rights in immigration detention centres*, No. 12 of this year. This is the report where a penalty was levied against the department which the department is not accepting the recommendations on. Are there any updates on where this matter is now? There was some information given to the committee the other day that this is really a matter for the parliament now. What is the view from the department about the content of and recommendations in the report?

**Ms Godwin**—When that report was tabled, the minister issued a press release in which he indicated that he was satisfied that the department was not in breach of the ICCPR and so would not be making any payments to the individuals.

**Senator McKIERNAN**—Is there an expectation from the department that the parliament will act on the report or that any other body would act on the report?

**Mr Metcalfe**—I think we have indicated the government's position in relation to the matter. Whether there are further processes available to other bodies is a matter for them.

**Senator McKIERNAN**—But the department has no expectation that that would occur. Have all of the recommendations that were contained in the Flood inquiry been carried out now and, if not, why not?

**Ms Godwin**—I think the minister indicated at the time the Flood report was tabled that all of the recommendations were accepted, and we are working on all of those recommendations. Many of them are, in a sense, things that require ongoing work to bring them to resolution. I am happy to run through some of them, if you wish.

**Senator McKIERNAN**—I do not want to spend all afternoon going through and dissecting the Flood report. If you can just encapsulate some of the more important ones, that would be good.

**Ms Godwin**—We have a table of the Flood recommendations, related recommendations from the Ombudsman's report and what action we are taking, so we could provide that.

**Senator McKIERNAN**—I think that would probably be the most helpful way of proceeding. How often has the Immigration Detention Advisory Group met?

**Ms Godwin**—They have already met three times. As a group, they have visited Villawood and Woomera, and individual members have visited Maribyrnong, Port Hedland and Curtin.

They are due to meet again in June, and they will visit the other detention centres progressively in the course of the next couple of months.

**Senator McKIERNAN**—One of the matters that we did not discuss when we were given the details on the population in detention at the moment was the number of escapees—people that are on the loose at the moment. There have been some recent incidents where people have decided to leave.

**Ms Godwin**—They no longer take advantage of our hospitality. In the period from November to May, 24 people escaped from Villawood, 22 of whom are still at large. At Maribyrnong there were five escapes, and three of those are still at large. At Port Hedland there were nine escapes, and five of those people are still at large. At Curtin two people escaped but both of them have been returned to the centre. At Woomera there were two escapes, but one person has been returned to the centre. I should emphasise—and I should also make this point in relation to a couple of the other centres—that they did not actually escape from Woomera; they were at a hospital for medical treatment, and they escaped while they were at the hospital. That is true of a couple of the other escapes. They actually were not escapes from the detention facility; the people were being escorted for appointments or medical treatment and they escaped during that.

**Senator McKIERNAN**—Was that the case with Maribyrnong? Are there four or five others who were able to scale a fence?

**Ms Godwin**—With Maribyrnong, one was an escape while on a visit to the department, and the other four were directly from the centre. Two of those people have been relocated.

**Senator McKIERNAN**—Overall, how many are on the loose at the moment?

**Ms Godwin**—Thirty-one.

**Senator McKIERNAN**—I am not going to ask you to do a comparison with the situation two years ago or ten years ago, because the circumstances would be completely different—certainly the population and the number of detention days would be different—so we would not get a proper measurement. We also would not get a proper measurement because the security of the various facilities has also dramatically changed within that period of time, so I do not need any comparative analysis on that. I am not so sure that a comparative analysis would be of any use in regard to it.

The other matter I was about to move to was the ACM contract and last week's decision to put the contract out to tender. Can the committee be informed of the circumstances which precipitated that decision? What brought about the decision?

**Mr Metcalfe**—Senator, I am happy to answer that question. To give you a bit of contextual background: as I think the committee is aware from earlier hearings, the department and ACS/ACM entered into contractual relations in 1997 following a tender process. ACM was obviously the successful tenderer at that time. That tender brought with it a 10-year contract, which extends from 27 February 1998 and which is described as the 'general agreement'. Essentially, the general agreement sets out the broad relationship between the Commonwealth and the company. However, the specific provision of detention services is a subject of a series of separate detention services contracts, the majority of which—services essentially for the detention centres at Villawood, Port Hedland, Perth and Maribyrnong—ran for three years from 22 December 1997. Subsequently, further service agreements were entered into for Woomera and Curtin when they were established, and they were also for a fixed period of time.

The original three-year agreement came to an end at the end of last year but the Commonwealth decided, given the intense period of activity surrounding this issue and given the very large increase in unauthorised arrivals, that it would be sensible to extend that contract by 12 months, pending our decision as to whether there should be a longer term extension or whether the matter should be put back to tender. Pursuant to the general agreement, the company had the opportunity to make an exclusive offer to the department to provide detention services for a period of a further three years. The exclusive offer brings with it a period of exclusive negotiation, and essentially the department is then obligated to reach a view as to whether it wishes to proceed with the commitment on an exclusive basis or whether it wishes to retender the particular matters.

An issue that the department had to consider in establishing whether we should continue the contract or retender essentially was whether the offer by the company represented best value for money. That, of course, is a crucial criterion, given the obligations of the Financial Management and Accountability Act. There were also considerations that were relevant in relation to whether there was satisfaction that the contractor had performed the contract to a satisfactory standard and whether the services represent industry best practice.

Following a very careful analysis of the company's offer to the department, the secretary has made the decision that he cannot be satisfied on the information available to him that the offer does in fact represent best value for money. It is important to just focus on that point, because some media reports have improperly characterised what this decision actually is— notwithstanding the very careful wording in the department's press release last Friday. Some people have characterised that the department has sacked ACM or that somehow or other our contractual relationships have come to an end, and so on. That is not the case. There are contracts in place essentially until the end of this year. What we have flagged, though, is that for the further provision of detention services beyond that time we believe the best way forward is to have another competition and to go back to the market. We are now developing the specifications for that new tender process. It is our expectation that ACM would be a tenderer under that process.

**Senator McKIERNAN**—Have you got any idea of what the time lines will be for the tender processes?

**Mr Metcalfe**—We do not have a fixed idea, but I can tell you that we do not expect that it will be short. Our experience in 1997 leading up to the first tendering process and our obvious awareness of the complexities of this area of contract management and the services to be performed mean that we will be paying very close attention to developing the tender specifications, evaluating tenders that we do receive and ultimately with the successful tenderer negotiating the final contractual arrangements. It is therefore our expectation that this process would take several months and that at the earliest we would be completing that process at the end of this year. It may take longer, but at this stage we believe it will certainly take a period of several months.

**Senator McKIERNAN**—I do not want to get party political at this stage, because I think the matter deserves more serious consideration than just point scoring between the opposition and the government, but there would be concerns, I would suggest, from senior people within my political party if the government was locked into a long-term contract on the management of detention centres in the lead-in to an election, and there will be an election before the end of the year. I do not say that what is happening within the detention centres should be

governed on the timing of an election, but hopefully it will be kept in mind in the preparation of things.

I do not know if there is able to be sharing of information between government and opposition in the lead-in to this, but it is a very serious issue, and I dare say that spokespersons from my party would have some very strong views on the matter if the department did get into a very detailed tendering process around October to November of this year. Again, I am not putting that forward in a partisan way. I trust that you will have an understanding of where I am coming from. I am not making these comments under instruction either, for that matter; those in the leadership of my party will speak for themselves at the time. But I do have a personal concern on it, because the matter, as we have discussed earlier, is of great moment and great consequence.

**Mr Farmer**—Can I say, as the decision maker here, that the tender process will get under way. We have to do that. The process will, as Mr Metcalfe said, be quite a complex one—experience suggests that, and we have every expectation that that is the case. That process will take its own course. We will advance the tender process as we should, which is in accordance with the various requirements. There are very clear requirements for the election campaign period—the caretaker period and so on. Contracts must not be concluded during that period. We will be pursuing our obligations in what I can assure you will be a scrupulous way. As it happens, the timing will have us looking at the end of the year. The electoral issues are not really ones that are germane to me. I understand the point you are making.

**Senator McKIERNAN**—I was trying to be careful in making my comments. I do make the point again that I was not making my remarks on instructions from the leadership of the party—they will do that at a time of their choosing. There is debate within my party as well as in other parties about what should happen with detention policy in this country. There is a variety of views with regard to that and it is the leadership that speaks about those views and not necessarily me. I have my own opinions on the matter, and I think a lot of people would know what those opinions are. Not everybody, sad to say, agrees with me. I do take your remarks on board and I am glad that those remarks are on the record. There are other considerations in the tendering process, and the leadership of my party will want some time to consider the repercussions of the whole of the tendering process. I used to find the fact sheets of use to me in keeping me up to date with developments within the department. I notice that they have not been updated for a little while.

**Mr Storer**—That is probably true. With everything else going on, working with the policy areas to update the fact sheets has fallen behind. We are trying to rectify that now. The latest fact sheets on most areas are dated earlier this year.

**Senator McKIERNAN**—Thank you.

**CHAIR**—Any more questions?

**Senator COONEY**—I have some questions on the detention centres, but I will go after Senator Schacht.

**CHAIR**—That is very generous of you, Senator Cooney.

**Senator COONEY**—Do you have questions on the detention centres?

**Senator SCHACHT**—It is partly on that but it is on immigration enforcement as well. First of all, I apologise for not being here earlier—I had another commitment early today. I will accept the criticism or direction that the question I am asking has already been answered.

I am sure the chair, Mr Farmer or his officers will put me straight. First of all, what is the final bill for the cost of bringing the 4,000 Kosovars to Australia and sending them back?

**Mr Farmer**—That is under output 1.4.

**CHAIR**—Which is an area we have not reached yet.

**Senator SCHACHT**—Great, thank you. I look forward to getting to that. I have tipped you off and I hope the answer is ready in the system. Ten days ago, I was on an official delegation to Greece and had an opportunity in Athens to talk to UNHCR representatives and other officials associated with the Greek government about the situation that is now exploding in FYROM, if you are at the Greek end of the argument, or the Yugoslav Republic of Macedonia, if you are a Macedonian. I will call it FYROM as that is what the UN recognises. Have you yet had any requests or any indication that there will be a new refugee problem of Slav Macedonians fleeing from the areas of which the Albanian ethnic population of FYROM are the majority, where the KLA are active in the guerilla warfare? What plans, if any, does the department have to deal with it?

**CHAIR**—I think you are actually canvassing back into output 1.2. In relation to the work of the committee in the past day, we have tried very hard to progress logically through these areas because it is engendering a great deal of interest, particularly in output 1.3. I seek your assistance in perhaps confining your questions at this point to matters arising in output 1.3, because other committee members have patiently extended their support in enabling you to do that. If we have time, perhaps we can come back to those other matters or you can put them on notice.

**Senator SCHACHT**—I hope it will not take long in that area. We are on output 1.3—enforcement of immigration law.

**CHAIR**—Yes.

**Senator SCHACHT**—Last year at estimates hearings, I asked the question: how many people overstay their visas in Australia? I think the answer was around 50,000 a year, and you suggested that 20,000 were detected each year and were subsequently dealt with. I presume that they have to leave the country and are told that they would have difficulty applying again. During the last 12 months, is it a similar pattern—that there are about 50,000 overstays on visas?

**Mr Metcalfe**—We can give you those statistics. Early this morning, Senator Ludwig worked through a series of questions—including, I think, some from you—that had been taken on notice at the last estimates hearings, including questions about overstay rates and particular nationalities. You will recall the Olympic overstay issue of officials. We have undertaken to provide updated responses to those on notice.

**Senator SCHACHT**—Thank you. One angle I wanted to ask about regards a person who overstays their visa. They break the law of Australia in doing so. Is that correct?

**Mr Metcalfe**—A person who does not hold a visa is unlawfully in Australia.

**Senator SCHACHT**—What is the maximum penalty if someone is found guilty of overstaying when their visa has run out?

**Mr Metcalfe**—The actual sanction for being here without a visa is the requirement under section 189 of the Migration Act that you must be detained by an officer and, pursuant to section 198 of the Migration Act, you must be removed as soon as practicable. So it is in fact a detention and removal sanction as opposed to a criminal prosecution sanction.

**Senator SCHACHT**—How many of the people who overstayed their visa—who had a tourist visa to get into the country—ended up being detained in a detention camp?

**Ms Godwin**—We would need to take that on notice. Some people, when they are detected, voluntarily depart, and they are not detained.

**Senator SCHACHT**—They depart voluntarily?

**Ms Godwin**—Yes. Once we locate them, they say, ‘Okay, I will go,’ and they go—generally under supervision from us—but others are detained. We would have to take the actual number on notice.

**Senator SCHACHT**—Your answer to me in the last estimates earlier this year, or it might have been last year—not as a percentage but as a bulk number—was that the biggest overstayers were actually British.

**Mr Metcalfe**—That is correct.

**Senator SCHACHT**—How many British citizens have ended up in a detention centre?

**Mr Metcalfe**—We will take that on notice, Senator.

**Senator SCHACHT**—You have no idea?

**Mr Metcalfe**—I do not know.

**Senator SCHACHT**—With all this hustle and fuss about detention centres and putting people away, you cannot add anything at all—with all your officers here—or give us some idea whether or not, if you are a British citizen who overstays, you end up in a detention centre?

**Mr Metcalfe**—We will check and see if we can advise you of that while I am speaking, Senator. Quite often in preparing for these estimates we come along with details of the top 10, or whatever it might happen to be, as opposed to a breakdown of everything. Pursuant to your previous question, Senator, leading into this question, the obligations under the act to detain and remove people are underpinned by a system known as bridging visas. It is not automatic that a person who has overstayed is taken into detention. There is a provision through the Migration Regulations for a person to be granted a bridging visa, which is a visa that does not carry with it entitlements for the person to remain here for a lengthy period, but it does allow them to make arrangements to depart or to stay while processing of an application is under way.

The particular circumstances of overstayers need to be taken into account as to whether they actually end up in detention or whether they are given a short bridging visa on the basis that we are prepared to accept that they will depart. Sometimes that bridging visa is granted after a financial bond has been obtained from the person. Indeed, the Migration Review Tribunal has a jurisdiction to examine decisions by the department to refuse a bridging visa. The majority of people in immigration detention at any one time are people who have arrived in Australia never having held a visa. They are unauthorised arrivals, either by air or by boat. But certainly a significant proportion of people are those that you have described, people who have overstayed a visa. If we can provide that specific information about the UK now, we will do so; otherwise we will take it on notice.

**Senator SCHACHT**—Can you take this on notice too. Can you provide information as to how many of the bridging visas are issued to overstayers to enable them to leave the country as soon as possible and also how many of these overstayers have had to pay a bond? Finally,

how many of these overstayers, once given a bridging visa, have also broken the bridging visa conditions?

**CHAIR**—Are you taking that on notice?

**Mr Metcalfe**—I think that Ms Godwin will have some of the details that the senator has been asking for. She may have it now. To the extent that we cannot provide that now, we will take it on notice.

**Ms Godwin**—I have the current information of the number of people who are in detention awaiting removal by nationality. We have seven people from the UK currently in detention awaiting removal, five of whom are overstayers and two of whom are unauthorised air arrivals.

**Senator SCHACHT**—Unauthorised air arrivals?

**Ms Godwin**—They arrived by air, without proper documentation. That would not necessarily be the total number of people in detention from the UK. There might be some who are awaiting outcomes of applications.

**Senator SCHACHT**—Which detention centres are they in? Are they in Woomera?

**Mr Metcalfe**—It is most unlikely that they would be in any of the centres that have been established for unauthorised boat arrivals. Most likely they would be in Perth, Maribyrnong or Villawood.

**Ms Godwin**—There are three in Maribyrnong, two in Villawood and two in other facilities.

**Senator SCHACHT**—In those facilities where there are illegal boat arrivals, they are kept separate from those people. Is there a fence dividing them, or are there any boat people at Maribyrnong?

**Mr Metcalfe**—At Maribyrnong, Senator?

**Senator SCHACHT**—Yes.

**Ms Godwin**—There would be a small number of people who arrived in an unauthorised fashion by boat, but they would originally have been detained in Curtin, Port Hedland or Woomera. We occasionally transfer people from those centres to Maribyrnong or Villawood if they require, for example, medical treatment or something of that sort. So there are a small number of boat people in Maribyrnong and Villawood. The bulk are in Woomera, Port Hedland and Curtin.

**Senator SCHACHT**—In volume, we have agreed that Great Britain provides the biggest number of overstayers on visas. I think other countries that have had overstay problems are some of the South Pacific countries. How many people from those countries—from Tonga, Samoa, Fiji and the Solomon Islands—are in detention?

**Ms Godwin**—To take Tonga as an example, we have nine people from Tonga awaiting removal; but, as I say, there may be a few more than that if they are waiting for an application to be processed. We have 15 people from Fiji in detention awaiting removal.

**Senator SCHACHT**—Does Fiji have the biggest number of people detained of any country with people overstaying their visas?

**Ms Godwin**—In terms of overstayers, I do not have the top five nationalities.

**Senator SCHACHT**—Perhaps you could provide that to me on notice.

**Ms Godwin**—It is in the fact sheet. It says that, in terms of nationalities most frequently located, Fiji is the sixth top nationality.

**Senator SCHACHT**—What is the top?

**Ms Godwin**—Indonesia.

**Senator SCHACHT**—I am slightly intrigued that in pure volume numbers Great Britain, unfortunately, has the most overstayers on visas, yet they do not seem to have the proportionate number of people detained in detention centres. Why is that?

**Mr Metcalfe**—It goes to the issue I mentioned before, which is that in our experience of UK nationals who overstay many in fact are identified as they depart Australia through the airport. They themselves have chosen to leave or an assessment is made that when they present or when they are located they do not need to be detained and that they will leave Australia very quickly, and that is usually the experience.

**Senator SCHACHT**—Has anyone from Great Britain claimed refugee status because they have a well-founded fear of persecution if they return to Great Britain?

**Mr Metcalfe**—We could check on that. It is not unknown for persons from developed Western countries to seek refugee status in Australia.

**Senator SCHACHT**—A republican wanting to get out of a constitutional monarchy?

**Mr Metcalfe**—I will not mention his name, but there is a very high profile American national who is seeking refugee status in Australia and pursuing litigation at the moment.

**Senator SCHACHT**—That was just a sardonic point, but I am interested in making sure that there is no sense of soft treatment of the mother country sending out its people, compared with how we treat people from Third World countries.

**Mr Metcalfe**—I know where you are coming from, and it is a fair point. It is a requirement of our staff and our management methods to ensure that we do operate in a non-discriminatory manner. There is a whole range of strategies to deal with the overstay problem. Compliance field activity is one of them, where our staff are involved in going out and pursuing community information or pursuing information obtained by data matching or whatever. We are working more and more with employers to try to ensure that people who do not have permission to work are not able to work in Australia, and we are colourblind in relation to that matter. We deal with those issues in a non-discriminatory way. The reason that particular nationalities show up in particular ways quite often depends upon the circumstances in which they are located. As I said, my estimate would be that the majority of overstayers from a country like the UK in fact self-identify when they are departing. Other overstayers are identified through compliance activity and elsewhere.

**Senator SCHACHT**—Some years ago a notorious overstayer from Germany spent nearly 20 years in this country and got caught only because a company he was involved in collapsed in spectacular circumstances—that was Mr John Fredericks. He came into the country in 1970 or 1971 on a tourist visa and never left. He ran the Safety Council of Victoria, which collapsed spectacularly with debts of hundreds of millions of dollars. People never woke up to the fact that he had all these international deals but never went overseas—because he knew that he would be detected, I presume. He spent 20 years here and got a very high profile. Do we have any other examples in the evidence of the 50,000?

**Senator COONEY**—We would not have been able to remove him. He shot himself.

**Senator SCHACHT**—Before he shot himself. He shot himself shortly after he appeared before a hearing of the Joint Committee on Foreign Affairs, Defence and Trade. I hope that our questioning did not lead to the unfortunate circumstance of him committing suicide. He had 20 years in this country, overstaying on a tourist visa. Do you have any examples where you have come across people who have spent a long time overstaying on a tourist visa and have been illegal immigrants all the time?

**Mr Metcalfe**—There are occasions where very long-term overstayers are located. Indeed, I think the statistics that we will be providing cover issues such as length of overstay. The majority of overstayers are short term. Then progressively, according to our statistical information, you move to a group of long-term overstayers. What is interesting is that the statistics indicate that the majority of people overstay for one or two years—quite often it is only a matter of weeks—but that a significant number of the overstay population have been here for a long time. I can recall a number of cases celebrated in the media of people running small businesses who had been in Australia for a very long period of time. When they and the department ultimately met up, there were some issues associated with whether they should stay or go.

One of the areas that the government has been continuously working on is trying to ensure that it is more difficult for people to overstay—that in their range of activity and contact with government, their ability to work and whatever, the people who should be checking for permission to work and permission to stay in Australia are equipped with that information and able to check it. We have been doing some things in relation to that recently as part of an ongoing employer awareness program. But it is possible for some people to disappear into the community—to have little or no contact—or never travel and need a travel document. If they concoct a good enough story, they can be in the community for some time.

**Senator SCHACHT**—So Mr Fredericks, who became a CEO of a company—who applied for the job, got the job, got paid a significant salary and paid tax on it, built a house and all of that—went through none of those provisions when he had all of those contacts with federal, state and local governments. There was no way in the system that Immigration could have been provided with advice that there was a gap in this bloke's background.

**Mr Metcalfe**—I recall that that situation was about 12 or 13 years ago. I remember I was living in Melbourne at the time.

**Senator SCHACHT**—It was in 1989.

**Mr Metcalfe**—Certainly I would hope that the range of contacts and checks was more significant now. But, in the absence of a very secure form of national identity card that carries issues such as immigration status with it, ultimately the system is going to be reliant upon people being prepared to make checks and contact us.

**Senator SCHACHT**—You have got no way of running, say, with the Taxation Office and having access to the tax records?

**Mr Metcalfe**—One of the things that we have developed over recent years is data matching with the Taxation Office and others. That has been an area where there has been some useful development.

**Senator COONEY**—This is the Australia card that Senator Schacht is advocating.

**Senator SCHACHT**—I always actually was a supporter of the Australia card.

**CHAIR**—Are there any further questions in this area of 1.3, Senator Schacht?

**Senator SCHACHT**—Senator Barney Cooney and I are having a marginal difference of opinion here about the Australia card.

**CHAIR**—I do not want to have a marginal difference of opinion with anybody, but I would like to know if you have any more questions on output 1.3.

**Senator SCHACHT**—Of the approximately 50,000 each year illegal overstayers—

**Mr Metcalfe**—58,000.

**Senator SCHACHT**—20,000-odd, you have previously advised me, get detected within the first year.

**Mr Metcalfe**—About 15,000.

**Senator SCHACHT**—Next year another 50,000 turn up, but in that second year more from the previous year are detected, leave the country, et cetera?

**Mr Metcalfe**—The 58,000 is the overall total. That is reduced by a margin of 15,000 or 20,000 each year as people depart or their status is recognised in Australia.

**Senator SCHACHT**—So generally there is each year in Australia at any given time about 40,000 illegal overstayers from visas that have expired.

**Mr Metcalfe**—The number is obviously moving as people leave, as people—

**Senator SCHACHT**—Both ways. But it is not a sensational figure to say that at any one stage in Australia there are 40,000 overstayers.

**Mr Metcalfe**—No, if you want to say the figure right now, there are 58,000 overstayers.

**Senator SCHACHT**—That figure has been pretty consistent for a number of years now?

**Mr Metcalfe**—It has been around that mark for some years.

**Senator SCHACHT**—Is that percentage of overstayers on visas similar to other Western countries—America, Canada, western Europe? Are they having the same problems?

**Ms Siegmund**—The comparisons that we have looked at thus far would indicate that our figures are a lot lower, given that we have the advantage of being an island and not sharing major land borders or needing to look at forms of transport such as truck or rail that would allow either unauthorised entry or people to overstay more easily.

**Senator SCHACHT**—You have mentioned five British people who are detained at the moment. This is just an example. They are detained until they are put on a plane to leave the country. Is that right?

**Mr Metcalfe**—Their release from detention could occur on their departure from Australia or if they were granted a visa. That could either be a bridging visa or a substantive visa which allowed them to stay here permanently.

**Senator SCHACHT**—There is no other penalty, like three months in the slammer, for breaching the visa rules?

**Mr Metcalfe**—There are no criminal sanctions, but there are sanctions in relation to their ability to apply for further visas.

**Senator SCHACHT**—That brings me to my last question. This is an individual matter. A constituent, whom I will not name, wrote to me on behalf of a relative from South Africa who applied for a visa and I think got six months. Their agent told them something different. They claim that they thought they had a 12-month visa. When they went to leave the country at the

end of the 12 months they were told, 'You have six months overstayed.' They left the country anyway, but when they applied to come back a year later, of course, they had a stamp on their record saying, 'You are an overstayer; therefore you cannot get a visa to come in for a couple of years.' Something along those lines occurred to this person. I have written to the minister about it. I am not complaining—there is the rule—but if it is true that an Australian agent gave wrong information or advice to sell the ticket and make the deal is there some penalty against them or can they be brought to book for what they have done?

**Mr Metcalfe**—I would like to look at the individual circumstances in order to answer that. I would be happy to look at that case.

**Senator SCHACHT**—Thank you. You might do better than the minister on this.

**Mr Metcalfe**—I am sure the minister will be asking us to look at it. There are so many potential answers to that. It depends whether it is an Australian agent, whether in fact it was a breach of the provisions in the legislation.

**Senator SCHACHT**—But if someone overstays, they have been caught and when they leave it is on the record that they were an overstayer, for whatever period and from whichever country, is there a mandatory penalty so that when they next apply they cannot get a visa until a certain time has moved by?

**Mr Metcalfe**—There are exclusion periods that vary depending upon the length of overstay and the circumstances, leading up to a permanent exclusion period for people criminally deported from Australia.

**Senator SCHACHT**—That is all I have on that matter.

**CHAIR**—We will go now to Senator Cooney, who is asking questions on 1.3. We will review where we are up to at the end of those questions.

**Senator COONEY**—I have been fairly prolix on this already, but over lunch I saw a cartoon in the *Sydney Morning Herald* which probably sums up the perception of the department. I will bring it down to you.

**CHAIR**—Ms Godwin, did you table the fact sheet on overstayers you were referring to earlier and, if you did not, would it be possible to do so?

**Ms Godwin**—We have pulled it to pieces, but absolutely yes.

**CHAIR**—Thank you very much. I gather you wish to make a point in relation to this cartoon, Senator Cooney.

**Senator COONEY**—Yes. Before I do, Ms Godwin, yesterday we were talking about the ACM being in control of the people who came by boat and you told us about the visual examinations that were made in regard to their health and what have you. I was concerned about whether or not people with communicable or contagious diseases could come to Australia without there being a vigorous examination and whether that examination was left up to ACM and the doctors employed by ACM. You may have some doubt about a doctor employed by ACM—I am not trying to say that they are necessarily a bad organisation but you would not imagine them paying a great deal of money to anyone, including doctors—but, leaving that aside, the point I made was that the operation dealt with under 1.3 very much is left up to ACM to administer. First of all, am I correct in the description I give of the progress from the boat to the detention camp?

**Ms Godwin**—Senator, with respect, you might recall that I was trying last night to give the various steps in the process. Perhaps if I could do that—

**Senator COONEY**—Can I stop you before you do that. The problem I had with that was that you were making assumptions. This is the point I am trying to make. You were saying, ‘They are treated by a doctor. That’s good enough. ACM does this, and that’s good enough.’ What I am really worried about is whether or not what Mr Wilcox in the *Sydney Morning Herald* shows is correct. That is why I wanted to show you this cartoon.

**Ms Godwin**—Yes, I do follow, but—

**CHAIR**—Before you do that, Ms Godwin, there are two things about that, Senator Cooney: first of all, it is Ms Wilcox and, secondly, there are presumptions made in statements that are given on both sides of the table. That is the nature of this process. You make presumptions and you express those in the views that you put to officers from the department who endeavour to respond to the statements that you have made. In assessing their responses, you are making presumptions on their part. I would like to at least let the questions and answers flow to the extent that is possible, without interruptions—at least those for which I am not responsible—and see if we can get through this contentious area of the discussion in a reasonably efficient manner.

**Senator COONEY**—Yes, I can do that. The only thing about that is that you are saying we are in the same position. If I were an illegal immigrant or if I were picked up for overstaying, and Ms Godwin was examining me in the room with the single globe hanging down from the ceiling—

**CHAIR**—Speaking of presumptions, Senator Cooney.

**Senator COONEY**—If I were there and I said to her, ‘Now I want to ask you a series of questions,’ she would be more than entitled to say to me, ‘No, you are the overstayer, you have to answer the questions, you have to satisfy me.’

**CHAIR**—I am not suggesting that anyone should not answer questions at all, Senator Cooney. I am just trying to make sure that we do get questions and answers.

**Senator COONEY**—Okay.

**Ms Godwin**—Thank you. The medical process, as I said last night, is incremental. I would like to describe the various steps. There is that immediate assessment we talked about last night. On Christmas island it is done by the local medical authority, doctors and nurses. If people are picked up on Ashmore Reef by the Customs ferry, there is a nurse on board. He or she does the initial medical assessment. If they are picked up by a Navy vessel, there is a medical person on board the Navy vessel and they do the initial assessment. The purpose of that assessment—and it is not just a visual examination under a single light globe; they do do an examination if that is required—is to identify people who need immediate medical treatment. That can range from sea sickness and dehydration through to major medical illnesses. We have had people with rejected kidneys because their kidney transplant was failing, people with chronic liver damage, people with complicated pregnancies and people with cancer and heart disease. We try to identify those people immediately and get them medical treatment immediately if it is required. We have also picked up malaria and other things.

Once they arrive at the mainland, in the case of people who are picked up on Ashmore Reef, they are then assessed by medical staff in Darwin. If they are taken to Darwin, we use

medical staff from either Darwin hospital or other services in Darwin. That is paid for by the Department of Immigration and Multicultural Affairs. Again, it is an assessment to identify people who need immediate medical treatment. Once people are transferred to a detention centre, the ACM medical staff, doctors and nurses do a full assessment, which can include taking blood pressure and listening to their chest and all of those sorts of things. Again the focus is on identifying illnesses that need treatment, and they can vary from the simplest to quite complicated conditions.

People have to undergo a thorough medical assessment as part of their processing. That medical assessment includes TB X-rays for people over 16 and, for people under 16, a Mantoux test. If the Mantoux test is positive then they are X-rayed and further treatment might be required. It includes blood tests and other screening, depending on the nature of anything that is picked up. You are probably aware that we had six cases of typhoid—one in one detention centre and five in another detention centre earlier this year. All of the people who were in contact with those people had to be screened for typhoid, and they were. Those checks are undertaken on our behalf by HSA—Health Services Australia—and the X-rays and the blood tests are read by medical specialists.

Finally, for all children up to the age of 16, we conduct a full Australian standards immunisation catch-up program. If children have undergone any immunisation but not to the Australian standards we will take them up to the Australian standards. Some children have not undergone any immunisation and they are then offered a full Australian standard immunisation program. Immunisations are not compulsory in the Australian community and they are not compulsory in detention centres, but they are offered to everybody who needs them. Then of course it is up to the families as to whether they accept that. In most instances they do. Those immunisations are recorded on the Australian national register so that, once people leave a detention centre if they are successful in getting a visa, their immunisation status can be known to state health authorities.

**CHAIR**—Thank you.

**Senator COONEY**—During that process, once they are in the camp, that is the camp that is controlled by ACM?

**Ms Godwin**—Yes. If in that context they are diagnosed with an illness that requires treatment beyond that which is available in the detention centre, they can be referred for medical treatment or hospitalisation if that is required. That includes dental treatment.

**Senator COONEY**—One inference in the Wilcox cartoon, among many, is that, if there were a contest on a particular issue, the people in the Department of Immigration and Multicultural Affairs would never give any substantial weight to what was said by the inmates of the camp. In other words, if I raise an issue, the department would ring up ACM headquarters or some ACM person in Port Hedland and ask, ‘Is there any justification to this complaint?’ The answer: ‘No.’ Bang—that is the end of it. That is an image given. I have been on these committees for years and I have great respect for the people from DIMA, but this is how you are pictured, not because of things you do yourself but because of things ACM do and what parliament has done—what we as parliamentarians have done with section 196 of the act, which is not your doing. Perhaps that is not recognised enough, so you do tend to get squeezed at times when it is not justified. It is in that context that I ask you: is there any hope for people held in these camps to be accorded any weight when they give evidence in a dispute between themselves and ACM?

**Mr Farmer**—You have said many things there. There are many circumstances in which an allegation or a complaint by a detainee must be given the greatest weight possible, for example, allegations of abuse of one sort or another—physical, sexual or child abuse. Put simply, there are matters of law there that we are bound by. I attach the utmost importance to our abiding by the law in those circumstances. Similarly, there are other sorts of cases where people will have complaints. If complaints come to us on, for example, food—and this is a variation on a theme—then we want to make sure that those allegations are looked into.

Many of the complaints about food—forgive my saying it—are complete and utter fabrication and are easily disproved by reference to what is being actually prepared by way of meals. In this area we work in an environment where there are committed opponents of detention who will not let facts get in the way of a good prejudice. Sorry to say that, but that is just one of the facts of life that we live with.

**Senator SCHACHT**—Would you care to name those people?

**Mr Farmer**—No, I wouldn't, Senator. If detainees have complaints, they will be looked at. We have detention standards that require many things of the detention service provider. We have a system which requires us to look at the manner in which they are being observed or not. It is a very complex—

**Senator SCHACHT**—Are these Australian lawyers who are making money out of it? Is that what you are suggesting? Are they the ones who will always make a complaint no matter what and are opposed to the detention system?

**Mr Farmer**—There are many ideologues, Senator.

**Senator SCHACHT**—Are they lawyers? They are ideologues.

**Mr Farmer**—I know one or two who are, yes.

**Senator SCHACHT**—I am just interested. If you are going to make that statement, which may well be true, I felt that it would be useful if you cared to put the list out.

**Mr Farmer**—No, I wouldn't.

**Senator SCHACHT**—It is under privilege. You can't get sued. I would be interested to look at the list.

**Mr Farmer**—Just read some of the broadsheets, Senator; you will see the names.

**Senator SCHACHT**—But are they people who are actually defending—taking up the cases on behalf of the detainees and trying to get them refugee status—or are they another group in the broader community? What is their motivation in getting rid of the detention system?

**Mr Farmer**—Some people have a personal, deeply seated objection to detention. That is a statement of fact. They pursue that as a campaign. That is their right in the democracy that we have in Australia.

**Senator SCHACHT**—But they are not opposed to criminals in the Australian system—normal criminals—being detained if they have been found guilty, are they?

**CHAIR**—I am not sure that Mr Farmer is in a position to speculate.

**Senator SCHACHT**—This is particularly with the detention system.

**Senator COONEY**—Apropos what Senator Schacht said—I do not think Mr Farmer can answer this but I put it out there because of what you have raised—because of the crisis that is

---

arising in this area of detention, problems have arisen with attitudes to the courts. I do not think you should answer this, but this is put for Senator Schacht's benefit. The real danger in a lot of this—and I think the minister would appreciate this, though I am not in any way asking him to comment—is that the reputation of the court system, if you like, or the rule of law, will be prejudiced, in the same way as the department's is, by this tension that is going on and on. It seems to me that some sort of solution has to be found. I am not necessarily assured that we have got it on board at the moment. I just want to put that on the record apropos what has been said. But I think we have worked this as far as we can.

**Senator SCHACHT**—Following through a couple of points Senator Cooney made about people opposing detention, I am not opposing detention. I have only been to one effectively—Woomera. I have to say it is more than a detention camp, to my visual knowledge. I drove past Grand Junction Road in Adelaide and, quite frankly, the Yatala women's jail is not much different. I have never been inside the Yatala women's jail, but from the outside it has razor wire, wire fences, double fences, et cetera. I do not see that much difference in looks to what you have built at Woomera, even allowing for the more hostile natural environment at Woomera. It is pretty bare obviously. There are liberal applications of razor wire, wire fences and double gates, and people who are appealing the decisions against them are separated and kept locked away from those who have just arrived, et cetera. It does have features that make it look more like a prison than a detention centre, quite frankly.

**Mr Metcalfe**—I think we had this discussion last time.

**Senator SCHACHT**—I know, but maybe that is what offends some people about the detention system: you are actually looking at something that demonstrably, by any Australian experience, is a jail.

**Mr Metcalfe**—It is a place that people should not leave. As we found in June last year, they were able to leave it under the fences that were in place at that time. They pushed them over.

**Senator SCHACHT**—So if someone gets out again what is going to be the next stage—a trench, a minefield, electrification of the wire? Where do you draw the line?

**Mr Metcalfe**—I think we are confident that the current perimeter security is adequate for the circumstances that we now have, which is interesting because it is the same type of fencing that is around the Sydney Cricket Ground, presumably to keep people out.

**Senator SCHACHT**—With all due respect—I have not been to the Sydney Cricket Ground for quite a while; I cannot remember the last time I was there—it is certainly not the fence that is around Football Park in South Australia. I have not noticed curls of razor wire there. It is probably a reflection on Sydney.

**CHAIR**—No. I actually think it is an absolute reflection on Adelaide!

**Senator SCHACHT**—We do not need razor wire to keep people in; it is the federal government that comes to South Australia and imports razor wire and builds the thing at Woomera.

**CHAIR**—Was there a question in all of that or has Mr Metcalfe answered that question? I think he had.

**Senator SCHACHT**—Mr Farmer made quite a relevant point that he wanted to make as the head of the department—I have no argument with that—but why I think some people may be offended is that this is more than what you might call a detention centre.

**CHAIR**—And Mr Metcalfe has responded to that point.

**Senator COONEY**—Can I confess that on this occasion I agree with Senator Schacht 100 per cent.

**Senator SCHACHT**—That is pretty rare, Barney—you a lawyer and I a non-lawyer agreeing on something!

**CHAIR**—Senator, I understand that you have a further question in this area.

**Senator COONEY**—Yes, I will just explain why I do. In the prison system, security ranges from high security prisons—for example, in Melbourne they have H division—and they go right down to minimum security prisons where people can just walk out if they want. Prisons are built to keep people in, as you have suggested. In minimum security prisons some people will stay almost voluntarily—and they must have a reason for doing that—while others need to be kept in high security prisons. The need to build high security prisons and the ability to build low security prisons indicates a lot about the people that are put in them. Why I agree with Senator Schacht is this: if you have these people who are not criminals and, as you have said, who are not going to be charged, do we need the level of security that we have to keep them in?

**Mr Metcalfe**—I think I answered that before in saying that, unfortunately, the level of security that we thought was adequate until June last year patently was not the case. Senator McKiernan asked earlier about escapes from custody and that is a feature: people have escaped from detention centres or people have en masse decamped. It is a fact of life that Australian law requires the department to detain people, and we are failing in our obligation to the law if people do not remain in detention where the law requires that they remain in detention.

**Senator COONEY**—You have made the point that I want to make. Senator Schacht has said, and I agree with him, that you only need certain sorts of jails for certain sorts of people. Some people can go in minimum security prisons, some you have to put in high security prisons. Some prisons are minimum security and others are maximum security. Those prisons are decided by the sorts of people that are put in them. What you are saying is, ‘These people are escaping; therefore we will have this level of security.’ But the system never seems to ask itself why these people want to leave. There does not seem to be any investigation of what is causing them to escape. You are simply saying, ‘They are escaping; therefore we will increase the level of security.’ If you talk to people who keep prisons, they will say there are certain things you need. If you keep people well fed, if you keep them near their family, if you keep them in reasonable comfort, you are not going to have them escaping. So there is an analysis. If you look at criminology and at people who have to run the prison system, they will tell you that there are elements. That sort of analysis does not seem to have taken place in this situation.

**Mr Metcalfe**—I think it has taken place. You and I have talked on many occasions in the past about how detention centres are different from jails. One thing about jails is that the people in there know how long they are going to be there. With detention centres, people are in immigration detention until they are granted a visa or they are removed, and that process can usually be very short if they are in fact a refugee. If they are not a refugee, pending removal and depending on what actions they pursue and what appeals they pursue, it can be quite a lengthy period of time. They are quite often involved in administrative and other

judicial processes where the person themselves have little influence in terms of the timing unless they withdraw the appeal.

The two reasons people leave detention centres without authority are to escape—to attempt to evade authorities—and certainly that is something that we see from time to time; alternatively, as we saw in reasonably spectacular fashion in June last year, it is to make a mass protest—in the case of Woomera, to make a protest in the town and severely disrupt the operations of the town. It was similar in Port Hedland and similar in Curtin. Demonstrably, the perimeter security was not sufficient, notwithstanding the preventative actions that were taken by authorities to prevent people departing. We talked at length this morning about the motivation for why people may want to protest. There are issues of people's expectations, of what they have been told by people smugglers to expect and whether they equate with reality. There are frustrations about delays in processes, and we have done a great deal to reduce those delays while maintaining the integrity of the process. And there are frustrations for those people who get the answer that is not the one they want. Within that overall framework, detention centres have very different dynamics from jails.

The final point I would make is that, of course, there is a preparedness to look at other ways of dealing with this issue. Earlier we answered a series of questions from Senator McKiernan about the Woomera trial and how we are prepared to look very carefully at whether what I would describe as a more relaxed form of detention, without the fences, is in fact something that will be appropriate and successful.

**Senator COONEY**—You might even have a look at our present system at different levels. There is another matter I would like to raise in this area, 1.3. It is a short issue, but I just want to raise it. It has nothing to do with detention. It is to do with the administration of the base in Beijing. I just want to raise it because it is an issue which at first does not seem to fall within 1.3, but I think it does, because 1.3 deals with the enforcement of immigration law. I will just explain it. A person in Beijing applied for a course in Melbourne. I think it was at a university, but it was to an education institution. That institution—and I gather this is fairly general—did not tell him until about four weeks beforehand that he had a place. He went to the place in Beijing—and I do not want to criticise Beijing; I am criticising the system—and they said, 'For us to give you an answer about that, we will need 12 weeks.'

We could look at this and simply say, 'That's all right. This is a system of which we only have one part. What the university does is a matter for the university; this is what we are going to do.' But I would suggest that that is not the way Australia as a country should look at it. I say that this is an issue of enforcement because, in enforcing the immigration law—if this is right—this person is going to be denied a place at a university that wants him to get there on time. The university would say, 'That's your bad luck with Immigration,' and Immigration would say, 'That's your bad luck with the university.' In the enforcement of the law, what weight should we give to a person's situation? This young man might be a reasonable student or he may be a genius. In any event, we do not want to lose him.

**Mr Metcalfe**—We had a long discussion with Senator Carr yesterday under output 1.1 about student policy. In response to your question, we have seen very significant growth rates of students coming out of China and elsewhere in recent years. It is a very positive development. I think the secretary mentioned in his opening statement yesterday some of the very positive things that we are involved in.

Like many diplomatic missions of many countries, we obviously have to apply resources to workloads. Our post in Beijing is a very busy post—there is no denying that. It is handling

record numbers of applications. We have substantially beefed up our resources in Beijing to the extent possible, given the constraints within the actual building—the Australian Embassy chancellery—and have moved workload to Shanghai and elsewhere to maximise the impact that we are going to have in Beijing.

We also work very closely with institutions, and the sorts of time lines that we have to operate under should be very well known to institutions. So I am a little surprised to hear that a major Australian university may have been operating in a way where they were not aware of our standard processing times. Notwithstanding that, in exceptional circumstances where there is a slip-up or a last-minute hiccup or where someone gets a last-minute offer, of course we will endeavour to do what we can. I would be interested to have a look at the particular circumstances, if you would like to provide them to me, to see if anything can be done.

**Senator COONEY**—There are a couple of issues in that. Firstly, it is clear that there is nothing in the guidelines that says that 12 or eight or any other number of weeks should be taken: if it can be processed, it will be processed within time. Secondly, educational institutions do not check with the department. Is that correct?

**Mr Metcalfe**—No, I think they do, and that is why I am a bit surprised to hear what you are saying. For example, Mr Frew and Mr Rizvi, who were here with us yesterday, spend a lot of their time working with the peak bodies—the universities and the TAFEs—and other student providers. Indeed, our senior staff in Beijing spend a lot of time working with the agents and with the universities there. So our requirements and our processing times should be very well known. We obviously work within the constraints of others, and we ask that they work with us. But if there is a particular example of where the system may have broken down—whether it is the university or whether it is us—we are very happy to look at it.

**Senator COONEY**—So it is a matter of mechanics, not a matter of guidelines?

**Mr Metcalfe**—I suppose we have a general expectation. We know that we are working closely together with the service providers—with the education providers and their agents overseas—and we believe that our requirements and our processes should be well known. If that is not the case in a particular example, obviously we will do what we can to ensure that that does not happen again.

**Senator SCHACHT**—The legislation last year for introducing the three-year temporary visa went through the parliament with some debate in the community. How many of those three-year visas—you may have already answered this—have been issued so far?

**Mr Metcalfe**—It was probably answered under 1.2.

**Senator SCHACHT**—I know, but what I want to get to is: when the three years runs out, how do you expect to enforce this so that people will come back and say: ‘The three years is up. I am going to apply for permanent residency. I am going to apply still for humanitarian status’? How are you going to keep tabs on all of those ones you grabbed now who then go out into the community, so that in three years you will be able to find them all?

**Mr Metcalfe**—They have a natural interest in coming and seeing us, in that their temporary visas expire at the end of three years.

**Senator SCHACHT**—A natural interest?

**Mr Metcalfe**—They have a natural interest if they want to stay in Australia legally.

**Senator SCHACHT**—That is what I am getting to. But they might just want to stay in Australia, whether it is legal or illegal. What do you do then?

---

**Mr Metcalfe**—Is they overstay, then our compliance activities would be directed to locate them and to resolve their status. But our expectation is that the majority of people will in fact come forward and pursue their applications.

**Senator SCHACHT**—I do not want you to give away any operational things that people with an illegal bent might use from questions I ask in estimates, but what do you mean by ‘your compliance activities’? Do you have your own investigators keeping tabs on the communities that have a high number of these, such as obviously the Irani, Iraqi, Afghani and Pakistani communities? Are you going to have people in these communities keeping a tab on them, reporting regularly?

**Mr Metcalfe**—No, I would not describe it as that. Rather, our compliance field activities can be directed towards particular areas—for example, people working illegally, people working in particular industries or overstaying, and so on. Over the next 18 months in the lead-up to the expiry of the first of those visas we will obviously develop strategies to look at that issue. It is still about 18 months before the first of those visas would expire. The reason I say that we believe that in general people have an interest in staying in touch with the department is that many of the TPV, temporary protection visa, holders are in receipt of income support, through Centrelink, Medicare and—

**Senator SCHACHT**—You have got them on the welfare drip, so that means they do not want to give up.

**Mr Metcalfe**—We have not, but they put themselves on it. Therefore, if they want to continue to access entitlements, rather than simply disappear into an illegal community in Australia, then they have a natural interest in having their status—

**Senator SCHACHT**—Is there any evidence that some networks are developing false identities, under which people then go and apply for unemployment benefits and drivers licences to build up a profile of a new identity? Is it possible that that could develop into a bit of a racket?

**Mr Metcalfe**—Let me take that on notice as to what I can provide.

**Senator SCHACHT**—Again, you may want to give an answer that is confidential, because I do not want to in any way compromise operations.

**Mr Metcalfe**—Thank you.

**CHAIR**—It is a bit difficult to do that in the estimates process.

**Senator SCHACHT**—I know, but you may be able to come back in a hearing of the legislation committee when it meets to deal with the annual report, which can have in camera hearings.

**Mr Metcalfe**—Or whether it is a private briefing where we could get back to you on that.

**Senator SCHACHT**—Can someone tell me quickly how many of these temporary protection visas have been granted?

**Mr Illingworth**—There were 3,978 granted in the year to date alone. I do not have to hand the number granted in the earlier year.

**Senator SCHACHT**—And every one of those has come from an illegal boat entry, not from overstay?

**Mr Illingworth**—Everyone would have come from an illegal entry, either by boat or by air.

**Senator SCHACHT**—So that is 3,000 this year so far?

**Mr Illingworth**—3,978 this year.

**Senator SCHACHT**—And last year?

**Mr Illingworth**—That is the figure I have not got to hand.

**Senator SCHACHT**—At this rate we might end up with 5,000 or 6,000 per year. By the end of the three years you might have 15,000.

**Mr Metcalfe**—That is a product of the arrival rate and the approval rate. In the financial year 1999-2000, I think the unauthorised boat arrival rate was about 4,500 and air arrivals was 1,800 or so—close to 6,000. Not all of those were successful, of course. My recollection from evidence given yesterday was that the total granted since October 1999, when the regulation came into effect, was about 5,500. Yesterday's *Hansard* will reveal that.

**Senator SCHACHT**—When the three years expires and they come forward and say, 'The three years is up,' will they be able to apply for normal residency without claiming refugee status?

**Mr Metcalfe**—No, they will need to go through another process.

**Senator SCHACHT**—Refugee status? That is the only way that they can stay, if they get refugee status in the humanitarian category?

**Mr Illingworth**—I will have to check and get back to you, but my understanding is that they have access to other visa applications as a lawful non-citizen.

**Senator SCHACHT**—As a lawful resident.

**Mr Illingworth**—Yes, but I will check that and confirm it. I am not sure.

**Senator SCHACHT**—After three years in the country, would someone be able to say that they had been very successful in an entrepreneurial business sense—they had exported live sheep to Iran or something and had become quite wealthy—and claim a business visa?

**Mr Farmer**—Senator, we will try to get you the facts on this in a moment.

**Senator SCHACHT**—I would appreciate that, because I am wondering what is going to happen when they all start turning up. If they have all been successfully integrated in the community, are we going to face the issue of then turfing them out of the country because they do not meet the refugee status or the humanitarian category? I find that hard to believe.

**Mr Illingworth**—The question was about our behaviour at the—

**Senator SCHACHT**—After the three years, under what categories can they apply for permanent residency status in Australia?

**Mr Illingworth**—My understanding, as I mentioned earlier, is that once they hold a temporary protection visa—if in fact it is an unauthorised arrival—they are found to qualify for a protection visa. They are released and, as a lawful non-citizen, they are able to apply for whatever visa class they choose.

**Senator SCHACHT**—There is no visa class that they are denied applying for?

**Mr Illingworth**—Not just by virtue of that particular visa class that they hold. The way that the three-year temporary protection visa arrangement works, as a precursor to a possible permanent protection visa, is that there is a mechanism in the legislation relating to the criteria for grant of the permanent protection visa.

**Senator SCHACHT**—So the three years could become a permanent protection visa.

**Mr Illingworth**—They can apply for a permanent protection visa and there is a mechanism that says that, if you are somebody who came into Australia and got a temporary protection visa, you cannot get one of these until you have held that temporary visa for a certain period.

**Senator SCHACHT**—When they get a permanent protection visa and are here for one year or two years, can they then apply for citizenship?

**Mr Metcalfe**—They can be granted citizenship after two years of becoming permanent.

**Senator SCHACHT**—But not after the temporary visa—after the permanent visa?

**Mr Metcalfe**—Yes.

**Mr Farmer**—Senator, I am sorry to cut across your train of thought.

**Senator SCHACHT**—That is all right. Feel free to do so. I do it all the time to you.

**Mr Farmer**—I am not comfortable that we have here today chapter and verse on the legalities of what visa classes TPV holders may be eligible for.

**Senator SCHACHT**—But you are enforcing it; this is the enforcement section I am asking questions about. They have the temporary visa. What happens?

**Mr Farmer**—There is a question about what happens after three years. I would like to make sure that we give you full chapter and verse on this. We are very ready to keep on talking, but could I perhaps offer to take on notice that question? We will make sure that we provide chapter and verse.

**Senator SCHACHT**—Has the department, Mr Farmer, prepared any discussion papers, policy discussion papers or a range of views on what you expect will be the case when the three-year temporary protection visas expire? Do you expect that most of those people will, one way or the other, be able to stay permanently in Australia under some new form of visa?

**Mr Farmer**—We have started preparing some advice for the minister on this and related questions. The related questions are not only the questions that you have identified but questions such as: how will we undertake the processing? When will we do it? What will be the order in which we do it? There are a variety of issues like that. We have started that work.

**Senator SCHACHT**—If at the end of the three years someone applies and for some reason they do not get granted an extension, that means you will enforce their removal from Australia?

**Mr Farmer**—That would be the consequence.

**Senator SCHACHT**—You might want to take this on notice. At the moment, you do not have any definitive definitions for extending it to a permanent protection visa for the people who have bought a house, settled in, have the kids at school and have a good job. Are those criteria that you will use to at the very least grant a permanent protection visa?

**Mr Farmer**—No, the protection visa grant would be based on a judgment about whether someone is a refugee—in effect, needing the protection of Australia.

**Senator SCHACHT**—But they could also apply, according to Mr Illingworth—if I have this correct—under the other categories of visa for residency, such as a business visa. There are lots of other things: whether they have good English, make a contribution to Australia or whatever.

**Mr Farmer**—They may be able to, but I would rather give you an accurate answer on that.

**Senator SCHACHT**—So we are faced with a temporary visa for three years. In one sense, at its worst, it has only put off the evil day that for political reasons we all try to avoid in the community—those awful scenes, which will now be even worse, where someone is in a house, has a job, has the kids at school, and Immigration rides down there with the Federal Police to say, ‘Sorry, you’ve missed out. You’re on the plane back to Iraq.’

**CHAIR**—I think that perhaps Mr Farmer—

**Senator SCHACHT**—That is the enforcement issue.

**CHAIR**—That is the interpretation that you are placing on that.

**Senator SCHACHT**—That is the consequence.

**Mr Farmer**—If they do not have another visa and if they are found not to engage our protection obligations, they would not have a right to stay here.

**Senator SCHACHT**—Yes, I know. What worries me is that we are going to be in an even worse position internationally and publicly, I suspect, because for a lot of these people, when you reject that they need our protection for legitimate reasons under all the UN definitions, you have to go and do the terrible thing in a democracy such as ours—forcibly remove them when they will be able to say, ‘I’ve got a good job, my wife’s got a job, the kids are at school, they’ve learned English, et cetera; they are doing well. What have we done wrong now in Australia?’ And you say, ‘Oh well, three years ago you had a temporary visa but it’s run out. You no longer need our protection. Off you go.’ I would have to say that whoever is in government at that time is going to have a very sticky time with the photographs of you and your officers putting these people on planes to say goodbye.

**CHAIR**—I think you are seeking a comment on a policy issue.

**Senator SCHACHT**—No, it is not a policy issue, it is a process. This is where we will be at in three years. The three-year visa is just delaying the difficulty of what you might have done when they first arrived.

**CHAIR**—That is a point that you should ask the minister.

**Mr Farmer**—It is straying into the hypothetical too, Madam Chair.

**Senator SCHACHT**—Anyway, I am finished on that, Madam Chair.

**CHAIR**—Do you have very much further to go, Senator?

**Senator SCHACHT**—Not that long on enforcement, unless I strike gold with the officers at the desk and it requires me to go on further. Yesterday in Melbourne a magistrate found that Mr Kalejs should be extradited. His lawyers have said that this is terrible and that they are going to appeal all the way to the High Court, which may take some time. As the immigration department, do you have any role at all in the enforcement of his removal if ultimately he loses all the appeals, if he is to be extradited?

**Mr Farmer**—No, Senator.

**Senator SCHACHT**—That is purely with the Department of Justice and Customs or the Federal Police?

**Mr Metcalfe**—Mr Kalejs is an Australian citizen.

**Senator SCHACHT**—He got Australian citizenship under false pretences, did he not? When he applied to come to this country, he did not declare properly his background and his activities in the Second World War. Is that correct?

**Mr Metcalfe**—I would not want to speculate on anything that could ultimately be before the courts, but the fact of the matter is that he is an Australian citizen and there are no possible grounds to revoke that citizenship, as far as I understand.

**Senator SCHACHT**—I understand the point is that, even if you lie in your application to become an Australian citizen, given the statute of limitations—I think it is 10 years, or is it 20 years?—you cannot revoke citizenship, no matter how falsely it was granted. Is that correct?

**Mr Hughes**—Under the citizenship act, the power to deprive a person of citizenship is enlivened by a conviction for fraud in relation to a citizenship application. For applications for citizenship before 1997, there is a ten-year limit on conviction for fraud. So a person who got their citizenship in the 1950s cannot be deprived of their citizenship on the grounds of fraud in their application.

**CHAIR**—Senator, as you know, we have been trying very hard to stay within the output area. Citizenship is dealt with at output 2.3 or thereabouts.

**Senator SCHACHT**—I thought this was an enforcement issue. But if it can come up at output 2.3, I will wait until then.

**CHAIR**—I want to conclude on output 1.3 so that we can move on.

**Senator McKIERNAN**—The fact sheet that was presented to us was updated on 31 March 2001. The one I have here is not on the electronic system in an updated form. My questions arise from this but are not directly about it. I think it would be easier to put them on notice. Could you provide the number of air arrivals to date this year—

**Ms Godwin**—I have that, if you want it.

**Senator McKIERNAN**—Perhaps I can finish and, if you have got the information, you can present it to us. Could we have the number that are turned around at airports, the amount and total of the fines which are levied against the airlines for bringing people who should not be brought into Australia and the amount of the detention costs which are levied on the airlines for bringing those people in. Could you give me—and you will probably need to take this on notice—the trends; whether this is increasing or decreasing. I ask that in the knowledge that I think it was just last year that you increased the fines on airlines for bringing unauthorised or undocumented arrivals into Australia.

**Ms Godwin**—I will give you the stats—we might need to take on notice the question about some of the costing figures—and I will try and answer in terms of the number and the trend simultaneously. In 1998-99, there were 2,106 unauthorised air arrivals; in 1999-2000, there were 1,695; and this year to date, which is to 25 May, there have been 1,234. So there is a slight trend downwards on unauthorised air arrivals.

**Senator McKIERNAN**—And you will take the questions on costs on notice?

**Ms Godwin**—I think we have the infringement notice figures.

**Mr Castello**—The number of infringements incurred by airlines is remaining relatively stable, even though there is an increase in the volume of passenger traffic. The impact on infringements has largely come from airlines adopting advanced passenger processing, where they have the opportunity to verify that somebody has the authority to enter Australia before

they board. So there is both an increase in passenger volumes and a consistency in the number of infringements, with that impact coming from our technology.

**Ms Godwin**—You also asked about the proportion turned around. In the program year to date—and I apologise; this is for a slightly different date—1,339 or 79 per cent of air passengers who were refused immigration clearance were removed from Australia within 72 hours of arrival. So it is 79 per cent of whatever that figure was that I gave you.

**Mr Castello**—If I could add to that, the figure for last year was 1,694 and the year before that, 2,106. This year, to 1 April, 1,187 people arriving by air were refused immigration clearance.

**Senator McKIERNAN**—Thanks for that.

**Mr Metcalfe**—Finally, in relation to the amount of fines imposed on carriers, the Portfolio Budget Statements document at page 115 indicates that the revised estimates for the current financial year was \$17,405,000 for penalty payments by carriers for breaches of section 229 of the act, which is the relevant section. The estimated revenue next financial year is \$14½ million, and that reduction reflects the point made by Mr Castello, that the introduction of advanced passenger processing gives us confidence that in fact there will be fewer undocumented arrivals coming to Australia by air.

**Senator McKIERNAN**—Thank you.

**CHAIR**—Are there any further questions for 1.3?

**Mr Farmer**—At the risk of derailing a train I desperately want to keep on the tracks, as you do, could I just ask Mr Mowbray, who is the general counsel, to talk to the question raised by Senator Schacht: what visa classes can temporary protection visa holders apply for? I think it is important.

**CHAIR**—We would be very happy to hear from Mr Mowbray. I am not sure whether now is the best time.

**Senator McKIERNAN**—The difficulty with it is that it is not actually in 1.3, as I read it, and it could open up another area of debate and discussion in an area that has already passed. I am just a little concerned about that. I understood that the questions were taken on notice. We are looking to the future. During the dialogue between Senator Schacht and the officers, I recalled what was in my mind when the legislation was being debated in the chamber. One of the things that was in my mind was the fact that possibly we could be in government when all this is occurring, and that was influencing how I was thinking at the time. When I arrived, it was certainly my position to support the legislation and what was being proposed.

I am also aware, Mr Farmer, of your comments earlier today about the life of the secretary. There has been a pledge that there will be no night of the long knives, but the persons now around this table may not be the persons making the decisions in 18 months or so when the first lot of those visas will be expiring. While I do not want to, and never will, knock the advice that Mr Mowbray may give, nonetheless we do have other matters that we have prepared on these estimates and I would not mind proceeding to 1.4.

**Mr Farmer**—We will keep it on notice, if you like.

**CHAIR**—Perhaps we could just put the information on the record and move on.

**Mr Mowbray**—The act provides that you can impose a condition on the grant of a particular visa which limits the classes of visas for which you can subsequently be granted a

visa. That is section 41(2). The temporary protection visa, subclass 785, has a condition that the holder cannot be granted a substantive visa other than a protection visa. So that is a condition. It means that the holder of a temporary protection visa can only be granted a protection visa subsequent to the temporary protection visa.

**CHAIR**—Thank you. I now wish to move, if the committee is agreeable, from 1.3 to 1.4. Are there any further questions in 1.3? As there are no further questions, we will move to 1.4.

[4.15 p.m.]

**Senator McKIERNAN**—In relation to question on notice No. 88 from the February—

**CHAIR**—I should say what was 1.4.

**Senator McKIERNAN**—It was 1.4, but it is still relevant because it is responding to a question that was responded to from the last occasion. I asked for detailed costings of what had occurred in the safe havens, including the ongoing costs. I have that response. It would seem to me, from the \$46.9 million that was spent to assist 3,976 people in Operation Safe Haven, that when that is divided up it amounts to something in the region of \$11,975 per person. When we look down the page, the cost of return to Australia of some 80 people who came into Australia under the safe haven provisions and have now been granted in country special humanitarian visas was \$275,000. Dividing 80 into 275 brings a unit price of \$3,437.50. Am I being fair in doing a calculation on unit costs and a comparison of both programs—\$3,400 in one instance as opposed to \$11,900 in the other instance?

**Mr Davis**—I think your calculations would be accurate. The costs involved there were transport to and from Australia, the range of allowances and costs that were borne in the safe haven exercise while in Australia. Some 3,976 people were assisted. I think the calculations you made are perfectly valid.

**Senator McKIERNAN**—The reason I went through this exercise of doing the calculations—and I did have electronic assistance; they were not done in my head and they can be checked—was that a different committee has made a recommendation to do a cost-benefit analysis of the safe haven program; to examine it for future reference. The minister, in his response to that report, has rejected it. I had a theory that, while it was a very worthwhile operation and I am very pleased that Australia was part of it in relieving the suffering of those thousands of people who needed relief, perhaps the money might have been better spent in other directions. I do not want to go back and examine the whole of the program, but I do believe, for future reference by a future government, some form of cost-benefit analysis ought to be done so that a future government and a future departmental executive can be guided on how to respond to emergencies such as the Kosovo emergency. I leave it at that.

**Mr Metcalfe**—There is one point emerging from your analysis. I think your figure for the average \$11,000 presumably was the cost of bringing them to Australia, sending them home and their stay in Australia, whereas the figure that you have analysed in relation to the people now coming out for permanent residence under the SHP is presumably the cost of coming to Australia and would not include the ongoing costs of their staying in Australia. So the aspect of income support, social security, Medibank and those issues would not be contained in that \$3,000 figure that you indicated.

**Senator McKIERNAN**—But the point is still worth while, in my opinion. I am not asking you to agree with me, because I know there is a higher authority that does that agreement, but it would be useful for some future reference to do a cost-benefit analysis of that program. It is taxpayers' money that we are talking about that has been expended upon this. I am not saying

that it was badly spent. I am not putting it forward in a critical sense at all. I am doing it in the sense that there is an experience now in Australia, and that experience ought to be measured. That measurement can be used for a future government in the event of a like crisis arising somewhere else in the world. That is all. I have nothing more.

**Senator SCHACHT**—I asked a question which I will repeat for the record. The background is that I was recently in Greece and had a briefing from the UNHCR office in Athens, which is obviously closely connected to the activities and what is going on in the Balkans, also with a Greek government official and, Mr Farmer, a very good briefing by your officers—I presume they sent a minute through to you to let you know that they did not give away any secrets or scandals that someone had pinched the money out of the tea tin. I was impressed with the discussion. What I found of particular interest was being able to talk with people who actually do the interviews and assessment of whether a person has a well-justified fear of persecution on a humanitarian level. I may suggest at some stage in future—not at this estimates hearing; maybe before the Joint Standing Committee on Migration—that when some of those officers come back to Australia they might come before the committee for an in camera hearing to discuss what they have to deal with each day. I found that as good as anything I have heard about the ups and downs. I appreciate that in some ways—I do not want to overstate it—they are playing Sophie's choice in that they have to make a judgment that gives someone a tick or a cross: if you get a tick, you have won Tatts in the future and, if you get a cross, you are back in the mess which you are trying to get out of. We had a frank discussion well worthy of good Australian officers—it was far too short.

From the information I picked up, it was quite clear that the situation in FYROM is deteriorating rather than getting better, that, despite the announcement of a new coalition government where the Albanian ethnic minority are given increased representation and guarantees, the KLA, who are funding the military activity over the border, are not letting up. The information I received was that for non-ideological, mainly semicriminal reasons, the KLA are carrying out the activity in FYROM for future criminal activity as much as they are for anything else. It is very hard to negotiate when it is not on an ideological basis and is just straight thieving or criminal activity. Therefore, the shifting of the population could clearly happen again. What preparation has the department made, if any, in anticipating that we may be dealing with a refugee emergency—I will not say crisis—again in Kosovo and particularly in FYROM?

**Mr Farmer**—Thank you for your comments about my colleagues, which I value, and the points you make about the situation on the ground. We are in close contact on a continuing basis with the UN High Commissioner for Refugees, both the office in Geneva and those in the region, and Australian government officers are reporting on the situation developing there. It is true to say that one of the main targets for our humanitarian program has been the former Yugoslavia, broadly construed, and the implications are that that will continue. I do not know whether my colleagues would like to add anything to that.

**Mr Giuca**—We are monitoring the situation fairly closely. As Mr Farmer has said, we receive reports from our posts. Should the situation deteriorate further and should UNHCR assess that resettlement could help in terms of trying to find a solution, we would certainly look at any request to that effect.

**Senator SCHACHT**—Do we have any contingency plans that are a variation of what happened when we took nearly 4,000 Kosovars here as temporary residents, if we do something similar?

**Mr Farmer**—I do not believe that anything of that sort is being looked at actively.

**Senator SCHACHT**—And no request has yet come?

**Mr Farmer**—None. That is right.

**Senator SCHACHT**—I am pleased to hear that. What was the cost—the total so far—of bringing out, keeping and then sending back the 4,000 Kosovars?

**Mr Davis**—Senator McKiernan referred to question on notice No. 88 from the additional estimates hearings. The figure there is \$46.9 million. I believe there might be some small update of that figure which we could provide on notice, but that was the figure at the time it was answered.

**Senator SCHACHT**—That includes the full cost of all the transport?

**Mr Davis**—Those were the immigration costs. There were also defence and health costs borne by those agencies, but they were our figures.

**Senator SCHACHT**—I thought at estimates hearings last year there was a suggestion that the figure might go to over \$100 million.

**Mr Davis**—I believe that would also have covered the defence and health costs. They would have been included in a figure of that order of magnitude.

**Senator SCHACHT**—So the total cost to the Australian taxpayer is over \$100 million?

**Mr Davis**—Originally estimated at over \$100 million. I do not have in front of me the final outcome across the range of portfolios.

**Senator SCHACHT**—Has anybody from an NGO or elsewhere—including UNHCR or the various governments in the Balkans—suggested that, if we had spent \$120 million or \$100 million plus instead rebuilding Kosovo, we would have helped a heck of a lot more people than the 4,000 who were lucky enough to draw the card to come to Australia for three months or six months?

**Mr Farmer**—Obviously, we took that exercise in response to a request from the UNHCR. That was the origin of it.

**Senator SCHACHT**—The request from the UNHCR was to countries who are members of the UNHCR through the United Nations to help. Did they really expect Australia, from the other side of the world, to take the numbers or were they expecting just the help to resettle in the neighbouring western European countries?

**Mr Farmer**—No, it was a direct approach to Australia, and there was certainly a direct request to us to take people, as we did, on a temporary basis. The same thing happened with the United States and Canada.

**Senator SCHACHT**—Might I suggest to you that next time—if an unfortunate emergency starts to occur again and you start doing the same figures—you might suggest to the UNHCR that, instead of taking 4,000, we could give \$100 million for resettlement, for camps and for rebuilding within the region. I suspect UNHCR might take the \$100 million rather than sending the 4,000 to Australia. I think they would see that that would help a heck of a lot more people than the lucky 4,000.

**Mr Farmer**—They may have formed their own views about the exercise. It is now quite some time ago, but I think the UNHCR made a request in the middle of a grave humanitarian crisis—

**Senator SCHACHT**—Yes, when 300,000 were in Macedonia.

**Mr Farmer**—Yes, and Australia responded. As I recall, that was at the time a response that enjoyed very wide acceptance in the Australian community.

**Senator SCHACHT**—I think there were some unfortunate aspects about it. With all due respect to some state premiers of all political persuasions, they seemed to think it was a photo opportunity. I think some state premiers had barbecues and were serving chops to refugees. I am not sure that that in the long run is exactly what we ought to be thinking about—trying to outbid each other as to who is the nicest looking premier being photographed at a refugee camp with Kosovars and smiling children. I think that was some bad tokenism at best, and that something a lot worse could have been easily ascribed to it.

In my informal discussions this time—and it is not something I will push—when I mentioned the figure, which I thought was over \$100 million, I think the bulk of people in the NGO area were rather surprised at how much we had spent and wondered whether that really was the most successful and useful way—in terms of cost-benefits—that the money could have been spent rather than in rebuilding Kosovo and helping all refugees on the ground. I hope that we do not deal with this crisis again, but if we do—before populism takes over and we try to help a handful and forget the other 300,000 or 400,000—I hope we can get a better outcome. Thank you for that information. I would suggest that you make that offer to some of your line officers who have to handle the applications daily. They could give a good briefing in private to a committee.

**Mr Farmer**—On that point, I think that the minister would be positively disposed to our responding to any request.

**Senator SCHACHT**—I am not having a go at anybody at the table, but no-one here in recent times has been interviewing people on the ground in a camp or whatever, have they? By definition, you are not there; you are here.

**CHAIR**—Unless there are further questions, that concludes questions in this area, which was the former output 1.4. So, with the best will in the world, we will move on to outcome 2 and, as logically as we possibly can, begin in output 2.1, Settlement Services.

[4.31 p.m.]

**Senator Ellison**—Perhaps we could take outcome 2 as a whole?

**CHAIR**—I would prefer to keep it as logical as we can. We have aimed to do that and we have achieved most of that aim.

**Senator McKIERNAN**—And I have my questions segregated into groups—it helps me to keep track of it all. Before I go directly to outcome 2, I will put a series of questions on notice about revenue raising measures within the department. They cover a period of time and they are a bit too complex to expect verbal answers from you at the moment, so I put them on notice. Talking about putting things on notice, I gave notice last evening that I would be asking some questions in relation to grants programs. I understand that there are some grants programs in outputs 2.1 and 2.4. I will therefore start the questions with grants programs. What grants programs are available to be allocated under output 2.1?

**Mr Hughes**—The Community Settlement Services Scheme is the main grants program. I suppose the funding of MRCs is a quasi-grants program.

**Senator McKIERNAN**—When are these grants programs allocated, in terms of dates? Is there a series of them pending? That is the type of information that I am looking for.

**Mr Hughes**—The migrant resource centres are funded on an annual basis, with funding running on a financial year basis. The Community Settlement Services Scheme is usually publicly advertised in the early part of the year—February-March—with grants awarded about August. They can be awarded on a one-year, two-year or three-year basis. They usually run from 1 October in a particular year to 30 September one, two or three years from that date.

**Senator McKIERNAN**—For this year, then, that process has already started by way of the advertising taking place. Now the department would be considering the applications that have been made to it, and an announcement will be made in August sometime?

**Mr Hughes**—Yes, that is correct.

**Senator McKIERNAN**—How much money is available under that grants program—not just for the coming year, because it will include the funding of up to a three-year period, won't it?

**Mr Hughes**—The total annual expense of the grants program, as you will see in the PBS, is \$24 million. Given that some grants are for three years and two years and are therefore continuing, the amount of money available for this year's grants round is about \$9 million.

**Senator McKIERNAN**—With regard to the MRC grants program, what are the relevant dates for the MRC funding arrangements?

**Mr Hughes**—The MRCs put in their bids towards the end of the financial year, and we would aim to have decisions on those by the middle of June.

**Senator McKIERNAN**—I do not want to talk about individual MRCs. The process for all of the existing MRCs would be in train at the moment, then?

**Mr Hughes**—That is correct.

**Senator McKIERNAN**—In the past, decisions have been made, and announced at the time of the announcement of the grants, that some MRCs would not be re-funded for forthcoming years. Am I correct?

**Mr Hughes**—I think that that has been in some very rare circumstances. A couple of MRCs in the last few years have not fulfilled their funding agreements, and they therefore were defunded and another service was established. But the normal pattern is one of stability. Usually with MRCs, the decision making involves very marginal adjustments to funding in a particular year.

**Senator McKIERNAN**—When would those funding arrangements under the grants programs be completed by?

**Mr Hughes**—For MRCs it will be completed by the middle of June.

**Senator McKIERNAN**—I am asking questions of this nature for the same reasons as those of Senator Bolkus when he was asking similar questions of the Attorney-General's programs: to remind the department, and to seek assurances from the department that they are aware, of the caretaker conventions that apply when elections are pending. I seek the assurance that the department is aware of those conventions. Regrettably, Mr Farmer is not at the table at the moment.

**Senator Ellison**—I think that he will be back in a short while; we can raise it with him as soon as he gets back.

**Senator McKIERNAN**—I am prepared to leave that for the moment. If someone can brief Mr Farmer at an appropriate moment, Mr Farmer can interrupt the proceedings and give the committee the assurance. Let us move on to the Integrated Humanitarian Settlement Strategy, which was originally proposed to commence on 1 July this financial year—1 July 2000. In which states has the IHSS commenced operation?

**Mr Giuca**—The IHSS has commenced operation in a number of states: in WA, in Tasmania, in the ACT, in South Australia, in part in Queensland and in part in Victoria.

**Senator McKIERNAN**—Can you explain what you mean by ‘in part’?

**Mr Giuca**—The service delivery model under IHSS has changed. The way we deliver services has changed; IHSS has continued. In that regard, there has been a series of service types developed which we have identified that most humanitarian entrants will require. For each of the service types, there has been a process where requests for proposals were sought and obtained from a range of service providers. In that process a number of contracts have been agreed to, while others are still being negotiated. When I say ‘in part’, I am referring to some contracts being signed and some still being negotiated in particular states. I can give you the details of which ones have been signed.

**Senator McKIERNAN**—Thank you very much. When did WA, Tasmania, the ACT and South Australia commence operations?

**Mr Giuca**—In South Australia they commenced on 3 October last year; in Western Australia two commenced on 20 November last year, one on 8 January this year and one on 18 December last year; in Tasmania, on 1 March this year; and in the ACT, on 3 May this year.

**Senator McKIERNAN**—I discern that two are missing. What is the situation in the Northern Territory?

**Mr Giuca**—The situation in the Northern Territory is that it is still subject to negotiations. We are fairly close, but there are differences in finalising the contract. Perhaps I should step back for a minute: in many of these instances we are dealing with community based organisations and at times some process is required to go through with community based organisations the nature of the contract that we are providing and the sorts of services that we require for the offer that they have been made. They obviously have their own processes, and sometimes when we are negotiating there are agreements at one level and when they go to their management board there might be further changes, and that takes time to work through. So, while we are close in the Northern Territory, it has not been finalised.

**Senator McKIERNAN**—And what about New South Wales?

**Mr Giuca**—In New South Wales we are in a similar position. I believe we are very close—certainly at the negotiation level we have agreed. It is a matter of the contracts going to the boards of the organisations involved and getting the tick before they can be signed.

**Senator McKIERNAN**—What arrangements are in place while we are awaiting those outcomes and signatures?

**Mr Giuca**—There is a continuation of existing services that were in place before the tender process was called for. They will continue until the contract arrangements are in place.

**Senator McKIERNAN**—Is there any reason why the introduction of the new programs were delayed and why the introduction has been so staggered throughout Australia? Has it been solely those negotiations that you have told us about?

**Mr Giuca**—It has essentially been for negotiation related reasons. Because there are a large number, it has required time for discussion with the range of proposers and it has required time to go through the contracts with each of the proposers.

**Senator McKIERNAN**—Has the program been in place long enough in those states where it is in place—and I think South Australia is probably the state where it has been in place longest—to indicate whether the goals are efficient and a targeted service is being delivered?

**Mr Giuca**—We have been talking to the service providers and our state office has been monitoring it. It appears to be working effectively. We will be once all the contracts are in place—and we are about halfway through the contract period—putting in place an evaluation process to ensure that the objectives of the new model are being met or whether they need tweaking or changing to ensure that they are being met.

**Senator McKIERNAN**—What impact has the reduction in the refugee and humanitarian offshore intake had on the IHSS?

**Mr Giuca**—The issue of numbers is an important one for service providers. They are concerned that, with the reduction in numbers, they might make commitments which they might have difficulty meeting under the system. We are looking at ensuring that there is a fair distribution of entrants across all service providers. At the moment the entry of humanitarian entrants is done by the state office directly with the overseas post. We are intending to centralise the process to ensure that there is an equitable distribution of humanitarian entrants for all service providers.

**Senator McKIERNAN**—What has been the reduction in the funding or allocations in the area as a result of the reduced intake?

**Mr Giuca**—I do not believe there has been a reduction in funding.

**Mr Davis**—There has been some adjustment in funding from our departmental budget to our administered budget because, as temporary protection visas are granted, there are some allowances paid upon release from detention centres and the agreement with the Department of Finance and Administration is to forfeit some funding. The figures on page 35, under the ‘Temporary protection visa allowance’ line, show that in the current year the estimated allowance funding is \$732,000. There would have been an equivalent reduction in our departmental funding because of the onshore places being granted. Other than that, the funding has been maintained to continue services in the area. So the only reduction in departmental funding has been to match the conversion to the allowance when an onshore TPV has been granted.

**Senator McKIERNAN**—I have two other questions under output 2.1—one is in relation to Harmony Day and the other is more general concerning soccer violence. One of the disturbing things that has occurred in recent times has been a series of violent episodes associated with the playing of soccer in Australia. I am not going to take a bipartisan view and probably should declare an interest in that I am a member of the Perth Glory Football Club, which was one of the teams involved in some of the violence. This rise in what has been claimed to be ethnic violence in soccer would have to be of concern to the department. I am not just making claims—I think even Soccer Australia has now admitted formally that there is a degree of ethnicity or ethnic difference associated with the violent episodes that have occurred within soccer. Is this an appropriate time to address this matter? What I am asking is whether there are any government initiatives in place or being considered to assist in addressing this problem.

**Mr Hughes**—It would normally come under 2.4, cultural diversity.

**Senator McKIERNAN**—I will leave it until then. Harmony Day does come under this one.

**Mr Hughes**—2.4 as well.

**Senator McKIERNAN**—Wrong on two counts. Mr Farmer is back at the table. I think you have been briefed on the question I asked.

**Mr Farmer**—Sorry, I had a higher calling. I have just been in a room on the floor above.

**Senator SCHACHT**—Looking down on us, as usual.

**Mr Farmer**—To the extent that I understand your question, I can say that the caretaker conventions, when and if they are called into force, will be observed scrupulously. Both the minister and I will insist on that.

**Senator McKIERNAN**—Thank you.

**Senator LUDWIG**—Have we asked about the national client survey? It is in your PBS on page 25. I was just trying to identify the amount of money that was going to be earmarked to undertake a national client survey. It is to gain a better understanding of the extent to which eligible settlers used DIMA. Is it under 2.1?

**Mr Hughes**—Yes.

**Senator LUDWIG**—I want to find out the range of eligible people that it will be sent to, the cost of the client survey and then how that will be used to assist with you gaining a better understanding about the extent to which eligible settlers use DIMA funded settlement.

**Mr Hughes**—It is still in the early planning stages. There is a number of options we are considering as to how it might be done. So we have not reached the final conclusion, although it is in our work plan. We have recently completed one in relation to clients with the Adult Migrant English Program. We are looking at the lessons that we have learned from that one to see how we can use it to conduct a wider survey of clients of our total range of settlement services.

**Senator LUDWIG**—Do you have an estimate of what the cost would be?

**Mr Hughes**—It is very hard to say until we pick the final model. It might be in the order of a couple of hundred thousand dollars.

**Senator LUDWIG**—Who is the audience?

**Mr Hughes**—As part of our commitment to measure outcomes from our programs we are interested in obviously asking the clients how useful they are finding the services that we funded in order to get some feedback from the clients. I see the audience as multiple. We as a department, as a funder and provider of services, are an audience. Obviously, the government is an audience. Also, service providers who actually provide the services with our funds are another audience.

**Senator LUDWIG**—What about the settlers?

**Mr Hughes**—They are the people that we are asking, in the sense that they are the ones whose views we are seeking, and obviously there will be feedback to them and to migrant communities based on what we get.

**Senator LUDWIG**—What is the expected size of that population?

**Mr Hughes**—Again, because we are still considering the options for doing it—it is quite a difficult task to establish—

**Senator LUDWIG**—I see: you might send out a sample.

**Mr Hughes**—Indeed.

**Senator LUDWIG**—We will go a bit earlier then. How did you come to a conclusion that a national client survey was the appropriate way to go?

**Mr Hughes**—If we want to have a better idea of the experiences that our clients are having from our services, we feel we really do need to ask questions of the clients in each state and territory to get a full picture of their experiences and to learn what we can about their usage patterns. We used a national client survey in relation to the Adult Migrant English Program, and we feel that that did give us a good feel for the experiences of clients, which we felt we could not get any other way.

**Senator LUDWIG**—So you have not used a consultancy or a process or a committee to determine a national client survey would be the best method; you have just sat down and decided it worked before and it will work again. Is that a fair statement?

**Mr Hughes**—That is a fair statement.

**Senator LUDWIG**—Do you think that is a good way of doing business?

**Mr Hughes**—I think it is if we want to have a national picture.

**Senator LUDWIG**—That is assuming that will give you a national picture. That is assuming that that will be the most appropriate mechanism to obtain a national picture. That is what I am trying to find out—what you base those assumptions on.

**Mr Hughes**—We base them on our experience with the Adult Migrant English Program and the fact that, as part of our contract renewal processes, to also get a picture of how well the service providers were working, we spoke to people in each state and territory. It did give us a good spread. If we limited it to one state or territory, my concern would be that it might give us a feel in that location but it would not give us a good enough spread across the country. I might add that we are also involving the Refugee Resettlement Advisory Council in the design of the process.

**Senator LUDWIG**—Thank you.

**CHAIR**—Are there any more questions in relation to resettlement services?

**Senator McKIERNAN**—I have some questions relating to FECCA and the difficulties that are currently being experienced in that organisation. What can you tell us about that?

**Mr Hughes**—That is also 2.4.

**CHAIR**—Your anticipation is extremely good.

**Senator McKIERNAN**—On this occasion it was not my fault, because the number here clearly in front of me is 2.1.

[4.56 p.m.]

**CHAIR**—We will move to 2.2, Training and interpreting services. Are there some specific questions in this area?

**Senator McKIERNAN**—Again, I do not have a great deal in this area—just a comment on what is contained in the PBS. On page 9, it says you will improve the Translating and Interpreting Service by:

- consolidating the move towards a commercial footing,
- re-engineering business processes, and
- continuing to focus on the achievement of new service standards.

Can we have an update on that and where that is? Will there be any additional costs to the end user of the service?

**Mr Hughes**—There are a couple of things there. On service standards, part of our intention in improving the performance of TIS was to raise the service standards from those that we felt had slipped in recent years. We have managed to achieve a very significant increase in the standard of service, responsiveness to telephone answering in particular, throughout the year 2000. That has been our primary activity. As far as those who receive free services are concerned, the group who receive free services—and have for many years—continue to receive them free. We have, however, increased the user charges for those groups of people not receiving free services—for example, groups of organisations such as state governments, Commonwealth government agencies and some commercial firms using the TIS services. We are moving those towards full cost recovery.

**Senator McKIERNAN**—Is any consideration being given to examining the number who are receiving the free service—examining them to see if they should no longer receive the service without charge?

**Mr Hughes**—Not at this stage.

**Senator McKIERNAN**—Thank you.

[4.59 p.m.]

**CHAIR**—We will move to 2.3, Australian citizenship.

**Senator McKIERNAN**—How much of the almost \$5 million that is earmarked in the budget for a citizenship campaign will be directly spent on advertising?

**Mr Hughes**—If you are referring to the media buy specifically, that would be about \$3 million.

**Senator McKIERNAN**—What is it proposed to spend the remainder on?

**Mr Hughes**—The usual spread of these things is purchasing and development of the creatives, media buy, public relations and specialist consultancy for non-English speaking background communities. That would be the range of things that the \$4.9 million would be spent on.

**Senator McKIERNAN**—What is the strategy behind the campaign, and where did that strategy arise?

**Mr Hughes**—The strategy arose from the report to the government of the Australian Citizenship Council. It recommended two things. Firstly, the Citizenship Council reaffirmed the point that it believed that encouragement of eligible non-citizens to become citizens was a good thing. Secondly, it recommended that the Centenary of Federation year was a good time for the government to be involved in active promotion of citizenship acquisition. That is the immediate impetus for the campaign.

**Senator McKIERNAN**—When was that report handed down?

**Mr Hughes**—The report was made public in early 2000.

**Senator McKIERNAN**—When did the minister directly respond to the recommendations contained in it.

**Mr Hughes**—In May this year.

**Senator McKIERNAN**—What are the time lines for the campaign? When is it expected to formally begin?

**Mr Hughes**—Midyear. I would say early July.

**Senator McKIERNAN**—How long will it run for?

**Mr Hughes**—It would run for about four or five months.

**Senator McKIERNAN**—It seems a bit odd, don't you think, considering that the report was handed down early last year, the Centenary of Federation commenced on 1 January of this year and the main centenary of the parliamentary celebrations—sponsored by Coles—began on 9 May this year, yet the campaign on citizenship is not going to begin until the middle of the year, which will probably be July, and run through August, September, October and November? Isn't the timing a bit odd?

**Mr Hughes**—I do not really think so. That is just the nature of events, in that there was quite a lot for the government to consider in the context of the recommendations of the Citizenship Council report. There were 64 recommendations, covering a wide range of matters. Both the time taken to consider all of those things and come to a position on them and the lead times for a campaign of this nature meant that, if you were going to do it in the Centenary of Federation year, that is roughly when it turned out to be possible to do it.

**Mr Farmer**—I might just add that the Centenary of Federation year, as I understand the aim of the program, was to spread a number of things throughout the year. For example, the week of celebration of the 100th anniversary of the Australian Public Service will be the third week of June. It has not been earlier.

**Senator COONEY**—I am very concerned about this. Only one week will be devoted to celebration of the anniversary of the Australian Public Service? That cannot be right, surely.

**Mr Farmer**—I have a personal view which is totally in accord with yours.

**Senator McKIERNAN**—So the Australian Public Service gets one week. What advertising is associated with that?

**Mr Farmer**—There is a lot of free stuff happening right this second, Senator.

**Senator McKIERNAN**—Without sponsorship! But the other campaign that we are talking about will be a publicly funded, taxpayer funded, media campaign.

**Mr Farmer**—Yes, which will begin in the new financial year.

**Senator McKIERNAN**—July, August, September, October.

**Mr Hughes**—As you know, there have been earlier campaigns to promote citizenship and I guess they have happened at the time events bring them on. Again, in terms of consideration of the Citizenship Council report and going through the processes of final decisions on that, it has meant a midyear start.

**Senator McKIERNAN**—Some things are easier than others. There is no resolution to the recommendations in section 17 of the Australian Citizenship Act, and there is no expenditure of public funding associated with the matter of section 17, is there?

**Mr Hughes**—As you know, the government response is that it is disposed to repeal section 17 but wanted to have further public comment in terms of that preference and that it would issue a discussion paper which would allow further public comment before reaching a final decision.

**Senator COONEY**—May I say about section 17—I am having it each way—that it is all right for people from overseas to come and get Australian citizenship but what about if you are an Australian who cannot get any other citizenship? Has any account been taken of that?

**Mr Hughes**—I think that is what the government response to the report means: that it does share your concern for the situation of Australians who lose their citizenship and therefore has a preference to—

**Senator COONEY**—No, it is the other way round. The only citizenship you have is Australian and you cannot acquire another one.

**Mr Hughes**—That is the issue I think we are discussing.

**Senator COONEY**—Is it?

**Senator McKIERNAN**—No. As a matter of fact, I was actually discussing an advertising campaign, and I would like to just stay with that for the moment. The other one was a distraction on the way through from the recommendation of the Citizenship Council, which I was just using in arguing that little action is happening on that when no public expenditure is attached to it. But, fortunately, it would appear—some people still think it is fortunate—we are going to have expenditure of something like \$5 million on an advertising campaign. There may not be enough pages in our newspapers to fill all the government advertising that is going to be happening over the next few months, it would appear. But I would not expect you, Mr Hughes, to make any comment on that—nor Mr Farmer, for that matter. But maybe you should all know that we have noticed this. As part of that very large expenditure, will the campaign intend to focus on encouraging those long-term permanent residents—in the main, New Zealand and British citizens who have enjoyed rights here, many for a long time, including voting rights for some of them—to swear their allegiance to their country of residence?

**Mr Hughes**—It would be encouraging all eligible permanent residents, and obviously they are part of that group.

**Senator McKIERNAN**—I think you would agree with me, Mr Hughes—and if you do not you will say so—that there are a number of migrant groups that come to this country who, after the eligible qualifying period, need no encouragement at all to take out citizenship. There is no need to spend one cent on encouraging them to take out citizenship. Would you agree that there are such groups in our community?

**Mr Hughes**—I would certainly agree that some groups have a much higher propensity to take out citizenship than others. I think we have provided statistics on that and they are publicly available. I guess that does not mean that we ignore or write off—

**Senator McKIERNAN**—You just started ‘Those who need no encouragement and need no expenditure at all’.

**Mr Hughes**—But, while there is certain umbrella information that concentrates on everyone, the support work in relation to public relations activity is obviously going to concentrate on those communities that have the largest numbers of eligible non-citizens.

**Senator McKIERNAN**—How will you actually do that? I was leading to that. Thank you for short-circuiting the questions and saving time. How will an advertising campaign, spending close on \$5 million, seek to do that?

**Mr Hughes**—Some of that will be for the minister to announce when he launches the campaign. In the supporting work done by public relations, it is possible to provide information to particular communities that might address issues specific to those communities or perceived barriers to citizenship acquisition.

**Senator McKIERNAN**—What is the target population we would be looking at if such a population was to commence on Friday, 1 June?

**Mr Hughes**—As you know, there are about 950,000 eligible non-citizens at moment.

**Senator McKIERNAN**—Of the nationalities, which would be the five largest groups?

**Mr Hughes**—The five largest nationalities are UK, New Zealand, Italian, Dutch, German—I will correct that if necessary.

**Senator McKIERNAN**—How many Dutch?

**Mr Hughes**—I do not have the figures with me.

**Senator SCHACHT**—These are the target groups?

**Mr Hughes**—The target groups are all eligible non-citizens, but I was asked what are the five largest groups of eligible non-citizens.

**Senator McKIERNAN**—What additional resources will be given to the citizenship branch to cope with the flood of applications that will be received?

**Mr Hughes**—Under the purchasing agreement which we have reached with the Department of Finance and Administration, which is mentioned in the PBS, there is provision for funding for processing of additional citizenship applications.

**Senator McKIERNAN**—Demand will determine what you get in finance in order to service it?

**Mr Hughes**—Indeed.

**Senator McKIERNAN**—So there will be queues outside and you will not get paid for managing those queues until after you have managed them.

**Mr Hughes**—That is the normal arrangement. I would not put it quite the way you put it, but the normal arrangement now for all departmental processing activity is that it is covered through purchasing agreements.

**Senator McKIERNAN**—One of the recent initiatives—I think it was announced earlier this year by the minister, maybe in conjunction with the Prime Minister—was on social security arrangements with New Zealand. Is it expected that the new arrangements on social security matters would, in the normal course of events, have an expected impact on the number of people of New Zealand nationality who would apply for citizenship in Australia?

**Mr Hughes**—Since all of the New Zealanders in Australia at the time of the announcement were not affected by the changes, in one sense it should not have a major implication.

However, obviously it has given some New Zealander permanent residents food for thought because we have had an increase in the number of applications from New Zealanders. Whether or not that will continue, it is difficult to say.

**Senator McKIERNAN**—I have some more questions on section 17 and the recommendations of the Australian Citizenship Council, but I know colleagues want to get in. My last question on this particular area of the advertising campaign is: has a decision been made already on the consultancies for the campaign? What decisions have been made in regard to the type of advertising that will be run? Will it be print media, electronic media—both television and radio—or other forms? If so, can you detail as much as you can at this moment?

**Mr Hughes**—I think it is mentioned in the PBS that it will cover television, radio and print media, and the consultants have been appointed.

**Senator McKIERNAN**—Who are they?

**Mr Hughes**—In relation to creatives, Kelly Gee—a company from Brisbane. In relation to public relations, Key Connections from Sydney. For non-English speaking background specialist advice, Cultural Perspectives from Sydney.

**Senator McKIERNAN**—Are you in a position to tell us the details of those consultancies—the cost, for example?

**Mr Hughes**—I do not have the information with me.

**Senator McKIERNAN**—Would you take that on notice for me?

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

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

**CHAIR**—Senator, are you finished on that?

**Senator McKIERNAN**—I will cease now and let somebody else ask questions.

**Senator SCHACHT**—This is a follow-up question. Were the consultancies awarded after a full tender process?

**Mr Hughes**—They were awarded through the normal processes of the Ministerial Committee on Government Communications.

**Senator SCHACHT**—The dreaded committee. There are more scandals created out of that committee than anything else in this government's history. So it was awarded through the ministerial committee?

**Mr Hughes**—Selected.

**Senator SCHACHT**—They were awarded through the ministerial committee. Was the minister, Mr Ruddock, a member of that committee for this purpose?

**Mr Hughes**—I think the minister is an ex officio member of the committee.

**Senator SCHACHT**—So he attended the meetings when these were awarded?

**Mr Hughes**—His representative attended the meetings.

**Senator SCHACHT**—From the department or from the ministerial office?

**Mr Hughes**—From the ministerial office.

**Senator SCHACHT**—I do not know whether you handed this up, but how much did the three consultancies total?

**Mr Hughes**—I do not have the information. I will take it on notice.

**Senator SCHACHT**—It is out of the \$5 million budget. Has the department given any indication of how much will be spent on television?

**Mr Hughes**—I believe—I mentioned the figure before—it is about \$3 million, but I will confirm that if it is not correct.

**Senator SCHACHT**—Has the department or the ministerial committee in the briefing for the awarding of these consultancies indicated the nature of the material—the style and nature of the content of the television campaign?

**Mr Hughes**—The normal process for these things is to prepare a brief that has the objectives of the campaign and what is known about the target audience, et cetera, in response to which companies submit proposals. The best proposal—

**Senator SCHACHT**—This is for free-to-air television—on the Nine, Ten and Seven networks—is that correct?

**Mr Hughes**—It will be on commercial television and I think SBS. I will have to check on that.

**Senator SCHACHT**—You will pay for the time on SBS. This is to attract people to take out citizenship. You have obviously done market studies to show how many people who are not citizens of Australia—people from various ethnic groups—watch various commercial television programs, I presume.

**Mr Hughes**—There is information available on that.

**Senator SCHACHT**—And that was taken into account?

**Mr Hughes**—That is taken into account—yes.

**Senator SCHACHT**—I think you told Senator McKiernan that, for example, the Dutch were one of the largest groups. Are there any particular programs that you can say would be attractive to the Dutch?

**Mr Hughes**—Not that I can recall off the top of my head, but I think the information available did go to the question of what kind of ways people of Dutch origin in Australia access information—whether they access it through English language media or through other ways.

**Senator SCHACHT**—How long has the consultancy had the contract so far for television? Did you say it was a company in Brisbane that had it?

**Mr Hughes**—Kelly Gee.

**Senator SCHACHT**—How long have they had the contract?

**Mr Hughes**—A couple of months.

**Senator SCHACHT**—Have the ads been produced yet?

**Mr Hughes**—The material is in the final stages of development.

**Senator SCHACHT**—And it will go to air next month?

**Mr Hughes**—I believe the commencement will be some time in July.

**Senator SCHACHT**—It will run for how long?

**Mr Hughes**—About four months.

**Senator SCHACHT**—Right up to the day the Prime Minister calls the election.

**Mr Hughes**—I do not know what that day will be, Senator. There are standard rules as to—

**Senator SCHACHT**—It has to be announced by the end of this year for constitutional reasons.

**CHAIR**—Apparently Senator Schacht does know what that day is, which is interesting. He might share it.

**Senator SCHACHT**—If you go and ask Harry, the Clerk of the Senate, he will give you the constitutional outline. I think the last day the election can be is about the second week of January 2002. The television advertisement will be one advertisement for all four television networks. Is that correct?

**Mr Hughes**—At the moment we are working on the basis of a standard advertisement.

**Senator SCHACHT**—One advertisement?

**Mr Hughes**—One advertisement, but there might be longer and shorter versions.

**Senator SCHACHT**—For SBS it will not be in Dutch with subtitles?

**Mr Hughes**—I do not think so, Senator.

**Senator SCHACHT**—Paying for television, and commercial television in particular, is pretty expensive per minute. Everybody watches it. Most who watch it are already citizens. Was the advice you received that television advertising on commercial networks would be effective received before you appointed the consultancy or after you appointed the consultancy? When did you get that advice?

**Mr Hughes**—I think that over time it has been accepted that television advertising is the best way to send the emotive message that is involved in citizenship decision making. For example, the campaign that went from late 1994 to early 1996 was based on television advertising.

**Senator SCHACHT**—That was after we introduced a new citizenship oath, wasn't it?

**Mr Hughes**—I think the citizenship oath came in somewhere during that process.

**Senator SCHACHT**—I think that with the new citizenship oath the parliament carried we got rid of the swearing of the oath to Queen Elizabeth II, her heirs and successors. A lot of people believe that quite a few people in the community may now be willing—like our good Irish friends—to take out citizenship where they no longer have to swear to the Queen but to Australia. I think that was the motivation for the program, which was very successful, was it not?

**Mr Hughes**—I think that overall it was very successful.

**Senator SCHACHT**—Will the advertisement have the minister or the Prime Minister in any way, either visually or verbally, reported in the ad?

**Mr Hughes**—I think we are getting into the detail of the advertisement which has not yet been completed and is not yet public. I do not think you can expect either of those two things.

**Senator SCHACHT**—You have not actually finished the production, the editing, but you have obviously got a script. Can you produce the script for us?

**Mr Farmer**—I think that is still in the nature of advice to ministers because it has not been finalised.

**Senator SCHACHT**—When it is finalised can we have it?

**Senator Ellison**—Madam Chair, on these sorts of things—

**Senator SCHACHT**—Don't tell me that this is a policy issue. A script for a television ad is not a policy issue.

**CHAIR**—The minister would like a chance to tell you something.

**Senator Ellison**—It is still a working document because the fact is that it goes to the Ministerial Committee on Government Communications, which was set up under the previous government. The communications guidelines which were set up by the previous government have remained unaltered. I can say that—

**Senator SCHACHT**—You people have rorted it every year for five years.

**CHAIR**—Senator Schacht!

**Senator Ellison**—It is unfair to put this to Mr Hughes because the department, in accordance with government policy—as was the case under the previous government—has the Ministerial Committee on Government Communications which deals with these sorts of things. You cannot say that there is a transcript because it still has not been settled. It is well known—

**Senator SCHACHT**—Not a transcript—a script.

**Senator Ellison**—If Senator Schacht needs any briefing on this, he need go no further than Senator Faulkner and Senator Ray, who know the process very well.

**Senator SCHACHT**—And they have exposed the rorting that your government has carried out through that ministerial committee going back over a whole range of matters for the last four years.

**Senator Ellison**—We know that is not right, but it is a bit unfair to put to Mr Hughes something that he is not really in a position to answer.

**Senator SCHACHT**—So, under the claim that it is a cabinet document in working or a policy document, the script will not be made available yet. Obviously we will see the script when it appears on television, and that should be in about July. In the last three years what other advertisements have been placed on television to promote citizenship?

**Mr Hughes**—There have been no advertisements on television to promote the acquisition of citizenship. We did partly sponsor some work by the National Australia Day Council for the 50th anniversary of citizenship which talked about the general idea of citizenship. They were community service announcements placed by the National Australia Day Council, but we were involved in supporting them.

**Senator SCHACHT**—So, low and behold, in the four months before the anticipated election, \$5 million is made available, of which \$3 million is going to spent on television to promote citizenship. Is the timing just coincidental?

**Mr Hughes**—It logically flows from the report of the Citizenship Council and the timing for consideration of that.

**Senator SCHACHT**—And the timing is just coincidental in that a massive \$3 million campaign falls into place before the election?

**CHAIR**—Senator Schacht, I describe these questions as asked and answered to the extent that Senator McKiernan asked some questions in this area at great length. Mr Hughes has answered those questions and the minister has indicated that Mr Hughes—

**Senator SCHACHT**—I will ask him another question then. I do not think that Senator McKiernan asked this one: what level of TARP are you aiming to get on the commercial television stations?

**Senator Ellison**—Can I tell you, Madam Chair, that that cannot be answered because, in accordance with proper use of government funds in relation to communications, there has to be advice taken from the government's media buyer and research has to be properly undertaken. We are dealing with the expenditure of funds here. In this area the government, like the previous government, has used experts in the area to advise government on how to purchase media, on what medium should be used—print, television or radio—and on the frequency. All that advice is yet to be obtained. Mr Hughes is just not in a position to be able to answer that because all this still has to go through a proper process.

**Senator SCHACHT**—Minister, in setting the budget for \$3 million for television, you must have had some idea of what audience reach you were going to aim for through the stations; otherwise, you may as well just burn it.

**Senator Ellison**—That is really a trite comment because, when you have an expenditure, of course you have to embark upon a professional and strategic plan. When you get the advice of people from an advertising agency, the MCGC and the government media buyer, all aspects still have to come into play, quite properly. The committee should not treat this as a fait accompli; it really is still at a very early stage and has to go through processes yet.

**Senator SCHACHT**—But has the commitment of \$3 million for television been agreed to by the ministerial committee?

**Mr Hughes**—That is the budget. As Senator Ellison has said, the ministerial committee has not yet finally signed off on the entire project.

**Senator SCHACHT**—Indicatively you are expecting to spend \$3 million but you do not know yet what sort of TARP level you will have on various commercial stations?

**Mr Hughes**—I certainly do not have the information with me.

**Senator SCHACHT**—When you did the previous one, which started in 1994, what sort of TARP level did you have for that on the commercial stations?

**Mr Hughes**—Again, I do not have that with me.

**Senator SCHACHT**—Could you take that on notice?

**Mr Hughes**—I would have to research that.

**Senator SCHACHT**—Thank you. Will the weighting on various television stations around Australia be done per network or per regional and metropolitan stations separately?

**Mr Hughes**—On that, we take advice from the government's media adviser.

**Senator SCHACHT**—Which one?

**Mr Hughes**—Mitchell Media.

**Senator SCHACHT**—So we are not sure yet whether the Cooma television station—which happens to be in a very marginal seat—might end up with a higher penetration or a higher weighting of time purchased compared with Roma, which is in a very safe National Party seat—although I suppose these days that there is no safe National Party seat.

**Mr Hughes**—Until the final process is signed off—

**Senator Ellison**—Madam Chair, I think it is very unfair to ask Mr Hughes—

**Senator SCHACHT**—Unfair! It is government money; it is the people's money.

**Senator Ellison**—He has told you that it still has to be signed off and he cannot take it any further than that.

**Senator SCHACHT**—Minister, Mr Hughes said that the minister sends his proxy along to the ministerial committee.

**Senator Ellison**—He can go himself if he wants to.

**Senator SCHACHT**—I know he can, but he sends his proxy. Which member of his office is his proxy for this committee?

**Mr Hughes**—On this particular occasion, one of his advisers—Kate Wallace.

**Senator SCHACHT**—Does she consult with the department as well about your views and the information you need in preparation of—

**CHAIR**—Is Mr Hughes in a position to answer that question?

**Senator SCHACHT**—It is not a policy issue; it is a structure—

**Senator Ellison**—It is a transparent process. The department goes along as well.

**Senator SCHACHT**—Who goes for the department? Do you, Mr Hughes?

**Mr Hughes**—Yes, I do.

**Senator SCHACHT**—And you attend every meeting?

**Mr Hughes**—Not every meeting. If I am available to attend the meeting—

**Senator SCHACHT**—But Ms Wallace attends every meeting?

**Mr Hughes**—As the minister's proxy in this case, yes.

**Senator SCHACHT**—Do you attend to do the mechanical issues of making sure that it is all done—that the time is bought and the stuff is produced—or are you involved in working out the weighting of what should be spent on what television station?

**Mr Hughes**—We are involved in giving advice to the committee to the extent that it needs it from the department.

**Senator SCHACHT**—Minister, I presume that, if these ads go to air in July and through for four months and the Prime Minister chooses to call an election in October, the day the election is called these advertisements will be taken off air as not being within the scope of the caretaker provisions?

**Senator Ellison**—Yes, that is quite clear. If there were ads running at that time, that would happen, I imagine.

**Senator SCHACHT**—The other material—apart from the \$3 million for television—is for newspaper advertising?

**Mr Hughes**—Yes.

**Senator SCHACHT**—What is the variation between metropolitan, regional dailies and ethnic newspapers?

**Mr Hughes**—Again, I do not have that because it has not been signed off yet as a final decision.

**Senator SCHACHT**—But in view of our interest in the Dutch migrants, would the Dutch ethnic newspaper have an ad?

**Mr Hughes**—Obviously, the normal approach for advertising campaigns of this nature, since they do involve members of ethnic communities who are the target audience, is that the ethnic press is covered.

**Senator SCHACHT**—What is the budget for the print media out of this \$5 million?

**Mr Hughes**—Again, I do not have the breakdown.

**Senator SCHACHT**—Roughly a million?

**Mr Hughes**—I believe it would be below a million, but I do not have the exact figure.

**Senator SCHACHT**—And then the remainder will be spent on leaflets, pamphlets and posters?

**Mr Hughes**—That is right; material of a public relations nature or for particular events to encourage an interest in citizenship.

**Senator SCHACHT**—And the Kelly organisation in Brisbane, their fee is deducted from the \$3 million?

**Mr Hughes**—I think their fee is in excess of the \$3 million and that is for preparation of creative material, which I guess is the usual way of funding these things.

**Senator SCHACHT**—The consultancy that got the job to do the print media, which one was that?

**Mr Hughes**—The Kelly Gee company, in the normal way, prepares the creative material for both television advertising and print media.

**Senator SCHACHT**—And do they take responsibility for placement?

**Mr Hughes**—Placement is done by the government's media adviser, Mitchell Media.

**Senator SCHACHT**—And they get their fee by simply charging a percentage of the billings. Is that correct?

**Mr Hughes**—I do not know what they do.

**Senator SCHACHT**—Minister, is it correct on the ministerial committee that Mitchell Media would get their income from a percentage of the total billings?

**Senator Ellison**—I am not sure how the contract works with them, Senator Schacht. But I do know that, because of the mass buy, because they buy for the Commonwealth, we get excellent rates and free spots. But that is no longer an area for which I am responsible.

**Senator SCHACHT**—I got free spots for the Labor Party when I was secretary in South Australia—that is not very difficult. Nonetheless, I accept that.

**Senator Ellison**—If you get them at three o'clock in the morning, it is not so flash. But some spots that Mitchell Media gets for the government are very good ones.

**Senator SCHACHT**—I am not arguing about that; I am asking whether their fee is based on the billings or based on a retainer.

**Senator Ellison**—You would have to address that to the Special Minister of State.

**Senator SCHACHT**—Of course, you shifted on from that position.

**CHAIR**—The Special Minister of State was here this morning, Senator Schacht.

**Senator SCHACHT**—But I was doing something else.

**CHAIR**—So you missed your opportunity.

**Senator SCHACHT**—I can imagine how forthcoming Senator Abetz would have been!

**Senator LUDWIG**—Willing, I am sure!

**Senator SCHACHT**—You mentioned two other consultancies: Kelly Gee and another firm.

**Mr Hughes**—Key Connection.

**Senator SCHACHT**—What are they doing?

**Mr Hughes**—They are the public relations agency responsible for organising the supporting materials that might go to particular communities or address particular issues—posters and the like.

**Senator SCHACHT**—So they design, print and distribute the material?

**Mr Hughes**—Yes.

**Senator SCHACHT**—Do they organise receptions and public presentations where local communities are invited along to have a nibble and a drink and have a presentation put before them?

**Mr Hughes**—Yes, they do that kind of event.

**Senator SCHACHT**—Their budget is about \$1 million? In rough terms—I am not going to have you before the Privileges Committee if you are out by a dollar or so.

**Mr Hughes**—It is below \$1 million; it is about \$500,000.

**Senator SCHACHT**—And the last consultancy?

**Mr Hughes**—The non-English-speaking-background consultancy?

**Senator SCHACHT**—Yes.

**Mr Hughes**—That is Cultural Perspectives, a firm in Sydney. Their activities would be particularly to advise on how best to target the ads towards non-English-speaking-background communities. We would be spending about \$200,000 on their activities.

**Senator SCHACHT**—On their advice but not on the placement?

**Mr Hughes**—Not on the placement, but it would include—

**Senator SCHACHT**—Not on the cost of placement, but on their advice—

**Mr Hughes**—Advice and organisation of particular activities and events.

**Senator SCHACHT**—That consultancy lasts for four months?

**Mr Hughes**—If that is the life of the campaign, yes.

**Senator SCHACHT**—And that is roughly what the life will be?

**Mr Hughes**—Yes.

**Senator SCHACHT**—At \$200,000, that is \$50,000 a month. What is the consultancy for the second firm, the one doing the presentations?

**Mr Hughes**—As I mentioned, it is about \$600,000.

**Senator SCHACHT**—That \$600,000 is for their advice?

**Mr Hughes**—No, not for advice; it is for advice, production of materials and the arrangement of major events. I think that would be fairly typical of the costs in that area.

**Senator SCHACHT**—Can you tell me what ‘major events’ means? Is that a grand prix or is it a cup of tea at the back of the Ngulabi town hall?

**Mr Hughes**—Based on past experience with citizenship promotion campaigns, to supplement the television and radio advertising it is important to get the message to specific communities in a real way. The range of events can include an activity that attracts free media attention or an event that is seen to focus on what Australian citizenship is all about and on the benefits of Australian citizenship and of people acquiring it. Those kinds of things, for this kind of campaign, would normally be done around Australia to reach communities in each state and territory.

**Senator SCHACHT**—You can assure me that the selection of where these events will be will have nothing to do with the marginality of certain government held electorates?

**Mr Hughes**—From my point of view, it will be where the eligible non-citizens are that we need to get messages to.

**Senator SCHACHT**—Based on the empirical evidence—

**Mr Hughes**—It is where we need to reach eligible non-citizens.

**Senator SCHACHT**—They are targeted not where the Dutch happen to live in a marginal seat but where the Dutch live, full stop, irrespective of geopolitical issues?

**Mr Hughes**—I do not know where the Dutch live in marginal seats.

**Senator SCHACHT**—I bet someone on your committee will soon find out. Someone will tell you which ones they are and which marginal seats they are in.

**Mr Hughes**—I have not heard about them.

**Senator SCHACHT**—For example, a lot of English migrants came out after the war and did not take out citizenship because they got the right to vote without having to take out citizenship. I presume that is still one of the biggest target areas—to get these people to take out citizenship.

**Mr Hughes**—Certainly that is a significant part of the target audience.

**Senator SCHACHT**—Going back to the television ads and the material, it will be generic enough to appeal to all non-citizens, not specifically to the English, the Dutch, the Italians, the Greeks or whatever.

**Mr Hughes**—That has been the traditional way of doing it—a message about citizenship that is inclusive of all eligible non-citizens.

**Senator SCHACHT**—When an ad goes in *La Fiamma*, the Italian ethnic newspaper, would that be generic? Would it be specifically in Italian? Of course, it is an Italian

newspaper. I use another example—*Il Globo*. Will it appeal to the Italian ethnic community to take out citizenship by saying, ‘You as Italian migrants,’ et cetera?

**Mr Hughes**—The normal approach with advertising is to be generic, to the whole target audience. Where public relations and non-English speaking background consultancy comes in is to deal with particular issues that relate to particular communities. For example, many of the UK born still believe that they will lose their UK citizenship if they become Australian citizens. The kind of thing that might be directed to that audience is factual information to make it clear to them that they would not lose their UK citizenship.

**Senator SCHACHT**—In my own state of South Australia there are two areas where we have a very large, very successful, English migrant community. They came out after the war. The two biggest areas—not the only areas—are in the electorate of Bonython, based on Elizabeth, an obvious well-known English migrant area, as well as Christies Beach and Morphett Vale in the electorate of Kingston. Both are Labor held electorates. I can anticipate telling my two colleagues that they could well expect having a reception, a presentation, an activity in their electorates to promote the issue of English migrants who have not taken out citizenship being encouraged to do so.

**Mr Farmer**—Senator, with all due respect, I think it is very difficult for officials to answer questions that are cast in those manifestly political terms.

**Senator SCHACHT**—Political? You shock me, Mr Farmer! Fancy asking a political question at Senate estimates! I will have to get my breath back.

**Senator COONEY**—While you get your breath back, can I ask a question?

**CHAIR**—Senator Cooney, I am glad that you have intervened at this point. Senator Cooney was waiting very patiently for Senator McKiernan to conclude his questions—

**Senator SCHACHT**—I know.

**CHAIR**—before about 40 minutes ago you decided to interrupt, Senator Schacht.

**Senator SCHACHT**—It was not 40 minutes ago: it was about 12.

**CHAIR**—Senator Cooney, would you like to continue in this area?

**Senator SCHACHT**—Don’t ask a political question, please, Senator Cooney. There will be shock-horror on the other side.

**CHAIR**—A little less mock outrage and a little more direct questioning would help.

**Senator COONEY**—Mr Hughes, regarding the campaign on citizenship, having listened to your answers to Senator Schacht, I think there is some legitimate concern to be expressed that in carrying out this campaign we do not discount Australian citizenship. During the day, Senator McKiernan referred to the issue of how the centenary was celebrated at the Exhibition Building in Melbourne. It just occurs to me that, if people do not want to become Australian citizens, that is a matter for them. I do not think the citizenship we hold is the sort of thing I would like people to encourage in the sense of saying, ‘Here is a great advantage in this. This is what you get. This is what will go for your material gain if you take on an Australian citizenship.’ The citizenship is worth more than that, in my view. I must declare an interest here. I have read the literature, but if you have Australian citizenship that should be sufficient. Why should you want other citizenships? That is the way I am presently inclined. I say that to indicate my concern about a campaign that goes around trying to sell Australian citizenship. In my view, it should not be for sale.

When you were talking about all this, was that issue taken into account? When you talked about engaging the various people that you will get to show this on the television, in the paper and on the radio, was that sense of something sacred about the citizenship going to be taken into account, do you know?

**Mr Hughes**—Certainly. If you look at the reasons why governments in the past and the Citizenship Council now have suggested it is a good idea to encourage eligible non-citizens to become citizens, it is because for most of them it is the key to full participation in society. Yes, some of the British who are not citizens have the vote, but, for most eligible non-citizens, becoming a citizen is, if you like, the final step of the migration journey. The report of the Citizenship Council—and I think this is consistent with public policy positions on citizenship for a long time—said that it is a good idea, it is a good thing to encourage people to take that final step to become a citizen. It said that it should not be coercive and that it should both inform people factually about what is involved and also appeal to people through the sense of commitment and completing the migration journey. That has been a fairly standard philosophy. I think it has also been understood that, without from time to time some public message on the area of citizenship, the issue does go off the agenda and it does leave people who are eligible non-citizens uncertain as to whether the government or the community wants them to take that final step. Those were some of the considerations, and have been for many years.

**Senator COONEY**—The campaign that Senator Schacht mentioned is very illustrative here. That is the one where the oath of allegiance was changed. I can understand that—that people who had a commitment but felt they could not realise that commitment because of an oath should be advised that the oath has now changed. That is one thing, but here it seems to me that what we are doing is saying that there will be an advertisement for the sale of aircraft tickets, an advertisement for the sale of jam, an advertisement for the next film that is on somewhere and then an advertisement that in some way in the consumer society you can take up citizenship.

**Senator LUDWIG**—Haven't you been watching television lately?

**Mr Metcalfe**—If I could just come in at this stage, Senator, the promotion of Australian citizenship has been something that has happened for many years. You and Senator Schacht have mentioned the campaign in the mid-1990s. Others may recall better than I, but I recall—possibly when Mr Holding was minister or even Mr Young—that we had a promotional year of Australian citizenship. I am told it was in 1988, the bicentenary year.

**Senator SCHACHT**—It was a legitimate thing to do.

**Mr Metcalfe**—Precisely. It was something to try to encourage people to take that final step.

**Senator SCHACHT**—It tied us to an election outcome.

**Mr Metcalfe**—I am glad Senator Schacht agrees with us. It is the same thing, the same principle.

**Senator COONEY**—I think Mr Metcalfe was pursuing a line of argument.

**Mr Metcalfe**—I was just going to go on and make the point that this particular campaign has come out of a report commissioned during the 50th anniversary of Australian citizenship in 1999. Of course, the report—

**Senator SCHACHT**—It took two years?

**Mr Metcalfe**—Mr Hughes explained earlier the sequence of the commissioning of the report and the finalisation of the report. The Australian Citizenship Council was chaired by an eminent former Governor-General. The issues that Senator Cooney has referred to have been the subject of considerable public consideration and discussion. But what we are doing here is not new. It is something that has occurred over the years, because governments have felt that it was important to seek to have those hundreds of thousands of permanent residents who are eligible to become citizens take that final step and become members of the Australian community.

**Senator COONEY**—Senator Schacht was saying that, as a committee of the parliament, we ought to be concerned. You say it was an advertisement. You say we are going to have an advertisement to tell people that there is a new scheme. I can understand that. But where your very citizenship is being, as it were, advertised—and I know it has been done before—it is legitimate for—not only legitimate for but incumbent on—a committee such as this to have some idea about what is going to be put on the air about what is central to your very being, your citizenship. I do not yet have an idea—perhaps Mr Hughes could very generally tell us—what sort of program is being put across. Is it a program that does respect people's citizenship and does respect the history?

**Mr Hughes**—Naturally, anything that we published about citizenship would be something that held it in great respect.

**Senator SCHACHT**—You did not think that in this year, the Centenary of Federation, it would be a good thing to start the ads early, in the beginning of the year—around the basis of Federation? That would have been a legitimate thing to do. That would be better than doing it suddenly in the last four months before the election.

**Mr Hughes**—Since it was driven by the timing of the Citizenship Council report and the government response, I guess that is why it has produced a midyear commencement date.

**Senator SCHACHT**—So there is no mention in the draft ideas of this \$5 million campaign of tying it to the Centenary of Federation year?

**Senator Ellison**—Madam Chair, I think this question is really repetitive. We have been through this.

**Senator SCHACHT**—No, we haven't.

**Senator Ellison**—We have been through the timing before.

**Senator SCHACHT**—I am asking about Federation.

**CHAIR**—I think you have had extensive opportunity to ask questions in this area. Senator Cooney has also asked some. Senator Ludwig also has questions which I would like to go to, with your agreement, gentlemen.

**Senator LUDWIG**—Obviously, my questions have whittled down considerably. I do not want to prolong this any longer than it needs. Let me turn your attention to page 47. My questions are of a little more mundane nature. On page 47, under 'Impact of Measure', it says:

The total cost is estimated at \$4.9 million, which will be met substantially from DIMA's existing resources, with an additional \$2 million being sourced from the Budget.

If my arithmetic is correct, that \$2.9 million or thereabouts will be met from DIMA's existing resources. Will you then give me a guarantee that no money will come from the grants to community services that you make—that it will not come from the budget of the refugeee

humanitarian program, the RRT or the MRT, in other words, that it will not come from the area that is most in need that your department looks after?

**Mr Farmer**—You have that.

**Senator McKIERNAN**—I will wind this section up with a couple of quick questions regarding it. Since a series of questions have been asked, I have a concern about the timing of the campaign. I was not aware until I was browsing the Internet while the questions were being asked that this campaign is going to fall slap-bang in the middle of an \$86 million splurge by government on advertising—\$86 million of government advertising that is going to occur over that period of time. If we are serious about advertising for citizenship, I have a grave fear that this is going to get lost amidst all of those campaigns. We can detail what those expenditures are going to be if we want to.

**Senator Ellison**—That question should be directed either to PM&C or the Special Minister of State, who chairs the MCGC. That is one of the areas that the MCGC deals with—that is, the question of what other government campaigns are being run at the time so that there is not, shall we say, a glut of advertising all at the one spot. That is a consideration that is taken into account by the MCGC. That is a question that should be directed to the Special Minister of State. DIMA would not know what other advertising is on at the time, and I can say that that is one of the considerations that will be taken into account. But those questions should be directed either to PM&C or the Special Minister of State.

**Senator McKIERNAN**—The point is taken, Minister. I understand everything you have said. Unfortunately, PM&C do not appear before this committee. This is my opportunity to put forward my concerns on this. I am putting them forward to the citizenship section of the Department of Immigration and Multicultural Affairs, from whose budget this \$5 million is going to come. So it is quite legitimate for me to put it forward and it is quite legitimate to put forward my concerns to alert the department if the department did not already know of that government splurge on advertising. That is what I am doing. The second question—and hopefully this will finish this particular part—is this: if indeed a decision is made above the heads of the department to go ahead with the campaign, is there going to be a massive finale to the campaign as such? Do you have any indication of the type of campaign? Will it be a series of week-by-week events and advertisements or will it be something that will build up to a crescendo?

**Senator LUDWIG**—A birthday cake?

**Mr Hughes**—Obviously campaigns have an even balance over time. You will also know that in the government response to the report of the Citizenship Council there is acceptance of the Citizenship Council's recommendation to have a citizenship day to have more focus on the idea of Australian citizenship. That day is 17 September. That is in the government response, so obviously whatever we do will have some focus on the idea of a citizenship day.

**Senator McKIERNAN**—I was not a member of that council but I might have made a different recommendation. I just had a brilliant idea—I think it is a brilliant idea, which I will share with you and the department. The largest target group that this campaign will be aimed against will be the people still holding British passports. The Queen of England will be coming to Australia in October for the Commonwealth Heads of Government Meeting. It would seem to me that, if we are going to have a real effect on this, that would be the time that this citizenship campaign should hit its crescendo. If there were to be an expenditure of, say, half a million dollars each month until October and an expenditure in October, during CHOGM,

while the Queen of England—the head of state of all those British passport holders—is here, that would be an ideal time. And, by golly, it would have some real effect.

**Mr Hughes**—Can I put that one in the ideas basket—

**Senator Ellison**—Madam Chair, I can cut to the chase on this and say that this comment and Senator McKiernan's previous comment are alert, if I can put it that way. I will pass it on to my ministerial colleague who has responsibility for these matters.

**Senator LUDWIG**—We could have bumper stickers on Commonwealth cars.

**CHAIR**—I think we can now continue questions.

**Senator SCHACHT**—Madam Chair, I have a follow-up question on this issue.

**CHAIR**—Is it a very brief question, Senator?

**Senator SCHACHT**—You never know your luck on this, do you? My colleague Senator Ludwig pointed out that part of the funding of nearly \$5 million is from a saving of \$2.9 million from other resources in the department. Senator Ludwig asked whether it came from another part of the promotional campaign and you said, 'Absolutely not.' Where is the \$2.9 million saving coming from?

**Mr Farmer**—It will come from our operating expenses, because the administered funds of the sort Senator Ludwig was talking about are quite separate from anything we can do. We have a process in the department—it is part of the bread and butter of how you manage an organisation like ours—of looking at where we can generate funds for use on particular projects, whether it is developing a new IT application or this sort of project.

**Senator SCHACHT**—What did the finance department sign off as the saving of \$2.9 million to reach the budget figure? They must have signed off.

**Mr Farmer**—No, that is not really how it works. It is really saying that, from within our existing allocations, we will provide that amount of money.

**Senator SCHACHT**—Do you mean to say that from the previous year you had \$2.9 million that you did not really need, so this time round you can actually put it into a particular project?

**Mr Farmer**—No, it means that each year we construct our departmental budget. It is a bit complex—

**Senator SCHACHT**—No, it is not complex; it is very simple. You had to cut something somewhere to find the \$2.9 million.

**Mr Farmer**—I am sorry, but it is more complex than that.

**Senator SCHACHT**—That is not right. Somewhere in the department, in the general administration, you have cut \$2.9 million. It might have been very legitimate; it might have been wasteful and not needed. But Finance would have signed you off, saying, 'You only get the \$5 million if you put \$2.9 million of savings in from the general administration.' You agreed, signed off, and there is the budget.

**Mr Farmer**—That is right. But they are not interested in where our contribution comes from.

**Senator SCHACHT**—No, I am interested to find out what you have cut in the general administration to get \$2.9 million.

**CHAIR**—Senator Schacht, Mr Farmer is endeavouring to answer the question. It is difficult when you keep interrupting him. I do not know how other committees on which you participate are handled, but in this committee we do endeavour to do it in a polite and formal fashion. Mr Farmer, please continue.

**Senator SCHACHT**—Goodness me! Mr Farmer is looking flogged already. Go on.

**Mr Farmer**—Senator, the way a departmental budget is constructed nowadays, as distinct from the days when everything was done line by line, is that I as the CEO have the authority to construct a budget. Particularly in the accrual accounting environment, that means that I am able to look at expenditure and investment over a period of years. Sometimes we have commitments over, say, a four-year period, which means that during that four-year period you have commitments that are fixed. In the fifth year, for example, you do not have that commitment because you have paid for the IT or whatever it was, so that gives you money that you were spending in the previous years that is available this year. That process goes on in hundreds of different ways and it means that at the beginning of each year we have a series of commitments. We have our budget and we are able to take our own decisions on the internal departmental budget. It is a macro way of doing it and we do it as part of our bread and butter.

**Senator SCHACHT**—You can claim accrual accounting, but I will not accept that. Somewhere in the system, as compared to last year, \$2.9 million has been found. Good on you.

**Mr Farmer**—That is right, and it is because, for example, we will not need that for a particular function.

**Senator SCHACHT**—What function don't you need it for that now makes it available for the advertising campaign?

**Mr Farmer**—Some IT application development work we have—

**Senator SCHACHT**—Good. You can take it on notice and come back to me with what areas are involved—perhaps it is the IT function that is no longer needed.

**Mr Farmer**—Senator, tempting as it would be to take it on notice, I really cannot give you an answer that is different from what I have given you. We are stopping some IT development functions; we are beginning others. The bottom line is the product of a very complex set of calculations. You are asking me for something I cannot give you.

**Senator SCHACHT**—I find it interesting that, with accrual accounting, you are able to do this, and Finance runs its light fingers across all programs—

**Mr Farmer**—The finance department does not concern itself with how I spend the internal budget. It used to, but it does not now. That is my responsibility and I am answerable to parliament, and I am very happy to answer.

**Senator SCHACHT**—I know that accrual accounting has a lot of us bamboozled and I am one of them, but I still find it hard to believe that there is not somewhere in the department where some other program has run out and is no longer needed.

**Mr Farmer**—Yes.

**Senator SCHACHT**—If that is the case, what program ran out and gave you \$2.9 million for this?

**Mr Farmer**—I could pick on a number of programs and say, ‘That’s the one,’ but there is no one program. I have a bottom line which tells me that I have so much overcommitment or so much undercommitment and that gives me the starting point for determining a departmental budget.

**Senator SCHACHT**—I will refer your remarks to the finance department and they can try to find it for me. Thank you.

**Senator McKIERNAN**—Mr Hughes, I foreshadowed a question on the consultations on section 17 of the citizenship act. Can you tell the committee what the form of and the time lines for those consultations will be?

**Mr Hughes**—I am hoping that the discussion paper will be available in the next few weeks. The minister has foreshadowed that. He has also foreshadowed that it would be distributed to a wide variety of community organisations for comment on the analysis therein and on the proposition that section 17 be repealed.

**Senator McKIERNAN**—Has a time line been determined for responses from the community on this matter?

**Mr Hughes**—I think the minister may have said to allow a month or two for the consultations, but it has not been finalised.

**Senator McKIERNAN**—Thank you.

**Senator SCHACHT**—I have some questions coming out of the other portfolio I am interested in, Veterans’ Affairs. The government announced that they were going to pay lump sum compensation to POWs of the Japanese in the Second World War and also to civilian internees. In the debate last week in the parliament we discussed the difficulty in determining what a civilian internee is for Australia in that at the time of the Second World War there was no such thing as Australian citizenship. We were all under British passports. Trying to work out who was a legitimate citizen of Australia when they were an internee in PNG, Hong Kong, Singapore or anywhere in the South Pacific, does raise some issues. I agree with the principle that internees should get the compensation, or their widows if they have died. Has the Department of Veterans’ Affairs yet sought any advice from your department, which deals with citizenship and related matters, about how you may be able to assist them when people make claims that they were genuinely Australians when they have no citizenship record or passport to show that they were Australian citizens or Australian residents? I suspect, unfortunately, that there will be some big arguments about this as people come forward. Have you been consulted? If you have not been, I suspect you should get ready for it.

**Mr Hughes**—I am not aware of any approaches on the citizenship side on that issue, so I do not know what they are planning.

**Senator SCHACHT**—Does the department have any way of judging? If you were born in Australia before the Second World War, was that enough indication?

**Senator COONEY**—Before 1948.

**Senator SCHACHT**—Yes, before 1948. Does that automatically make you a resident? Could some sort of residency arrangement give you a judgment that you were basically an Australian citizen even though we did not have a passport to give you?

**Mr Metcalfe**—There were transitional provisions in the 1948 legislation that deemed certain people to be citizens from that time. Birth in Australia was one of those criteria, or

being a British subject resident in Australia for the five years prior to 26 January 1949. Those matters were contained in the creation of citizenship back in those days.

**Senator SCHACHT**—I will give you one example and then I will move on from it because it is not an issue. This is one that I do not know how we are going to handle. A British citizen, a person born in Great Britain, comes out to Australia in the late 1920s, early 1930s. Then in their job in a company they go to PNG and live there until 1942, running a company or whatever. They might even marry an Australian citizen. They have a British passport. They get interned by the Japanese or they die—they are executed or whatever—or they are still alive. Do you have any suggestion as to how we would determine whether that person, if they claimed, had some way of showing that they were effectively an Australian resident, a citizen?

**Mr Hughes**—I think it would depend on the kind of criteria that Veterans' Affairs want to set. Clearly, you could not be an Australian citizen before 1949. You were a British subject who may have been resident in Australia. I think Veterans' Affairs will have to come up with their criteria for that.

**Senator COONEY**—Mr Metcalfe was on the right track, wasn't he? If you were born in 1930, say—as some people in the room might have been—that would be on your birth certificate, and your birth certificate would be the same after 1948. I do not know whether there is all that much difference.

**Mr Metcalfe**—We are more than ready to assist Veterans' Affairs in developing their thinking on these issues. Prior to the Citizenship Act, there were various statuses that applied. Exactly what criteria they wish to employ we could certainly assist with that.

[6.11 p.m.]

**CHAIR**—As there are no further questions in the area of Australian citizenship, we will move on to the final output, which is 2.4—Appreciation of cultural diversity.

**Senator McKIERNAN**—I have flagged some of my questions, but perhaps I might get another one out of the way first and foremost. The budget allocated over \$1 million over two years for the implementation of a new agenda for multicultural Australia. What initiatives will be funded by this allocation during 2001-02?

**Mr Hughes**—That represents, if you like, a continuation of the existing level of funding. When the new agenda for multicultural Australia was announced in December 1999 we required an additional \$1 million per year to our existing multicultural affairs work for the Council for Multicultural Australia to become involved in an expansion of activity. What has happened in relation to this budget is that that extra \$1 million a year is now being funded externally to the end of the life of the Council for Multicultural Australia. In effect, it is maintaining the additional expenditure since the new agenda for multicultural Australia has been announced, except that the \$1 million is being externally funded as opposed to internally funded. The kinds of extra things that the council has been doing includes supporting the pursuit of productive diversity as a concept. We had a major conference on productive diversity involving the business community last year and will be extending our work on productive diversity. It will also go towards outreach activities of the Council for Multicultural Australia. It will go to expanding our efforts for the charter of public service for a culturally diverse society.

**Senator McKIERNAN**—Included in that, what are the new initiatives, if any?

**Mr Hughes**—I think it will be a continuation of our work on those things that we started when the Council for Multicultural Australia was established.

**Senator McKIERNAN**—I asked about grants programs earlier in regard to 2.1. There are grants contained within this outcome area.

**Mr Hughes**—That is correct.

**Senator McKIERNAN**—What grants programs are there in this area?

**Mr Hughes**—There are two types of grant. There is the annual grant to the Federation of Ethnic Communities Councils of Australia, which is an administered item. There is also the tail end of the community grants part of the Living in Harmony program—there is only a small number of those still running. You will see in the budget papers that we made provision for some further community grants as part of the Living in Harmony program.

**Senator McKIERNAN**—How much is that?

**Mr Hughes**—\$1.5 million.

**Senator McKIERNAN**—Is there any residue from the last budget in that particular program?

**Mr Hughes**—Any residue?

**Senator McKIERNAN**—Yes, rephrasing from last year?

**Mr Hughes**—I don't think so.

**Senator McKIERNAN**—From the current financial year to the next financial year, you do not think so?

**Mr Hughes**—No, Senator.

**Mr Davis**—No.

**Senator McKIERNAN**—Thanks, Mr Davis. What is the timetable for the allocation of those grants? One is a one-off annual one—it is the same time each year.

**Mr Hughes**—That is correct.

**Senator McKIERNAN**—What is the timetable for the grants contained within the \$1.5 million?

**Mr Hughes**—I do not have a precise timetable for that at the moment. That is being worked out.

**Senator McKIERNAN**—Would you take that on notice and provide the committee with that information?

**Mr Hughes**—Okay.

**Senator McKIERNAN**—Mr Farmer indicated before that he is aware of the caretaker conventions in the event of an election. You have gone on the record as saying that and I am reminding you that you have done that. I am not going to seek your doing it again because it has already been done. We talked about Living in Harmony. A new initiative was announced by the parliamentary secretary earlier in the year on Harmony Day itself. Are those suggestions going to be taken up and become the norm in Living in Harmony programs?

**Mr Hughes**—Would you remind me which suggestions you are referring to, Senator?

**Senator McKIERNAN**—One of them particularly was ‘Go out and shake hands with an ethnic’.

**Mr Hughes**—That was an individual contribution to the idea of Harmony Day. Many people made individual contributions.

**Senator McKIERNAN**—But this was not just any person; this was the parliamentary secretary. What is her proper title?

**CHAIR**—Are you referring to Senator Patterson?

**Senator McKIERNAN**—No, to Mrs Gallus.

**Mr Farmer**—Mrs Gallus is the Parliamentary Secretary to the Minister for Reconciliation and Aboriginal and Torres Strait Islander Affairs.

**Senator McKIERNAN**—Is Harmony Day within her responsibility as a parliamentary secretary?

**Mr Farmer**—No, it is another portfolio.

**Senator McKIERNAN**—So, when she was releasing her media release suggesting that people go out in a gesture of practical harmony and shake hands with an ethnic, that was not necessarily the view coming from government?

**Mr Farmer**—It was not a view coming from this portfolio; it was a view coming from Mrs Gallus, who is a parliamentary secretary.

**Senator SCHACHT**—Which is her portfolio?

**Mr Farmer**—I have just said that. She is the Parliamentary Secretary to the Minister for Reconciliation and Aboriginal and Torres Strait Islander Affairs.

**Senator McKIERNAN**—Does the office of appreciation of a cultural diversity have a view on the suggestions coming from the parliamentary secretary, because it was more than one? It was not just ‘shake hands with an ethnic’.

**Mr Farmer**—I think the answer to that is that on Harmony Day there were probably hundreds of activities, statements and suggestions from around the country.

**Senator McKIERNAN**—Would it test you to name them?

**Mr Farmer**—Most of the state governments had a wide variety of activities. There were numbers of activities put on by commercial groups. I think Harmony Day this year was a tremendous thing. In Canberra, there was a range of events put on and it was a very good community function. If you are interested, we could give you a list of the sorts of things that were put on around the country. It was very big news.

**Senator McKIERNAN**—Good. But I am particularly interested in the contribution by Mrs Gallus to this campaign and the subsequent media commentary on the comments and suggestions made. Did it assist and, if it did assist, will they be integrated into the program for National Harmony Day and harmony week of next year?

**Mr Farmer**—I think the factual answer is that we have not made any formal assessment of any of the statements made on that occasion—and there were statements by a number of members of parliament.

**Senator McKIERNAN**—I am interested only in Mrs Gallus and I am not going to be diverted from that. Have you taken them into consideration? I wonder whether the unit within the department has consulted with Mrs Gallus to get further views on these suggestions?

**Mr Farmer**—I do not believe that is the case.

**Senator McKIERNAN**—Have you consulted other community leaders on the views being preferred by Mrs Gallus?

**Mr Farmer**—I do not think it has formed the basis of any action within the department.

**Senator McKIERNAN**—But Harmony Day is important to the department, isn't it?

**Mr Farmer**—That is true.

**Senator McKIERNAN**—Isn't there an onus on you to find out what community views are with regard to it and getting their views on suggestions that come from eminent people? Apart from Minister Ruddock, would Mrs Gallus be the most senior person in government to be making comments on Harmony Day at that time?

**Mr Farmer**—I do not know. We could look at government statements and let you know, if that would be of interest.

**Senator McKIERNAN**—It would be of interest, but let us not put you to the work. After all, you have just lost \$2.9 million of your administrative budget. You are probably suffering from that in some areas. What can you say on the matter of soccer violence, Mr Hughes? It is of concern. I would have thought that, if anyone within government were going to have views on it, it would be in this particular output area. Am I correct in that?

**Mr Hughes**—Yes.

**Senator McKIERNAN**—What can you tell the committee about it?

**Mr Hughes**—As far as community harmony in sport is concerned, we have actually been involved in some areas in the past. We have had a project with the Australian Cricket Board to try to work with them to encourage greater involvement of a wider audience to cricket amongst migrant community groups. We have also had some involvement with the AFL in terms of, I think, one of the Living in Harmony grants projects. So we have had some involvement in sport. I do not recall that we have had involvement in soccer as a sport so far. That is an issue that will have to be considered either by the minister or the Council for Multicultural Australia.

**Senator McKIERNAN**—Is there any reason why it has not been considered so far, because this recent event is not the first occasion that we have had tension, to say the least, within that sporting fraternity?

**Mr Hughes**—Indeed. I cannot put it down to any specific reason. It is not one that we have become involved in so far. But, as you say, it is one that has potential for involvement.

**Senator McKIERNAN**—It probably has more than potential. It has actually happened. Some of the happenings that we have seen on our TV screens as a result of those sporting events in recent times and during the finals of the National Soccer League are not events that we would want to be seeing very often. While I am making my comments, I am not casting any blame or pointing a finger at anybody or any clubs. I am not doing that, but I think that that type of activity should be stamped out pretty quickly. I am a little disappointed that the unit is not in a position to let the committee know what action and proactivity it is engaging in

at this particular time in order to address it, because it is something that has come to the fore and should be looked at.

**Mr Farmer**—I take your point that this is an area where there could be some scope for positive work by the Council for Multicultural Australia or other organisations within the Living in Harmony area, so I appreciate your bringing that to our notice. We are not averse to suggestions.

**Senator McKIERNAN**—When you follow that up you can take up my earlier ones as well!

**Senator SCHACHT**—I just want to ask a couple of questions on this matter raised by Senator McKiernan. It has been suggested by various commentators, critics, whatever you want to call them, involved with Australian soccer that the only way Australian soccer can develop to its full potential is to move away from clubs that have had a history of being ethnically based, that have done a good job in the fifties, sixties and seventies in getting soccer going, clubs based on Italians, Greeks, Croatians, Yugoslavs, Serbs, Hungarians, et cetera—that is all recognised—and to go to the next level of producing a top level professional soccer league, fully sponsored, attracting reasonable size crowds and the younger generation moving to it on a non-ethnic basis. This means that you would have to—if the soccer community was willing—put in rules that clubs could not be ethnically based. You could not use colours and other insignia that could be directly or indirectly associated with the old country, et cetera. By prohibiting clubs applying to play in the league and saying, ‘No, your ethnic base is too narrow; we don’t think commercially and professionally there is a development that soccer is going to be enhanced, therefore you are rejected,’ could people who have been rejected claim some discrimination under the various acts we have in Australia and which your department might be associated with?

**Mr Farmer**—I understand the question you are asking, but you are asking for advice, and we do not administer, for example, that legislation. I sympathise with the question, but I—

**Senator SCHACHT**—Obviously it is the Attorney-General’s Department. To put it another way, could one of these ethnic groups come to you and seek some funding or advice to help their campaign to maintain their role as a major soccer club in the National Soccer League, on the basis that you are there to encourage multiculturalism and so on?

**Mr Farmer**—That seems unlikely to me. It is certainly unlikely that a project along those lines would be entertained. On the other hand, if you look at what we have tried to do with the Australian Cricket Board in the Living in Harmony context—they are one of our partners—there is certainly scope for looking at these questions of harmony in the area of sport.

**Senator SCHACHT**—I understand what some critics say, and my observation is that the problem for the Soccer League is that a number of the clubs are too narrowly based to attract broad community support to provide the financial base to pay players decently, to get their sponsorship. Sponsors are not very keen on sponsoring a club when they see incidents like the one that took place two or three weeks ago. That would make a sponsor run 100 miles an hour away from it. People are saying we have got to break out of that, but have the people still involved got a commitment to soccer albeit on a different basis, like Perth Glory, which I think Senator McKiernan has previously mentioned, which is based on Perth and not on a particular ethnic community and has been very successful, with the biggest crowds? I think you have answered that, Mr Farmer. I just wanted to touch base with it.

**Senator McKIERNAN**—I have some questions on FECCA, the Federation of Ethnic Communities Councils of Australia, and I am going to follow up on question No. 2491 on the House of Representatives *Notice Paper*, in response to which the minister stated that he had some concerns about the federation's ability to deliver fully representative advice to government. What, if any, consultations have taken place since March of this year?

**Mr Hughes**—Consultations between?

**Senator McKIERNAN**—The department and FECCA.

**Mr Hughes**—I think the department and the minister have made it known to FECCA on an ongoing basis that the reason for government funding has been to have a national body representing ethnic communities which is able to, as FECCA has done for many years, represent as an advocacy body the views of ethnic communities across a range of programs adequately to government. Obviously with some internal difficulties between the ECCs, which ultimately constitute FECCA, and some difficulties in particular with the Victorian, Western Australian and Northern Territory representation, it has been made known to FECCA on an ongoing basis that that obviously raises some questions about their representativeness and that FECCA clearly would be more effective in its task if it were able to bring together ethnic communities councils of all states and territories to do its job. So it is something that there has been ongoing dialogue with FECCA about.

**Senator McKIERNAN**—In that sense, could that ongoing dialogue be described as consultations, in the strictest sense of the word, of a government to a representative organisation or is it more on the informal level?

**Mr Hughes**—It is hard to draw the line between formal and informal. I think there has been both formal and informal contact with FECCA over the issue.

**Senator McKIERNAN**—I am talking about wider consultations on matters—for example, you might have sought FECCA's advice on the advertising campaign for citizenship.

**Mr Hughes**—When you say 'sought FECCA's advice', this is separate from—

**Senator McKIERNAN**—In the sense that FECCA as a national organisation would be consulted by government or by the department to get a particular representative view. What I am saying is that, since March of this year, has that process stopped because FECCA is no longer seen or recognised to be a representative organisation?

**Mr Hughes**—No, it has not stopped. FECCA's activities have been to represent views of ethnic communities to government. For example, they comment on the budget, they have input to the migration program consultations, they have input to government on a variety of things—and that is continuing.

**Senator McKIERNAN**—As this is a taxpayer funded body, are you aware and able to inform the committee what plans or procedures are in place by the chair of the organisation, and what plans it has, in order to overcome the internal difficulties that are being experienced at the moment?

**Mr Hughes**—I understand that the chair of FECCA has a variety of initiatives that are being pursued. One is dialogue with the state councils that have withdrawn or suspended their links with FECCA; another is constitutional reform that is looking at wider representation of regional ethnic communities councils, as well as state based ethnic communities councils.

**Senator McKIERNAN**—Is there any confidence within your unit as to whether or not this will be successful?

**Mr Hughes**—Obviously we would like to see that particular organisation, which has operated pretty successfully since the seventies and has made a great contribution to representing migrant communities' views to the Commonwealth government, repair its internal difficulties and continue to be as fully representative as it has been in the past.

**Senator McKIERNAN**—I endorse those views, and I think the committee would endorse those views, but is there anything being done from your side of things to encourage reconciliation between the representative organisations contained within FECCA?

**Mr Hughes**—Certainly we have encouraged that. We have encouraged the federal management of FECCA to do whatever they can.

**Senator McKIERNAN**—Are you able to do more than simple encouragement?

**Mr Hughes**—I am not sure what you have in mind.

**Senator McKIERNAN**—I cannot do it off the record. Is the department aware of any allegations of mismanagement of funds within FECCA?

**Mr Hughes**—I understand that one of the members of the FECCA executive resigned recently and raised some suggestion of concern about funding decisions. The department has raised that with the chair of FECCA and has received a satisfactory explanation.

**Senator McKIERNAN**—Does FECCA's work program address the needs of FECCA to be a representative organisation for ethnic communities in Australia?

**Mr Hughes**—I cannot recall whether it is specifically written into the work program but, in terms of the dialogue with them that ministers have had in relation to their funding, it has certainly been made clear to them that we think that is a high priority for the organisation.

**Senator McKIERNAN**—When I was asking questions about the grants programs earlier, I did not actually press this point about the time line for the funding of FECCA. When are those funds distributed and are they distributed on an annual, half-yearly, quarterly or monthly basis?

**Mr Hughes**—They are on a financial year basis. You will see in the PBS the amount that has been set aside as the savings from previous years of \$350,000. At times they have been made annually; they have been at times six monthly. Payments are also made in accordance with a work program.

**Senator McKIERNAN**—Thank you, Mr Hughes.

**Senator COONEY**—We were asking before about the fact that a lot of unlawful entrants came from the Middle East, and there has been a lot of publicity about that. Does the system take a proactive approach to ensuring that nothing untoward happens with any community in society here—a community of Australians with a particular background—or do you just let that sort of thing float and if anything happens it is up to the community itself to do something about it?

**Mr Farmer**—I will give you one example that I think might be helpful. Last year the minister was very actively engaged in talking with communities from the Middle East, including—broadly defined—some Jewish communities at a time when some international events were really seeing feelings running high internationally. The minister was working with communities and talking to them about the importance of just the sort of thing you are talking about, that we should have in Australia a society which is characterised by the diversity that is undoubtedly here plus a respect and tolerance for difference.

**Senator COONEY**—We were talking before about citizenship and the pre-1948 and thirties thing—it brings on nostalgia. In this multicultural society, is any weight given to the pre-war things? Does Blinky Bill get a go in multicultural society as well as the Hobyahs and Hume and Hovell? What happens about them? Is there any proactive approach taken by those within the department who deal with multicultural affairs to give some sort of weight to those days? You would not remember them, Mr Farmer, because they were before your time, but they are very important.

**Mr Farmer**—Pre-1948 I do—just.

**Senator COONEY**—But you would not have any recollection of them.

**Mr Farmer**—It is as I get older that the recollection gets harder.

**Senator COONEY**—But the first 10 years you can remember well. It is only the recent events that tend to put it out of your mind. Then you go to the nostalgia stage, which you have not reached yet, but which some of us have. We just wonder, when we go into the next life and make way for the next generation, whether there are the Hobyahs, Blinky Bill, Hume and Hovell, Burke and Wills and all those fellows. Are they all going to be forgotten? It could be an issue. Have you thought about that?

**Mr Hughes**—I think part of our cultural diversity includes that very extensive period that you are talking about. You have mentioned some of our cultural icons.

**CHAIR**—I understand Senator Schacht has a final question. It does not pertain to 2.4, but I think we have the officers, so we should deal with it.

**Senator SCHACHT**—Outcome 2 lists internal products and the people who deal with corporate governance, et cetera. I noticed earlier today, Mr Farmer, when we were dealing with detention, that a lot of the officers—who were answering the questions very well, with difficult issues and controversial issues—were women. There seemed to be a fair representation of women in that area, whereas I notice that now it is a very grey-suited front table. What is the percentage of women in the SES in the department?

**Mr McMahan**—At the moment it is 37 per cent.

**Senator SCHACHT**—In the SES?

**Mr McMahan**—Yes. And, in terms of our senior officers, it is 44 per cent.

**Senator SCHACHT**—When you say ‘senior officers’—

**Mr McMahan**—Our executive level.

**Senator SCHACHT**—Which is—

**Mr McMahan**—The old class 9 and class 11 or the SOG A, B and C.

**Senator SCHACHT**—Why is it that when I look at this list—and I know this is a very anecdotal list—I see the detention section has a large number of women in it, as we have seen here today, but when I turn to the internal products section they are overwhelmingly men, and when I go to the part dealing with outcome 1 they are all men dealing with lawful and orderly entry. Has it just been coincidental that the detention section has nice ladies running it and the rest of you butchering blokes have been left with the rest of the department?

**Mr Farmer**—I can answer that. It is entirely incidental. I make the placements of senior officers on the basis of merit and where I think their particular talents will be best used. The

six SES officers dealing with detention are currently all women. They are there because I need good officers there. They are all good officers.

**Senator SCHACHT**—Is that because women handle the issue of detention and dealing with a whole range of human individual problems better than men?

**Mr Farmer**—No, that does not enter into my calculations. The answer to your question last week would have been five women and one man. It is just that we have had a change this week. In the Corporate Governance Division, for example, the SES officers include three men and two women.

**Senator SCHACHT**—They are not listed that way here.

**Mr Farmer**—Because not all will be required.

**Senator SCHACHT**—I know. You do not bring them all here. I understand that. That is why I qualified my remarks about it. Mr McMahon, have the figures of 37 per cent and 44 per cent been consistent for, say, five years, or has it been improving to that level?

**Mr McMahon**—It has gone up quite substantially during the last three years.

**Senator SCHACHT**—Since you have become secretary.

**Mr Farmer**—Thank you, a very apt observation.

**Senator SCHACHT**—Does that mean you get extra in the performance bonus from the status of women committee from the Prime Minister's department?

**Mr Farmer**—No, it just reflects the merit process.

**Senator SCHACHT**—There is a heavy weighting—as you say, on merit—in the detention section. How many of those are women who have come from without the department and applied in open competition, and how many of those have been promoted with open competition from within the department—approximately?

**Mr Farmer**—Just in recent times?

**Senator SCHACHT**—Yes. To get to this, the figure has improved, but have the women who are in these SES positions generally come from without the department, winning the positions in open competition, or have they been women who have had experience in the department and have won the promotion.

**Mr Farmer**—It has been a mixture. During my period, two of the SES women officers have come from outside, but a number have been promoted from within DIMA.

**Senator SCHACHT**—The highest ranking woman is Philippa Godwin, at first assistant secretary?

**Mr Farmer**—One of the deputy secretary level officers, Linda Webb, is on secondment to the department from the ACT government. She has been with us for about two years. At the first assistant secretary level, we have two women. At the assistant secretary level, I do not have the numbers in my head but I guess that there are ten or so.

**Senator SCHACHT**—Down in the lower grades, to use an old phrase—I might be using the wrong terminology—and below the level that is 44 per cent, is it roughly 50-50 in the department?

**Mr Farmer**—Sorry?

**Senator SCHACHT**—You said 44 per cent.

**CHAIR**—I am assuming they are below assistant secretary level.

**Mr McMahon**—Yes, 44 per cent of executive level staff.

**Senator SCHACHT**—Below executive level, what is the percentage roughly? Is it 50-50, 40-60?

**Mr McMahon**—No, there are more women than men below that level. At the moment, 56 per cent of our organisation is female.

**Senator SCHACHT**—The total organisation?

**Mr McMahon**—Yes. As you go down below the executive level, you will find that there will be an increasing number of women.

**Senator SCHACHT**—What is the percentage of women holding positions based in embassies overseas and dealing with immigration matters?

**Mr McMahon**—It is roughly even at the moment.

**Senator SCHACHT**—One other question: Mr Farmer, with that high percentage of women, are there any particular management issues, such as provision of child care, more flexible hours, et cetera, that you have had to adopt to make sure that the women are not penalised in providing their skills and labour?

**Mr Farmer**—We have a number of programs that are designed to make the department, in effect, worker friendly or family friendly. I do not think of those as designed for women; I think of them as designed for whichever officer has a need.

**CHAIR**—For families, perhaps.

**Mr Farmer**—Yes.

**Mr McMahon**—We are about to have a certified agreement certified tomorrow. In that, there are a number of family friendly policies which go beyond the normal provisions: maternity leave at half pay; access to part-time work after return from parental leave, which is quite important for adoptions and applies to males and females; and greater surety—guaranteed length of terms for part-time work and variable work hours.

**Senator SCHACHT**—Good.

**CHAIR**—I understand that there is one final issue from Senator Cooney.

**Senator COONEY**—Having spent these days together, I thought that we ought to finish on a note that indicates that we appreciate the work that the department does. It also gives me an opportunity to advertise *The Big Issue Australia*. If you are going around the streets of Melbourne and other places, you might buy it from people who are not as well off as we are. It has an article headed '024 Freedom Fighter', which says:

In Iraqi Kurdistan, men can legally murder their female relatives for committing such crimes as being raped, speaking to a male or refusing a forced marriage ...

Fleeing the death sentence hanging over her head, Suma Hamid arrived in Australia in early 1999. Just nine months earlier, in Iraqi Kurdistan, the 22 year old had changed her name, procured a false passport and said her farewells to her mother and sisters. Then she crept from a friend's basement where she had been in hiding for four months in fear of her life, slipped under a blanket in the back of a car and escaped into Turkey, giving birth to her son en-route. In Turkey, her story struck such a chord with UN officials that she was given refugee status and Australian residency in near-record time.

So you can do it. The department can do it.

**Mr Farmer**—Thank you, Senator. We try our best.

**CHAIR**—Mr Metcalfe.

**Mr Metcalfe**—One item of business remaining from yesterday is that we tabled and then agreed to retable a document in relation to alleged exploitation of workers. The committee very kindly allowed us to change a document to delete any references to individuals so that they may be identified, and we have done that. There were a number of typographical errors which have also been corrected. I now table that document.

**CHAIR**—Thank you, Mr Metcalfe. The committee will accept that tabled document. Senator Schacht, do you have a financial question?

**Senator SCHACHT**—Now that we have accrual accounting, PBS documents seem to create greater confusion on both sides of the table from time to time. In particular, I cannot help but note that we have here a table on pages 88 and 89, which has an explanatory note. The table is nothing but empty dots—there is not a figure. If this is the end line of accrual accounting, I really think you should ask the Department of Finance and Administration, ‘Is this really necessary?’ I know Mr Davis is one of the head finance people and that you are required to put that in under accrual accounting, but it is odd to see it and then read the note saying that that is what it is. For us on this side, at times the accrual accounting system—I know what the general principle is—makes it hard to follow things.

**Mr Davis**—We do our best to make it as clear as possible. I welcome any suggestions.

**Senator SCHACHT**—I am not blaming the department. You are stuck with the system which has a number of deficiencies and I have run across this with a whole range of departments. I do not think it has been dealt with satisfactorily. You have my sympathy in trying to deal with accrual accounting in the way that the parliament can deal with it.

**CHAIR**—Senator Ludwig suggests we might fill in the dots to assist Finance!

**Senator McKIERNAN**—Before we conclude, can I make a point about the timing of these estimates committees. It is a personal view, but I guess it will be shared by a number of people around this building. I found it very difficult having to digest the PBSs of both portfolios over the weekend, which was the first opportunity I had to examine them. I did not have any time during the working hours of last week to do it. I found it very difficult to do so. The timing was not particularly suitable from a scrutiny point of view. Notwithstanding that, I want to record my appreciation to the minister and the officers of the departments who appeared before us for the manner in which they answered most of the questions. We are not satisfied with all of the answers that we got, but there has been a cooperative approach to being as open as possible.

I understand the constraints that are upon the public servants who appear at the table. There have been some difficulties, but I understand some other committees have greater difficulties than we have. In expressing that appreciation on behalf of the committee to the officers, I thank the chair of the committee who has managed, massaged and controlled things on the way through the three days. We probably are the first committee to complete our work, and that is somewhat of an achievement when you bear in mind the difficulties that we had before us. I put the appreciation of the committee to Marise on the record. Of course, all the colleagues did cooperate on the way through in doing that.

I promised at the opening of the hearing on Monday morning, which seems so long ago, that I would present this cap which I picked up in an immigration centre in Bangkok, in

Thailand, a few weeks ago—the name on it is the ‘Immigration Golf Society’—to the officer who was most cooperative and gave us the most direct answers, but I understand that there could be implications for that officer. I could be putting a mark on the officer and I really do not want to do that. So what I will do, Mr Farmer, is give this to you and ask you to pass it on to the person you think earned it. We did have discussions with the chair that perhaps we might give it to the officer who had the loudest mobile phone, but we decided we would not do that, because there could be competition between a couple of officers for that.

**CHAIR**—The competition was significant.

**Senator McKIERNAN**—Hopefully, this is the last time that I will appear in this capacity before the—

**Senator Ellison**—You are not going to resign, are you?

**Senator McKIERNAN**—It is all a matter of timing.

**Senator Ellison**—Madam Chair, can I just touch on a point that Senator McKiernan made. I have raised it with the Secretary to the A-G’s Department, and Mr Cornall in fact raised it with me as well. I think that for the next estimates—and I do not know how this sits with DIMA—there could be a preliminary briefing in relation to the PBS, as to what it means, the layout—

**CHAIR**—Yes, we have discussed that with—

**Senator Ellison**—not necessarily going into discussion of substance but the format, so that when you do come to estimates you can hit the ground running.

**CHAIR**—That is a very good suggestion, and we will be able to take that up within the committee.

**Senator McKIERNAN**—Time is also a factor.

**CHAIR**—Time was against us on this occasion to do that.

**Senator SCHACHT**—It is a bit difficult.

**CHAIR**—The timing of estimates is, of course, agreed between the parties, so it is possibly an issue we need to take up at the parliamentary level—

**Senator Ellison**—I think that is right.

**CHAIR**—more than here.

**Senator Ellison**—I also, without prolonging things, want to thank the members of the committee for their consideration of officials and the way they have dealt with the two departments over the last three days. Thank you.

**CHAIR**—Thank you, Minister.

**Senator COONEY**—That was up until today, wasn’t it?

**Senator Ellison**—That was up until about 3 o’clock, I think it was, Senator Schacht, as I remember.

**CHAIR**—In closing and to continue this self-congratulatory tone, on behalf of the committee I thank officers of the Department of Immigration and Multicultural Affairs and associated agencies for their assistance over the past day and a half. It has been that assistance which has enabled the committee to complete its work in many ways, as well as the cooperation of members of the committee. Senators might think that I make those points lightly, but I

do not. We can observe other committees in operation and how they do or do not work, and I think that this committee has the benefit of working well, something for which I am always grateful and for which I thank my colleagues, the minister in particular. I also place on record the committee's appreciation to the secretariat for setting us up for the estimates, as they always do, and to Hansard and Broadcasting.

**Committee adjourned at 6.57 p.m.**