

**CHAIR:** But you've finished that bit. That's over and done with. You've done the search, you've executed the warrant, you've got the documents and you're just holding them. That's that part out of the way.

**Ms Close:** That's correct.

**CHAIR:** As a separate incident, you've been requested by whom to investigate the leaking of the fact of the execution of a search warrant?

**Mr Colvin:** The AFP commenced that investigation. We commenced that ourselves.

**CHAIR:** Okay. You obviously were surprised when you turned up and the media were there. You've then instigated an investigation to see if anyone improperly leaked the fact that you were going to execute the warrant.

**Ms Close:** That's correct.

**CHAIR:** Is that investigation still ongoing or is it finished?

**Ms Close:** That investigation is now complete.

**CHAIR:** I think that was what Commissioner Colvin was saying. You found no evidence that anyone should be charged, bearing mind that you were restricted in who you could ask and what information you could gather.

**Ms Close:** Yes. We supplied a brief of evidence to the Commonwealth Director of Public Prosecutions and, based on some of the evidence that was there and some of the information that was not available to the CDPP, they determined that it was not appropriate to charge anyone with that offence.

**CHAIR:** So, the decision not to charge is actually the DPP's rather than the AFP's?

**Ms Close:** In this instance it was. We thought that there was sufficient evidence in the brief evidence. However, it was lacking some witness statements. So, on that basis the Commonwealth DPP wrote to us and advised that there were no reasonable prospects for a conviction in that matter and therefore wouldn't continue.

**CHAIR:** So, effectively in both of those exercises relating to this broad general thing the AFP are finished whatever they were there to do, except you're still holding some documents and you'll deal with them as you're told by a court at some time.

**Ms Close:** Yes.

**CHAIR:** Okay. Thanks. I'm always a fraction confused, and it's just good to put in place what exactly the procedures are, what exactly the AFP's issues are, or lack of issues, so that we can work from there.

**Senator WATT:** Minister, I have a question to you to start with. Is there a reason Senator Cash isn't here as the Minister representing the Minister for Home Affairs in the Senate?

**Senator Reynolds:** As I explained last estimates—the reason is exactly the same—that you now have a senator who is the Assistant Minister for Home Affairs, and I will be sharing it with Senator Cash, who will be here later, exactly as we did at the last one. But, given that I am the portfolio minister in the Senate, I am across all the day-to-day issues across Home Affairs, so it is entirely appropriate for me and Senator Cash to appear here.

**Senator WATT:** But Senator Cash is the Minister representing the Minister for Home Affairs in the Senate, isn't she?

**Senator Reynolds:** She is, yes—

**Senator WATT:** So, it would be pretty reasonable to expect that minister to come.

**Senator Reynolds:** Senator Watt, you can get your political statements out in a sec; just let me answer the question. The fact is, as you are aware, I am also the Minister in the Senate who takes the Home Affairs legislation through the Senate, because I'm in the Senate. So, as the Assistant Minister for Home Affairs, it is entirely appropriate for me to be here at estimates today and also to take the legislation through the Senate.

**CHAIR:** So, why don't you answer questions in question time?

**Senator Reynolds:** Because I'm not a cabinet minister—

**Senator WATT:** Good question, Chair.

**Senator Reynolds:** and we've got a cabinet minister in the Senate.

**Senator WATT:** If that logic applies, wouldn't it be more appropriate for a cabinet minister to be here, as is the case in every other estimates session?

**Senator Reynolds:** Senator Watt, if you have concerns about my performance as the Assistant Minister for Home Affairs—let's see how today unfolds. I am entirely capable of answering your questions, as I think I've demonstrated previously.

**Senator WATT:** More capable than Senator Cash?

**Senator Reynolds:** Oh, Senator Watt—please. If this is the best you've got for estimates today, with all the significant issues we've got going on—

**Senator WATT:** Well, we'll come to them.

**Senator Reynolds:** Senator Watt, you can impugn my credibility, my abilities—

**Senator WATT:** Not yours—Senator Cash's.

**Senator Reynolds:** That is fine, but I am the minister at the table. I am the Assistant Minister for Home Affairs. I am across my brief, and I'm across the brief of Home Affairs. So, if you do not like having me here, that is entirely your problem.

**Senator WATT:** I haven't got anything against you. I suppose it would be a bit embarrassing—

**CHAIR:** Senator Watt, we have limited time for the Australian Federal Police. If your questions to Senator Reynolds are about the police, then fair enough. But if they're about other matters, that should be—

**Senator WATT:** No, it's about—

**CHAIR:** cross-portfolio. And if there are other questions, that should be left to cross-portfolio with the appropriate—

**Senator Reynolds:** Can I just say, with the greatest respect to my colleague Senator Watt, that if this is all you've got, given everything that's been happening in your own home state of Queensland—you're attacking me, you're playing the person and not the issues.

**Senator WATT:** No, not you—Senator Cash.

**Senator Reynolds:** As I said up-front, Senator Cash will be here, and we're doing exactly as we did with the last estimates.

**Senator WATT:** So, she'll be here after the police's evidence, will she?

**CHAIR:** I've just indicated to Senator Watt that the questions should relate to the Australian Federal Police.

**Senator Reynolds:** Thank you, Chair.

**CHAIR:** If they're related to cross-portfolio—

**Senator WATT:** They do relate to—

**CHAIR:** Tell us how they relate to the Federal Police.

**Senator WATT:** Well, the commissioner just gave an opening statement that included remarks about their investigation into the leak from Senator Cash's office. That's why I'm asking these questions at the start. But I suppose it would have been a bit embarrassing for Senator Cash to have to sit next to the commissioner when he was talking about an investigation into her office.

**Senator Reynolds:** Senator Watt, you can impugn both myself and Senator Cash.

**CHAIR:** No, Minister, it's not helpful to respond to—

**Senator Reynolds:** but really it is not very professional. She will be here.

**Senator WATT:** So, she'll be here after the Federal Police leave, will she?

**CHAIR:** It's not helpful to respond to Senator Watt's political statements when they're not relevant to the matter before us. Senator Watt, you have six minutes.

**Senator WATT:** Sticking with this matter about the investigation into the leak from Senator Cash's office, how many officers were assigned to this investigation?

**Mr Colvin:** I will ask Deputy Commissioner Close to answer that.

**Ms Close:** In total, we had 14 officers at any given point in different parts of the investigation working on this. Sometimes it was less, sometimes it was more.

**Senator WATT:** Do you know what the cost of the investigation was?

**Ms Close:** I don't have that with me.

**Senator WATT:** I think we did ask that on notice last time and I'm not sure that that has been answered. Could you see if that has been answered? I couldn't find that myself.

**Ms Close:** Certainly, we will look at that for you.

**Senator Reynolds:** Senator Watt, I think I can confirm there were no questions on notice outstanding from the last estimates.

**Senator WATT:** Okay, well perhaps someone could dig up the answer to that one.

**Senator Reynolds:** We will get that for you.

**Senator WATT:** You have taken us through the outcome of this investigation and you have said that the AFP referred a brief of evidence to the DPP. I take it the formal way they dealt with it was that they advised you that, in their view, there was no prospect of a successful prosecution. Is that how it works?

**Ms Close:** Yes.

**Senator WATT:** On what date did they do that?

**Ms Close:** On 11 January this year—2019.

**Senator WATT:** As you have said, the decision to not prosecute is based on a lack of evidence, isn't it, or at least in this case?

**Ms Close:** Generally, yes.

**Senator WATT:** In their view there was insufficient evidence?

**Ms Close:** Yes.

**Senator WATT:** Not a suggestion that, in their view, no crime had been committed?

**Ms Close:** That's not what their role is to do—to determine that totally—so, that's right. There was insufficient evidence for a reasonable sort of prospect of a conviction.

**Senator WATT:** I think we covered this last time: can you remind me what the threshold is for the AFP to refer a matter to the DPP? Is it that, in your view, a crime has been committed, or there is a successful prosecution likely? What is the threshold?

**Ms Close:** We have to be satisfied there is a prima facie case that we would achieve a conviction, beyond reasonable doubt.

**Senator WATT:** So, in referring a brief of evidence to the DPP, it was the AFP's view that there was a prima facie case that a conviction could be recorded, beyond reasonable doubt.

**Ms Close:** That was our view.

**Senator WATT:** And that remains your view?

**Ms Close:** Yes, it does. However, we also work with the Commonwealth DPP. They are the authority to determine whether a prosecution should or should not proceed. We accept their advice.

**Senator PRATT:** In other words, you know who did it—not to clearly comment on that.

**Senator MOLAN:** Is that a correct comment?

**Senator PRATT:** Well, to be technical you would have to—

**Senator MOLAN:** You guys can't say who did it, can you?

**Senator WATT:** What you just said is that it remains your view that a conviction could be recorded beyond reasonable doubt?

**Ms Close:** If we had all of the information available to the Commonwealth DPP, yes.

**Senator WATT:** Now that that investigation is over, I presume there are some questions that you couldn't answer last time that you could answer this time. How many people were asked to make witness statements in this investigation?

**Ms Close:** More than 60.

**Senator WATT:** Any cabinet ministers?

**Ms Close:** Yes. We spoke to the offices of two cabinet ministers: Ministers Keenan and Cash.

**Senator WATT:** So, you spoke to their offices, asking for the ministers to make a witness statement?

**Ms Close:** Yes.

**Senator WATT:** Did that occur?

**Ms Close:** They both provided a statement in writing to the AFP.

**Senator WATT:** How many people declined to make witness statements?

**Ms Close:** There were eight people in total who declined to make statements.

**Senator WATT:** Who were they?

**Ms Close:** Because the Federal Court matter is underway, it is probably not appropriate for me to name names at this point, because some of the witnesses have been called to that Federal Court proceedings, and we know that that matter is part-heard from last week—it will continue on.

**Senator WATT:** So, some of the people who declined to provide witness statements in your investigation are currently giving evidence to the Federal Court?

**Ms Close:** Yes.

**Senator WATT:** Is that former staff of ministers?

**Ms Close:** That's correct.

**Senator WATT:** And former or current employees of the Registered Organisations Commission?

**Ms Close:** Yes.

**Senator WATT:** I notice, by the way, that Mr Enright from the Registered Organisations Commission is sitting up the back here. Is it at your request that he be here today?

**Ms Close:** No.

**Senator WATT:** So, he must have come of his own volition?

**Ms Close:** Yes—I understand he must have.

**Senator WATT:** He will have his turn later in the week.

**CHAIR:** Commissioner Colvin said he didn't know Mr Enright. Is that correct?

**Mr Colvin:** I don't know Mr Enright.

**Ms Close:** I don't know Mr Enright, either.

**Senator WATT:** He is the man right up the back. So, more than 60 people were asked to make witness statements, eight declined, and they include people who are currently giving evidence—former staff of ministers declined to give witness statements?

**Ms Close:** Yes.

**Senator WATT:** How did you describe the information that Minister Cash and Minister Keenan provided you? They sent you a letter?

**Ms Close:** They did. They sent the AFP a letter in relation to this inquiry.

**Senator WATT:** And would you say that that amounts to a witness statement?

**Ms Close:** No. I would not classify it as a witness statement.

**Senator WATT:** So, neither Minister Keenan nor Minister Cash provided a witness statement to the AFP?

**Ms Close:** That's correct.

**Senator WATT:** But they were asked to do so?

**Ms Close:** Yes, we wanted to have the opportunity to speak to them both and see if they could provide information to support our unauthorised disclosure investigation.

**Senator WATT:** But they declined your request and just sent you a letter?

**Ms Close:** They sent us a letter.

**Senator WATT:** How many times did you ask each of Minister Keenan and Minister Cash to provide you with a statement?

**Ms Close:** At least two occasions—each office.

**Senator WATT:** In writing?

**Ms Close:** In writing, as well as verbally through their staff.

**Senator WATT:** Can you work out the number of times that you requested?

**Ms Close:** I could. I don't have the numbers before me but I could certainly take that on notice.

**Senator WATT:** But your memory is that there were more than two times that the AFP wrote to Minister Cash and Minister Keenan seeking a statement.

**Ms Close:** No. I will have to take that on notice. I can't remember how many times we actually wrote to them.

**Senator WATT:** But on at least two occasions you requested each minister to provide a statement and they didn't do so. The commissioner has already told us that, essentially, the reason the DPP didn't prosecute was that, in their view, there was insufficient evidence to prosecute.

**Ms Close:** Yes.

**Senator WATT:** And I think you said before that there were witness statements missing, which contributed to the decision to not prosecute?

**Ms Close:** People, as is their legal right, chose not to answer or speak to the AFP and provide a witness statement. They were the statements that we were not able to provide to the Commonwealth DPP.

**Senator WATT:** So, it would be reasonable to conclude that the refusal of Minister Keenan, Minister Cash, and some of their former staff to provide witness statements prevented the DPP from prosecuting?

**Ms Close:** I don't think it was the lack of statements from Minister Cash or Minister Keenan, but certainly other witnesses who did not provide witness statements—that certainly went to the investigation we conducted in relation with that unauthorised disclosure.

**Senator WATT:** Senator Cash has been quite open in estimates that she received a confession from her former staff member that he had leaked this information. Surely, a statement from Minister Cash would have been fairly useful to your inquiry.

**Ms Close:** We certainly spoke to a large range of witnesses. Speaking to all of those witnesses allowed us to understand the timeline of events—what he believed occurred in relation to the unauthorised disclosure. Therefore, we put that together into the brief of evidence for the Commonwealth DPP.

**CHAIR:** We might have to leave that there. Can I remind you that I am allowing everyone 10 minutes, but then another couple of minutes to finish that line of questioning, and your couple of minutes is up. Can I clarify, Minister, because I made the comment: the reason you don't answer questions in the Senate at question time is that the rules of the Senate don't allow you to.

**Senator Reynolds:** That's exactly right.

**CHAIR:** For no other reason.

**Senator Reynolds:** Yes. But they don't preclude me, as a portfolio minister, from taking legislation through the Senate and also being here today.

**CHAIR:** Commissioner Colvin or Commissioner Close, can I just clarify: you were involved in the execution of the warrant, the one issue; looking at the leak, second issue. Both investigations are complete. Had the registered offices group—whatever is it called—determined that there was a fraudulent payment of money by the AWU to somebody, is that a matter then that you would have been re-involved again in this issue?

**Mr Colvin:** I don't believe so. I believe that the Registered Organisations Commission could have brought a prosecution to the DPP and that would have been a matter independent of the AFP.

**CHAIR:** So, if theft was alleged do you still think it is a matter for the registered organisation—

**Mr Colvin:** It would really depend on the information—

**Ms Close:** And the quantum. We have the rules in respect of where the threshold is that the Australian Federal Police may investigate a matter, or not.

**CHAIR:** That hasn't come to your radar at this state of the game?

**Ms Close:** No.

**Senator MOLAN:** I'll take this back to the intention of these estimates, which is going to finance. Over the last couple of estimates we've concentrated a lot, Commissioner, on your funding. What was your funding in the last financial year?

**Mr Colvin:** I'll refer to my Chief Operating Officer while the CFO joins us at the table.

**Ms Bird:** The CFO has just joined us. It was total funding?

**Senator MOLAN:** Thank you.

**Ms Bird:** I have it broken down from the PBS and as we've gone through. Darren, can you talk through additional estimates?

**Senator MOLAN:** In the first instance I'd like just the total, if you would.

**Mr Box:** Total funding available to the AFP—it's in the PAES document, so I'm just reading to you what's publicly available—is total departmental annual appropriation of \$1.7 billion.

**Senator MOLAN:** \$1.7 billion? That's considerably higher than last year, isn't it?

