

**LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE**

**EXAMINATION OF ADDITIONAL ESTIMATES 2001 – 2002**

**ADDITIONAL INFORMATION  
VOLUME 1**

**ATTORNEY-GENERAL'S PORTFOLIO**

**Additional Information Relating to the  
Examination of Expenditure 2001 – 2002**

**May 2002**

SENATE ESTIMATES COMMITTEE  
FEDERAL MAGISTRATES SERVICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18 February 2002:**

Could you provide a copy of an agreement template?

**I am advised that the answer to the honourable Senator's question is as follows:**

A copy of the agreement template is attached:

**SECTION FIVE**

***PROPOSED TERMS AND CONDITIONS OF  
DEED OF STANDING OFFER***

*BETWEEN*

*THE COMMONWEALTH OF AUSTRALIA*

*AND*

.....

*FOR THE PROVISION OF PRIMARY DISPUTE RESOLUTION SERVICES*

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**THIS DEED OF STANDING OFFER** is made on ....., 2000

between

**THE COMMONWEALTH OF AUSTRALIA** (as represented by the Federal Magistrates Service – in this Deed referred to as ‘the FMS’)

**AND**

..... (in this agreement called 'the Supplier').

WHEREAS:

- A. The FMS may from time to time require the provision of certain Contractual Services, as determined by the Chief Executive Officer of the FMS.
- B. The Supplier has agreed that when the FMS sends a request for primary dispute resolution processes to the Supplier, the Supplier will provide the services specified in the request in accordance with the terms of this Deed.

NOW IT IS HEREBY AGREED as follows:

**1. INTERPRETATION**

1.1 In this Agreement unless the contrary intention appears:

- (1) 'Deed of Standing Offer' or 'Deed' means this agreement including Schedules 1 and 2;
- (2) 'Chief Executive Officer' means the person for the time being holding, occupying or performing the duties of the office of the Chief Executive Officer of the FMS and includes any other person designated in writing by that person to perform any function or to exercise any of the powers of the Chief Executive Officer under this Deed of Standing Offer;
- (3) 'Commonwealth Material' means any Material provided by the Commonwealth to the Supplier for the purposes of this Deed of Standing Offer or Contract or which is copied or derived from Material so provided;
- (4) 'Confidential Information' means information that:
  - (i) is by its nature confidential;
  - (ii) is designated by the Commonwealth as confidential; or
  - (iii) the Supplier knows or ought to know is confidential;

but does not include information which:

- (i) is or becomes public knowledge other than by breach of this Deed or by any other unlawful means; or

- (ii) is in the possession of the Supplier without restriction in relation to disclosure before the day of receipt from the Commonwealth; or
  - (iii) has been independently developed or acquired by the Supplier;
- (5) 'Contract' means any oral or written request for Contractual Services made by the FMS in accordance with clause 2 during the period that this Deed of Standing Offer is in force, and includes any special conditions, attachments, and any document incorporated by express reference, which forms part of that request;
- (6) 'Contractual Services' means the services described in Schedule 1;
- (7) 'Deed Material' means all Material:
  - 1. brought into existence as part of, or for the purpose of performing the Contractual Services;
  - 2. incorporated in, supplied along with the material referred to in paragraph (a);
  - 3. copied or derived from material referred to in paragraphs (a) and (b).
- (8) 'FMS' means the Federal Magistrates Service as specified in Schedule 2;
- (9) "GST" means Australian Goods and Services Tax payable on any supplies which are taxable supplies within the meaning of the GST Act;
- (10) "GST Act" means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;
- (11) 'Intellectual Property' includes all copyright and neighbouring rights, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), registered designs, Confidential Information (including trade secrets and know how) and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields;
- (12) 'Liaison Officer' means the person for the time being holding, occupying or performing the duties of the office of the FMS specified in Schedule 2 or any other office specified by the Chief Executive Officer for the purposes of this paragraph;
- (13) 'Material' includes documents, equipment, software, goods, information and data stored by any means;
- (14) 'Specified Personnel' means the personnel specified in Schedule 1 as personnel required to undertake the Contractual Services or part of the work constituting the Contractual Services;
- (15) 'Supplier' shall, where the context so admits, include the employees and sub-contractors and agents to the Supplier;

- 1.2 Words importing a gender include any other gender.
- 1.3 Words in the singular number include the plural and words in the plural number include the singular.
- 1.4 Clause headings in this Deed of Standing Offer are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer.

## **2. REQUESTS FOR CONTRACTUAL SERVICES**

- 2.1 When FMS requires Contractual Services, the Liaison Officer shall advise the Supplier, either orally, by e-mail or in writing of:
  - (16) the precise Contractual Services to be performed;
  - (17) whether the FMS requires the Contractual Services to be provided by a particular person;
  - (18) the time frame within which the Contractual Services must be performed;
  - (19) if payment is to be by instalments, the schedule for payments;
  - (20) whether the FMS requires a quote for the provision of the Contractual Services and the time frame for providing the quote; and
  - (21) the name of the contact officer in the FMS.
- 2.2 If the FMS requires a quote, the Supplier must not commence work on the request until it is advised by the FMS that the quote is accepted.
- 2.3 The parties agree that the terms of this Deed apply to each Contract created by a request for Contractual Services.
- 2.4 Unless advised otherwise by the Liaison Officer, the Supplier must not receive instructions on any matter other than from the Liaison Officer.

## **3. PERFORMANCE OF CONTRACTUAL SERVICES**

- 3.1 The Supplier must perform the Contractual Services in accordance with the terms and conditions set out in this Deed.
- 3.2 The FMS may, at its absolute discretion, give notice to the Supplier that a particular person is not to provide Contractual Services to the FMS. The Supplier must, at its own cost, promptly ensure that person does no further work for the FMS and, if requested by the FMS, arrange their replacement with personnel acceptable to the FMS.



- 3.3 In the event of the Supplier failing to execute to the satisfaction of the FMS any instruction(s) given to it pursuant to this Deed, the FMS may immediately arrange for the Contractual Services or any portion of them to be provided by an alternate supplier, and the Supplier shall be liable for any loss or expense which the FMS may sustain or incur as a result thereof.
- 3.4 If the Supplier fails to rectify the unsatisfactory service, the FMS may terminate this Deed in accordance with clause 21.
- 3.5 The Commonwealth makes no representations express or implied to the Supplier as to the volume of Contractual Services which might reasonably be expected to be required during the period of this Deed.

#### **4. THE FMS NOT BOUND TO USE SUPPLIER**

- 4.1 It is an express condition of this Deed that the FMS:
- (22) is not obliged to request Contractual Services from a Supplier; and
  - (23) may at any time purchase or acquire Contractual Services in any other way, from any other person on such terms and conditions as may be agreed between the FMS and that other person.

#### **5. FEES**

- 5.1 The Commonwealth shall pay to the Supplier the fees as specified in Schedule 2.
- 5.2 Where Schedule 2 provides that the Supplier is to be paid by progressive instalments, the Commonwealth shall be entitled, without derogating from any other right it may have, to defer payment of an instalment until the Supplier has completed to the satisfaction of the Commonwealth that part of the Contractual Services to which that instalment relates.
- 5.3 The Commonwealth shall be entitled, in addition to any other right it may have, to delay payment or any instalment of fees or charges until the Supplier has completed, to the satisfaction of the Court, that part of the Services to which the payment relates.
- 5.4 The Supplier shall submit invoices for payment in the manner specified in Schedule 1.
- 5.5 The prices/rates include:
- (24) all taxes, including GST, duties and other imposts for which the Supplier is liable over the currency of the Deed;
  - (25) all insurance costs;

(26) all amounts payable for the use (whether in the course of performance of the Contractual Services or their enjoyment) of patents, copyright, registered designs, trade marks and other Intellectual Property rights; and

(27) all charges and other costs for the performance of the Contractual Services.

## **6. ENTIRE AGREEMENT AND VARIATION**

6.1 This Deed constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, either oral or written, between the parties with respect to the subject matter of this Deed.

6.2 No agreement or understanding varying or extending this Deed, including, in particular the scope of the Contractual Services in Schedule 1, shall be legally binding upon either party unless in writing and signed by both parties

## **7. SUB-CONTRACTING**

7.1 The Supplier must not use agents or subcontractors to perform any part of the Contractual Services to be provided under this Deed without the prior written approval of the FMS. The FMS may give or withhold approval entirely within its discretion and for any reason whatsoever. In giving written approval, the FMS may impose such terms and conditions as it thinks fit.

7.2 The Supplier is fully responsible for the performance of the Contractual Services notwithstanding that it has used an agent or a subcontractor to perform any part of the Contractual Services.

7.3 Despite any approval given by the FMS, the Supplier is responsible for ensuring the suitability of an agent or subcontractor for the work proposed to be carried out and for ensuring that such work meets the requirements of this Deed.

7.4 The Supplier must ensure that an agent or subcontractor is aware of and complies with all terms and conditions of this Deed relevant to the agent or subcontractor's part in the provision of the Contractual Services.

## **8. ASSIGNMENT/NOVATION**

8.1 The Supplier shall not assign, mortgage, charge or encumber the Deed or any part thereof for any benefit of moneys or interest thereunder without the prior written consent of the FMS.

8.2 If the FMS gives its consent pursuant to clause 8.1 above, the FMS may impose any terms and conditions it considers appropriate.

8.3 The Supplier must not consult with any other person or body for the purposes of entering into an arrangement which will require novation of this Deed without first consulting FMS.

## **9. SPECIFIED PERSONNEL**

9.1 The Supplier shall ensure that the Specified Personnel undertake work in respect of the Contractual Services in accordance with the terms and conditions of this Deed.

9.2 Where Specified Personnel are unable to undertake work in respect of the Contractual Services, the Supplier shall notify the Commonwealth immediately. The Supplier shall, if so requested by the Commonwealth, provide replacement personnel acceptable to the Commonwealth at no additional charge and at the earliest opportunity.

9.3 The Commonwealth may, at its absolute discretion, give notice requiring the Supplier to remove personnel (including Specified Personnel) from work in respect of the Contractual Services.

9.4 If the Supplier is unable to provide acceptable replacement personnel, this shall be considered a default and the Commonwealth may terminate this Deed in accordance with the provisions of Clause 21.

## **10. LIAISON OFFICER**

10.1 The Supplier shall liaise with and report to the Liaison Officer as reasonably required by the Liaison Officer during the period of this Deed.

10.2 The Supplier may nominate from time to time a person who has authority to receive and sign notices and written communications for the Supplier under this Deed and accept any requests or direction in relation to the Contractual Services.

## **11. DEED MATERIAL**

11.1 Subject to any agreement to the contrary, the title to and Intellectual Property right in or in relation to Deed Material shall vest upon its creation in the FMS and if requested by the FMS so to do, the Supplier shall bring into existence, sign, execute or otherwise deal with any document which may be necessary to enable the vesting of such title or rights to FMS.

11.2 On the expiration or earlier termination of this Deed, the Supplier shall deliver to the FMS Deed Material and, if necessary, transfer any Intellectual Property to the Commonwealth.

11.3 The Supplier shall ensure that the Deed Material is used, copied, supplied or reproduced only for the purposes of this Deed.

## **12. COMMONWEALTH MATERIAL**

- 12.1 Ownership of all Commonwealth Material remains vested at all times in the Commonwealth.
- 12.2 Upon the expiration or earlier termination of this Deed, the Supplier must return to the FMS all Commonwealth Material remaining in its possession.
- 12.3 The Supplier must ensure that the Commonwealth Material is used, copied, supplied or reproduced only for the purposes of this Deed.
- 12.4 The Supplier must use Commonwealth Material strictly in accordance with any conditions or restrictions set out in the request for Contractual Services, or notified from time to time by FMS.
- 12.5 The Commonwealth will inform the Supplier of any Commonwealth Material produced for and on behalf of the Commonwealth in which third parties hold the copyright and of any conditions attaching to the use of that material because of that copyright. The Supplier shall use that material only in accordance with those conditions.
- 12.6 The Supplier shall be responsible for the safe keeping and maintenance of Commonwealth Material.

## **13. DISCLOSURE OF INFORMATION**

- 13.1 The Supplier shall not, without the prior written approval of the Commonwealth, disclose to any person other than the Commonwealth, any Commonwealth Material, or Deed Material. In giving written approval, the Commonwealth may impose such terms and conditions as it thinks fit.
- 13.2 The Commonwealth may at any time require the Supplier to give and to arrange for its employees and sub-contractors engaged in the performance of the Contractual Services to give written undertakings, in a form prescribed by the Commonwealth, relating to the non-disclosure of confidential information. The Supplier shall promptly arrange for all such undertakings to be given.

## **14. INDEMNITY**

- 14.1 Subject to the provisions of this Deed, the Supplier will at all times indemnify and hold harmless the FMS, its officers, employees and agents (in this clause referred to as 'those indemnified') from and against any loss (including legal costs and expenses on a solicitor/own client basis), or liability, reasonably incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by any wilful, unlawful or negligent act or omission of the Supplier, its officers, employees, agents or sub-contractors in connection with this Deed.

14.2 The Supplier's liability to indemnify the FMS under sub-clause 14.1 will be reduced proportionally to the extent that any act or omission of the FMS or its officers, employees or agents contributed to the loss or liability.

14.3 The indemnity referred to in this clause survives the expiration or termination of this Deed.

## **15. INSURANCE**

15.1 The Supplier shall effect and maintain insurance as specified in Schedule 1 and, if requested, provide the Commonwealth with copies of the policies.

## **16. CONFLICT OF INTEREST**

16.1 The Supplier warrants that, to the best of its knowledge no conflict of interest exists or is likely to arise in the performance of its obligations under this Deed by itself or by any of its officers, employees, agents or sub-contractors.

16.2 If during the term of this Deed a conflict of interest arises, or appears likely to arise, the Supplier undertakes to notify the FMS immediately in writing and to take such steps as the FMS may reasonably require to resolve or otherwise deal with the conflict. If the Supplier fails to notify the FMS or is unable or unwilling to resolve or deal with the conflict as required, the FMS may terminate this Deed in accordance with the provisions of clause 21.

16.3 The Supplier must not, and must ensure that any officer, employee, agent or sub-contractor of the Supplier does not, engage in any activity or obtain any interest during the course of this Deed that is likely to conflict with or restrict the Supplier in providing Contractual Services to the FMS.

## **17. SECURITY**

17.1 The Supplier shall, when using the Commonwealth's premises or facilities, comply with all reasonable directions and the FMS procedures relating to occupational health (including the Commonwealth's smoke free work place policy) and safety and security in effect at those premises or in regard to those facilities, as notified by the Commonwealth.

## **18. ACCESS TO SUPPLIER'S PREMISES**

18.1 The Supplier shall at all reasonable times give to the Liaison Officer or to any persons authorised in writing by the Chief Executive Officer, access to premises occupied by the Supplier where the Contractual Services are being undertaken and shall permit those

persons to inspect the performance of the Contractual Services and any Commonwealth Material, Deed Material or other material relevant to the Contractual Services.

## **19. NEGATION OF EMPLOYMENT PARTNERSHIP AND AGENCY**

19.1 The Supplier must not represent itself, and will ensure that its officers, employees, agents or sub-contractors do not represent themselves, as being an officer, employee, partner or agent of the FMS, or as otherwise able to bind or represent the FMS.

19.2 The Supplier will not by virtue of this Deed be or for any purpose be deemed to be an officer, employee, partner or agent of the FMS, or as having any power or authority to bind or represent the FMS.

## **20. TERMINATION AND REDUCTION**

20.1 The FMS may, at any time by written notice, terminate this Deed, in whole or in part. If this Deed is so terminated, the FMS will be liable only for:

(28) payments for Contractual Services rendered before the effective date of termination; and

(29) subject to sub-clauses 20.2, any reasonable costs incurred by the Supplier and directly attributable to the termination or partial termination of this Deed.

20.2 Upon receipt of a notice of termination the Supplier must:

(30) stop work as specified in the notice;

(31) take all available steps to minimise loss resulting from that termination; and

(32) continue work on any Contractual Services not affected by the notice.

20.3 The FMS will not be liable to pay compensation in an amount which would, in addition to any amounts paid or due, or becoming due, to the Supplier under this Deed, together exceed the fees payable under this Deed. The Supplier will not be entitled to compensation for loss of prospective profits.

## **21. DEFAULT**

21.1 If either party is in default under this Deed on account of the failure to perform or observe any obligation or undertaking to be performed or observed on its part under this Deed, the party not in default may, subject to sub-clause 21.2, by notice in writing to the other party, terminate this Deed in whole or in part without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

21.2 Where the default is capable of being remedied, a party will not exercise its rights of termination under sub-clause 21.1 unless it has first given to the other party notice in

writing specifying the default and requiring the other party to remedy it within the time (being not less than 10 working days) specified in the notice and the default is not remedied within the time allowed.

21.3 If the Supplier goes into liquidation or a receiver or receiver and manager or mortgagee's or chargee's agent is appointed or, in the case of an individual, becomes bankrupt or enters into a scheme or arrangement with creditors, the FMS may, by notice in writing, terminate this Deed without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

## **22. DISPUTE RESOLUTION**

22.1 Subject to sub-clause 22.4, the parties agree that any dispute during the course of this Deed will be dealt with as follows:

1. the party claiming that there is a dispute will send the other a notice setting out the nature of the dispute;
2. within 5 business days each party will nominate a representative, preferably not having any prior involvement in the dispute;
3. the representatives will try and resolve the dispute by direct negotiation between them;
4. failing settlement within a further 10 business days, either party may refer the dispute to an independent third person with power:
5. if both parties agree – to intervene and direct some form of resolution, in which case the parties shall be bound by that resolution; or
6. in any other case – to mediate and recommend some form of non binding resolution;
7. the parties shall co-operate fully with any process instigated under sub-clause 22.1(d) in order to achieve a speedy resolution;

22.2 failing resolution within a further 15 business days, either party may commence legal proceedings. Notwithstanding the existence of a dispute, each party will continue to perform its obligations under this Deed.

22.3 A party may commence court proceedings relating to any dispute arising from this Deed at any time where that party seeks urgent interlocutory relief.

22.4 This clause 22 does not apply to:

(33) action by either party under or purportedly under clause 21, or

(34) action by the FMS under or purportedly under clause 20 or 3.4.

22.5 This clause survives the expiration or termination of this Deed.

**23. UNAVOIDABLE DELAY**

23.1 A party to this Deed shall not be entitled to exercise its rights and remedies upon the default of the other party (whether at common law or under Clause 21) if that default:

(35) is caused by an act or event that is beyond the reasonable control of that other party;

(36) continues for less than one (1) month; and

(37) was not reasonably foreseeable at the time this Deed was entered into.

**24. WAIVER**

24.1 A waiver by either party in respect of any breach of a condition or provision of this Deed will not be deemed to be a waiver in respect of any continuing or subsequent breach of that provision, or breach of any other provision. The failure or delay of either party to enforce at any time any of the provisions of this Deed will in no way be interpreted as a waiver of such provision.

24.2 A provision or a right created under this Deed cannot be waived except in writing signed by the party granting the waiver.

24.3 A single or partial exercise by a party of any of its rights does not prevent the further exercise of any right.

**25. APPLICABLE LAW**

25.1 This Deed shall be governed by and construed in accordance with the law for the time being in force in Victoria.

25.2 The Supplier shall ensure that the work done under this Deed complies with the laws from time to time in force in the State or Territory in which the Contractual Services, or any part thereof, are to be carried out.

**26. COMPLIANCE WITH LAWS**

26.1 The Supplier must in carrying out this Deed comply with the provisions of any relevant statutes, regulations, by-laws, and requirements of any Commonwealth, State, Territory or local authority.

26.2 The Supplier acknowledges that:

(38) the misappropriation of property of the FMS, falsification of books or records, seeking or agreeing to receive a bribe in relation to the exercise of functions under this Deed or providing false returns or certificates are offences under the



Criminal Code Act 1995 (Cth) which may attract a substantial penalty, including imprisonment;

- (39) in respect of data, including personal information, held in connection with this Deed, any unauthorised and intentional access, destruction, alteration, addition or impediment to access or usefulness of the data stored in any computer in the course of performing this Deed is an offence under Part VIA of the *Crimes Act 1914* which may attract a substantial penalty, including imprisonment; and
- (40) it is aware of the provisions of section 79 of the *Crimes Act 1914* relating to official secrets.

26.3 The Supplier undertakes with respect to any officer, employee, agent or subcontractor who will have access to documents, materials or information within the meaning of section 79 of the *Crimes Act 1914* that prior to having access the officer, employee, agent or subcontractor will first be required by the Supplier to provide the Supplier with an acknowledgment that the officer, employee, agent or subcontractor is aware of the provisions of the section.

*Note: Suppliers should be aware that they may be subject to the provisions and applications of the Trade Practices Act 1974 and the Archives Act 1983.*

## **27. COMPLIANCE WITH COMMONWEALTH POLICIES**

- 27.1 The Supplier must, when using the FMS premises or facilities, comply with all reasonable directions and procedures relating to occupational health (including the smoke free work place policy), safety and security in effect at those premises or in regard to those facilities, as notified by the FMS or as might reasonably be inferred from the use to which the premises or facilities are being put.
- 27.2 The Supplier must comply with its obligations, if any, under the *Equal Opportunity for Women in the Workplace 1999* and must ensure that its agents or subcontractors are not named by the Equal Opportunity for Women in the Workplace Agency as an employer currently not complying with that Act.
- 27.3 The Supplier must, in its dealings with its employees, have due regard to Commonwealth policies on employment, including the *Workplace Relations Act 1996*, and obligations under relevant occupational health and safety laws.

## **28. NOTICES**

- 28.1 Any notice, request or other communication to be given or served pursuant to this Deed shall be in writing and addressed as the case may be, as follows:
  - (41) if given to the Commonwealth, addressed and forwarded to the Chief Executive Officer of the FMS at the address indicated in Schedule 2 or as otherwise notified by the Liaison Officer;

(42) if given by the Commonwealth, signed by the Liaison Officer and forwarded to the Supplier at the address indicated at the commencement of this Deed or as otherwise notified by the Supplier.

28.2 Any such notice, request or other communications shall be delivered by hand or sent by prepaid post, facsimile or telex, or transmitted electronically, and if sent or transmitted electronically, a copy is also to be sent to the addressee by pre-paid post.

## **29. PROTECTION OF PERSONAL INFORMATION**

29.1 The Supplier agrees with respect to all Contractual Services to be performed under this Deed:

(43) to comply with the Information Privacy Principles set out in section 14 of the *Privacy Act 1988* which concern the collection, security, access, data quality, relevance, use and disclosure of personal information to the extent that the content of those principles apply to the types of activities the Supplier is undertaking under this Deed, as if it were a record-keeper as defined in the *Privacy Act 1988*;

(44) use personal information held or controlled by it in connection with this Deed and the Contractual Services only for the purposes of fulfilling its obligations under this Deed;

(45) take all reasonable measures to ensure that personal information in its possession or control in connection with the Contractual Services is protected against loss and unauthorised access, use, modification or disclosure.

(46) not to transfer personal information held in connection with this Deed outside Australia, or to allow parties outside Australia to have access to it, without the prior approval of the FMS;

(47) to co-operate with any reasonable demands or inquiries made by the Federal Privacy Commissioner or the Liaison Officer in relation to the management of personal information by the Supplier or breaches or alleged breaches of privacy;

(48) to ensure that any person who has an access level which would enable that person to obtain access to any personal information (as defined in the *Privacy Act 1988*) is made aware of, and undertakes in writing, to observe the Information Privacy Principles referred to in paragraph (a) above;

(49) to comply with any policy guidelines laid down by the FMS or issued by the Federal Privacy Commissioner from time to time relating to the handling of personal information;

(50) to comply with any reasonable direction of the FMS to observe any recommendation of the Federal Privacy Commissioner relating to any acts or

practices of the Supplier that the Federal Privacy Commissioner considers breach the obligation in paragraph (a) above;

- (51) to comply with any reasonable direction of the Liaison Officer to provide the Federal Privacy Commissioner access for the purpose of monitoring the Suppliers compliance with this clause;
- (52) to indemnify the FMS in respect of any loss, liability or expense suffered or incurred by the FMS arising out of or in connection with a breach of the obligations of this Deed under this clause or any misuse of personal information by the Supplier or any disclosure by the Supplier in breach of an obligation of confidence whether arising under the *Privacy Act 1988* or otherwise;
- (53) to ensure that any record (as defined in the *Privacy Act 1988*) containing personal information provided to the Supplier by the FMS or any other person pursuant to this Deed is, at the expiration or earlier termination of this Deed, either returned to the FMS or deleted or destroyed in the presence of a person duly authorised by the Liaison Officer to oversee such deletion or destruction; and
- (54) to the naming or other identification of the Supplier in reports by the Federal Privacy Commissioner.

### **30. NON –DISCLOSURE OF INFORMATION**

- 30.1 During the course of the Deed and following its termination, the Supplier, its officers, employees, subcontractors, franchisees or agents must not disclose any Confidential Information relating to this Deed or the Contractual Services without the prior consent in writing from the FMS.
- 30.2 The FMS may impose any conditions or restrictions it considers appropriate when giving its consent under 30.1 above.
- 30.3 The FMS may at any time require the Supplier, and its officers, employees, subcontractors, or agents engaged in the performance of the Services to give undertakings in writing in a form required by the FMS, relating to the non-disclosure of Confidential Information.
- 30.4 If the Supplier receives a request under 30.3 above it will arrange promptly for all such undertakings to be given.
- 30.5 The obligations on the Supplier under this clause will not be taken to have been breached where the Confidential Information referred to is legally required to be disclosed.
- 30.6 The Supplier must not object to the disclosure of any information relating to this Deed which the FMS considers necessary in order to:

1. comply with any law;
2. comply with the requirements of any regulatory body;
3. respond to any question or inquiry raised by the Members of Federal Parliament or the Commonwealth of Australia; or
4. respond to any request for information from the Australian National Audit Office.

**31. AUSTRALIAN NATIONAL AUDIT OFFICE**

31.1 The Supplier agrees to promptly give the Australian National Audit Office or other auditor appointed by the Commonwealth, the assistance they reasonably require in conducting any audits, including full access at all reasonable times and on reasonable notice to all premises, equipment and software used in connection with the Contractual Services.

**32. SEVERABILITY**

32.1 Each provision of this Deed will, unless the context otherwise necessarily requires it, be read and construed as a separate and severable provision. If any provision is void or otherwise unenforceable for any reason then that provision will be severed and the remainder will be read and construed as if the severable provision had never existed.

**33. ARCHIVES ACT 1983**

33.1 The Supplier and the FMS will ensure that the custody or ownership of Commonwealth records as that term is defined in the *Archives Act 1983 (Cth)* is not transferred without the prior written approval of the Australian Archives.

33.2 The Supplier agrees to comply with any direction given by the FMS for the purpose of transferring Commonwealth records to the Australian Archives or providing the Australian Archives with full and free access to those records.

**34. REPRESENTATION & WARRANTY**

34.1 The Supplier represents and warrants to the Commonwealth that it has all necessary power and authority to enter this Deed and to perform the Contractual Services and obligations under it.

34.2 The Supplier acknowledges that the FMS, in entering into this Deed, has relied on the Suppliers representations and conduct.

34.3 If the Supplier, prior to entering into this Deed, engaged in misleading or deceptive conduct or has omitted to provide information to the FMS:

(55) that is material to the performance of this Deed; or

(56) which may have affected the FMS's decision to enter into this Deed, the terms and conditions on which FMS entered into this Deed, or an action taken by the FMS under this Deed,

the FMS may by notice in writing to the Supplier, terminate this Deed in whole or in part without prejudice to any other right of action or remedy which has accrued or may accrue in favour of the FMS.

## **35. AWARDS**

35.1 The Supplier shall ensure that all persons employed by it in or in connection with the Contractual Services are paid wages and allowances of every kind required to be paid by or under any relevant award, determination or order of the State or Territory in which the Contractual Services are being provided or by or under any industrial agreement that is in force in the State or Territory of the Commonwealth in which the Contractual Services are being provided and that all such persons are employed under the conditions contained in any such award, judgement, order or industrial agreement.

**IN WITNESS WHEREOF** the parties have executed this Deed as at the day and year first above written.

**SIGNED** on behalf of the **COMMONWEALTH OF AUSTRALIA**

by:

.....  
*(print name)*

.....  
*(signature)*

in the presence of

.....  
*(print name)*

.....  
*(signature)*

**SIGNED** by the said .....

by:

.....  
*(print name)*

.....  
*(signature)*

in the presence of

.....  
*(print name)*

.....  
*(signature)*

SCHEDULE 1

**SUPPLIER'S OBLIGATIONS & WORK TO BE PERFORMED**

**1. Work to be Performed**

The Supplier will provide primary dispute resolution services to FMS as delineated in the request for such services. Subject to the request they may include:

- (a) Counselling;
- (b) Mediation;
- (c) Conciliation.

**2. Invoice Procedures (clause 5.2)**

Invoices forwarded by the Supplier shall be addressed to:

Federal Magistrates Service  
Attention: Chief Finance Officer

Subject to acceptance of the Contractual Services by the Commonwealth, the due date for payment shall be 30 days after delivery of a correctly rendered invoice to the Commonwealth.

**3. INSURANCE (CLAUSE 15)**

The Supplier shall maintain:

- a) Workers' Compensation insurance for an amount required by the relevant State or Territory legislation; and
- b) Public Liability insurance for an amount of not less than \$10,000,000 per incident or such other amount as the Commonwealth from time to time requires; and
- c) Professional Indemnity insurance for an amount of not less than \$5,000,000 or such other amount as the Commonwealth may from time to time requires.

**4. SPECIFIED PERSONNEL (CLAUSE 9)**

The Supplier's Specified Personnel who will undertake the Contractual Services will be:

.....  
.....

SCHEDULE 2

**COMMONWEALTH OBLIGATIONS**

**1. Address for Service of Notices on the Commonwealth (clause 28.1(a))**

Federal Magistrates Service  
305 William Street  
MELBOURNE VIC 3000

**2. Fees (clause 5.1)**

The Commonwealth will pay fees to the Supplier as follows:

.....

**3. Liaison Officer (clause 1.1(l))**

The FMS's nominated Liaison Officer will be the PDR Co-ordinator



SENATE ESTIMATES COMMITTEE  
FEDERAL MAGISTRATES SERVICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18 February 2002:**

Could you advise how many agreements are in-place as at today's date?

**I am advised that the answer to the honourable Senator's question is as follows:**

There are 35 agreements made as at 18 February 2002.

SENATE ESTIMATES COMMITTEE  
FEDERAL MAGISTRATES SERVICE  
QUESTIONS ON NOTICE

**Senator Cooney asked the following question at the hearing of 18 February 2002:**

Is the Federal Magistrates Service doing what would otherwise be done by the Federal Court, and how much is it doing what would otherwise be done by the Family Court? I do not want any precise numbers, but just a rough indication.

**I am advised that the answer to the honourable Senator's question is as follows:**

The Federal Magistrates Service (FMS) shares jurisdiction with the Federal Court in administrative law, bankruptcy, consumer protection, migration, privacy and unlawful discrimination matters. In bankruptcy matters, the FMS is now doing a substantial part of the work that was previously done by the Federal Court. A significant part of that work continues to be done by Federal Court registrars who are now made available to the FMS for that purpose.

The FMS shares jurisdiction with the Family Court in most family law and child support matters. The FMS is now hearing approximately 60% of all divorce applications and approximately 23% of all applications relating to children, financial matters and child support.

SENATE ESTIMATES COMMITTEE  
FEDERAL MAGISTRATES SERVICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18 February 2002:**

What circuits did the service undertake last year?

**I am advised that the answer to the honourable Senator's question is as follows:**

**Federal Magistrates Service - Circuits**

**The year ending 30/6/2001**

**Victoria**

There were regular circuits to Warrnambool (sitting in Hamilton), Morwell, Sale, Geelong, Bendigo and Shepparton. There was one circuit to Albury-Wodonga. The service sat in Dandenong for two and a half weeks each month and heard one matter in Moe.

**New South Wales and Australian Capital Territory**

There were no circuits in New South Wales during this period although the court did hear one matter in Armidale.

**Queensland**

Circuits were conducted in Mackay, Rockhampton and Cairns

**Tasmania**

Circuits were conducted in Devonport and Hobart

**South Australia**

Circuits were conducted in Berri, Port Augusta, Port Lincoln, Port Pirie and Whyalla

**Northern Territory.**

Circuits were conducted in Darwin and Alice Springs. A federal magistrate has been appointed in Darwin and commenced on the 4<sup>th</sup> of November.

**Western Australia**

The Federal Magistrates Service does not exercise any family law jurisdiction in Western Australia, but the Federal Magistrates Service sits in Perth to hear general federal law cases every two months.

**Year to 31<sup>st</sup> December 2001**

**New circuits**

**New South Wales**

Circuits commenced in Wollongong, Dubbo, Coffs Harbour and Lismore.

**Queensland**

Circuits commenced to Bundaberg



**SENATE ESTIMATES COMMITTEE  
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
QUESTIONS ON NOTICE**

**Senator McKiernan asked the following question at the hearing on 18 February 2002.**

Was there any publicity about the investigation of Minister Tuckey prior to the public revelation, post-election?

**I am advised that the answer to the honourable Senator's question is as follows:**

Not to the knowledge of the DPP.

SENATE ESTIMATES COMMITTEE  
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing on 18 February 2002.**

Was there any communication between the DPP or the DPP's office and the Attorney-General and/or the office of the Minister for Justice and Customs or any person in those offices during the lead in to the decision not to prosecute Mr Tuckey?

**I am advised that the answer to the honourable Senator's question is as follows:**

No.

SENATE ESTIMATES COMMITTEE  
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing on 18 February 2002.**

Are certain allegations made against a former Western Australian member of the federal Parliament, Mr Richard Evans, currently under consideration by the DPP?

**I am advised that the answer to the honourable Senator's question is as follows:**

No.

SENATE ESTIMATES COMMITTEE  
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing on 18 February 2002.**

How many trespass type matters has the DPP prosecuted in the last five years.

**I am advised that the answer to the honourable Senator's question is as follows:**

Since 1 July 1996 the DPP has prosecuted 56 persons for offences under section 89(1) of the Crimes Act 1914 (trespass upon prohibited Commonwealth land), 54 persons for offences under section 12 (1) of the Public Order (Protection of Persons and Property) Act 1971 (trespass on Commonwealth premises) and 35 persons for offences under section 12(2)(c) of the Public Order (Protection of Persons and Property) Act 1971 (refuse or neglect to leave Commonwealth premises when directed to do so).



SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following questions at the hearing of 18 February 2002:**

Is there a terms of reference or review document that has been issued or released? If there is a terms of reference document, is it available to the committee?

**I am advised that the answer to the honourable Senator's question is as follows:**

Cabinet did provide Messrs Palmer and Blunn with terms of reference but they have not been released nor are they available to the committee as they are Cabinet-in-Confidence.

SENATE ESTIMATES COMMITTEE  
NATIONAL CRIME AUTHORITY  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18/19 February 2002.**

Will you examine what information provided to the review is available to the committee to have a look at?

**I am advised that the answer to the Honourable Senator's question is as follows:**

Advice was sought from the Attorney-General's Department and it confirms the view of Minister Ellison at the hearing. The advice is that as the Palmer/Blunn report is currently under consideration by Cabinet and Cabinet has not authorised its release, the report, and all related working papers, including submissions and other documents provided to Messrs Palmer and Blunn for the purposes of preparing the report, are also Cabinet in Confidence and are not able to be released.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18 February 2002:**

Has the inter governmental committee or the joint statutory committee that has been formed to oversee the NCA operations been involved in the deliberations of Mr Blunn and Mr Palmer in relation to the review of the NCA?

**I am advised that the answer to the honourable Senator's question is as follows:**

Neither the Inter-Governmental Committee nor the Joint Parliamentary Committee were involved in Messrs Palmer and Blunn's deliberations concerning the review of the NCA.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
QUESTIONS ON NOTICE

**Senator Cooney asked the following question at the hearing of 18 February 2002.**

(a) Why are many applicants for review of decisions made under the Migration Act (privative clause) amendment passed in September 2001 failing to meet submission deadlines? &

(b) Why is there no right to give leave to appeal out of time?

**I am advised by the Department of Immigration and Multicultural and Indigenous Affairs that the answer to the honourable Senator's question is as follows:**

(a) Section 256 of the Migration Act provides that a person in immigration detention is entitled to visa applications forms and also to reasonable facilities for obtaining legal advice.

Where a person in immigration detention seeks to lodge an application in the Federal Court, facilities are provided to enable this to occur.

Applicants for review of decisions made under the privative clause amendments have been meeting submission deadlines.

However, in December 2000, before the commencement of the privative clause amendments, 17 Woomera detainees lodged applications in the Federal Court outside the 28-day time limit.

Seven of the cases were withdrawn. In August 2001 the Federal Court found that it was unable to consider the remaining 10 applications as they were lodged outside the 28-day time limit.

Two of these decisions are being appealed to the Full Court. As these cases are currently before the Court it would be inappropriate to comment on the matter.

(b) The Migration Act requires applications for judicial review made to the Federal Court to be filed within 28 days and provides that the Court is not able to extend this time limit.

A 28-day time limit on making applications to the Federal Court for judicial review, together with a prohibition on granting an extension of time in which to make applications, was first enacted by the Parliament in the *Migration Reform Act 1992*. Previously, the Court had a discretion to extend the period during which an application could be made. This was one of a number of factors which at the time was seen as giving unlawful non-citizens the potential to abuse court processes to delay departure from Australia.

Successive amendments to the Migration Act, including the recent judicial review amendments, have maintained the Court's inability to extend the period in which applications may be made.

SENATE ESTIMATES COMMITTEE  
FEDERAL COURT OF AUSTRALIA  
QUESTIONS ON NOTICE

**Senator McKeirnan asked the following question at the hearing of 18 February 2002.**

Can you give the committee some information on the number of unrepresented litigants by type of case that you are experiencing now?

**I am advised that the answer to the honourable Senator's question is as follows:**

For reasons associated with the discrepancies which can occur in the details which are filed about the parties to a proceeding in the Federal Court, it is very difficult for the Court to accurately record whether an unrepresented or self-represented litigant is involved. For example, in cases where there are multiple applicants and multiple respondents, it is difficult for the Court to identify a self-represented litigant.

Accordingly, the Court is not in a position to provide general statistical information, nor statistics in all areas of its jurisdiction about the number of self-represented litigants in proceedings in the Court. However, in certain areas of the Court's jurisdiction it is possible for the Court to more easily identify whether a self-represented litigant is involved in a case.

In the bankruptcy jurisdiction, there will usually only be two parties to a proceeding, which simplifies the process of identifying an unrepresented party. For 2000-2001, the Court's records show that approximately 607 or 51% of bankruptcy cases involved a self-represented litigant.

Similarly, in the Court's migration jurisdiction, it is easier for the Court to identify whether an applicant to a proceeding is unrepresented (the other party, the respondent, will always be the Commonwealth of Australia). In 2000-2001, the Court's records show that approximately 748 or 57% of migration cases were identified as involving a self-represented litigant.

These two areas of the Court's jurisdiction represent the significant majority of the self-represented litigants appearing in proceedings in the Court, to the extent that the Court is able to collect such information at the present time.

SENATE ESTIMATES COMMITTEE  
FEDERAL COURT OF AUSTRALIA  
QUESTIONS ON NOTICE

**Senator McKeirnan asked the following question at the hearing of 18 February 2002.**

Are you able to break down the outcomes of cases which are brought by unrepresented litigants?

**I am advised that the answer to the honourable Senator's question is as follows:**

As advised by the Registrar of the Court, Mr Warwick Soden, at the Committee hearing on 18 February 2002, Court is not able to provide information on the outcomes of cases that are initiated by unrepresented or self-represented litigants. To do so would require the Court to physically inspect every completed case file to ascertain the outcome of every proceeding which the Court may be able to identify as having involved a self-represented litigant. The comments in response to Q.13 about the Court's difficulties in collecting statistics on self-represented litigants are also relevant.

SENATE ESTIMATES COMMITTEE  
FEDERAL COURT OF AUSTRALIA  
QUESTIONS ON NOTICE

**Senator McKeirnan asked the following question at the hearing of 18 February 2002.**

What class action applications have been lodged in the Federal Court since the passage of that amending legislation in September of last year?

**I am advised that the answer to the honourable Senator's question is as follows:**

The Court assumes that the question is directed to the amendment to the Migration Act 1958 occasioned by the Migration Legislation Amendment Act (No1) 2002, which came into effect on and from 1 October 2001. The purpose of the Act (No1) of 2001 was to prohibit representative or class action litigation.

In this regard, since 1 October 2001, no class action applications have been lodged in the Federal Court.



SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
QUESTIONS ON NOTICE

**Senator Cooney asked the following question at the hearing of 18 February 2002:**

Does the Government have any plan to accommodate applications that might be made to the High Court (following privative clause amendment legislation)?

**I am advised that the answer to the honourable Senator's question is as follows:**

At the beginning of October 2001, legislation implementing a new judicial review scheme for refugee applications came into operation.

Under the new scheme, the grounds of review are the same for the High Court and the Federal Court.

At this stage, it is too early to make an assessment about the effect of the new scheme on the workload of the High Court.

SENATE ESTIMATES COMMITTEE  
FAMILY COURT OF AUSTRALIA  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18 February 2002.**

- a) In relation to question No. 75 (Budget Estimates - May 2001), where you provided a table of the number of registrars, assistants and counsellors, could you update that table as at today's date or as at the date closest to your reporting date.
- b) I am happy to take attachment B on notice.

**I am advised that the answer to the honourable Senator's question is as follows:**

- a) This part was answered at the hearing. See Hansard L & C 40, Monday 18 February 2002.
- b) The following table forms attachment B to QoN 75 from May 2001 Budget Estimates and is updated as at 18 February 2002.

Position FTE (excludes Judges)						
Registry	01/07/2000		29/05/2001		18/02/2002	
	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time
Adelaide Registry	66	1	64	1	58	1
Brisbane Registry	96	1	75	3	73	0
Canberra Registry	26	3	24	4	17	1
Dandenong Registry	40	4	33	3	31	4
Darwin Registry	15	0	15	0	10	0
Hobart Registry	21	4	17	4	13	3
Melbourne Registry	112	11	93	10	95	6
Newcastle Registry	35	5	35	3	23	5
Parramatta Registry	75	8	72	9	53	5
Sydney Registry	100	9	75	4	79	4
Townsville Registry	18	1	16	0	15	1
Sub-Registry Albury	4	0	3	0	3	0
Sub-Registry Alice Springs	1	2	2	2	2	1
Sub-Registry Cairns	4	0	4	1	5	0
Sub-Registry Coffs Harbour	3	1	0	1	0	0
Sub-Registry Dubbo	3	0	2	0	2	1
Sub-Registry Gold Coast	0	0	0	0	0	0
Sub-Registry Launceston	2	3	0	4	1	2

Sub-Registry Lismore	3	1	3	1	3	0
Sub-Registry Rockhampton	1	2	0	3	2	1
Sub-Registry Wollongong	3	0	2	1	3	1
<b>Total</b>	<b>628</b>	<b>56</b>	<b>535</b>	<b>54</b>	<b>488</b>	<b>36</b>

**NB. These are FTE figures and do not necessarily coincide with staff number figures based upon the number of people employed.**

SENATE ESTIMATES COMMITTEE  
FAMILY COURT OF AUSTRALIA  
QUESTIONS ON NOTICE

**Senator Cooney asked the following question at the hearing of 18 February 2002.**

Has the report on the low percentage of complainants about the Family Court been published?

**I am advised that the answer to the honourable Senator's question is as follows:**

This question was answered at the hearing. See Hansard L & C 41, Monday 18 February 2002.

SENATE ESTIMATES COMMITTEE  
ADMINISTRATIVE APPEALS TRIBUNAL  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

Could you provide the committee with a staffing profile showing the staff currently employed by the AAT from the President down, compared with the staff employed over the previous three years?

- (a) Could you provide a staffing profile showing the staff currently employed by the AAT from the President down, compared with the staff employed over the previous three years.
- (b) In relation to the most recent appointments to the AAT [made after the defeat of the ART legislation last year], can you provide details of the lengths of appointment of the new personnel?
- (c) Could you give a breakdown of those appointments in terms of the registries and the skills categories e.g. social security compensation and other taxation?

**I am advised that the answer to the honourable Senator's question is as follows:**

- (a) The following tables set out details of the membership and staff of the Tribunal over the past three years.

**Membership at 1 July 1999**

<b>Class of Member</b>	<b>Judges</b>	<b>Full-time</b>	<b>Part-time</b>	<b>Total</b>
President	1			1
Presidential Members:				
Federal Court Judges	10			10
Family Court Judges	3			3
Deputy Presidents		8	3	11
Senior Members		10	11	21
Members			49	49
<b>Total</b>	14	18	63	95

**Staff:**

Registrar plus 131 APS staff

### Membership at 1 July 2000

<b>Class of Member</b>	<b>Judges</b>	<b>Full-time</b>	<b>Part-time</b>	<b>Total</b>
President	1			1
Presidential Members: Federal Court Judges Family Court Judges Deputy Presidents	10 3	8	1	10 3 9
Senior Members		9	10	19
Members			47	47
<b>Total</b>	14	17	58	89

**Staff:**

Registrar plus 153 APS staff

### Membership at 1 July 2001

<b>Class of Member</b>	<b>Judges</b>	<b>Full-time</b>	<b>Part-time</b>	<b>Total</b>
President	1			1
Presidential Members: Federal Court Judges Family Court Judges Deputy Presidents	9 2	5	4	9 2 9
Senior Members		9	4	13
Members		5	38	43
<b>Total</b>	12	19	46	77

**Staff:**

Registrar plus 133 APS staff

### Membership at 15 February 2002

<b>Class of Member</b>	<b>Judges</b>	<b>Full-time</b>	<b>Part-time</b>	<b>Total</b>
President	1			1
Presidential Members: Federal Court Judges	9			9
Family Court Judges	2			2
Deputy Presidents		5	4	9
Senior Members		9	5	14
Members		5	38	43
<b>Total</b>	12	19	47	78

**Staff:**

Registrar plus 125 APS staff

(b) and (c) The following table shows details of appointments and reappointments to the Tribunal which commenced in July 2001.

<b>Registry</b>	<b>Name</b>	<b>Type of Appointment</b>	<b>Date of Appointment</b>	<b>Length of Appointment</b>	<b>Expertise</b>
Australian Capital Territory	Mr G A Mowbray	Full-time Member	1.7.2001	3 years	Law, Public Administration
	Dr M D Miller AO	Part-time Member	1.7.2001	2 years	Medicine, Defence
New South Wales	Air Marshall IB Gration AO, AFC, RAAF (Rtd)	Part-time Member	29.7.2001	2 years	Military, Defence intelligence, Public administration
	Mr Robin Handley	Full-time Deputy President	30.7.2001	3 years	Law, Social Security
	Hon. RNJ Purvis QC	Part-time Deputy President	1.7.2001	2 years	Law
	Mr J Block	Part-time Deputy President	1.7.2001	2 years	Law, Taxation
	Mr M J Sassella	Full-time Senior Member	1.7.2001	3 years	Law, Social Security, Public Administration
	Ms SM Bullock	Full-time Senior Member	1.7.2001	3 years	Social welfare, Management
	Ms G Ettinger	Part-time Senior Member	1.7.2001	3 years	Law, Economics, Mediation
	Ms NP Bell	Full-time Member	1.7.2001	3 years	Law
	Mr S Webb	Full-time Member	16.7.2001	3 years	Public Sector Management
	Dr JD Campbell	Part-time Member	1.7.2001	3 years	Medicine, Law, Military, Management
	Mr MA Griffin	Part-time Member	1.7.2001	3 years	Law Defence Force
	Rear Admiral AR Horton AO, RAN (Rtd)	Part-time Member	1.7.2001	2 years	Military
	Ms N Isenberg	Part-time Member	1.7.2001	3 years	Law, Mediation, Public Sector Management, Defence Force



	Prof GAR Johnston, AO	Part-time Member	1.7.2001	2 years	Pharmacology, Scientific policy and research
	Mr AL Limbury	Part-time Member	1.7.2001	3 years	Law Mediation
	Dr PD Lynch	Part-time Member	1.7.2001	2 years	Medicine, Anaesthesia
	Ms CM Prime	Part-time Member	1.7.2001	3 years	Superannuation, Insurance, Life Insurance, Finance, Securities
	Ms JA Shead	Part-time Member	1.7.2001	3 years	Law, Taxation, Veterans' Affairs
	Professor TM Sourdin	Part-time Member	1.7.2001	3 years	Law Mediation
	Dr MEC Thorpe	Part-time Member	1.7.2001	2 years	Medicine
	Mr BH Pascoe	Part-time Senior Member	1.7.2001	1 year	Accounting, Taxation, Corporations
	Ms MJ Carstairs	Full-time Member	1.7.2001	3 years	Law, Social Security
	Mr GD Friedman	Full-time Member	1.7.2001	3 years	Law, Immigration
	Mr A Argent	Part-time Member	1.7.2001	1 year	Military, Aviation
	Brigadier C Ermert	Part-time Member	1.7.2001	3 years	Defence, Engineering, Logistics, Management
	Dr PD Fricker	Part-time Member	1.7.2001	2 years	Medicine
	Assoc. Prof. JH Maynard	Part-time Member	1.7.2001	3 years	Medicine, Pathology
	Mr WG McLean	Part-time Member	1.7.2001	3 years	Accountancy, Taxation, Insurance, Corporations
	Ms RL Perton	Part-time Member	1.7.2001	3 years	Law
	Miss EA Shanahan	Part-time Member	1.7.2001	3 years	Surgery, Law
	Brigadier IRW Brumfield, CBE, DSO, RL	Part-time-Member	1.7.2001	2 years	Military
	Dr EK Christie	Part-time Member	1.7.2001	3 years	Law, Environmental Sciences, Mediation
	Ms J Cowdroy	Part-time Member	1.7.2001	3 years	Law
Victoria					
Queensland					

	Mr JD Horrigan	Part-time Member	1.7.2001	2 years	Valuation
	Dr KP Kennedy, OBE	Part-time Member	1.7.2001	2 years	Medicine
	Mr RG Kenny	Part-time Member	1.7.2001	3 years	Law
	Mr BJ McCabe	Part-time Member	1.7.2001	3 years	Law
	Dr JB Morley, RFO	Part-time Member	1.7.2001	2 years	Medicine, Neurology
	Mr O Rinaudo	Part-time Member	1.7.2001	3 years	Law, Mediation
	Major-General JN Stein AO (Rtd)	Part-time Member	1.7.2001	2 years	Military, Engineering
South Australia	Dr JTB Linn	Part-time Member	1.7.2001	1 year	Medicine
	Mr DJ Trowse	Part-time Member	1.7.2001	2 years	Taxation
	Mr R D Fayle	Part-time Member	1.7.2001	3 years	Taxation, Accountancy
Western Australia	Assoc. Prof. SD Hotop	Part-time Member	1.7.2001	3 years	Law
	Brigadier RDF Lloyd, OBE, MC, RL	Part-time Member	1.7.2001	2 years	Military
	Dr PA Staer	Part-time Member	1.7.2001	2 years	Medicine, Veterans' Affairs
	Dr HAD Weerasooriya	Part-time Member	29.7.2001	2 years	Medicine, Paediatrics
Tasmania	Mr SP Estcourt, QC	Part-time Deputy President	1.7.2001	3 years	Law
	Hon C R Wright, QC	Part-time Deputy President	1.7.2001	3 years	Law
	Ms AF Cunningham	Part-time Member	1.7.2001	3 years	Law
	Assoc. Prof. BW Davis, AM	Part-time Member	1.7.2001	2 years	Public administration, Environmental management, Scientific research

SENATE ESTIMATES COMMITTEE  
ADMINISTRATIVE APPEALS TRIBUNAL  
QUESTIONS ON NOTICE

**Senator Cooney asked the following question at the hearing of 18/19 February 2002.**

Of those that do go to the Federal Court, how many times does the Federal Court say you are wrong? Not very many?

**I am advised that the answer to the honourable Senator's question is as follows:**

The Federal Court finalised 175 appeals from the Administrative Appeals Tribunal in the year 2000/2001. In 69 of those matters the appeal was allowed or the matter remitted to the Tribunal to be decided again according to law.

SENATE ESTIMATES COMMITTEE  
OFFICE OF FILM AND LITERATURE CLASSIFICATION  
QUESTIONS ON NOTICE

**Senator Harradine asked the following question at the hearing of 18 February 2002:**

How much did you pay the Durkin group for its consultation paper?

**I am advised that the answer to the honourable Senator's question is as follows:**

The "Computer Games and Australians Today " monograph, written by Kevin Durkin and Kate Aisbett, is the report on the OFLC funded project of that name. The project was completed in three stages between 1995 and 1999. Each of the three stages was contracted separately, to consultancy companies with appropriate expertise.

Project management was achieved with internal OFLC resources, and two consultant psychologists, Professor Durkin and Ms Aisbett, were engaged in an advisory capacity and to develop and oversee the observational measures for focus groups and in-depth interviews, and to complete the report.

Professor Durkin was paid \$15,092 and Ms Aisbett's company LAETA Pty Ltd was paid \$13,575 out of a total project cost of \$149,414.

SENATE ESTIMATES COMMITTEE  
ROYAL COMMISSIONS INTO THE BUILDING AND CONSTRUCTION INDUSTRY AND  
HIH  
QUESTIONS ON NOTICE

**Senator Carr asked the following question at the hearing of 18 February 2002:**

The royal commission into the building industry has been allocated \$28 million this year, and the royal commission into HIH has been allocated \$21 million. In the out years, \$25 million has been allocated to the building industry and just under \$1 million has been allocated to the HIH royal commission. How is it that you have reached those costs and the comparisons that one might draw as to the relative appropriations that have been made to each of the commissions.

**I am advised that the answer to the honourable Senator's question is as follows:**

The difference in costs between the Royal Commissions into HIH and the Building and Construction Industry are determined largely by the difference in scope between the inquiries. The terms of reference of the BCI Royal Commission are particularly broad and require a truly national focus. It should also be recognised that the BCI Royal Commission is due to report by December 2002, whereas the HIH Commission was asked to report by June 2002.

Funding for the Royal Commission into the Building and Construction Industry of \$35million in financial year 2001/2002 and \$25 million in financial 2002/2003 has been appropriated. These funds have been appropriated to cover the operational costs of the Royal Commission which commenced in August 2001 and is scheduled to complete its inquiry in December 2002.

The HIH Royal Commission has a budget of \$28.953 million for 2001-02 and \$0.96 million for 2002-03. These figures were reached having regard to the estimated nature and extent of the Commission's activities, the reporting deadline of 30 June 2002 and the cost of winding up the Commission.

SENATE ESTIMATES COMMITTEE  
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18 February 2002:**

Can you provide the Committee with copies of both (the Commissioners) statements (of 10 October 2001 and 6 February 2002)?

**I am advised that the answer to the honourable Senator's question is as follows:**

The opening statements of the Building and Construction Industry Royal Commissioner follow.

**OPENING STATEMENT - 10 October 2001**

1. By Letters Patent dated 29 August, 2001 I have been appointed as a Commissioner under the *Royal Commissions Act, 1902* to inquire into and report on the following matters relating to the building and construction industry: first, upon the nature, extent and effect of any unlawful or otherwise inappropriate industrial or workplace practice or conduct, and second, the nature, extent and effect of any unlawful or otherwise inappropriate practice or conduct relating to failure to disclose or properly account for financial transactions undertaken by employer or employee organisations or their representatives or associates, or inappropriate management, use or operation of industry funds for training, long service leave, redundancy or superannuation. Most importantly, having inquired and reported upon those matters, I am required to report on any measures including legislative and administrative changes to improve practices or conduct in the building and construction industry or to deter unlawful or inappropriate practices or conduct in relation to that industry.

2. The Letters Patent are wide. The Letters Patent direct inquiry into both the building industry, excluding single dwelling houses, and also into the construction industry. The estimated value of non-residential construction work completed in the financial year ended 30 June, 2000 was \$14.2 billion and engineering construction was estimated at a further \$19.2 billion<sup>1</sup>. I will thus be addressing an industry with annual production in excess of \$33 billion. The estimated number of operating businesses in the industry was approximately 210,000<sup>2</sup>. The construction industry contributed approximately 6.3% of the gross domestic product<sup>3</sup>. The estimated number of persons engaged directly in the building and construction industry was 667,000<sup>4</sup>. This estimated work force in the building and construction industry constituted approximately 7.3%<sup>5</sup> of the Australian work force. Workplace relations in such an industry are of obvious importance to the fabric of Australian society and its economy.

3. The establishment of this Royal Commission has been the subject of political discussion and controversy, and media comment. It is important, at this first opportunity, that I make entirely clear the role and independence of this Commission.

**Role of a Royal Commissioner**

4. Under the Australian Constitution, the governance of Australia and its citizens is achieved by three arms of Government: the Legislature (comprising the Parliament), the Executive, and the Judiciary. One function of the Executive arm of Government is to make recommendations to the government of the day for legislative reform to be placed before the

Parliament. One method of the Executive informing itself regarding possible legislative amendment is to establish a Royal Commission to report to it on matters of importance. Thus, this Royal Commission has been appointed by the Executive, being the Governor General acting on the advice of the Executive Council, and it is required to report to the Executive via a report to the Governor General. It is apparent from what I have said that the Royal Commission is not exercising any judicial power. It does not determine rights between parties or convict individuals or corporations of criminal offences<sup>6</sup>. Its findings have no judicial effect, nor do they have any legislative effects. It is wrong to speak of the Commission as a judicial inquiry.

5. A Royal Commission is entirely independent of the Executive. That is subject only to it being provided by the Executive with such funds as are necessary to enable it to perform its tasks. It receives no instruction from the executive arm of Government. The Commission remains subject, in some limited respects, to the jurisdiction of the courts.

6. The reason why it is common to appoint as Royal Commissioners persons with judicial experience is because of their perceived capacity for independence. Such independence is critical if there is to be respect for the conduct of the Commission, and the integrity of its report. This Commission will, at all times, maintain its independence from the Government of the day, from those who are authorized to appear before it, and from parties with whom it will consult.

### **Specific Matters concerning Independence**

7. There are a number of specific matters touching upon the independence of the Commission, which have been raised in the Parliament and in the media which I should address.

8. First, there has been Parliamentary debate and media speculation regarding the reason for the establishment of this Commission. Some have said it is a necessary inquiry because of current activities in the building and construction industry. Others have said that its establishment has been for the purpose of seeking to obtain political advantage prior to the forthcoming election. I wish to make entirely plain that political considerations, whether relating to the establishment of the Commission or otherwise, will play no part whatsoever in the conduct of, the deliberations of, or the findings of this Commission. Whatever be the reason for establishment of this Commission, such is irrelevant to any matter I will address. My function is to perform that task given me by the Letters Patent.

9. Second, the timing of the hearings of the Royal Commission has been suggested to be aimed at deriving political advantage to the present Government by having allegations of illegal or inappropriate conduct raised prominently in the media prior to the forthcoming election.

10. I wish to make it unambiguously clear that I will decide the date upon which the public hearings of this Commission will commence. My determination of that date will not be influenced by political considerations nor by the date of the forthcoming election. The commencement of hearings will not be advanced because of that election, nor will it be delayed. The Commission will commence public hearings the day it is ready to do so, not a day earlier and not a day later.

11. The preliminary hearing today was announced on 27 September, 2001. It was announced then because the Commission was ready to receive submissions. The preliminary hearing was to be at the premises of the Victorian Civil and Administrative Tribunal. Immediately upon the announcement, Mr Boyd of the Victorian Trades Hall Council indicated that there would be a mass rally at the opening of the Commission. Negotiations occurred between the Victorian

Police and union representatives. After such negotiations, the Police advised the Victorian Civil and Administrative Tribunal that they could not guarantee that the usual proceedings of the Tribunal would not be disrupted, and advised the Commission that Police could not guarantee that its hearing would not be disrupted. Accordingly, the offer of use of the Tribunal premises was withdrawn. Agreement was then reached between the Commission and the Commonwealth Administrative Appeals Tribunal for the preliminary hearing to be held in the Herald & Weekly Times Building, at Southbank. Again, negotiations were held between Police and union representatives, but again, the occupants of that building could not be assured there would not be serious disruption to normal use of that and surrounding buildings. Nor could Police assure this Commission that its proceedings would not be disrupted. The second premises thus became unavailable to the Commission. The Commission was so informed on Friday last. After examining other unsuitable premises on Monday the decision was taken to hold the hearing here. Thus this hearing is being held in this temporary hearing room at some disruption and cost to the Commission, and inconvenience to those appearing, the media and the public. I refer to these events to make one matter clear. Just as the independence of the Commission means it does not receive instruction from the Executive Government, it also means it does not accept direction from the unions. The rule of law requires that when a legally constituted body such as a court or a Royal Commission determines it will sit, it must be permitted to do so. Some may regard administrative inconvenience flowing from probable disruption as a sufficient reason to bend that rule of law. I do not. Demonstration and protest will not deter this Commission from sitting. Timing of sittings will be determined by me in accordance with the Commission's timetable, unrelated to influence or pressure.

12. In that respect, it should be understood by the public that the establishment of a Royal Commission to inquire into and report upon practices or conduct in the building and construction industry Australia wide is a major undertaking. It has involved and continues to involve the obtaining of extensive premises, the construction of a hearing room and offices, the obtaining of a significant information technology and document management capacity, the selection of Counsel and Solicitors to assist me, and the engagement of all the necessary staff. The work of physically constructing a hearing room on this floor is not expected to be complete until mid-November, but rescheduling of construction on Monday has enabled it to be ready today. Apart from these matters, a vast number of documents have been and will be received in response to requests for information which have been sent to almost 6,500 organisations throughout Australia. The information which the Commission receives in response to those requests must be categorized, analysed and understood by those assisting me. I have also written personally to 150 leaders of employer and employee bodies, industry groups and departments of state seeking meetings and consultation on matters of policy, perceived problems affecting workplace practices, and proposals for change and improvements in such practices. The discussions with influential participants in the industry will form the basis for research projects and further consultation. The work of the Commission has commenced, but I am not able at this time to nominate the date of the first public hearing.

13. Third, a union leader, without dissent from others, has stated that there are union "concerns as to whether or not the Secretary of the Commission can be impartial", because that Secretary, Mr Colin Thatcher, previously worked for the Business Council of Australia, and for conservative Governments in Western Australia and Queensland on industrial issues. There need be no such concern. I have seen nothing which would cause me to doubt the professionalism or integrity of Mr Thatcher. It is important to understand the role of the Secretary of this Commission. Mr Thatcher, in his role as Secretary, is appointed to ensure that this Commission receives the administrative and organisational support that it requires. He will



not play any part in determining the witnesses called or material placed before the Commission, and certainly no part in my deliberations preliminary to my report.

14. Fourth, it is customary for Royal Commissioners to be consulted regarding the Letters Patent. The Prime Minister's statement announcing my appointment stated I had been so consulted. That statement was correct. However, recognizing that the creation and subject matter of this Royal Commission was likely to be a topic of some controversy, I made clear at both the Ministerial and official level that I would play no part whatsoever in determining the substance of the Letters Patent. I made clear my view that the substance was a matter for Government.

15. Fifth, this Commission has been described in the Parliament, and in the media, as "a Royal Commission into unions". That is not so. It is an inquiry into aspects of the building and construction industry. The Commission is to inquire into workplace practices and conduct, financial transactions undertaken by employer or employee organisations, and management of industry funds, whether conducted by employers or employees or their organizations. Workplace practices and conduct necessarily involve a consideration of the activities of the employers and employer associations, as well as of employees and unions. Any consideration of inappropriate financial transactions between employers, employees or unions necessarily involves consideration of more than one party.

16. I trust that I have made clear the inviolate independence of my Commission.

### **Criminal Activity**

17. It is a matter of some comfort that all sides of politics, as well as employer and employee organisations, have stated publicly that there is no place in the workplace or in workplace relations for criminal activity. The rule of law requires no less. Accordingly, I anticipate and I expect that all who have information or material concerning suspected criminal activity in the workplace, be they employer, employee, organisations or individuals, will provide to the Commission such information and material. It is a serious matter to withhold such information from the Commission. If it is not forthcoming voluntarily, it will be obtained by use of the compulsive powers bestowed on the Commission.

### **The Practicalities of Conducting a Nationwide Administrative Inquiry**

18. The Letters Patent require me to report not later than 6 December, 2002. To conduct a nationwide inquiry and to report by that date will be difficult having regard to the width of the Letters Patent. Being a national inquiry into workplace practices or conduct, evidence must be obtained from each State and Territory in both the building and the construction industry in order that a national perspective may be obtained, and a comparison made between practices in each State. Having regard to the restriction on time, and the significant costs involved, the most time and cost efficient methods of obtaining information must be used.

19. Being an administrative inquiry, a Commissioner can inform himself in such manner as he sees fit. As mentioned, the Commission has written to many contractors throughout Australia and intends to seek private meetings with organizations and persons interested in workplace practices within the industry. In addition, material relevant to the Letters Patent is being sought from interested persons and organisations and Government instrumentalities. Importantly, any person who considers that he or she has information which may assist the Commission is invited to provide such information to the Secretary of the Commission. Persons wishing to provide

material to the Commission may forward it to GPO Box 2577, Melbourne 3001, or by delivering it, marked to the attention of the Secretary of the Commission, to the office of the Australian Government Solicitor in each capital city, where there will be an officer nominated to receive such material, seal it and forward it to the Commission.

20. Confidentiality is assured with regard to the identity of persons who assist the Commission and the information and documents they provide, insofar as that is appropriate and consistent with the discharge of the Commission's obligations pursuant to its terms of reference.

21. All material and information received will be analysed and assessed but not all of it will be made public. Based on an analysis of that material, aspects regarded as representative of topics within the Letters Patent will be investigated. Baseline studies and background papers thought to be less controversial will be published for comment by interested parties.

22. Hearings will be held in each capital city to receive evidence and submissions relevant to practices and activities in the various States and Territories. Where possible and appropriate, such hearings will be held in public. The Commission is not constrained by the rules of evidence.

23. It will obviously not be possible, because of time and monetary constraints, to investigate or call evidence relating to each instance of unlawful or otherwise inappropriate industrial and workplace practice or conduct, or all unlawful or otherwise inappropriate practices or conduct relating to the financial transactions referred to in the Letters Patent. An endeavour will be made to call evidence of the nature of the practices or conduct regarded as representative, together with evidence of their extent and effect. It will be the role of Counsel Assisting the Commission to determine the material to be placed before the Commission in public hearings. The constraints of time and budget will necessarily mean that much of the material to be considered by the Commission will be received in written form.

24. The same constraints will mean that restrictions will be placed on those appearing at such hearings in relation to the topics of, and time for, cross examination and submissions. A more detailed statement of the practice the Commission intends to apply in the conduct of hearings is this morning being made available to interested persons and the media. The Commission will adapt its practices as may be necessary to accommodate the constraints imposed upon it, or as may be appropriate having regard to the nature of the matter being considered.

25. The Commission will, within the time and budgetary constraints restricting it, extend to persons or organisations which might be the subject of adverse public evidence or findings, procedural fairness by giving such persons or organisations the opportunity to place material and submissions before the Commission.

26. It is presently proposed that evidence will be taken initially in Melbourne, and thereafter in Hobart, Perth, Brisbane, Darwin, Canberra, Adelaide and Sydney in that order.

27. Further information regarding the timetable for hearings will be published in the national media and on the Commission's web site at [www.royalcombc.gov.au](http://www.royalcombc.gov.au). There will also be published on that web site background and discussion papers, procedural statements and other information relating to the Commission, Counsel Assisting, and its staff. Transcript will be available to authorised persons by arrangement with the Commission.

## Co-operation

28. It is hoped and expected that those appearing before the Commission and others with an interest in the Commission will co-operate to assist in the expeditious and efficient conduct of the Commission. Whether I authorise a person, organisation or corporation to appear before it is a matter within my discretion, such discretion to be exercised in accordance with recognized criteria. The Commission will regard it as implicit in the granting of authority to appear that persons, organisations and corporations granted such authorisation will so cooperate, and abide by the directions of the Commission which will be aimed at the fair, efficient, timely and cost effective performance of its tasks. Obviously, disrupting or disturbing or seeking to disrupt or disturb the proceedings of the Commission will not be regarded as co-operating or assisting in the fair, efficient, timely and cost effective conduct of the Commission.

29. The *Royal Commissions Act 1902* confers upon the Commission extensive compulsive powers to obtain evidence, to call witnesses, and to require answers to be given and documents produced. Severe penalties are provided for destroying documents, giving false or misleading evidence, for influencing or seeking to influence witnesses, for causing or threatening injury to a witness, and for dismissing or prejudicing an employee on account of such employee having given evidence or having appeared as a witness before the Commission. Intentionally insulting, disturbing or interrupting the proceedings of the Commission constitutes a contempt of the Commission, which is a criminal offence also attracting severe penalties. I look for the co-operation of all interested persons, and I do not expect conduct of the type referred to to be engaged in. However, if co-operation is not forthcoming, or if such conduct is engaged in and it is drawn to my attention, I will not hesitate to invoke the machinery of the Act.

## Conclusion

30. There may be those who regard the current industrial or workplace practices or conduct, or the practices or conduct in relation to the financial transactions referred to in the Letters Patent as being appropriate and not in need of reform. There may be others who regard such practices as being in need of urgent reform. I commence the Commission with no view on these matters; the view I will ultimately express in my report will depend upon the nature, extent and effect of the conduct and practices that are found by the Commission to exist. Those findings will form the basis for any recommendations for change. This Commission is an opportunity for those who regard the current practices or conduct as being unlawful or inappropriate to provide the Commission with evidence and to place before the Commission for its consideration proposals for reform, and for those who do not, to make the reason for their views known to the Commission.

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### Footnotes:

<sup>1</sup> Australian Bureau of Statistics (catalogue 8752.0; 8755.0)

<sup>2</sup> Australian Bureau of Statistics (catalogue 1321.0.40.001)

<sup>3</sup> Australian Bureau of Statistics (catalogue 5204.0)

<sup>4</sup> Australian Bureau of Statistics (catalogue 6204.0)

<sup>5</sup> Australian Bureau of Statistics (catalogue 6204.0)

<sup>6</sup> Tricontinental Royal Commission: Final Report Vol 2, 21.27

**STATEMENT - 6 February 2002**

1. In my opening statement of 10 October, 2001 I emphasized the independence of this Commission. I made clear that the Commission is entirely independent. I stated that “this Commission will, at all times, maintain its independence from the Government of the day, from those who are authorized to appear before it, and from parties with whom it will consult.”
2. I consider it appropriate that I restate and reinforce the independence of the Commission today. The Commission will consider submissions placed before it. The Commission will not be influenced by the statements or writings of political parties or politicians of any persuasion, by employers or employer organizations, by unions or union officials, or by the media.
3. The Commission will investigate such matters as fall within its terms of reference in a completely independent manner. Any perception that the Commission will be influenced in the performance of its work is entirely without foundation.
4. The evidence which will be called before the Commission, and my final report, will, in due course, speak for themselves.

SENATE ESTIMATES COMMITTEE  
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY  
QUESTIONS ON NOTICE

**Senator Carr asked the following question at the hearing of 18 February 2002:**

Could I get a breakdown of all Commonwealth officers being seconded to the royal commission, their level of seniority and their home department or home agency, the date of their secondment and period of their secondment.

**I am advised that the answer to the honourable Senator's question is as follows:**

At 28 February 2002 the following Commonwealth officers were attached to the Royal Commission into the Building and Construction Industry:

<i>Officer</i>	<i>Classification</i>	<i>Dept/Agency</i>	<i>Secondment</i>	<i>BCI Position</i>
Peter Donaldson	SES	AFP	08/01-12/02	Director, Investigations
Derren Gillespie	SES	DEWR	09/01-12/02	Director, Liaison
APS	EL1	Customs	02/02-12/02	Corporate HR
APS	APSL5	DOFA	08/01-12/02	Corporate Finance
APS	APSL6	DEWR	11/01-12/02	Analyst
Federal Agent	Grade 16	AFP	10/01-12/02	Investigator
Federal Agent	Grade 12	AFP	10/01-12/02	Investigator
Federal Agent	Grade 12	AFP	12/01-12/02	Investigator
Federal Agent	Grade 12	AFP	01/02-12/02	Investigator
Federal Agent	Grade 10	AFP	12/01-12/02	Investigator
Federal Agent	Grade 10	AFP	01/02-12/02	Investigator
Federal Agent	Grade 10	AFP	01/02-12/02	Investigator
Federal Agent	Grade 10	AFP	02/02-12/02	Investigator
APS	EL2	ATO	02/02-12/02	Investigator
APS	EL1	ATO	02/02-12/02	Investigator
APS	EL2	NCA	11/01-12/02	Investigator

Another NCA officer was seconded by the Australian Government Solicitor (AGS), which is under contract to provide services to the Royal Commission. That person is now engaged by AGS.

SENATE ESTIMATES COMMITTEE  
THE HIH ROYAL COMMISSION  
QUESTIONS ON NOTICE

**Senator Carr asked the following question at the hearing of 18 February 2002:**

What is the figure that judges are paid?

**I am advised that the answer to the honourable Senator's question is as follows:**

The HIH Royal Commissioner, Justice Neville Owen, is paid his salary and other entitlements as a justice of the Supreme Court of Western Australia. The Commonwealth reimburses the State for these costs from the Royal Commission's budget.

Justices of the Supreme Court of Western Australia are paid an annual salary of \$226,689, with other entitlements including a non-contributory pension scheme and a privately plated motor vehicle.

The Commissioner has temporarily relocated to Sydney and the cost of his Sydney accommodation, reunion fares to Perth and other minor costs associated with his relocation are met from the Commission's budget.

SENATE ESTIMATES COMMITTEE  
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY  
QUESTIONS ON NOTICE

**Senator Carr asked the following question at the hearing of 18 February 2002:**

Can you indicate to me what the salary is for the royal commissioner?

**I am advised that the answer to the honourable Senator's question is as follows:**

The Building and Construction Royal Commissioner, the Honourable Terence Cole RFD QC is paid an annual salary of \$660,000.

The Commissioner has temporarily relocated to Melbourne and the cost of his Melbourne accommodation, reunion fares to Sydney and other minor costs associated with his relocation are met from the Commission's budget.

SENATE ESTIMATES COMMITTEE  
THE HIH ROYAL COMMISSION AND THE  
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY  
QUESTIONS ON NOTICE

**Senator Carr asked the following question at the hearing of 18 February 2002:**

I will need to know the total quantum that has been allocated in those budgets for various legal advice to the commissions through the counsel assisting or other means. What has been allocated in the budgets of the Royal Commissions for various legal advice to the commissions through the counsel assisting or other means?

**I am advised that the answer to the honourable Senator's question is as follows:**

The component of the budget of the HIH Royal Commission originally allocated for legal advice from the counsel and solicitors assisting is \$10.7 million. The Commission budget is managed on a global basis and its components vary in light of experience, including the component for legal advice.

As at 18 February 2002, the legal team assisting the HIH Royal Commission comprises three senior counsel, four junior counsel and eleven solicitors (the numbers of both counsel and solicitors, and the times from which they were engaged, have varied since the Commission commenced). The current budget component for the legal team, assuming that it continues essentially as structured until 30 June 2002, is approximately \$8.1 million.

At 18 February 2002 the legal team assisting the Royal Commission into the Building and Construction Industry had a Director, Legal Services and four legal teams comprising four senior counsel, nine junior counsel and sixteen solicitors. Two junior solicitors perform the role of Associates to the Commissioner. Provision has been made for the Royal Commission to engage other specialist legal services, from AGS or other providers, on a needs basis.

It is estimated that \$11 million in 2001/2002 and \$7.3 million in 2002/2003 will be expended on legal support to the Royal Commission into the Building and Construction Industry.

The daily rates payable to counsel assisting both Commissions were set in accordance with the policy on counsel fees approved by the Attorney-General for the engagement of counsel by the Commonwealth. Daily rates for solicitors were negotiated by the Commission Secretaries after consultation with the Attorney-General's Department, having regard to the skills and experience of the solicitors in question and the amounts payable to counsel.



SENATE ESTIMATES COMMITTEE  
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY  
QUESTIONS ON NOTICE

**Senator Carr asked the following question at the hearing of 18 February 2002:**

- (a) Is the commission prepared to pay informants?
- (b) Does the commission have the capacity to authorise payments to informants?
- (c) What are the nature of out-of-pocket expenses? What is the definition of out-of-pocket expenses? Is it loss of salaries, for instance?

**I am advised that the answer to the honourable Senator's question is as follows:**

- (a) The Royal Commission into the Building and Construction Industry would not pay informants for other than legitimate claims made for expenses incurred in the course of assisting the Commission in its inquiries.
- (b) The Secretary to the Commission has authority to spend public monies in accordance with the Chief Executive's Instructions and the requirements of the *Financial Management and Accountability Act 1997* and the *Financial Management and Accountability Regulations 1997*.
- (c) Legitimate expenses which might be refunded would be determined on a case by case basis and might, for example, include travel costs or loss of salary.

SENATE ESTIMATES COMMITTEE  
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18 February 2002:**

What is the cost per day of the provision of the transcript?

**I am advised that the answer to the honourable Senator's question is as follows:**

The Royal Commission into the Building and Construction Industry determined, prior to the commencement of its preliminary hearings in October, a charge of \$100 per day be made for provision of transcript.

A subsequent decision has been made to publish the transcript on the Commission's website. Since 25 February 2002 the transcript of the Royal Commission's public hearings to date is available at [www.royalcombcj.gov.au](http://www.royalcombcj.gov.au).

A number of requests for transcript had been made under the previous charging arrangements. Fees charged have either been waived or are in the process of being refunded to the parties involved.

SENATE ESTIMATES COMMITTEE  
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY  
QUESTIONS ON NOTICE

**Senator Carr asked the following question at the hearing of 18 February 2002:**

Is there an explanation for why these transcripts are not placed on the web site, as is the case with the HIH commission?

**I am advised that the answer to the honourable Senator's question is as follows:**

See answer to Question on Notice No 29.

SENATE ESTIMATES COMMITTEE  
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18 February 2002:**

Has the commissioner made transcripts available to anyone free of charge? - for example, the Department of Employment and Workplace Relations or the Attorney- General's Department, as parties to the proceedings – get copies of the transcript free of charge?

**I am advised that the answer to the honourable Senator's question is as follows:**

Since the issue of Practice Note No 2 on 19 December 2001, realtime and edited transcript of hearings of the Royal Commission into the Building and Construction Industry is contained in the Ringtail CourtBook which is the Commission's database. CourtBook is made available to persons authorised to appear before the Commission. Practice Note No 2 indicated that access to Courtbook would be made available to the following organisations on application to the Director, Legal Services for log on access:

- (a) each State Government not authorised to appear before the Commission;
- (b) The Australian Constructors Association and each of its members;
- (c) The Australian Workers' Union (AWU);
- (d) The Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union (AMWU);
- (e) Communications, Electrical, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU);
- (f) Construction, Forestry, Mining and Energy Union (CFMEU);
- (g) Australian Building & Construction Worker's Union (AB&CWF);
- (h) Construction, Mining, Energy, Timberyards, Sawmills & Woodworkers' Union of Australia – Western Australian Branch (CMETU);
- (i) Victorian Trades Hall Council;
- (j) Australian Building Construction Employees and Builders' Labourers' federation (Queensland Branch);
- (k) Construction, Forestry, Mining and Energy Union – NSW Branch (CFMEU NSW);
- (l) authorised media representatives; and
- (m) any other person or corporation authorised by the Commissioner to have access to it.

Transcript of all public hearings has been posted on the Commission's website since 25 February 2002.

SENATE ESTIMATES COMMITTEE  
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18 February 2002:**

Under what circumstances would the commission consider providing, or provide, a transcript free of charge to persons on request? How many requests have been made, by individuals or other parties, for copies of transcripts at no cost to the parties?

**I am advised that the answer to the honourable Senator's question is as follows:**

The transcript of hearings of the Royal Commission into the Building and Construction Industry is available free of charge on the Commission's website. No records were kept of requests to receive copies of the transcript free of charge prior to it being posted to the website.

A number of requests for transcript had been made under the previous charging arrangements. Fees charged have either been waived or are in the process of being refunded to the parties involved.

SENATE ESTIMATES COMMITTEE  
HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18 February 2002.**

Of the 23 accompanied minors, do you know the age range of those persons?

**I am advised that the answer to the honourable Senator's question is as follows:**

Yes.

<b>Age in years</b>	<b>Number</b>
17	8
16	6
15	3
14	1
13	2
12	1
11	1
9	1
Total	23

SENATE ESTIMATES COMMITTEE  
HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

Did you or your officers meet any of the lawyers who were representing the detainees at Woomera?

**I am advised that the answer to the honourable Senator's question is as follows:**

Yes, two; but only informally, not as part of the investigative process.

SENATE ESTIMATES COMMITTEE  
HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18/19 February 2002.**

Could you:

- a) give us some timelines on your inquiry into detention centres;
- b) indicate how many submissions have been received to date;
- c) when you intend to hold public hearings;
- d) what places you intend to go; and
- e) have you fleshed out the program about how you are going to progress this right up to the end of the year?

**I am advised that the answer to the honourable Senator's question is as follows:**

a)

<b>Timeline</b>	<b>Milestone</b>
May 3	Submissions close
May 29- August 16	Public Hearings
Sept -Oct	Report Writing
November	Completion

- b) Twenty;
- c) May 29 to August 16;
- d) Sydney; Melbourne; Adelaide; Woomera; Perth; Pt. Hedland; Curtin; Brisbane/ Darwin;
- e) Yes; please see above.



SENATE ESTIMATES COMMITTEE  
HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  
QUESTIONS ON NOTICE

**Senator Payne asked the following question at the hearing of 18/19 February 2002.**

What number of people participating in the trial (to remove women and their families) did you interview?

**I am advised that the answer to the honourable Senator's question is as follows:**

No people participating in the trial were interviewed. Some women and children were briefly met during an inspection of the houses being used in the trial.

SENATE ESTIMATES COMMITTEE  
HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  
QUESTIONS ON NOTICE

**Senator Cooney asked the following question at the hearing of 18/19 February 2002.**

Is the length of detention the predominant concern of detainees and are other issues peripheral?

**I am advised that the answer to the honourable Senator's question is as follows:**

Yes. It is the Human Rights Commissioner's view, based on his inspections of all the detention centres in the last year, that length of detention is the issue that asylum seekers repeatedly raise with him as their key concern.

No. The other issues are not peripheral. The issues listed below, to name but a few, are all important concerns of asylum seekers:

- adequacy of education;
- availability of interpreters especially during health consultations;
- ability to contact family in country of origin;
- food;
- treatment by ACM officers;
- psychological well being;
- the harshness of the physical surrounds (especially at Woomera);
- the adequacy of the sleeping arrangements; and
- air-conditioning.

SENATE ESTIMATES COMMITTEE  
HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  
QUESTIONS ON NOTICE

**Senator Payne asked the following question at the hearing of 18/19 February 2002.**

Can the HREOC letter to Mr Ruddock be released?

**I am advised that the answer to the honourable Senator's question is as follows:**

It is not the practice of the Commission to release official correspondence between itself and Ministers of the Crown.

SENATE ESTIMATES COMMITTEE  
HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  
QUESTIONS ON NOTICE

**Senator Schacht asked the following question at the hearing of 18 February 2002.**

Was the United Nations Special Rapporteur, Mr Abdelfattah Amor, correct when he said “..a[n] [Australian] citizen cannot apply for a remedy on the basis of the 1981 Declaration on all Forms of Intolerance and of Discrimination Based on Religion or Belief? [Religion Declaration] but that ‘an application is possible in the context of HREOC?’

**I am advised that the answer to the honourable Senator’s question is as follows:**

An individual can make a complaint to the Human Rights and Equal Opportunity Commission under the *Human Rights and Equal Opportunity Commission Act 1986* (the HREOCA) alleging a breach of their human rights as contained in the *Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief*.

The HREOCA amongst other powers brings into Australian law the rights contained in certain international human rights instruments. The HREOCA provides people with a mechanism (sections 11(1)(f) and 20) to lodge a complaint alleging that an ‘act or practice may be inconsistent with or contrary to any human right’. It also provides a conciliation process to attempt to resolve the complaint. If conciliation is not successful or not appropriate and the President finds that there has been ‘an act or practice which is inconsistent with or contrary to any human right’ the President must report on the matter to the Attorney- General who in turn must table the report in parliament. The President or Commission does not have the authority to enforce any recommendations it may make in the report.

Under the HREOCA ‘human rights’ are strictly defined. An allegation must come within this definition to enable the Commission to inquire into the allegation as a complaint under the Act.

For an allegation to constitute a complaint for the purposes of HREOCA the following requirements must be met:

- the organisation against which a person is complaining must be the Commonwealth or one of its agencies
- the allegation must relate to an ‘act or practice’ of the Commonwealth
- the allegation must relate to a specific right or infringe a specific freedom recognised in the international human rights instruments scheduled to or declared under the HREOCA.

The international instruments scheduled to or declared under the Act are:

- the International Covenant on Civil and Political Rights (ICCPR),
- the Convention on the Rights of the Child (CROC),
- the Declaration on the Elimination of all Forms of Intolerance and of Discrimination based on Religion or Belief,
- the Declaration on the Rights of Mentally Retarded Persons
- the Declaration on the Rights of Disabled Persons.

The HREOCA does not apply to unfair treatment or alleged human rights violations by Territory, State or Local governments or by private organizations or individuals. If a person makes an allegation that does not fall within the definition of ‘human rights’ or ‘act or practice’ for the purpose of a complaint inquiry the President advises the person in writing that the matter is not covered by the law.

The President may also decline to inquire or discontinue an inquiry into a complaint (alleging an act or practice is inconsistent with or contrary to any human right) if the President is, for example, of the opinion the complaint is lacking in substance; the complaint was made 12 month after the act was done; a more appropriate remedy is available or another statutory authority is better placed to deal with complaint [section 20(2)].

The Commission may however, inquire into complaints alleging discrimination in employment based on religion. This power is drawn from the International Labour Organisation Convention Concerning Discrimination in Respect of Employment and Occupation (ILO 111) which is scheduled to the HREOCA. [s.31]

The process for inquiring into complaints under ILO111 is the same as complaints that allege that an act or practice is inconsistent with or contrary to a human right. That is, the President may inquire into the complaint and where appropriate attempt to settle the complaint through conciliation. If conciliation is not successful or not appropriate and the President finds that there has been ‘discrimination’ the President must report on the matter to the Attorney-

General who in turn must table the report in parliament. The President or Commission does not have the authority to enforce any recommendations it may make in the report.

The President may also decline to inquire or discontinue an inquiry into a complaint alleging discrimination in employment if the President is, for example, of the opinion the complaint is lacking in substance; the complaint was made 12 month after the act was done; a more appropriate remedy is available or another statutory authority is better placed to deal with complaint. [s. 32(3)].

Complaints alleging discrimination in employment are not restricted to the Commonwealth and can be made against a State, Territory, private organisation or individual.

SENATE ESTIMATES COMMITTEE  
HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  
QUESTIONS ON NOTICE

**Senator Schacht asked the following question at the hearing of 18 February 2002.**

Referring to Senator Chris Evans, Hansards 28 September 1993 at p. 1285 where he said: 'The [1981 Religion] Declaration is designed to allow the Human Rights and Equal Opportunity Commission to do four things.. thirdly, it WILL examine Commonwealth legislation to determine whether it is consistent with the UN [Religion] Declaration;' (emphasis added.)

Is it the case that a citizen can make a complaint to the Human Rights and Equal Opportunity Commission about a Commonwealth legislation under section 11(1)(e) of the Human Rights and Equal Opportunity Commission Act 1986 in terms of the relevant paragraphs of the 1981 Religion Declaration, and will the Commission, following Senator Evans statement in para 2 above, examine Commonwealth legislation about which there may be a complaint? Was Senator Evans correct to imply the Commission WILL examine legislation following a complaint? If not under section 11(10)(e) under which section will the Commission examine Commonwealth legislation following a complaint?

**I am advised that the answer to the honourable Senator's question is as follows:**

The only provision under which a complaint can be made under the HREOCA is s.11(1)(f). The HREOCA does not cover complaints where the allegations (the 'act or practice') complained of are the result of the direct operation of an enactment. For example, decisions to detain a person that are in direct compliance with the *Migration Act 1958*. The Federal Court of Australia has found that there can be no 'act or practice' if no discretion exists in the law (*Secretary, Department of Defence v. Human Rights and Equal Opportunity Commission & Ors* [1997] 960 FCA (18 September 1997)).

Furthermore, the Commission is not required to examine an enactment brought to its attention (whether by a complaint or some other means). Rather under section 11(1)(e) of HREOCA the Commission has the discretion to examine enactments for the purpose of ascertaining whether the enactment is inconsistent with or contrary to any human right. The Commission may decide to exercise this power when particular enactments are drawn to the Commission's attention either through the 11(1)(f) complaints process or through general public debate about particular enactments. Further examination of proposed enactments may be referred by the Minister.

SENATE ESTIMATES COMMITTEE  
HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  
QUESTIONS ON NOTICE

**Senator Schacht asked the following question at the hearing of 18 February 2002.**

If there are any grounds whereby the Human Rights and Equal Opportunity Commission would decline to examine Commonwealth legislation following a complaint in terms of the relevant paragraphs of the Religion Declaration, was Mr Abdelfattah Amor wrong when he said that ‘an application [i.e. complaint] is possible in the context of HREOC?’ If Mr Amor was wrong, why was he wrong?

**I am advised that the answer to the honourable Senator’s questions is as follows:**

As stated above, the Commission is not required to examine an enactment simply because it has been brought to its attention by a complainant. The Commission will consider the following matters in determining whether to exercise its discretion to examine an enactment:

- (a) whether the terms of the enactment could breach any human right;
- (b) whether the effects of the enactment could result in the breach of any human rights;
- (c) whether legislative amendment could significantly address any breach or failure discovered during an examination.

When the Commission exercises its discretion to examine an enactment, the particular processes for examination in each case will differ. Section 14 of HREOCA allows the Commission to make an examination “...in such manner as it thinks fit...” Depending on the complexity of, and public interest in, the enactment and surrounding issues, the examination may be

- (a) a brief inquiry done entirely on the papers focussing on the terms of the legislation alone without public submission;
- (b) done entirely on the papers where limited written submissions are sought from targeted stakeholders;
- (c) a more public inquiry where written submissions from any interested parties are sought, similar to the Pregnancy inquiry;
- (d) a substantial inquiry where the Commission decides to seek public submissions, call witnesses and use the full range of Commission powers, similar to the Stolen Children inquiry.

All such examinations are then reported on to the Attorney-General who tables the report in Parliament.



SENATE ESTIMATES COMMITTEE  
HIGH COURT OF AUSTRALIA  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18 February 2002.**

Has there been an increase or decrease as a consequence of the privative provisions of the Migration Act?

**I am advised that the answer to the honourable Senator's question is as follows:**

The following statistics were provided to the Committee at the hearing on Monday, 18 February 2002:

<b>Migration matters filed in the original and appellate jurisdictions</b>			
	<b>Migration matters</b>	<b>Total matters filed</b>	<b>%</b>
<b>1998/99</b>	89	615	14
<b>1999/00</b>	102	754	14
<b>2000/01</b>	105	688	15
<b>2001/02<sup>1</sup></b>	95	422	23

The amendments to the *Migration Act 1958* (Cth) introduced by the *Migration Legislation Amendment (Judicial Review) Act 2001* (Cth) (including the introduction of the privative clause provision in section 474) commenced on 2 October 2001. The following table provides the comparison of the number of migration matters filed during 2001-02 in the periods immediately before and after the amendments took effect. Statistics for the same periods in 2000-01 are also provided.

<b>Migration matters filed in the original and appellate jurisdictions</b>			
	<b>Original jurisdiction</b>	<b>Appellate jurisdiction</b>	<b>Total</b>
<b>July 01 - September 01</b>	36	17	53
<b>October 01 - January 02</b>	23	19	42

<b>Migration matters filed in the original and appellate jurisdictions</b>			
	<b>Original jurisdiction</b>	<b>Appellate jurisdiction</b>	<b>Total</b>
<b>July - September 00</b>	15	15	30
<b>October 00 - January 01</b>	14	6	20

A review of the matters filed since 2 October 2001 does not reveal whether the decrease in matters filed since that date is a consequence of the introduction of the privative clause provision.

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<sup>1</sup> To 31 January 2002

SENATE ESTIMATES COMMITTEE  
HIGH COURT OF AUSTRALIA  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18 February 2002.**

Has any challenge been made to the validity of those Migration Act amendments that you are aware of in the High Court?

**I am advised that the answer to the honourable Senator's question is as follows:**

At the time of the Committee hearing on Monday, 18 February 2002, there were no matters challenging the validity of the *Migration Legislation Amendment (Judicial Review) Act 2001* (Cth).

However, there are two matters in which it has, since the Committee hearing, been indicated to the Court that the grounds of the application will be expanded to include a challenge to section 474 of the Act.

SENATE ESTIMATES COMMITTEE  
HIGH COURT OF AUSTRALIA  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18 February 2002.**

Do you have a statistical breakdown of average times between date of filing and date of determination?

**I am advised that the answer to the honourable Senator's question is as follows:**

The following table provides the statistical breakdown of average times between date of filing and date of determination for migration matters filed in the original jurisdiction of the High Court.

Elapsed time for migration matters determined by the Full Court during 2000-01								
Days	Filing to Ready for Hearing		Ready for Hearing to Hearing		Hearing to Decision		Total Elapsed Time	
		%		%		%		%
90 or less	5	56	9	100	2	22	0	0
91 to 180	2	22	0	0	2	22	1	11
181 to 270	0	0	0	0	5	56	5	56
271 to 365	1	11	0	0	0	0	0	0
over 365	1	11	0	0	0	0	3	33
<b>TOTAL</b>	9	100	9	100	9	100	9	100

SENATE ESTIMATES COMMITTEE  
HIGH COURT OF AUSTRALIA  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18 February 2002.**

So what could possibly be the longest period? Do you have a statistical breakdown of that?

**I am advised that the answer to the honourable Senator's question is as follows:**

Of the cases reflected in the table provided in answer to Question 44 above, the case which involved the longest period from commencement to determination involved the following timeline:

<b>Elapsed time for migration matters to be determined by the Full Court 2000-01</b>				
	<b>Filing to Ready for Hearing</b>	<b>Ready for Hearing to Hearing</b>	<b>Hearing to Decision</b>	<b>Total Elapsed Time</b>
<b>Days</b>	593	22	205	820

The applicant in this matter was not in detention at the time of filing his application.

SENATE ESTIMATES COMMITTEE  
INSOLVENCY AND TRUSTEE SERVICE AUSTRALIA  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18 February 2002:**

Can you provide threshold income figures for eligibility to apply for an early discharge from bankruptcy?

**I am advised that the answer to the honourable Senator's question is as follows:**

Currently, a bankrupt who earns more than \$31,176.60 after income tax is disqualified from applying for an early discharge. This figure is based on the rate of pension for a single unemployed person ( it is in fact 3.5 times that rate) and is adjusted for CPI each March and September in line with adjustments to benefits payable under the Social Security Act.

SENATE ESTIMATES COMMITTEE  
THE HIH ROYAL COMMISSION AND THE ROYAL COMMISSION INTO THE  
BUILDING AND CONSTRUCTION INDUSTRY  
QUESTIONS ON NOTICE

**Senator Cooney asked the following question at the hearing of 18 February 2002.**

How many AGS solicitors are assisting the Royal Commissions and what are their specialities?

**I am advised that the answer to the honourable Senator's question is as follows:**

At 18 February 2002, five AGS solicitors are assisting the HIH Royal Commission. Their specialities cover a wide range of litigation and legal advisory functions on matters arising out of the functions of government and government business activities. These matters include regulation of commercial activities, insolvency, law enforcement, revenue, trade practices, administrative law and the conduct of government inquiries.

At 18 February the Royal Commission into the Building and Construction Industry had 19 solicitors assisting the Commission (including 2 junior solicitors who act as associates to Commissioner Cole). Their specialties also cover a wide range of litigation and legal advisory functions including employment and financial related matters, construction industry and industrial and workplace relations, trade practices and competition law, occupational health and safety laws, law enforcement, property law, administrative law and the conduct of Government inquiries.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN GOVERNMENT SOLICITOR  
QUESTIONS ON NOTICE

**Senator Allison asked the following question at the hearing of 18 February 2002.**

a) Can you indicate whether the AGS has acted on behalf of the Commonwealth in all four Maralinga compensation cases which have come to the Federal Court and what, if any arrangements are in place for the Department of Defence or Veterans Affairs to transfer payments to the AGS?

b) Can you indicate whether it is common practice for payments to be made through the AGS?

**I am advised that the answer to the honourable Senator's question is as follows:**

At the hearing of 18 February 2002, Ms de Gruchy, the CEO of AGS, indicated that the questions asked would need to be considered in the light of the solicitor-client relationship that AGS has with its clients. In that relationship, AGS essentially has the same legal obligations as are owed by private sector lawyers to their clients and the courts: paragraph 55Q(2) of the *Judiciary Act 1903*. AGS' legal obligations, such as the maintenance of legal professional privilege and avoidance of conflicts of interest, make it appropriate for questions about AGS' clients' matters to be the responsibility of the relevant client agencies rather than AGS.

Moreover, in some circumstances it could be a breach of client confidentiality for AGS even to acknowledge that it was instructed by a client in relation to a matter. This factor, by itself, renders it inappropriate for such questions to be received by AGS for referral to an AGS client.

Accordingly, as advised by the Attorney-General, the Commonwealth's First Law Officer, in letters to the President of the Senate on 17 November 2000 and 12 May 1999, questions about AGS' client matters should be addressed directly to the client agency.

Against this background, the following responses are provided to the honourable Senator's questions.

a) It is on the public record that AGS has represented the Commonwealth in all four common law cases relating to the British Nuclear Testing (BNT) Program referred to by the honourable Senator. With respect to BNT litigation, AGS has provided legal services to the Department of Education, Science and Training which has responsibility for common law claims relating to the BNT Program (previously the responsibility of the former Department of Industry, Science and Resources and prior to that, the former Department of Primary Industry and Energy). It is suggested that any further questions on this matter be directed to the Minister for Education, Science and Training.

b) It is common practice for AGS, under client instructions, to undertake financial settlements on behalf of its clients. For this purpose, AGS holds client (trust) accounts in the same way as do private law firms.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN GOVERNMENT SOLICITOR  
QUESTIONS ON NOTICE

**Senator Allison asked the following question at the hearing of 18 February 2002.**

- a) Has the AGS any involvement in the remaining 79 cases initiated by veterans?
- b) Has there been legal services provided to the Department (Veterans Affairs) for those that have not come before the courts?
- c) Provide details of costs transfers? &
- d) What has been the cost of defending those compensation claims?

**I am advised that the answer to the honourable Senator's question is as follows:**

At the hearing of 18 February 2002, Ms de Gruchy, the CEO of AGS, indicated that the questions asked would need to be considered in the light of the solicitor-client relationship that AGS has with its clients. In that relationship, AGS essentially has the same legal obligations as are owed by private sector lawyers to their clients and the courts: paragraph 55Q(2) of the *Judiciary Act 1903*. AGS' legal obligations, such as the maintenance of legal professional privilege and avoidance of conflicts of interest, make it appropriate for questions about AGS' clients' matters to be the responsibility of the relevant client agencies rather than AGS.

Moreover, in some circumstances it could be a breach of client confidentiality for AGS even to acknowledge that it was instructed by a client in relation to a matter. This factor, by itself, renders it inappropriate for such questions to be received by AGS for referral to an AGS client.

Accordingly, as advised by the Attorney-General, the Commonwealth's First Law Officer, in letters to the President of the Senate on 17 November 2000 and 12 May 1999, questions about AGS' client matters should be addressed directly to the client agency.

Against this background, the following responses are provided to the honourable Senator's questions.

a) It is on the public record that AGS has represented the Commonwealth in all 79 common law cases relating to the British Nuclear Testing Program that have come before the Federal Court (all but four of those cases have been discontinued).

b), c) and d) :

It is suggested that any further questions on this matter be directed to the Minister for Education, Science and Training as the Department of Education, Science and Training has responsibility for common law claims relating to the British Nuclear Testing Program (previously the responsibility of the former Department of Industry, Science and Resources and prior to that, the former Department of Primary Industry and Energy).



SENATE ESTIMATES COMMITTEE  
AUSTRALIAN GOVERNMENT SOLICITOR  
QUESTIONS ON NOTICE

**Senator Allison asked the following question at the hearing of 18 February 2002.**

Has the AGS acted for the Commonwealth in any of those 342 claims made under Comcare under that act?

**I am advised that the answer to the honourable Senator's question is as follows:**

At the hearing of 18 February 2002, Ms de Gruchy, the CEO of AGS, indicated that the questions asked would need to be considered in the light of the solicitor-client relationship that AGS has with its clients. In that relationship, AGS essentially has the same legal obligations as are owed by private sector lawyers to their clients and the courts: paragraph 55Q(2) of the *Judiciary Act 1903*. AGS' legal obligations, such as the maintenance of legal professional privilege and avoidance of conflicts of interest, make it appropriate for questions about AGS' clients' matters to be the responsibility of the relevant client agencies rather than AGS.

Moreover, in some circumstances it could be a breach of client confidentiality for AGS even to acknowledge that it was instructed by a client in relation to a matter. This factor, by itself, renders it inappropriate for such questions to be received by AGS for referral to an AGS client.

Accordingly, as advised by the Attorney-General, the Commonwealth's First Law Officer, in letters to the President of the Senate on 17 November 2000 and 12 May 1999, questions about AGS' client matters should be addressed directly to the client agency.

Against this background, it is suggested that this matter be directed to the Minister for Veterans' Affairs who has portfolio responsibility for claims relating to the British Nuclear Testing Program made by servicemen under the *Safety, Rehabilitation and Compensation Act 1988* and the legislation that preceded that Act.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKeirnan asked the following question at the hearing of 18/19 February 2002.**

Page 18 of the AFP annual report notes that it provides external agencies with access to AFP expertise by outposting officers to other organisations. It states: The presence of these agents also provides ready access to police powers, such as the execution of search warrants. A graph appears at page 109 which details the various agencies where the outposting occurs. At the very bottom there is mention of a private company. What information can you give the committee about that particular outposting?

**I am advised that the answer to the honourable Senator's question is as follows:**

The entry in the table at page 109 of the 2001-02 Annual Report relates to an unsworn AFP employee who, while on leave without pay, was employed in the private sector with a view to developing desk-top computing skills. That entry should not have appeared in the table that is designed to report on outposted sworn officers.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKeirnan asked the following question at the hearing of 18/19 February 2002.**

- Was information about the operations of Mr Enniss and people smuggling passed to Canberra?
- If so, when and by whom?

**I am advised that the answer to the honourable Senator's question is as follows:**

- Yes.
- During the period of the AFP's relationship with Mr Enniss, information about the operations of Mr Enniss and people smuggling were relayed by the AFP Liaison Office, Jakarta, to AFP Headquarters, Canberra.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Sherry asked the following question at the hearing of 18/19 February 2002.**

Does Mr Enniss own a fishing boat or boats? Does he lease them? Do you have any details of his working relations?

**I am advised that the answer to the honourable Senator's question is as follows:**

Mr Enniss was a part owner of a fishing vessel in Indonesia that was the subject of civil action between the partners. The vessel is currently "detained" pending the results of that action. The AFP is unaware of any other vessels owned or leased by Mr Enniss.

The AFP is aware of reports that Mr Enniss is captaining a vessel from Dili.

The AFP is investigating allegations made in relation to Mr Enniss on the Sunday program. This investigation will include Mr Enniss' current employment status.

SENATE ESTIMATES COMMITTEE  
 AUSTRALIAN FEDERAL POLICE  
 QUESTIONS ON NOTICE

**Senator Sherry asked the following question at the hearing of 18/19 February 2002.**

Are they (the 451 people apprehended) the people who have been detained in Indonesia?

**I am advised that the answer to the honourable Senator's question is as follows:**

These 451 people were detained as follows:

<u>DATE</u>	<u>PLACE</u>	<b>NO. DETAINED</b>
27 January 2001	Semau Island	15
1 February 2001	MV Willis, Surabaya	66
9 February 2001	Tenau Harbour, Kupang	16
9 February 2001	Kp Solor, Kupang	17
15 February 2001	Solor Island	75
15 February 2001	Lembata	34
16 June 2001	Roti Island	14
16 June 2001	Sabu Island	16
17 June 2001	Kupang City (local residence)	30
22 July 2001	Vessel at Larantuka	34
26 July 2001	Sumba Barat	134

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Sherry asked the following question at the hearing of 18/19 February 2002.**

- a. How many other informants do you have?
- b. How many arrests have there been as a consequence of the information given to you by other informants?

**I am advised that the answer to the honourable Senator's question is as follows:**

- a. It should be noted that the use of informants by the AFP in pursuing its investigative mandate is but one of a range of investigative tools that the AFP has available to it. Accordingly, the information gathered by AFP investigators that lead to arrests, etc, are usually drawn from diverse sources using a range of investigative tools. The current informant review mechanisms enable the assessment of the effectiveness and value of the AFP and informant relationship.

It is the view of the AFP – as is the case in most matters of an operational nature - that specific information relating to the actual conduct of operations is protected and that the disclosure of information relating to the actual number of informants falls within this ambit. Accordingly, the AFP maintains that it is not in the public interest to reveal the number of informants it has.

It must be remembered that Commissioner Keelty explained during his evidence to the Committee the AFP policy in relation to non-disclosure of informant details. It must also be remembered that Commissioner Keelty acknowledged the relationship between the AFP and Mr Enniss based on the publicity that the relationship received as result of the *Sunday* Program and Mr Enniss' public confirmation of the relationship.

- b. From February 2000 to 30 June 2001, in excess of 3000 persons suspected of intending to enter Australia illegally were interdicted by Indonesian authorities. These results were gained through a combination of investigative processes. Whilst a good portion of the 451 interdictions – that have been attributed to information provided as a result of the AFP's relationship with Mr Enniss – occurred in this period; to provide further information that specifically attributes arrests to other AFP informants would be contrary to the reasons previously detailed.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18/19 February 2002.**

- What information was Mr Enniss provided with by the Australian authorities, including the AFP or the task force that has been set up about anti-people-smuggling measures?
- When was the last contact that the AFP had with Mr Enniss?

**I am advised that the answer to the honourable Senator's question is as follows:**

- The AFP made Mr Enniss aware that they were investigating people smuggling syndicates based in Indonesia. The AFP did not provide Mr Enniss with any operational information regarding investigations or other anti-people smuggling measures.
- The AFP ceased its relationship with Mr Enniss on 21 September 2001.

As at 19 February 2002, the AFP's last contact with Mr Enniss was on 18 February 2002, following an unsolicited telephone call from him.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKeirnan asked the following question at the hearing of 18/19 February 2002.**

- When was the AFP made an integral part of the anti people smuggling task force?
- When exactly was the AFP alerted to the movement of people to Christmas Island aboard HMAS Adelaide?
- Was any information withheld from the AFP.

**I am advised that the answer to the honourable Senator's question is as follows:**

- In the context of the AFP's involvement in the Prime Minister and Cabinet Interdepartmental Committee (IDC) (People Smuggling Task Force), the first attendance of AFP member at the IDC was on 27 August 2001.
- The AFP was first alerted to the movement of people to Christmas Island aboard HMAS Adelaide on Tuesday 9 October 2001.
- The AFP is not aware of any information that was withheld from it.



SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Sherry asked the following question at the hearing of 18/19 February 2002.**

On what date was a copy of the Navy video made available to AFP Headquarters and to whom?

**I am advised that the answer to the honourable Senator's question is as follows:**

Staff in the AFP Commissioner's Office in Canberra received copies of the videotapes on 23 November 2001.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Sherry asked the following question at the hearing of 18/19 February 2002.**

- Has anyone from the Prime Minister's office made contact with Federal Agent Castles (in connection with the videos, the photos and the issues surrounding them)?
- Please provide dates of task force meetings Federal Agent Castles attended.

**I am advised that the answer to the honourable Senator's question is as follows:**

- No
- The table detailed below is a record of the meetings of the Prime Minister and Cabinet, Interdepartmental Committee (People Smuggling Task Force) that Federal Agent Castles attended in his capacity as the AFP's representative.

<b>Sept 2001</b>	<b>Oct 2001</b>	<b>Nov 2001</b>	<b>Dec 2001</b>	<b>Jan 2002</b>	<b>Feb 2002</b>
1 <sup>st</sup> Saturday	2 <sup>nd</sup> Tuesday	1 <sup>st</sup> Thursday	4 <sup>th</sup> Tuesday	8 <sup>th</sup> Tuesday	1 <sup>st</sup> Friday
3 <sup>rd</sup> (x 2) Monday	3 <sup>rd</sup> Wednesday	5 <sup>th</sup> Monday	11 <sup>th</sup> Tuesday	10 <sup>th</sup> Thursday	12 <sup>th</sup> Tuesday
5 <sup>th</sup> Wednesday	4 <sup>th</sup> Thursday	9 <sup>th</sup> Friday	21 <sup>st</sup> Friday	31 <sup>st</sup> Thursday	
24 <sup>th</sup> Monday	10 <sup>th</sup> Wednesday	13 <sup>th</sup> Tuesday			
25 <sup>th</sup> Tuesday	12 <sup>th</sup> Friday	14 <sup>th</sup> (x 2) Wednesday			
26 <sup>th</sup> Wednesday	16 <sup>th</sup> Tuesday	15 <sup>th</sup> Thursday			
27 <sup>th</sup> Thursday	19 <sup>th</sup> Friday	21 <sup>st</sup> Wednesday			
28 <sup>th</sup> Friday	20 <sup>th</sup> Saturday	27 <sup>th</sup> Tuesday			
30 <sup>th</sup> Sunday	21 <sup>st</sup> Sunday	29 <sup>th</sup> Thursday			
	22 <sup>nd</sup> Monday				
	23 <sup>rd</sup> Tuesday				
	25 <sup>th</sup> Thursday				
	29 <sup>th</sup> Monday				

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Sherry asked the following question at the hearing of 18/19 February 2002.**

- In relation to Mr Castles, who requested that an officer join this working group task force?
- Who requested that an (AFP) officer join the task force?
- What were the circumstances that led to the selection and placement of Federal Agent Castles on the task force?

**I am advised that the answer to the honourable Senator's question is as follows:**

- Federal Agent Castles' involvement in the Prime Minister and Cabinet Interdepartmental Committee (People Smuggling Task Force) was at the request of Federal Agent Andrew Hughes, the former General Manager for International and Federal Operations.
- The request came from the Department of Prime Minister and Cabinet.
- Federal Agent Castles' involvement in the Prime Minister and Cabinet Interdepartmental Committee (People Smuggling Task Force) was at the request of Federal Agent Andrew Hughes, the former General Manager for International and Federal Operations. Federal Agent Castles' selection was consistent with his occupation of the former position of Coordinator Transnational Crime Operations.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Collins asked the following question at the hearing of 18/19 February 2002.**

I am asking about the provision of any evidence from the AFP perspective on the nature of the interdepartmental communications surrounding this incident or any other material held by the AFP that was drawn upon in Ms Bryant's investigations. Did the AFP provide either any written or oral evidence or documentary evidence of a secondary nature or any other material held by the AFP to the Department of Prime Minister and Cabinet inquiry conducted by Ms Bryant?

**I am advised that the answer to the honourable Senator's question is as follows:**

No.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

Please provide an update on the reference on page 41 of the AFP Annual Report regarding physical surveillance activities?

*(Passage from page 41 Annual Report reads - "Recognising that physical surveillance is a valuable, limited and expensive resource, a comprehensive review of the way in which surveillance activities are managed was undertaken during the year. The recommendations of the review, which served to increase both efficiency and effectiveness, were implemented.")*

**I am advised that the answer to the honourable Senator's question is as follows:**

There were a series of short and long term recommendations emanating from the review.

The following recommendations have been implemented:

1. Apply national consistency to the jobsite role of AFP surveillance team leaders and members across the organisation. Jobsite is the AFP's corporate system for evaluating and grading roles and responsibilities.
2. Examine a prioritisation and evaluation model to enable surveillance tasks to be prioritised according to operational and organisational needs. This has been undertaken with the results of the pilot scheme agreed to be implemented nationally. Currently awaiting modifications to the AFP PROMIS system to allow this model to be implemented nationally.
3. Identify, establish and implement appropriate performance measures. Business plans have been developed nationally across all offices to apply performance measures and outputs. This will allow a comparative measure across the various offices.
4. A marketing strategy has been incorporated into the surveillance business plan and encapsulates strategies including changes to surveillance recruiting and training, career path development and an internal AFP web page.

The following recommendations are considered long term strategies and are ongoing:

The integration and implementation of technology in surveillance has seen the following programs being undertaken:

1. Enhancement of the SMART tracking program. This program has three phases over 3 years with phase one currently being undertaken. The SMART tracking system provides a locating signal providing surveillance with data as to the location of a target.
2. GPS tracking enhancement system. This system uses current commercial infrastructure of satellites and provides a locating signal of a designated target.
3. National Surveillance Fleet purchase program.
4. Remote eyeball program. This program relates to the research and development of remote video monitoring capacity and will allow surveillance operatives to observe targets with a reduced risk of being compromised.

The following recommendations have not been implemented:

1. National consistent application of the surveillance composite to 33%. Application was made to the Industrial Relations Commission to apply a consistent composite to surveillance nationally, which was rejected.
2. Establish a framework to ensure compliance with the changed composite rates nationally. This recommendation was dependant upon a consistent composite being introduced.
3. Consider an appropriate deployment strategy to support the new composite regime. This recommendation was dependant upon a consistent composite being introduced.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

Have drafting instructions on an amending bill been issued (in connection with the establishment of the Australian Protective Service as an operating division of the Australian Federal Police)?

**I am advised that the answer to the honourable Senator's question is as follows:**

No. The working group established by the Minister for Justice and Customs, chaired by the AFP and including representatives from the Attorney-General's Department and the Australian Protective Services, is presently identifying the issues that would inform the construction of drafting instructions.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Payne asked the following question at the hearing of 18/19 February 2002.**

Please provide details of women at senior levels within the AFP in comparison with comparable police forces. Please provide details of any presentations to be made by the AFP to the International Association of Women Police Conference - in particular:

- International trends for women and policing
- Global issues for women and justice
- Defending women's human rights
- Gender and policing
- International networks for immigration, customs and quarantine services
- Women in the criminal justice system
- Improving the status of women in policing

**I am advised that the answer to the honourable Senator's question is as follows:**

The number of women at senior levels within the AFP, in comparison with comparable police forces, is as follows:

<i>Police Force</i>	<i>Sworn Females</i>	<i>Unsworn Females</i>	<b>Total Personnel (Male and Female)</b>
Australian Federal Police #	10	19	2,850
New South Wales Police *	34	106	17,500
New Zealand Police *	7	2	8,976
Northern Territory Police *	2	15	1,193
Queensland Police *	17	8	11,063
South Australia Police *	3	0	4,674
Tasmania Police *	1	1	1,494
Victoria Police *	7	78	12,132
West Australian Police *	1	3	6,318

Source: # AFP 2002

\* Australasian Police Agencies: HR Benchmarking Report 1 July 2000 to 30 June 2001

*The AFP definition of 'senior levels' and of 'sworn and unsworn' is not directly related to that adopted by other agencies. The data above represents a best effort at matching with these caveats.*

For the period ending 28 February 2002, seven AFP personnel have elected to submit abstracts for papers. The abstracts are currently titled:



- *“Participation in the International Criminal Tribunal for the Former Yugoslavia forensic Exhumation Team Project – Kosova 2000”*;
- *“Women in Policing in South East Asia”*;
- *“Peace Keeping – International Trends”*
- *“Flexible Workplace – Maternity Leave”*
- *“Women in the AFP Global Environment – International Operational Perspective”*
- *“Destroying Myths of Women in Policing”*
- *“Family Violence Intervention Program”*

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Greig asked the following question at the hearing of 18/19 February 2002.**

Is the AFP aware of or expressed concerns about the level of training provided to private contracted security officers in the operation of airport baggage screeners?

**I am advised that the answer to the honourable Senator's question is as follows:**

The AFP has no involvement with contracted private sector airport baggage screeners

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

How long did the AFP interview or question Mr Hicks in regard to the allegations that are made against him?

**I am advised that the answer to the honourable Senator's question is as follows:**

The joint AFP/ASIO team interviewed Mr Hicks for a period of five hours on 24 December 2001, and three hours on 25 December 2001, on board the USS Peleliu. The interview was conducted in the presence of one US Marine Corps Interrogator and one US Naval Criminal Investigative Service Agent, as per the direction of the US Theatre Commander. The questions asked by the AFP/ASIO team reflected a dual agency approach, together with a number of questions specific to agency tasks and interests.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18/19 February 2002.**

- Is the AFP aware of allegations of impropriety involving federal parliamentarians in connection?
- Does the AFP, in the conduct of its investigations, advise parliamentarians to claim parliamentary privilege?

**I am advised that the answer to the honourable Senator's question is as follows:**

- Given that the first question is unfinished and considering the context of both questions, the answer is as follows:

AFP members in the conduct of their investigations do not, as a matter of course, advise anyone about whether or not a claim of privilege should be raised. Where, however, an AFP member discovers material upon which a claim of parliamentary privilege could be raised, the member would be obliged to notify a suitable officer of the Parliament to enable proper consideration of whether or not such a claim should be made.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Payne asked the following question at the hearing of 18/19 February 2002.**

How many of those are federal police and how many of those are on their second or further deployment?

**I am advised that the answer to the honourable Senator's question is as follows:**

Forty six (46) AFP members currently serve with the 7<sup>th</sup> Australian United Nations Civilian Police Detachment in East Timor. The Detachment has a total complement of 78 members. Australian State and Territory Police Services provide a total of 27 members for the Detachment, whilst the remaining five (5) members are former AFP officers.

There are two AFP members on the current Detachment who have served in East Timor previously. The members served with the 1<sup>st</sup> East Timor Detachment in 1999.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

In relation to the Review of the NCA:

- Has the AFP been consulted as part of the review of the National Crime Authority undertaken by Mick Palmer and Tony Blunn?
- If not consulted, has the AFP been contacted in relation to the review?

**I am advised that the answer to the honourable Senator's question is as follows:**

The AFP was consulted as part of the review. During the course of the review, the reviewers consulted Commissioner Keelty on three occasions and the General Manager Policy and Commercial, Mr Chris Whyte, on one occasion. The Director Policy, Mr Peter Jones, was invited by the reviewers to sense check the final draft of their report.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

Has the AFP provided any input to the review?

**I am advised that the answer to the honourable Senator's question is as follows:**

Yes, as outlined in the answer to QoN 69.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of  
18/19 February 2002.**

Have any discussions taken place – with the reviewers or internally – about the review?

**I am advised that the answer to the honourable Senator's question is as follows:**

See the answer to QoN 69.



SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

- Was a committee of AFP personnel formed to feed into the review process?
- If so, who was on it and what did they discuss?
- Were there any submissions to the review?

**I am advised that the answer to the honourable Senator's question is as follows:**

No. The AFP did not form such a committee.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

If there was not a special committee formed for the purpose, has the issue of the future of the NCA been considered by the working group of AFP and Australian Protective Services personnel set up to facilitate the proposed merger of those two organisations?

**I am advised that the answer to the honourable Senator's question is as follows:**

No. The working group is tasked with looking at the question of facilitating the APS to become an operating division of the AFP.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

In relation to the forthcoming summit on terrorism, has the AFP provided any input to preparations for the summit, including the agenda?

**I am advised that the answer to the honourable Senator's question is as follows:**

Yes. The AFP has participated in an Inter-departmental Committee chaired by the Department of the Prime Minister and Cabinet that developed papers for discussions at officials level with the States and Territories regarding the agenda for the Leaders' Summit. The AFP has also participated in Commonwealth, State and Territory deliberations convened by the Attorney-General's department.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

Given that the summit will look at the future shape of anti-terrorism efforts in Australia, has the AFP prepared any policy papers or other documents setting out its vision?

**I am advised that the answer to the honourable Senator's question is as follows:**

The AFP discussed its role in the national anti-terrorist arrangements in its written and oral input to the Review of Australia's Counter-Terrorist Arrangements conducted by the Secretary of the Attorney-General's Department in October 2001.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

The NCA has special powers and is subject to special scrutiny by a parliamentary committee, what special scrutiny could be provided were the NCA to be incorporated into the AFP?

**I am advised that the answer to the honourable Senator's question is as follows:**

The Minister for Justice and Customs ruled out a merger of the AFP and NCA in a media release dated 10 March 2002.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

In relation to the Building Industry Royal Commission :

Are any AFP personnel involved in the operations being conducted by the Building Royal Commission?

**I am advised that the answer to the honourable Senator's question is as follows:**

No joint operations have been or are being conducted between the AFP and the Royal Commission. Only those AFP employees who have been seconded to the Commission under the terms of a Memorandum of Understanding (MOU) are involved in operational matters. That MOU has been agreed to and signed by both the AFP Commissioner and the Commissioner for the Royal Commission.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following questions at the hearing of 18/19 February 2002.**

- a) Have any AFP personnel been seconded to the Royal Commission?
- b) How many?
- c) If there are no secondment arrangements, how would you describe the arrangements?

**I am advised that the answers to the honourable Senator's questions are as follows:**

- a) Yes.
- b) Nine.
- c) Not applicable (given above responses).

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

Are the way costs of personnel who have been so seconded (or otherwise been utilised) being paid by the Building Royal Commission – ie. Out of the \$60 million which has been appropriated to fund the Building Royal Commission?

**I am advised that the answer to the honourable Senator's question is as follows:**

Yes.



SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

What is the total value of the AFP's contribution to the Royal Commission?

**I am advised that the answer to the honourable Senator's question is as follows:**

As at 28 February 2002 the costs incurred by the AFP through the secondment of employees to the Royal Commission totalled \$218,002. This figure includes salaries, leave, superannuation and other allowances for the deployment of personnel to Melbourne.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

[If there is to be/has been a payment from the Royal Commission to the AFP]

- When will the transfer from the Building Royal Commission to the AFP occur?

**I am advised that the answer to the honourable Senator's question is as follows:**

The first invoice relating to costs incurred by the AFP to 28 February 2002 (see response to QoN Number 81) will be despatched to the Royal Commission on 20 March 2002. Subsequent billing will occur monthly pursuant to the terms of the Memorandum of Understanding.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

How many officers or employees have been involved with the Building Industry Royal Commission and what are their ranks or positions in the AFP?

**I am advised that the answer to the honourable Senator's question is as follows:**

There are nine secondees at the following levels:

- 1 x SES Officer
- 1x Grade 16
- 3 x Grade 12
- 4 x Grade 10

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following written question on notice following the hearing of 18/19 February 2002.**

When it commenced dealing with Mr Enniss as a paid informant, did the AFP have knowledge as to whether he was or had been involved in people-smuggling activities?

**I am advised that the answer to the honourable Senator's question is as follows:**

The AFP is not aware of any actions taken by Mr Enniss that constitute criminal activity in Indonesia, nor is it aware that Mr Enniss was involved in the actual smuggling of people into Australia.

At the commencement of the AFP's relationship with Mr Enniss the AFP was aware that Mr Enniss moved in a circle of friends and associates who were either closely linked to persons, or were themselves involved, in people smuggling.

The AFP is investigating allegations made in relation to Mr Enniss's alleged actual involvement in people smuggling.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following written question on notice following the hearing of 18/19 February 2002.**

What people-smuggling activities on the part of Kevin John Enniss is the AFP aware of, and what are the dates of such activities?

**I am advised that the answer to the honourable Senator's question is as follows:**

The AFP is aware that Mr Enniss moved in the same circles as people smugglers and provided information in relation to those activities. The AFP is not aware of any actions taken by Mr Enniss that constitute criminal activity in Indonesia, nor is it aware that Mr Enniss was involved in the actual smuggling of people into Australia.

The AFP is investigating allegations made in relation to Mr Enniss's alleged involvement in people smuggling.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following written question on notice following the hearing of 18/19 February 2002.**

Did Mr Enniss maintain an involvement in people-smuggling activities during and/or after the period in which he accepted money from the AFP?

**I am advised that the answer to the honourable Senator's question is as follows:**

The AFP is aware that Mr Enniss moved in the same circles as people smugglers and provided information in relation to those activities. The AFP is not aware of any actions taken by Mr Enniss that constitute criminal activity in Indonesia, nor is it aware that Mr Enniss was involved in the actual smuggling of people into Australia.

The AFP is investigating allegations made in relation to Mr Enniss's alleged actual involvement in people smuggling.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18/19 February 2002**

What specific activities is the AFP empowered to authorise in another jurisdiction?

**I am advised that the answer to the honourable Senator's question is as follows:**

The question, as framed, is very broad. However, in an endeavour to assist the Committee the following response is provided.

In general terms and in context with the Committee's line of enquiry regarding the smuggling of people into Australia from Indonesian territory, the AFP has no power to authorise conduct by other persons that is unlawful in an overseas jurisdiction, nor can it authorise activity in an overseas location if it would be subject to criminal sanction within Australia.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18/19 February 2002.**

Can the AFP authorise in another jurisdiction activities that are criminal offences under Australian Law? Does it do so?

**I am advised that the answer to the honourable Senator's question is as follows:**

No.

No.



SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18/19 February 2002.**

Does Australian legislation making people smuggling a criminal offence have extra-territorial application?

**I am advised that the answer to the honourable Senator's question is as follows:**

The provisions making people smuggling an offence are found in Subdivision A of Division 12 of Part 2 of the *Migration Act 1958*. Section 228A of that Act states that "This Subdivision applies in and outside Australia".

The AFP engages a number of people within Indonesia as informants. Their supervised role is to make known the identity of, and methods used by, persons involved in the transit of suspect unlawful non citizens (SUNCS) throughout Indonesia, including boat departures from Indonesia destined for Australia. Relevant informant information is then passed to Indonesian authorities so that SUNCS are either;

1. intercepted in Indonesia,
2. prevented from boarding boats destined for Australia, or
3. returned to shore if detected in Indonesian waters en route to Australia.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18/19 February 2002.**

Commissioner Keelty referred at the 19 February 2002 Additional Estimates hearing to “controlled operations legislation” (p. 146). To which statute(s) was Mr Keelty referring? Does this legislation have extra-territorial application?

**I am advised that the answer to the honourable Senator’s question is as follows:**

The controlled operations provisions of the Crimes Act 1914.

The Crimes Act 1914 is expressed as applying throughout the whole of the Commonwealth and the Territories and also beyond the Commonwealth and the Territories: Section 3A.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN FEDERAL POLICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following questions at the hearings of 18/19 February 2002.**

In relation to informants reporting on criminal activities, Commissioner Keelty stated at the 19 February 2002 Additional Estimates hearing that “they are not authorised to engage in criminal activity about which we have no knowledge – remembering again that the criminal activity referred to gets into that area of ambiguity about the laws in Indonesia and the laws in Australia” (p. 145).

1. To what extent are informants “authorised” to engage in criminal activity about which the AFP *does* have knowledge?
2. How is the general rule on this matter applied to informants situated outside Australia?
3. How is the rule further adapted to accommodate a situation where the relevant activity is a criminal offence in Australia, but not in the country where the informant is located?
4. For parts (1)-(3) above, is the “rule” grounded in legislation, case law or merely practice?
5. How were the rules referred to in paragraphs (1)-(3) above applied in the specific case of Mr Enniss?
6. Which Indonesian sources provided the AFP with information about Mr Enniss’s involvement in people-smuggling activities?
7. What was this information, and when was it provided?
8. Who within the Australian Embassy in Jakarta was provided with this information, apart from the AFP, and when?
9. Which agencies in Canberra apart from the AFP were provided with this information and when?

**I am advised that the answers to the honourable Senator’s questions are as follows:**

1. They are not authorised.
2. There is no difference
3. The AFP does not require informants to commit criminal offences.

4. Legislation and practice.

5. As an informant, Mr Ennis was tasked by the AFP to provide information on people smuggling activities. At no time was he authorised by the AFP to commit any offences under Australian or Indonesian law.

6. Following the "Sunday" program I directed an immediate comprehensive internal investigation of AFP involvement in this matter, including the involvement of any AFP officers who dealt with Mr Ennis overseas. I will be in a better position to answer this question when the outcome of the investigation is known.

7. See answer to question 6 above.

8. See answer to question 6 above.

9. See answer to question 6 above.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN CUSTOMS SERVICE  
QUESTION ON NOTICE

**Senator Ludwig asked the following question at the hearing of  
19 February 2002:**

In relation to the Enniss matter were you (ACS) involved in that operation at all?

**I am advised that the answer to the honourable Senator's question is as follows:**

No. The Australian Customs Service had no involvement in the Australian Federal Police (AFP) Operation involving Mr Kevin Enniss. Customs has no record of any involvement with the AFP operation. The AFP has confirmed in writing that there is no evidence that their relationship with Mr Enniss was ever divulged to Customs.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN CUSTOMS SERVICE  
QUESTIONS ON NOTICE

**Senator Collins asked the following question at the hearing of 19 February 2002:**

- a) Which meetings of the Task Force (chaired by Ms Halton) did ACS attend and who attended them?
- b) Can you clarify...(whether the letter was received from Mr Moore-Wilton or from Ms Bryant)?

**I am advised that the answer to the honourable Senator's question is as follows:**

- a) Customs officers attended a series of meetings variously described as the People Smuggling Task Force, Interdepartmental Committee, High Level Reference Group or Tampa Task Force. Most but not all of these meetings were chaired by Ms Halton. The schedule of meetings and attendance set out below has been compiled from a range of sources and while every effort has been made to make it as accurate as possible errors and omissions are possible in the period to 11 September 2001.
- b) The CEO received, under a Compliments Slip from the Department of the Prime Minister and Cabinet, a copy of a letter from the Prime Minister to Mr Moore-Wilton and copies of a letter which Mr Moore-Wilton had written to Mr Farmer, Dr Hawke and Admiral Barrie. Separately, Mr Drury received a letter (dated 13 December 2001) from Ms Bryant.

**Further information regarding images**

In addition to the 18 images already reported to the Committee, ongoing searches have identified the following:

- In addition to the images of SIEVs (including seven of SIEV 4) received from Defence on 29 October 2001, Customs received seven additional images of SIEV 4. All of these additional images were taken prior to the vessel's sinking on 8 October 2001.

Of the seven additional images, one was received from AFP on 11 October, and had originated from HMAS ADELAIDE. This photograph was not distributed outside Customs. The other six photographs were taken by RAAF P3C on 6 October 2001. All of these six images were received from Defence's HQNORCOM, four on 7 October and two on 5 November 2001. The four images received on 7 October were onforwarded to Mr Ken McArthur, the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) Principal Migration Officer Compliance in Jakarta, on 7 October 2001. One of the four images was onforwarded to Ms Karen Dundas, DIMIA Canberra, on 8 October 2001. The distribution of these photographs was in accordance with agreed information exchange protocols between Coastwatch and Coastwatch clients.

## People Smuggling Taskforce Meeting Dates and Attendance

<b>Aug 2001</b>	24 MB, MG, JH (1)		16 JD, MB
	27 MB, LBW		19 JD, MB
	28 MB, MG		20 JD, MB
Sep 2001	06 MG		22 JD, IE
	07 MG, IE		23 JH, IE
	08 (3.00pm) JH, IE, RS (6.30pm) JH, MB		25 JD, MB
	09 MB, JH.		29 JD, MB
	10 (am) JHO, RS (pm) JD, MB	Nov 2001	01 JH, MB
	11 JD, MB, IE		05 JD, MB
	12 JD, IE		08 JD, MB
	13 JD, IE		09 JD, MB
	15 JD, IE		13 JD, MB
	17 JD, MB		14 JD, MB, KJ
	18 JD, MB, IE		15 JD, MB
	19 JD, MB		21 JD, MB
	20 JD, MB		23 JD, MB
	21 JD, MB		27 JH, MB
	24 JD, IE		29 JH, IE
	25 JD, IE	Dec 2001	04 JD, MB
	26 JD, MB		11 JD, MB
	27 JD, MB		21 JD, MB
	28 JD, IE	Jan 2002	08 JH, MB
Oct 2001	02 JD, IE		31 JH, SD
	03 JD, MB	Feb 2002	12 JH, SD
	04 JD, MB	Mar 2002	04 JD, MB, JH
	09 JD, MB		12 JD, SD, JH
	10 JD, MB		
	11 JD, MB		
	12 JD, MB		

LBW **Lionel Woodward**

JD **John Drury**

JH **John Hawksworth**

MB **Mark Bonser**

MG **Marion Grant**

JHO **John Howard**

SD **Simon Dowse**

KJ **Keith Johnson**

RS **Rod Stone**

IE **Ian Errington (2)**

**Footnote:**

(1) Records between 27 August 2001 and 11 September 2001 are incomplete.

There may be errors and omissions in this part.

(2) Ian Errington is no longer a Customs Officer.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN CUSTOMS SERVICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following questions at the hearing of 19 February 2002:**

The committee would appreciate...any information in relation to... the recruitment exercises ...involving Saville and Holdsworth P/L?

**I am advised that the answer to the honourable Senator's question is as follows:**

In response to the government's decision on the foot and mouth disease problem, Customs Trainees were recruited in New South Wales, Victoria, Queensland, Western Australia and South Australia. Other more senior positions were filled by reassignment in New South Wales, the Australian Capital Territory and Northern Territory.

Saville and Holdsworth P/L were not involved in the foot and mouth disease recruitment exercises. In May 2001, when recruitment action began, Customs was evaluating tenders for a national recruitment services contract, which was advertised in February 2001 as an open tender. Eight tenderers were assessed through a value for money evaluation procedure.

Customs went to open tender for recruitment services as a replacement for entry level recruitment services which had previously been provided by Recruitment Services Australia.

On 19 November 2001, a contract was entered into between the Australian Customs Service and Saville and Holdsworth P/L for recruitment and selection services. The contract value was estimated at \$2 million over 2 years, depending on the level of recruitment activity, with an option to renew for a further two years. The range of exclusive services provided under the contract include advertising of vacancies, contact with applicants, recruitment administration, information management and reporting, online screening tools and design and delivery of Customs entry level testing and assessment. Optional services under the contract include recruitment strategy advice, short-listing/interview panel member services and testing and assessment services for above base level recruitment.

Several companies were used in the May/June recruitment exercises to recruit new staff for the response to the foot and mouth disease problem. The services ranged from administration to testing and assessment.



SENATE ESTIMATES COMMITTEE  
AUSTRALIAN CUSTOMS SERVICE  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 19 February 2002:**

Could you provide the committee, on notice, with the details of other such items that are produced as marketing, as rewards or as promotional material by the ACS?

**I am advised that the answer to the honourable Senator's question is as follows:**

The approximate value of items distributed each year to promote or encourage the use of Customs two community participation programs, Customs Watch and Frontline, and as rewards to those who have provided useful information is \$80,000 - \$90,000.

The major items handed out have been basketballs, brochures, caps, clocks, flag charts, footballs (AFL and NRL), fridge magnets, key rings, mouse mats, mugs, notepads, pens, plaques, plastic bags, postcards, rulers, stickers and sunglass straps.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN CUSTOMS SERVICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 19 February 2002:**

What happens if you find that they do not have a permit? What do you do then? Do you take any action or do you refer it back to the Department of Transport (and Regional Services)?

**I am advised that the answer to the honourable Senator's question is as follows:**

As part of the usual ships clearance procedures the Australian Customs Service requires to sight a valid Single Voyage Permit or Continuing Voyage Permit before allowing a vessel to take on board domestic cargo. If there was no permit the vessel would not be permitted to take on board the domestic cargo. In such an event, it would then be a matter for those responsible for the operation of the ship to contact Department of Transport and Regional Services to seek a Permit.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN CUSTOMS SERVICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 19 February 2002:**

Re the CSL Pacific, has the ACS boarded it, have you monitored it, are you aware of whether it has a CV to operate?

**I am advised that the answer to the honourable Senator's question is as follows:**

Yes, the Australian Customs Service has boarded the vessel on 6 occasions since its arrival in Adelaide on 8 October 2001. Customs has recorded each movement of the vessel, including domestic arrivals and departures. As part of the documentation provided to Customs for perusal at each port of arrival is a copy of the Continuous Voyage Permit issued by the Department of Transport and Regional Services.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN CUSTOMS SERVICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 19 February 2002:**

Has the *CSL Yarra* a permit to operate?

**I am advised that the answer to the honourable Senator's question is as follows:**

The Australian Customs Service is advised that the *CSL Yarra* is an Australian registered and crewed vessel and does not require a Department of Transport and Regional Services permit to carry domestic cargo.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN CUSTOMS SERVICE  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 19 February 2002:**

Re the issues surrounding the *CSL Pacific*:

- (a) When did it arrive?
- (b) Did you check whether or not it had a continuous voyage permit, and if you did check, what information did you have on hand about it?
- (c) Were you notified about it operating in Australian waters, and what have you done about it?
- (d) Did you check with the Department (of Transport and Regional Services) about whether or not it had a continuous voyage permit and what date it was?
- (e) What subsequent action did you then take?
- (f) How long can it operate if it does not have a permit before you decide, in principle, whether you are going to follow up the vessel and issue a 49A?

**I am advised that the answer to the honourable Senator's question is as follows:**

- (a) The *CSL Pacific* arrived in Adelaide on 8 October 2001.
- (b) Yes, the vessel was checked and boarded on 8 October 2001. A Continuing Voyage Permit was issued by Department of Transport and Regional Services on 2 October 2001 and is valid until 2 April 2002 and this was provided to Customs. As part of the normal clearing procedures, Customs was provided with all relevant documents pertaining to the ship, its crew and cargo.
- (c) See answer to (b) above.
- (d) No. A check with DOTRS was unnecessary as a CVP was produced.
- (e) The vessel is cleared at each port in line with normal Customs practices. It is then free to go about its business.
- (f) This does not arise as the vessel has a CVP until 2 April 2002.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT – OUTPUT 1.6  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 19 February 2002:**

Page 67 of the annual report, under the heading 'Copyright', reads:

Other recommendations are under active consideration. That is, recommendations from the *Report on the jurisdiction and procedures of the Copyright Tribunal*. I understand one of the recommendations was for an extra tribunal member and that has been picked up. Can you give me a short brief about where you are up to in respect of what active consideration of these remaining recommendations actually means. I am quite happy to take that on notice if you want to come back and detail what is happening on each of those recommendations and where you are up to.

**I am advised that the answer to the honourable Senator's question is as follows:**

The Attorney-General's Department has examined the recommendations of the Copyright Law Review Committee's *Report on the Jurisdiction and Procedures of the Copyright Tribunal* and is well advanced in drafting a suggested Government response to the Report.

The suggested Government response will be finalised in consultation with the Department of Communications, Information Technology and the Arts. The relevant Ministers will then consider the proposed response and appropriate action will be taken.

As recognised in the question, the Committee's recommendations in relation to the membership of the Copyright Tribunal have already been implemented. An additional presidential member, Justice Emmett, and non-presidential member, Ms Rhonda Smith, were appointed to the Tribunal in April 2001. Consistent with the Committee's recommendation the new non-presidential member has relevant industry experience, having expertise in economics and a background in copyright.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18 February 2002:**

What is the staff turnover in the Human Rights branch? Has there been continual movement?

**I am advised that the answer to the honourable Senator's question is as follows:**

As at 1 June 2001 there were 8 staff holding on-going positions in the Branch. Of these, one was seconded to a Parliamentary Committee secretariat, another holding an on-going position had leave under the *Members of Parliament (Staff) Act 1984* to work in the Attorney-General's Office, and a third was on a Graduated Return to Work Program in another area of the Department. At the same time there were 5 other staff engaged in the Branch on a non-ongoing basis.

Of the 8 on-going staff, as at 31 December 2001, 6 remained on-going staff of the Branch. As to the difference, one had been promoted to another area of the Department (having first worked in the other Branch of the Division dealing with human rights matters) and the other had transferred to another area of the Department upon return from secondment to the Parliamentary Committee. Of the 6 remaining on-going staff, one continued to be on leave under the Members of Parliament (Staff) Act, one continued to be on a Graduated Return to Work Program in another area of the Department, and one was on higher duties in another area of the Department.

Of the 5 staff who had been engaged in the Branch on a non-ongoing basis as at 1 June 2001, 3 remained with the Branch and had become on-going staff of the Branch.

As at 31 December 2001, there were an additional 7 staff working in the Branch (1 ongoing in the Branch and 6 non-ongoing in the Branch). A further 2 people had on-going positions in the Branch. Both were on leave without pay accompanying partners overseas.

It is worth noting that, following recruitment action earlier in the year, as at the end of March 2002 there are 12 staff working in the Branch who hold ongoing positions in the Branch and a further 3 staff engaged in the Branch on a non-ongoing basis.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT – OUTPUT 1.1  
QUESTIONS ON NOTICE

**Senator Cooney asked the following question at the hearing of 19 February 2002.**

How many instances over the years would you have where the complaint was between, in effect, two citizens - whether the citizen was a corporation or not – where the matter ended up in Geneva? Have they been resolved?

**I am advised that the answer to the honourable Senator's question is as follows.**

International human rights instruments typically establish obligations for State Parties to the instrument. As such, all complaints to treaty bodies, no matter what their origin, are essentially a complaint about the actions (or inaction) of a State Party rather than a dispute between citizens.

Four of the communications lodged against Australia under the International Covenant on Civil and Political Rights (ICCPR) have had their genesis in a civil dispute. However, the complaint made to the UN Human Rights Committee in each case was that Australia had failed to ensure that the complainant had been guaranteed a fair hearing. All four of the communications were found by the Committee to be inadmissible.

One current communication under the ICCPR had its genesis in a complaint against a corporation of age discrimination. However, the complaint made to the Human Rights Committee was that the Commonwealth Government had failed to prohibit such discrimination. This matter is awaiting decision by the Committee.



SENATE ESTIMATES COMMITTEE  
AUSTRALIAN PROTECTIVE SERVICE  
QUESTIONS ON NOTICE

**Senator Scullion asked the following question at the hearing of 18/19 February 2002.**

In relation to the disturbance at Woomera immigration detention centre, what was the association between the proximity of the press and the detainees, i.e. did the disturbance escalate or die down after the barricades were moved?

**I am advised that the answer to the honourable Senator's question is as follows:**

The movement of the media from the old front gate to the new front gate position was effective. From the time of the move (2100hrs 26/1/2002) there were no more disturbances of the type experienced prior to the move. In effect, the presence of the media as an influence on the behaviour of the detainees was removed.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.3  
QUESTIONS ON NOTICE

**Senator Grieg asked the following question at the hearing of 18 February 2002:**

Does the government hold to the position that transgendered status is not a medical condition?

**I am advised that the answer to the honourable Senator's question is as follows:**

The Government agrees that persons who believe themselves to be transsexuals (that is, to be transgendered persons) may require medical assistance. However, the Government believes that special considerations apply for marriage. The Government believes that marriage under the laws of the Commonwealth means the marriage of a biological male and a biological female person. The question of gender status is crucial. The Government's view is that for the purposes of marriage, the correct test to be applied to gender status is the biological test. On application of the biological test, a man, for the purposes of marriage according to Australian law, does not include a post-operative transsexual.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT – OUTPUT 1.4  
QUESTIONS ON NOTICE

**Senator Ludwig asked the following question at the hearing of 19 February 2002.**

How often do members of the Human Rights Committee change over?

**I am advised that the answer to the honourable Senator's question is as follows.**

Article 32 of the International Covenant on Civil and Political Rights provides that:

“The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if nominated.”

Members of the Committee are frequently elected to serve more than one term.

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN PROTECTIVE SERVICE - OUTPUT 2.6  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

What was the total cost of APS support provided to DIMIA?

**I am advised that the answer to the honourable Senator's question is as follows:**

The total cost to DIMIA for APS support for the period 1 January 2001 – 31 January 2002 is as follows:

<b>Location</b>	<b>Cost</b>
Curtin / Derby Immigration Detention Centre	\$220,222.47
Port Headland Immigration Detention Centre	\$120,028.05
Woomera Immigration Detention Centre	\$683,917.05
Christmas Island	\$102,234.09
Nauru Island	\$997,491.07
Manus Island	\$94,483.56
<b>Total Cost to DIMIA</b>	<b>\$2,218,376.29</b>

SENATE ESTIMATES COMMITTEE  
AUSTRALIAN PROTECTIVE SERVICE  
QUESTION ON NOTICE

**Senator Ludwig asked the following question at the hearing of 18/19 February 2002:**

How many times in the last three years has the APS used subsection 12 (2)(C) of the Commonwealth Public Order (Protection of Persons and Property) Act 1971?

**I am advised that the answer to the honourable Senator's question is as follows:**

The Australian Protective Service (APS) has made 146 arrests in the last 3 years. Of these arrests, 133 were made under section 12(2) (c) of the Commonwealth Public Order (Protection of Persons and Property) Act 1971.

Under the Australian Protective Service Act 1987, initial arrests made by the APS are forwarded to the relevant State Police or to the Australian Federal Police to determine if an offender will be charged and if so under which Act.

The Commonwealth DPP has prosecuted 35 people for offences under subsection 12(2) (c) of the Commonwealth Public Order (Protection of Persons and Property) Act 1971. The AFP has referred all 35, but it is not possible to determine which of those have been related to an arrest made by the APS.

SENATE ESTIMATES COMMITTEE  
 ATTORNEY-GENERAL'S DEPARTMENT  
 OUTPUT 1.3  
 QUESTIONS ON NOTICE

**Senator McKiernan tabled the following question at the hearing of 19 February 2002.**

Can the Department provide an update of spending on the Law by Telecommunications Project to date.

**I am advised that the answer to the honourable Senator's question is as follows:**

The following expenditure has been incurred on the Law by Telecommunications project to 28 March 2002:

Call centre operation	\$1,489,540
Regional Law Hotline Service Providers	\$702,000
Call centre establishment	\$468,690
Database development	\$414,627
Scoping study and development of generic model	\$127,191
Promotion	\$93,860
Project management	\$93,734
Database content development	\$92,847
Database enhancement	\$35,832
Online directory development	\$20,713
Regional Law Hotline establishment	\$7,359
Reference Group	\$5,440
Legal costs	\$1,464
<b>Total</b>	<b>\$3,553,297</b>

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.3  
QUESTIONS ON NOTICE

**Senator McKiernan tabled the following question at the hearing of 19 February 2002.**

What is the amount of expenditure in each financial year since the announcements which provide funding for the service, including the actual expenditure in 2000-2001, and also for the forward estimates for 2001-2002, 2002-2003 and beyond?

**I am advised that the answer to the honourable Senator's question is as follows:**

The following expenditure by financial year has been incurred on the Law by Telecommunications project:

<b>Financial Year</b>	<b>Expenditure</b>
1998-99	\$45,874
1999-00	\$96,317
2000-01	\$1,080,303
2001-02 (to 28 March 2002)	\$2,330,803
<b>Total</b>	<b>\$3,553,297</b>

The estimated expenditure for the full year 2001-2002 is \$2,933,000.

Expenditure for 2002-2003 and beyond is subject to the Budget process.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.3  
QUESTIONS ON NOTICE

**Senator McKiernan tabled the following question at the hearing of 19 February 2002.**

How many people are currently employed in each of the two call centres?

**I am advised that the answer to the honourable Senator's question is as follows:**

The number of people currently employed in the two call centres including supervisor and support people, in full time equivalents, is as follows:

- Traralgon call centre - 9.2
- Bunbury call centre - 9.0



SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.3  
QUESTIONS ON NOTICE

**Senator McKiernan tabled the following question at the hearing of 19 February 2002.**

How many people are currently employed other than in call centres?

**I am advised that the answer to the honourable Senator's question is as follows:**

The number of people employed other than in call centres, measured in full time equivalents, is currently 1.0. This figure comprises people employed part-time within the Department and Centrelink.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
QUESTIONS ON NOTICE

**Senator McKiernan tabled the following question at the hearing of 19 February 2002.**

Can the Department provide information on the number of people who have been accessing the telephone service?

**I am advised that the answer to the honourable Senator's question is as follows:**

It is not possible to determine how many people have accessed the telephone service as information identifying callers is not recorded. However, from 21 June 2001 to 28 February 2002 a total of 14,823 calls were handled by the telephone service. There were also 43,550 visits to the associated website.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.3  
QUESTIONS ON NOTICE

**Senator McKiernan tabled the following question at the hearing of 19 February 2002.**

What is the average staffing level in each month since the telephone service commenced?

**I am advised that the answer to the honourable Senator's question is as follows:**

The average staffing level in each month since the telephone service commenced is as follows:

Month	Call centre staffing in full time equivalents
July 2001	40.7
August 2001	31.0
September 2001	33.4
October 2001	32.0
November 2001	27.0
December 2001	25.2
January 2002	21.6

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.3  
QUESTIONS ON NOTICE

**Senator McKiernan tabled the following question at the hearing of 19 February 2002.**

How many calls has the telephone service handled in each month since the telephone service commenced?

**I am advised that the answer to the honourable Senator's question is as follows:**

The following calls have been handled each month to 31 December 2001 since the telephone service commenced on 21 June 2001:

Month	Calls handled
June 2001	330
July 2001	1,001
August 2001	1,599
September 2001	1,634
October 2001	2,258
November 2001	2,112
December 2001	1,788

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.3  
QUESTIONS ON NOTICE

**Senator McKiernan tabled the following question at the hearing of 19 February 2002.**

What is the average duration of each telephone inquiry?

**I am advised that the answer to the honourable Senator's question is as follows:**

The average duration of telephone calls answered by call centre customer support officers for the period 21 June 2001 to 28 February 2002 was 8 minutes.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.3  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

Have there been any grants under the Expensive Criminal Cases Fund since last estimates?

- If so, to which State were grants made, for which classes of offences, and what was the amount of each grant?
- Are the grants keeping pace with the amount that has been budgeted for the Expensive Criminal Cases Fund?
- Have any amounts been rolled over from year to year because there has been underspending of the fund?

**I am advised that the answer to the honourable Senator's question is as follows:**

There have been 8 grants made from the Expensive Criminal Cases Fund totalling \$1,143,368 since the last estimates. A further \$300,000 was committed but was returned to the Fund when the relevant case did not proceed.

- The grants paid from the Fund were as follows:

March 2001	Northern Territory – people smuggling offences - \$217,228
June 2001	Northern Territory – people smuggling offences - \$42,340
June 2001	Northern Territory – drug offences - \$20,300
September 2001	ACT – espionage offences - \$240,000
September 2001	ACT – espionage offences - \$140,000
September 2001	Jervis Bay Territory* – criminal offences - \$50,000
September 2001	Northern Territory – customs and drug offences - \$233,500
September 2001	Tasmania – fraud offences - \$200,000.

- \* This payment was made in recognition of the fact that, at present, no legal aid commission has jurisdiction to provide legal aid services in the Jervis Bay Territory. (Jervis Bay is a non-self governing territory and the Commonwealth has an obligation to ensure that residents of the Territory have access to legal assistance services). The case involved a number of Aboriginal co-defendants who were not able to be assisted by the South Eastern Aboriginal Legal Service due to a conflict of interest. The issue of legal aid services provision in Jervis

Bay is being considered in the context of the provision of services generally in the Territory. In the meantime, arrangements have been made with the Shoalcoast Community Legal Centre in Nowra for the provision of legal assistance for the Jervis Bay Territory.

- So far the grants have been less per annum than budgeted for in the Fund. However, the Fund was established to cater for expensive Commonwealth cases which arise on an ad hoc and therefore unpredictable basis. The Fund was established with \$9m over 4½ years rather than being required to adhere to a strict annual budget.
- The amounts rolled over in the fund were \$510,000 in 1999-00 and \$2,160,132 in 2000-01.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.3  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002:**

In relation to Community Legal Centres:

- What is the status of the review of community legal centres?
- In which state has the review been completed?
- In which states is it yet to occur?
- What is the timetable for conducting and completing the review in those states?

**I am advised that the answer to the honourable Senator's question is as follows:**

- The review of the Commonwealth's Community Legal Services Program is partially complete.
- Reviews have been completed in Queensland, South Australia and Victoria.
- Reviews are in the preliminary stages in New South Wales and Western Australia. It is not intended to review centres in Tasmania, the ACT or the Northern Territory at this time.
- In relation to the review in New South Wales, the parties who will participate on the review steering committee met at the end of February in order to discuss issues relevant to the review. It is then anticipated that the review will be completed by December 2002.

In relation to Western Australia, the Attorney-General has written to the Western Australian Attorney-General to settle the final terms of reference. The steering committee has met three times to settle arrangements for progressing the review. The review should take approximately six months to complete once the terms of reference are finalised.



SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.3  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

The forward legislative programme shows that there will be further amendments to the Family Law Act this year. Can you describe what the Family Law Amendment Bill will address?

**I am advised that the answer to the honourable Senator's question is as follows:**

The *Family Law Amendment Bill 2002* will:

- clarify the relationship between bankruptcy and family law;
- clarify property settlement and spousal maintenance provisions;
- provide for the court to have jurisdiction to bind third parties; and
- make a range of other amendments to improve the operation of the Act.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.3  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

There is an amount of \$0.692m appropriated over 3 years for the reform of the marriage celebrant programme. How will that money be spent?

**I am advised that the answer to the honourable Senator's question is as follows:**

Following Cabinet's agreement to reform the Marriage Celebrants Program, supplementation was granted in order to meet the additional staff costs involved in administering the reformed Marriage Celebrants Program.

The supplementation accurately reflects the requirements of the Department to implement, monitor and maintain the reformed Marriage Celebrants Program in line with the Cabinet decision. The money will be spent on additional staffing requirements including the new position of Registrar of Marriage Celebrants.

Supplementation will commence on 1 July 2002.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.3  
QUESTIONS ON NOTICE

**Senator McKiernan asked the following question at the hearing of 18/19 February 2002.**

In the last budget, \$1 million was appropriated over four years to establish a secretariat to support the outcomes of the national pro bono taskforce.

- What progress has been made since last estimates on the establishment of that secretariat?
- Has the tender for the secretariat been awarded?
- Who were the successful tenderers?
- What are the current activities of the pro bono secretariat?

What outcomes have been achieved since the Pro Bono Conference in August 2000?

**I am advised that the answer to the honourable Senator's question is as follows:**

In its report of 14 June 2001 to the Attorney-General, the Task Force recommended the establishment of a Pro Bono Resource Centre, rather than a Pro Bono Secretariat. The Attorney-General accepted the recommendation and proposals for the establishment of the Centre were sought through advertisements placed in major newspapers on the weekend of 28 and 29 July 2001. The final date for submitting proposals was 28 September 2001. The proposal from a consortium headed by the Public Interest Advocacy Centre (PIAC) of NSW was accepted as the preferred applicant prior to the calling of the election. The Attorney-General announced the selection of PIAC on 2 November 2001.

Draft Agreements were provided to PIAC in December 2001. Negotiations have progressed with a view to concluding a contract for establishing the Centre in March 2002.

The successful proposal for the Centre was submitted by a consortium comprising:

The Public Interest Advocacy Centre NSW  
The Public Interest Law Clearing House Victoria  
University of NSW  
National Association of Community Legal Centres  
Law Society of Western Australia.

As the Resource Centre is still to be established, there are currently no activities to report.

Outcomes following the August 2000 Pro Bono Conference have been tied in with the establishment of the National Pro Bono Task Force by the Attorney-General in October 2000.

The Task Force submitted its report in June 2001 providing a Recommended Action Plan for the Attorney-General's consideration. The key recommendation was the establishment of a National Pro Bono Resource Centre to promote access to high quality pro bono services. The Centre will also play a key role in achieving the other outcomes proposed in the Task Force's proposed action plan. These actions are:

- producing a best practice handbook for managing pro bono law;
- supporting client focussed research;
- developing national professional practice standards for pro bono legal services; and
- fostering a strong pro bono culture in Australia.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 1.4  
QUESTIONS ON NOTICE

**Senator McKiernan tabled the following question at the hearing on 19 February 2002**

The Annual Report states "The Department continued to lead an interdepartmental task force relating to the Statute of the International Criminal Court." (p.91)

- What have been the outcomes of that task force?
- What is the present status of the Department's work on the International Criminal Court?
- When can we finally expect to see the legislation introduced?
- What has been the cause of the delay?
- What further obstacles are there to the enactment of the ICC legislation?

**I am advised that the answer to the honourable Senator's question is as follows:**

The task force addressed numerous issues that required resolution in the preparation of the draft legislation to implement the Statute of the International Criminal Court into Australian law.

The Department co-ordinated the development of exposure drafts of the legislation, which were approved by the Attorney-General and provided to the Joint Standing Committee on Treaties on 30 August 2001.

The Joint Standing Committee on Treaties did not complete its inquiry into the Statute before the election in November 2001. It is not known at this stage when the committee will complete its inquiry.

While the Government has prepared legislation to enable ratification, consistent with its strong support for the establishment of the Court, it will carefully consider the recommendations of the Treaties Committee before taking any further steps to bind Australia to the terms of the Statute.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 2.1  
QUESTIONS ON NOTICE

**Senator Harradine asked the following question at the hearing of 19 February 2002:**

Why have there been no prosecutions under the new Slavery and Sexual Servitude legislation?

**I am advised that the answer to the honourable Senator's question is as follows:**

- The *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999* (the Act) came into force on 21 September 1999. The Act modernised Australia's slavery laws and addressed the growing and lucrative international trade in people for the purposes of sexual exploitation. The offences are directed at slavery, sexual servitude and deceptive recruiting with an international connection.
- Since the inception of the Act the AFP has received 11 referrals. No referrals for prosecution have been made to date as the majority of the matters did not disclose a case to answer and/or did not disclose a case with reasonable prospects of securing a conviction. Currently two matters are still with the AFP.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 2.1  
QUESTIONS ON NOTICE

**Senator Harradine asked the following question at the hearing of 19 February 2002:**

What funding has been provided for the implementation of this law?

**I am advised that the answer to the honourable Senator's question is as follows:**

Funding for investigation of offences under the Act is absorbed into relevant law enforcement agency budgets and it is not possible to quarantine amounts marked for investigating or prosecuting offences under a specific Act's provisions.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 2.1  
QUESTIONS ON NOTICE

**Senator Harradine asked the following question at the hearing of 19 February 2002:**

What level of priority is sexual servitude/ trafficking in women for prostitution for the Australian Federal Police?

**I am advised that the answer to the honourable Senator's question is as follows:**

The Australian Federal Police (AFP) must ensure that its resources are directed to the matters of highest priority and the decision to accept or reject matters for investigation is based on this precept. All matters are evaluated in accordance with a Case Categorisation and Prioritisation Model, which considers the nature of alleged crime, the impact of the criminality involved, and the resources required for the AFP to investigate the matter. Each reported matter is assessed against all other newly reported matters and ongoing investigations. The decision to investigate a particular matter is made by an Operations Monitoring Centre, which assigns resources to the investigation and monitors its progress.

- Allegations of slavery and sexual servitude offences receive close attention.
- The AFP is currently assessing a strategy to initiate joint programs with State/Territory police services, DIMIA and other agencies to identify problem areas and obtain intelligence and evidence to prosecute those involved in offences created by the Act. It is anticipated that the AFP overseas liaison network will be integral to this initiative.
- The AFP's international liaison officer network continues to foster strong links with other countries particularly on issues relating to sexual slavery and servitude.



SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 2.1  
QUESTIONS ON NOTICE

**Senator Harradine asked the following question at the hearing of 19 February 2002:**

Has the re-structuring of the vice squad resulted in a more limited surveillance capability by specialist groups who know the workings of the sex industry?

**I am advised that the answer to the honourable Senator's question is as follows:**

- Whilst State and Territory Police Services have primary responsibility for the investigation of paedophilia activities within Australia, the AFP commitment lies with discharging its Commonwealth responsibility for international aspects through the *Crimes (Child Sex Tourism) Amendment Act 1994*.
- Although the AFP has adopted a concept of operations based on a flexible teams approach to investigations as opposed to the traditional specialist teams concept, it has not downgraded its commitment to investigating allegations of paedophilia and there has been no reduction in the AFP's capacity to undertake child sex tourism investigations. Paedophile and child sex offence investigations have been incorporated into the AFP's core business activities.
- As is the case with all other referrals to the AFP, these offences are assessed in accordance with the AFP's Case Categorisation and Prioritisation Model. When accepted for investigation, they are assigned to a team, which has a flexible number of members, depending on the requirements of the investigation.
- The flexible team based approach is used throughout the AFP very successfully including mobile drug strike teams. This approach allows the AFP to dedicate maximum resources to priority investigations. Instead of a small two-person team being involved in paedophilia investigations, the resources of any Office of the AFP can be dedicated to child sex tourism investigations if and when priorities arise.
- The AFP will continue to investigate allegations received in relation to Australians involved in paedophilia activities overseas.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 2.1  
QUESTIONS ON NOTICE

**Senator Harradine asked the following question at the hearing of 19 February 2002:**

Are Federal and State Police officers trained in responding to victims of slavery and sexual servitude, given the likely trauma that such women will have experienced?

**I am advised that the answer to the honourable Senator's question is as follows:**

Members of the AFP are trained to be aware of the impact of crime on victims and the various professional services that are available to support victims. If a victim does require professional support the appropriate agency is contacted or the victim referred to that agency. Questions relating to the nature of training delivered to members of State Police Services are best directed to the respective services.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT  
OUTPUT 2.1  
QUESTIONS ON NOTICE

**Senator Harradine asked the following question at the hearing of 19 February 2002:**

What funding is available for organisations seeking to address slavery and sexual servitude and support victims of this crime?

**I am advised that the answer to the honourable Senator's question is as follows:**

AusAID is undertaking a range of activities in the South East Asian region addressing the trafficking of women and children. Projects include addressing return and reintegration of trafficked victims; undertaking research into the most vulnerable groups; promoting better understanding between governments; defining roles best undertaken by non-government organisations and government instrumentalities; and assisting in training law enforcement officers in appropriate treatment of victims of trafficking.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT - OUTCOME 2.1  
QUESTIONS ON NOTICE

**Senator Harradine tabled the following question at the hearing on 19 February 2002.**

Will the Government ratify the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, Supplementing the UN *Convention against Transnational Organised Crime*?

What timetable does the Government have for considering this Protocol?

**I am advised that the answer to the honourable Senator's question is as follows:**

The Australian Government strongly supports the primary purpose of the *Trafficking Protocol*, which is to criminalise trafficking and to provide for international law enforcement cooperation to bring the perpetrators to justice.

Australia has enacted legislation to deal with crimes often associated with trafficking in persons, specifically on sex slavery and sexual servitude, imposing heavy penalties for those found guilty of such activities.

The Australian Government is currently examining the *Trafficking Protocol* and the possible implications for Australia.

If Australia signs the *Trafficking Protocol*, it will then be subject to a National Interest Analysis and consideration by the Joint Standing Committee on Treaties, consistent with the Government's treaty practice, prior to any action being taken to bind Australia to the terms of the *Protocol*.

SENATE ESTIMATES COMMITTEE  
ATTORNEY-GENERAL'S DEPARTMENT – OUTPUT 1.1  
QUESTIONS ON NOTICE

**Senator Cooney asked the following question at the hearing of the Employment, Workplace Relations and Education Committee of 20 February 2002:**

Is Australia presently concerned in the case before the Human Rights Committee in Geneva in reference to a matter where a person has been discriminated against on the grounds of age?

**I am advised that the answer to the honourable Senator's question is as follows:**

A single communication covering a small number of citizens has been lodged with the Human Rights Committee in Geneva alleging age discrimination in employment in a particular field. This communication was lodged under the First Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). It alleges breaches of aspects of the ICCPR. The particular case concerns former employment by a corporation. Australia has been named in the communication as it is Australia that bears the international obligations under the ICCPR. Australia lodged a response to the communication on 20 December 2001. Australia is awaiting the views of the Committee on the communication.

Senate Legal and Constitutional Legislation Committee

**Attorney-General's Portfolio**

Questions on notice from Additional Estimates Hearing 18-19 February 2002

Question No.	Hansard Page No.	Reply received
<b>MONDAY 18 FEBRUARY 2002:</b>		
<b>Hansard questions on notice</b>		
1.	6	28 March
2.	6	28 March
3.	7	5 April
4.	8	28 March
5.	10	28 March
6.	11	7 April
7.	13	28 March
8.	17	28 March
9.	19	4 April
10.	19	7 April
11.	22	7 April
12.	29	8 April
13.	33	28 March
14.	33	28 March
15.	35	28 March
16.	35	4 April
17.		26 March
18.	41	26 March
19.	47/48	25 March
20.	50	25 March
21.	59	4 April
22.	60	4 April
23.	68	5 April

<b>Question No.</b>	<b>Hansard Page No.</b>	<b>Reply received</b>
24.	68	5 April
25.	70	4 April
26.	70	4 April
27.	73/74	4 April
28.	79	10 April
29.	85	4 April
30.	85	4 April
31.	85	4 April
32.	86	4 April
33.	94	4 April
34.	97	28 March
35.	99	28 March
36.	100	28 March
37.	102	4 April
38.	105	4 April
<b>Written Questions on Notice</b>		
39.		28 March
40.		28 March
41.		28 March
<b>Hansard Questions on Notice</b>		
42.	106	26 March
43.	107	26 March
44.	107	26 March
45.	107	26 March
46.	109	22 March
47.	118	4 April
48.	120	10 April
49.	120	10 April
50.	121	10 April

Question No.	Hansard Page No.	Reply received
<b>TUESDAY 19 FEBRUARY 2002:</b>		
<b>Hansard questions on notice</b>		
51.	132	4 April
52.	138	7 April
53.	138	4 April
54.	138	4 April
55.	138	4 April
56.	139	7 April
57.	147	4 April
58.	149	7 April
59.	151	4 April
60.	153	4 April
61.	157/158	4 April
62.	159	4 April
63.	161	7 April
64.	164	4 April
65.	159	4 April
66.	169	4 April
67.	170	4 April
68.	170	4 April
<b>Written questions on notice</b>		
69.		4 April
70.		4 April
71.		4 April
72.		4 April
73.		4 April
74.		4 April
75.		4 April
76.		4 April
77.		4 April



Question No.	Hansard Page No.	Reply received
78.		4 April
79.		4 April
80.		4 April
81.		4 April
82.		4 April
83.		4 April
84.		7 April
85.		4 April
86.		4 April
87.		7 April
88.		7 April
89.		7 April
90.		4 April
91.		4 April
<b>Hansard Questions on Notice</b>		
92.	175	21 March
93.	176	25 March
94.	187	7 April
95.	189	21 March
96.	190	21 March
97.	190	21 March
98.	190	21 March
99.	190	21 March
100.	205	22 March
101.	207	4 April
102.	208	19 March
103.	223	21 March
104.	39	4 April
105.	209	19 March
106.	218	25 March

Question No.	Hansard Page No.	Reply received
107.	220	7 April
<b>Written questions on notice</b>		
108.		28 March
109.		28 March
110.		4 April
111.		28 March
112.		4 April
113.		4 April
114.		28 March
115.		28 March
116.		28 March
117.		28 March
118.		28 March
119.		28 March
120.		28 March
121.		4 April
122.		4 April
123.		7 April
124.		7 April
125.		4 April
126.		4 April
127.		7 April
128.		25 March
129.	Employ., Workplace Rel., and Edu Ctee 20 Feb 2002, p. 57	19 March