

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

Output 1.2

Question No. 96

Senator Trood asked the following question at the hearing on 22 February 2011:

- a) How many people smuggling crew are currently before Australian courts?
- b) How many suspected people smuggling crew in immigration detention are being investigated for prosecution?
- c) How many States have agreed to accept people smuggling cases for prosecution? Which States have agreed?
- d) What is the process for determining the transfer of crew for prosecution?
- e) Have any States raised issues regarding the additional funding for courts and prisons to meet the demands from increasing crew prosecutions? If so, please detail the concerns raised.
- f) Are there any plans to include more States to people smuggling cases for prosecution? What are those plans?

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

- a) Please refer to the answer to Question No. 70 for a detailed breakdown of the number of people smuggling crew.
- b) Please refer to the answer to Question No. 70 for a detailed breakdown of the number of people smuggling crew.
- c) The agreement of a State or Territory is not required to commence a prosecution in that jurisdiction for Commonwealth offences with extraterritorial application, such as people smuggling. People smuggling cases are currently being conducted in New South Wales, Victoria, Queensland, Western Australia and the Northern Territory.
- d) The transfer of people smuggling crew to States and Territories for prosecution is dependent upon the finalisation of briefs of evidence by the Australian Federal Police (AFP). Upon advice from the AFP that an irregular maritime arrival (IMA) is to be charged and prosecuted with a people smuggling offence, the Department of Immigration and Citizenship (DIAC) facilitates their relocation to a State and Territory jurisdiction and into AFP custody.
- e) New South Wales, Queensland and Western Australia have raised funding issues associated with people smuggling crew prosecutions. States and Territories are funded as part of the distribution of GST revenue for the costs of courts and corrections associated with prosecuting and imprisoning of people smuggling crew. The Commonwealth Grants Commission (CGC) introduced a new funding model for distributing GST revenue that applies from 1 July 2010 to 30 June 2015. Under this model, funding is allocated for justice services based on the actual population of a State or Territory rather than the number of federal prisoners within each jurisdiction. This is weighted to reflect the number of people in

each jurisdiction that use more justice services, specifically indigenous people, males aged 15 to 34, and people with low socioeconomic status. Prior to introducing this model, the CGC consulted extensively with States and Territories on the new methodology for distributing GST revenue. During the CGC's consultations that occurred between June 2009 and February 2010, no State or Territory raised concerns about funding for federal offenders no longer being provided on a per federal prisoner basis.

- f) The Commonwealth is working with all States and Territories to achieve an equitable distribution of people smuggling prosecutions across jurisdictions.