

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN CUSTOMS SERVICE

**Question No. 131**

**Senator Ludwig asked the following question at the hearing on 17 February 2006:**

- a) Are you able to indicate how many complaints regarding criminal activity are referred to Customs for investigation?
- b) Furthermore, can you provide a breakdown indicating the referring source, including:
  - (i) AFP
  - (ii) ACC
  - (iii) State agency (specify)
  - (iv) Other (specify)
- c) How many investigations for criminal activity are launched by Customs through investigations from its own internal processes?
- d) How many of these cases are referred for prosecution to the CDPP or another body (if so, specify) and how many are prosecuted by Customs?
- e) Please indicate the exact type of offences that Customs prosecutes and the exact type of offences that are referred to the CDPP for prosecution?
- f) Provide a breakdown for 2001-02-03-04-05 showing the offences that were prosecuted by Customs and the offences that were referred to the CDPP for prosecution?
- g) Of the charges brought to trial by Customs, provide a breakdown showing those that ended in:
  - (i) A verdict of guilty
  - (ii) A verdict of not guilty
  - (iii) Nolle prosequi
  - (iv) A mistrial (also indicate whether the matter was retried and, if so, what was the outcome of any subsequent trial)
- h) Of those charges that ended in a verdict of guilty, please indicate how many were subsequently appealed?
- i) For each appeal, are you able to indicate?
- j) Did Customs contest the appeal? If not, why not?
- k) What was the ultimate outcome of the appeals process?
- l) What resources and support does Customs provides the CDPP?
- m) How many staff are seconded or otherwise assigned to the CDPP?

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

- a) 84 during the financial year 2004-05.
- b)

Referral source	Number of referrals
AFP	5
ACC	1
State police	8
State Wildlife agencies	5
Other	

Referral source	Number of referrals
- Customs Hotline	5
- Department of Environment and Heritage	3
- Frontline	6
- Industry	6
- Informants	9
- Other (not identified)	36

- c) 410.
- d) The Commonwealth Director of Public Prosecutions (DPP) accepted 42 briefs for prosecution and the Australian Government Solicitor (AGS) prosecuted 86 cases.
- e) Customs refers all criminal offences to the DPP for prosecution and all civil offences to the AGS for prosecution.
- f)

Year	Act	Section
<b>Prosecuted by Customs/AGS</b>		
2001-02	Customs Act 1901	113
		113(1)
		181(5)
		233(1)(a)
		233(1)(b)
		233(1)(c)
		233(1)(d)
		234(1)(a)
		234(1)(d)
		234(1)(d)(i)
		234(1)(d)(ii)
		234(d)(i)
		236
	Environment Protection and Biodiversity Conservation Act 1999	22(a)
		22(b)
		303DD
	Financial Transaction Reports Act 1988	29(4)(b)
		31
	Quarantine Act 1908	21(1)
		29(1)
		58
		67(1)(ii)
		67(1)(iii)
	Wildlife Protection (Regulation of Export and Imports) Act 1982	21(b)
		22
		22(1)(a)
		22(a)
22(b)		
Censorship Act 1996 (WA)	53(1)(b)	
	60(4)	

<b>Prosecuted by CDDP</b>			
2001-02	Customs Act 1901	233BAA	
		233BAA(4)	
		233BAA(5)	
		233BAB	
		233BAB(5)	
	Crimes Act 1914	7	
		21D	
		29B	
		29D	
		50BC	
		67(b)	
		76	
	<b>Prosecuted by Customs/AGS</b>		
	2002-03	Customs Act 1901	33(1)
58			
112(2A)(a)			
233(1)(a)			
233(1)(b)			
233(1)(c)			
233(1)(d)			
234(1)(a)			
234(1)(d)			
234(1)(d)(i)			
234(1)(d)(ii)			
236			
Environment Protection and Biodiversity Conservation Act 1999		303EK(1)	
Quarantine Act 1908		20D(4)	
		29(1)	
		29(2)	
		30(1)	
		67(1)	
67(1)(a)(iii)			
Wildlife Protection (Regulation of Export and Imports) Act 1982		303EK	
Censorship Act 1996 (WA)	61(2)		
<b>Prosecuted by CDDP</b>			
2002-03	Customs Act 1901	233B(1)(b)	
		233BAA	
		233BAA(4)	
		233BAB	
	Crimes Act 1914	233BAB(5)	
		29D	
		11.2(1)	
Criminal Code Act 1995	134.2(1)		
<b>Prosecuted by Customs/AGS</b>			

2003-04	Customs Act 1901	96A(11)
		233(1)(a)
		233(1)(b)
		233(1)(d)
		234
		234(1)(a)
		234(1)(b)
		234(1)(d)
		234(1)(d)(i)
		234(1)(d)(ii)
		236
	Environment Protection and Biodiversity Conservation Act 1999	303CD
		303CD(1)
		303DD
		303EK(1)
		303GN(2)
	Quarantine Act 1908	303GN(2)(b)(i)
		20(1)
		20(2)(a)
		29(1)
29(2)		
Wildlife Protection (Regulation of Export and Imports) Act 1982	67(1)	
	203CD(1)	
National Parks and Wildlife Act 1974 (NSW)	101	
<b>Prosecuted by CDP</b>		
2003-04	Customs Act 1901	233B
		233B(1)(b)
		233B(1)(ca)
		233BAA
		233BAA(4)
		233BAB
		233BAB(5)
	Crimes Act 1914	29D
	Crimes Act 1900 (NSW)	178A
		178B
	Criminal Code Act 1995	11.1
		134.2
		134.2(1)
135.1		
<b>Prosecuted by Customs/AGS</b>		
2004-05	Customs Act 1901	33
		33(1)
		181(5)
		192
		197(6)

		233(1)(a)
		233(1)(b)
		233(1)(d)
		233(1)(d)(i)
		234
		234(1)
		234(1)(a)
		234(1)(d)
		234(1)(d)(i)
		234(1)(d)(ii)
		234(2)(a)
		236
		237
		240
	Environment Protection and Biodiversity Conservation Act 1999	303EK(1)
		303GN
	Excise Act 1901	120(1)(iv)
	Quarantine Act 1908	20
		20(2)(b)
		29(1)
	Wildlife Protection (Regulation of Export and Imports) Act 1982	21(1)(b)
		72(1)(b)
	Poisons and Therapeutic Goods Act 1966 (NSW)	16(1)
	Drugs Poisons and Controlled Substances Act 1981 (VIC)	71AC
	Passports Act 1938	9A(1)(e)(i)
	Misuse of Drugs Act 1981 (WA)	6(1)(c)
<b>Prosecuted by CDPP</b>		
2004-05	Customs Act 1901	233BAA
		233BAA(4)
		233BAB
		233BAB(4)
		233BAB(5)
	Crimes Act 1914	5
		29D
		67(b)
	Confiscation Act 1997 (Vic)	123(1)
	Criminal Code Act 1995	134.2(1)
		135.1
		149.1(1)
		314(1)

- g) A breakdown of the results from charges brought to trial by Customs is included in the tables below. Customs does not have a record of any charges that have resulted in nolle prosequi or a mistrial. A single prosecution may result in conviction on multiple charges.

2001-02

Act	Convictions	No Convictions
Crimes Act 1914	233	1
Customs Act 1901	226	62
Environment Protection and Biodiversity Conservation Act 1999	5	3
Financial Transaction Reports Act 1988	7	0
Censorship Act 1996 (WA)	1	0
Quarantine Act 1908	7	0
Wildlife Protection (Regulation of Export and Imports) Act 1982	15	3

2002-03

Act	Convictions	No Convictions
Crimes Act 1914	19	2
Criminal Code Act 1995	3	0
Customs Act 1901	466	35
Environment Protection and Biodiversity Conservation Act 1999	2	0
Censorship Act 1996 (WA)	10	0
Quarantine Act 1908	7	0
Wildlife Protection (Regulation of Export and Imports) Act 1982	1	0

2003-04

Act	Convictions	No Convictions
Crimes Act 1914	21	0
Crimes Act 1900 (NSW)	27	0
Criminal Code Act 1995	19	0
Customs Act 1901	520	34
Environment Protection and Biodiversity Conservation Act 1999	20	3
National Parks and Wildlife Act 1974 (NSW)	1	0
Quarantine Act 1908	7	2
Wildlife Protection (Regulation of Export and Imports) Act 1982	1	0

2004-05

Act	Convictions	No Convictions
Crimes Act 1914	17	0
Criminal Code Act 1995	13	0
Customs Act 1901	1599	50
Confiscation Act 1997 (Vic)	1	0
Environment Protection and Biodiversity Conservation Act 1999	3	0
Excise Act 1901	1	0
Drugs Poisons and Controlled Substances Act 1981	12	0
Passports Act 1938	1	0
Misuse of Drugs Act 1981 (WA)	2	0
Poisons and Therapeutic Goods Act 1966 (NSW)	1	0
Quarantine Act 1908	6	0
Wildlife Protection (Regulation of Export and Imports) Act 1982	14	2

- h) 4
- i) No answer required.
- j) Yes.
- k) All appeals resulted in a reduction in the severity of sentences.
- l) Customs officers work in cooperation with the DPP to prepare the brief of evidence for offences investigated by Customs. Customs also provides witnesses as necessary to support these prosecutions.
- m) None.