



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT COMMITTEE ON THE AUSTRALIAN CRIME
COMMISSION

Reference: Trafficking in women for sexual servitude

THURSDAY, 26 FEBRUARY 2004

CANBERRA

BY AUTHORITY OF THE PARLIAMENT

INTERNET

The Proof and Official Hansard transcripts of Senate committee hearings, some House of Representatives committee hearings and some joint committee hearings are available on the Internet. Some House of Representatives committees and some joint committees make available only Official Hansard transcripts.

The Internet address is: **<http://www.aph.gov.au/hansard>**

To search the parliamentary database, go to:
<http://parlinfoweb.aph.gov.au>

JOINT COMMITTEE ON THE AUSTRALIAN CRIME COMMISSION

Thursday, 26 February 2004

Members: Mr Baird (*Chair*), Mr Sercombe (*Deputy Chair*), Senators Denman, Ferris, Greig, Hutchins and McGauran and Mr Dutton, Mr Kerr and Mr Cameron Thompson.

Senators and members in attendance: Senators Denman, Ferris, Greig and McGauran, and Mr Baird and Mr Kerr.

Terms of reference for the inquiry:

To inquire into and report on:

The Australian Crime Commission's response to the emerging trend of trafficking in women for sexual servitude with particular reference to:

1. the Australian Crime Commission's work in establishing the extent of people trafficking in Australia for the purposes of sexual servitude;
2. the Australian Crime Commission's relationship with the relevant State and other Commonwealth agencies; and
3. the adequacy of the current legislative framework.

WITNESSES

BLACKBURN, Ms Joanne, First Assistant Secretary, Criminal Justice Division, Attorney-General's Department	14
CLARK, Mr Chris, Head of Operation, People Trafficking, and General Manager, Intelligence Services, Australian Crime Commission.....	40
DANIELS, Ms Yole Aurora, Assistant Secretary, Compliance and Analysis Branch, Border Control and Compliance Division, Department of Immigration and Multicultural and Indigenous Affairs	32
DAVIS, Mr Stephen Donald, First Assistant Secretary, Unauthorised Arrivals and Detention Division, Department of Immigration and Multicultural and Indigenous Affairs.....	32
FAGAN, Ms Audrey, Chief of Staff, Australian Federal Police	1
FAIRBROTHER, Mr Richard, Principal Legal Officer, Transnational Crime Unit, Attorney-General's Department	14
JOSEPH, Ms Margaret, Senior Legal Officer, Criminal Law Reform Unit, Attorney-General's Department	14
KITSON, Mr Kevin, Director, Intelligence, Australian Crime Commission.....	40
LAWLER, Mr John Adrian, Acting Deputy Commissioner, Australian Federal Police	1
LEONARD, Ms Kerin, Senior Legal Officer, Transnational Crime Unit, Attorney-General's Department	14
McMAHON, Mr Vincent, Executive Coordinator, Border Control and Compliance Division, Department of Immigration and Multicultural and Indigenous Affairs.....	32
MILROY, Mr Alastair, Chief Executive Officer, Australian Crime Commission.....	40
NEWMAN, Mr Lionel, Director, Executive Services, Australian Crime Commission.....	40
PHELAN, Mr Mike, National Manager, Border and International Network, Australian Federal Police	1
WATTS, Mrs Sharon Rebecca, Acting Director, Migration Fraud and Investigations Branch, Border Control and Compliance Division, Department of Immigration and Multicultural and Indigenous Affairs	32

Committee met at 10.06 a.m.**FAGAN, Ms Audrey, Chief of Staff, Australian Federal Police****LAWLER, Mr John Adrian, Acting Deputy Commissioner, Australian Federal Police****PHELAN, Mr Mike, National Manager, Border and International Network, Australian Federal Police**

CHAIR—I call the committee to order and declare open this public meeting of the Parliamentary Joint Committee on the Australian Crime Commission and welcome everyone here today. Today's hearing is the third in the committee's inquiry into the Australian Crime Commission's response to the problem of trafficking in women for sexual servitude. The inquiry will focus particularly on: firstly, the Australian Crime Commission's work in establishing the extent of people-trafficking in Australia for the purposes of sexual servitude; secondly, the Australian Crime Commission's relationship with the relevant state and other Commonwealth agencies; and, thirdly, the adequacy of the current legislative framework.

I now welcome officers of the Australian Federal Police. As you know, we prefer all evidence to be given in public but should you at any stage wish to go in camera please let us know. Your submission is before the committee, but if you would like to make an opening statement we will then follow it up with questions.

Mr Lawler—Thank you to the committee for inviting the AFP to appear before you today. Drawing on the AFP's submission, I will make a brief opening statement to the committee and I will update you on the developments for the AFP since the government's announcement of a major package to combat people-trafficking in October last year. The AFP has a major role to play in combating people-trafficking. As the Australian government's primary law enforcement agency, the AFP is responsible for enforcing the law in relation to the crimes of slavery, sexual servitude and child sex tourism. I note that the inquiry's terms of reference relate to the ACC's role in efforts to combat trafficking—specifically its work to establish the extent of people-trafficking and its relationships with other relevant Commonwealth and state agencies. The inquiry also has a brief to examine the adequacy of the legislative framework. Accordingly I will make some remarks in relation to each of the terms of reference, focusing on the relationship between the AFP and the ACC.

In developing a law enforcement strategy to combat people-trafficking, one of the elements is understanding the nature and scope of the trafficking problem in Australia. The ACC is Australia's national criminal intelligence agency and has produced a strategic assessment on people-trafficking in Australia. The AFP has been provided with that assessment. The ACC's work, including that strategic assessment, contributes at both a strategic and operational level to the AFP's efforts to combat people-trafficking.

At the strategic level, the assessment has helped the AFP to better understand the nature and extent of trafficking and its likely future trends. At an operational level, AFP and ACC officers work closely on a regular basis, exchanging information and intelligence. This is likely to develop further as the ACC's special intelligence investigation and the AFP's Transnational Sexual Exploitation and Trafficking Team—I will refer to that as TSETT; the full name is quite a

mouthful—continue their work. The AFP is also an important intelligence source for the ACC, particularly through our international network of liaison officers around the world.

The inquiry's second term of reference relates to the ACC's relationship with other relevant Commonwealth and state agencies. In addition to the ongoing intelligence work I have just mentioned, the ACC and AFP are closely engaged at a strategic policy and oversight level through the AFP Commissioner, who is chair of the ACC board. While I can only comment on the ACC's broader relationships from an AFP perspective, the AFP and ACC are both full participants in a number of multijurisdictional and cross-agency forums such as the Heads of Commonwealth Operational Law Enforcement Agencies, HOCOLEA, and the National Information Sharing Working Group. There is also regular operational contact between senior managers in both agencies. As the AFP's submission also notes, because the ACC is a new agency it is still establishing its formal consultation mechanisms and relationships with other agencies. The AFP commends the efforts of the ACC in defining its role as Australia's national criminal intelligence agency and for effectively engaging Australian government and state and territory agencies.

The third and final term of reference relates to the adequacy of the legislative framework. From the AFP's perspective, the legislative framework, particularly since the government's major announcement last year on people-trafficking measures, is a world leader. This is the case in terms of both the criminalisation of people-trafficking and sexual servitude and the provision of powers for law enforcement to effectively investigate these crimes—such as the ability to utilise telecommunications interception powers.

Since the AFP made its submission last year we have fully implemented the new initiatives announced in October 2003 relating to the AFP, and I would like to take the opportunity to update the committee on those implementations. The AFP's Transnational Sexual Exploitation and Trafficking Team has been established. The TSETT is responsible for delivering intelligence-driven investigations and utilising flexibility capacity to respond quickly to the highest priority cases. An intelligence team is located in Canberra within the TCCC, the Transnational Crime Coordination Centre, and accesses investigations capacities located in Sydney and Melbourne that deliver the operational outcomes. This model works well for combating transnational crime because it is intelligence driven, flexible and mobile.

The first human-trafficking specialist investigations training course has commenced. Twenty AFP investigators are attending this three-week course, which will advance their expertise in areas critical to the successful investigation of people-trafficking such as an understanding of the legislation, investigative methodologies, and victim liaison and support. We have engaged non-government organisations and international experts to present to this course. For example, this week Mr Paul Holmes, the former head of operations at New Scotland Yard and an internationally recognised expert in combating people-trafficking, spoke to participants.

Another initiative that was announced as part of the Australian government's package last October is the development of the Australian policing strategy to combat people-trafficking. The AFP is leading the development of this strategy within the Australian Crime Commissioners Forum, of which the ACC is also a member—another example of the joint interagency and cross-jurisdictional cooperation. This particular strategy will be finalised by the Australasian Police Ministers Council in July this year.

The committee will be aware of the other measures announced as part of the government's package, including the comprehensive victim support measures, and I note that other agencies are appearing before you today and will be able to provide you with information on their initiatives. To conclude my opening statement, since the committee's inquiry was announced, the AFP, ACC and other Australian government agencies have worked hard to develop a comprehensive strategy to combat people-trafficking, particularly of women in sexual servitude. The AFP has also continued its investigation into this crime and has commenced 62 investigations since the introduction of the legislation in 1999. The government strategy to combat people-trafficking is comprehensive and recognises the range of initiatives that are needed to investigate and prosecute people-traffickers and provide for the welfare of their victims. Agencies across Australia, including the AFP and ACC, are engaged at many levels to implement these initiatives. The AFP has also worked closely with non-government agencies such as Project Respect. Such strong cooperation and commitment from all parties can only be of benefit to those of us combating this terrible crime and to the detriment of the people traffickers.

CHAIR—Thanks very much. I really appreciate your input. I would encourage my colleagues to ask questions as we are going along rather than wait until I have finished my questions. Two things strike me about this: one is that organisationally you seem to have moved a long way. There are lots of groups and training programs and structures and so on set up. Not too much seems to be coming out the other end in terms of the crackdown. Where are the arrests being made and how many arrests have been made? What has been discovered that we can know about? Alternatively, as the second part of the question, are we jumping at shadows? Some people on the committee are beginning to wonder—this is our third day of evidence—how big the problem is anyway. Is it basically a handful of people that are involved? Is it that people enter contracts but often do so willingly knowing the parameters of the contracts and that the number of those is relatively small? That is one view.

The other alternative is that there are a lot more people involved than we know about. We keep on striking blanks. Whether that is because people are not being frank in telling us about the situation, I do not know. There is also a view that perhaps some of the women who have been caught in raids by DIMIA have been claiming that they have been involved in sexual servitude as a way of progressing their own visa applications. These are some of the issues that we are trying to grapple with. I should also flag the fact that we will want to go in camera towards the end of this discussion because there were some issues raised with us yesterday in camera that I think it is appropriate to raise with you today. Can you comment on that first point?

Mr Lawler—I will try to dissect those issues that you have raised.

CHAIR—The first one is really about outcomes rather than organisational structure. You are obviously doing very well on the first part. We are looking at the outcomes and what we can learn from the outcomes. The second part is: are we all chasing an illusory trail?

Mr Lawler—I understand. From an AFP perspective we are very pleased with the outcomes. As I indicated, 62 investigations have commenced, involving many thousands of hours of investigative time. There are 15 current investigations with 10 arrests and 35 charges. Six persons have been arrested in Sydney—

CHAIR—Were the 10 arrests of organisers or were they—

Mr Lawler—They were of the organisers. We need to also understand that these investigations, as with a lot of other transnational criminal investigations, are complex investigations. They are very difficult investigations, which often have difficult issues. We work in an environment where we gather evidence as distinct from information or intelligence to advance the investigations.

CHAIR—I appreciate that. We are not being critical of the AFP. It is an organisation I think very highly of. From the committee's point of view, what are we dealing with here? There were 10 people charged. Was there another figure of 30 who were prosecuted?

Mr Lawler—There were 10 arrests and 35 charges.

CHAIR—Were they all related to sexual servitude?

Mr Lawler—Correct.

Senator DENMAN—Were they across all states?

Mr Lawler—These are in relation to the AFP. The state agencies are involved in investigations; you would have seen references to that in the media this morning. The New South Wales Police have an investigation into sexual servitude matters as well. I understand persons have been charged in relation to that particular investigation.

Coming back to the question of how big the problem is, I am aware of media speculation and commentary about the size and nature of the problem. The AFP can confirm that it has identified 14 victims of slavery and sexual servitude to date. This week in Sydney three women presented to the New South Wales Police and made complaints that they were the victims of sexual slavery. The New South Wales Police have commenced a prosecution in relation to these women's claims.

CHAIR—There were 14 women who were victims?

Mr Lawler—Yes.

Senator FERRIS—There were 14 victims overall, around Australia?

Mr Lawler—Yes.

Senator FERRIS—Do you think that is the tip of the iceberg?

Mr Lawler—The AFP would prefer that the figures that we present to the committee are sustainable figures based on evidence and solid information. We have solid, sustainable evidence and information to support 14 victims that have come to notice for slavery and sexual servitude.

Senator FERRIS—The structure that you have established sounds very impressive. It surprises me that only 14 people have been identified as part of that, when the empirical

evidence is that there are hundreds. Do you think it is more difficult to identify them? Are they too frightened to tell you? Obviously, two were reported in yesterday's *Australian* as having joined that number of 14. It seems to me an incredibly small number with such a big bureaucratic structure looking into the issue.

Mr Lawler—At this particular stage the AFP, and I understand broader law enforcement, do not know. The ACC has an intelligence operation in place to try to get a broader understanding of the scope of the problem. The AFP is inputting into that process through its investigations and the intelligence it gathers both here and overseas, and I know other agencies are inputting into that. It is hoped that that intelligence assessment will in actual fact give all of us a much clearer understanding of the extent of the problem.

CHAIR—I think the Scarlet Alliance were suggesting that the number of people they had dealt with was a figure closer to yours, while Project Respect were saying that they thought it was several hundred. It was interesting that HREOC thought that the two were just debating the parameters of the question in terms of the contract and whether they knowingly went into a contract understanding that it was for sexual prostitution or whether they were led to believe they were going into restaurants or bars where choice would be exercised. Your 14 would be where there is clear evidence they were misled about the nature of the contract, so I think that is part of definitional terms.

Mr Lawler—Definitional terms and being certain that when we say 14 we have a process and a structure by which we can establish that with some degree of credibility and reliability.

Senator McGAURAN—Would those 14 be directly related to the 10 arrests and convictions?

Mr Lawler—That is right—principally.

CHAIR—What is the process when someone raises their hand and finds their way to a police station and says, 'I'm being held down the road in a shop,' as they call it, 'and this is different from what I understood and I want to make a complaint'? Take us through the process, because there has been some evidence that the processing is not exactly as it should be.

Mr Lawler—The process will vary by degree, depending on the circumstances as to how the matter comes to the attention of the police, non-government organisations or, in fact, other agencies, be they Commonwealth or state agencies. From an AFP perspective, when the matters are brought to our attention we will be engaging with the victims and talking to them about the nature of—

CHAIR—You have jumped several stops. Is training in place for the state police forces around the country to know how to handle these cases that are brought forward? We are concerned about some evidence that suggests that that has not necessarily been handled that well.

Mr Lawler—To answer that question specifically, it would vary between each state and territory, and I cannot comment on the training regimes in relation to each of those agencies. Every police agency of course has broad training in relation to victims of crime who report crimes and how those victims need to be treated and managed and handled. In relation

specifically to sexual servitude, that question is best addressed to the state police agencies. But, when I think about it, I do know of examples where victims have come into a local police station in a metropolitan area where the uniformed constable or sergeant on the desk is the person who is responding to the particular complaint. So to capture everybody who would be likely to receive a complaint, the training would need effectively to cover everybody in a particular jurisdiction.

Senator FERRIS—Or that there would need to be particular people who were skilled at it. It was suggested to us yesterday that that person may well be the person who looks after domestic conflict. I accept the comment you made in relation to the state police forces, but what happens when somebody like those two girls runs into the London Circuit police station here? How are they dealt with? Is there any thought of calling in any support agency from outside; for example, if the girls do not speak good English is there an interpreter available? The Scarlet Alliance is obviously a very large networking base of contacts. Is there any provision to call in somebody from an agency such as that? What is the provision if those girls were to run into the office here in Canberra?

Mr Lawler—The training we spoke about earlier is directed towards those very issues. Our people are being upskilled to be responsive to all of those issues.

CHAIR—That is the AFP?

Mr Lawler—Yes. Specifically in relation to your question, we deal with issues of language very regularly—nearly on a daily basis—so the process for engaging telephone interpreters and interpreters more generally to aid us (1) in talking to victims and (2) in the broader context of the AFP's work is something that is well entrenched and understood.

Certainly in relation to investigations relating to sexual servitude we do engage a range of agencies. There is now a process and protocol in place in relation to engaging the Office of the Status of Women and the NGO agencies to provide us support. This does occur. We are finding that those initiatives and those enhancements to our processes are aiding the victims in particular but also, importantly, identifying and enabling us to prosecute those persons responsible for that crime.

Senator FERRIS—Let us just go back. They have walked in off the street; they do not speak English. How do you hold them? Do you have secure holding facilities? Those girls—we assume they are girls—may be quite worried about their safety. They may have left the accommodation that was part of the contract that they were working through. Do you have a secure area where you can hold them safely—not in the cells? What do you do in relation to offering them somewhere to stay? I imagine that accommodation becomes an issue as well.

CHAIR—How do they support themselves?

Ms Fagan—If we take the example you have raised, here in Canberra we have a specialist team working in community policing which would be called upon to take the first steps in helping and responding to the girls and young women involved.

Senator FERRIS—If that is a written protocol it might be helpful if we had a copy of it.

CHAIR—We also need to know what happens in the more likely situation, that is, when they put up their hands in a suburban police station and when you guys get involved.

Ms Fagan—To build on that, in Canberra we have those specialist skills. The other states and territories do as well. In relation to the sexual exploitation training that we currently have in Canberra, the plan is that the next program will be offered to the states and territories as part of growing it. This is the first program and we need to make sure we are rolling it out to the AFP to start with. From there we have a link back into the relevant agencies, be they the Attorney-General's Department, the Office of the Status of Women or DIMIA, for example, and we will then commence a dialogue. Each agency has a role. This is coordinated through the department as a whole-of-government approach. We have certainly had that cooperation happening recently in New South Wales. While it is a new system and a new process I feel very comfortable that it is the right process to enable victims to get that support when they come into a station.

Senator FERRIS—Can you take me through what would happen?

CHAIR—The practical steps are more important.

Senator FERRIS—If they come to the counter they are obviously distressed, their English is very much a second language. Can you take us through what happens in a practical sense?

Ms Fagan—I have not worked in the Australian Capital Territory for some time but I know the processes reasonably well. If a person comes into a particular station then that team would be called upon as the first contact with the victims. They in turn would contact the transnational sexual exploitation team who link into the department and the other agencies—I do not want to go into the roles of other agencies. From there there would be dialogue about managing and taking evidence. Our goal is to prosecute the perpetrators of these crimes so we will be seeking to gain evidence but also to offer support such as protection visas and sustenance. The victims are now in a situation where they probably do not have money or accommodation and those mechanisms and protocols are in place through the new arrangements that have been negotiated since October.

CHAIR—That sounds very bureaucratic. What does it mean in practical terms? Are they provided with accommodation?

Ms Fagan—There are a number of victims receiving that tangible support now, which involves financial support, accommodation and regular contact with support agencies. It may be that a non-government organisation has been the first contact point for them, and that ongoing relationship is very important. That is where the sexual assault team, or the TSETT as it is known in AFP, will become an important part of building those bridges with the various relationships they have already made in making the complaint.

CHAIR—What type of financial allowance are they given?

Ms Fagan—I do not have that detail here with me.

Mr Lawler—I think I can help. There are two women who are being provided with support under interim arrangements with Centrelink. So they are provided with Centrelink payments.

CHAIR—In what city?

Mr Lawler—I believe that is in Sydney, but I will need to take that on notice just to confirm it. I think that is right. Additionally, prior to these arrangements coming in place, there have been a number of other victims receiving support from both the Commonwealth DPP and the AFP as part of ongoing prosecution—things such as the provision of accommodation, the provision of allowances and moneys for living expenses, access to medical facilities and other such necessities to live.

Senator FERRIS—If they are on a CJSV, that is the package that is made available to them?

Mr Lawler—That is my understanding.

Senator FERRIS—But before that presumably some period of time elapses from their walking into a police station and that visa being issued, because you have to establish the evidence and the details of their accusations and so on. I am just trying to work out where they are being held and how they are held and what access they have to support services while they are in that interim period before that package of measures comes into play and how long it might be. I am trying to establish how the protocol that Ms Fagan has been talking about involves them being given over to another agency that may be approved as a place for them to go. Clearly, we are talking about some high security issues here, and these women being perhaps under threat because the perpetrators would spare no individual to escape a likely prosecution. So these women are not simply refugees from a brothel; they are much more than that because they may hold the key to a Mr Big, if you like. I want to know what happens to them while they are in that interim period. Are they put in your remand cells or where do they go?

CHAIR—Especially as there has been some suggestion that quite often there are other factors involved, whether it be drugs, money laundering, or whatever.

Senator FERRIS—Maybe you want to answer this question in camera. I don't mind if you want to do that. I am happy to do that because I have got a couple of other questions I would like to ask you on that basis as well. There is a period of maybe a week where these women are highly vulnerable. I want to know what support services there are for them during those critical few days—health counselling, medical services; all of the normal things that we might take for granted. You cannot take them to a hospital under normal circumstances because they might be vulnerable. So would you like to answer those questions at the end, in camera?

Mr Lawler—Thank you.

Senator FERRIS—Okay.

Mr KERR—I agree with answering the questions in camera, but I think it is worth while—at least on the record—trying to establish when the support mechanisms kick in. As I understand it, the support mechanisms that are agreed only kick in once a charge has been laid. So there may be an extended period of investigation; not just the week that Senator Ferris referred to. Quite often complex investigations take extended periods before charges are brought. So you have this issue about management. Is there a formal framework for dealing with that?

Mr Lawler—The response to that is that the circumstances under which victims present to the AFP are very varied. Some victims come forward where they do not wish to have support from the AFP or other agencies. They have their own support, they are very happy and want those relationships or support mechanisms to be maintained. That is at one end of the spectrum. At the other end of the spectrum there are those victims who do not have any money and are obviously very distressed and vulnerable, as has been said. The support to those victims commences immediately, from an AFP perspective. This will depend on where the report is made, what time of the day or night the report is made and the availability of support services to the AFP at the particular location and time. But I can say that the AFP has provided and will continue to provide the sort of immediate support that is required to appropriately support and help victims who report these matters. That support includes arranging immediate accommodation; immediate security, depending on the circumstances of the case and the assessed level of threat to the victims concerned; and doing all of the practical things that need to occur so that the victims can be supported.

CHAIR—It is good to hear that you are thinking along those lines. It would appear that organisationally the whole thing is well on track. But it seems that some refinement is needed in terms of the practical steps to ensure that these people are being looked after and that you can elicit responses from them. Also, who questions the individuals? Do you have ‘big, burly cops’, to coin a phrase, who take these ladies away to do the questioning, or is it done by someone with language capabilities and training in sensitivity in this area to elicit responses?

Mr Lawler—From an AFP perspective, we would be drawing on the capacities I have spoken about. Particularly where we have seen a large number of these cases reported—in Sydney and Melbourne—we have specialist capacity teams to respond to these matters. As far as them being burly or otherwise goes, the people selected for those teams have, as you have heard, been receiving training across a whole range of disciplines to aid them in dealing with the problem in a compassionate and sensitive way but also in endeavouring to gather the evidence to prosecute those involved who continue on this activity. On the issue of interpreters, it is practice for the AFP to have independent interpreters, for obvious legal reasons. Those interpreters would be called out to assist in cases where language or understanding of the English language was an issue.

Mr KERR—I turn to the issue of trying to disentangle resources in this area. It is a difficult one. The submission that was put forward refers to TSOT as being largely directed to people-trafficking. That of course has a number of different faces, only one of which relates to sexual abuse issues. You mention that you have 23 members in the team, but you then put a subclause in that says that, while the team will primarily focus on trafficking in persons, it will also continue to work in fighting child sex tourism and those sorts of issues. There are 23 people focused on people-trafficking. Is that the dimension of the resources? In practice, on the ground, how do those resources break down between the different allocations that are part of that brief?

Mr Lawler—It is a very good question; thank you for asking it. If I put it in context that may aid the committee. The AFP has what we call a CCPM—a case categorisation prioritisation model. Sexual servitude, child sex tourism and sexual slavery are part of that model. We work in the currency of investigational hours. The model attributes so many investigational hours to the investigation and examination of a particular crime type. One of the real strengths of the AFP has been its ability to be flexible and nimble and move resources wherever the problem might be,

whether the problem is in Bangkok, Cambodia, Sydney or Melbourne. We have found that it does not make sense to have fixed, static teams in a particular location if you quickly find that you have a problem in some other location such as Perth.

The ability to manage and prioritise the resources so that we can deliver the right resources to the right location is crucial for us. The mechanism by which we do that and then track the resources is a system of time attribution. People attribute their time to particular cases which are aggregated to give us guidance as to how many resources are being deployed against the crime type concerned. In relation to sexual slavery and child sex tourism, my understanding is that the hours capacity or FTE equivalent exceeds 23 people. More resources are being deployed against that crime type because the AFP contends that in this particular circumstance and at this particular time that is a priority for the organisation.

Mr KERR—That is good. Can I also take you to the people-trafficking specialist investigations training program, which I think Ms Fagan referred to. As I understand it, and from your submission, that is yet to be operationalised; it is to be operationalised and then offered as a training package to the states. Can you give us time lines on that and tell us—and I think this picks up the point the chair raised about training at state level—what agreements have been reached thus far with state agencies as to the adoption of this. It goes to the dissemination of information about the importance of this issue and its management at a state level.

Mr Lawler—The specialist training program of four investigators has been developed. As we have said, the first training program commenced; it commenced on 16 February. Suitably skilled personnel have been selected to attend the three-week residential program being delivered from the AFP's training facility in Barton. I have already spoken about the nature and quality of the presenters of the program and also, in broad terms, about the areas that are covered by the program. The specialist training program will be further delivered. I understand that it will be delivered on a cost recovery basis to both domestic and foreign law enforcement partners as required.

Mr KERR—I am always a bit hesitant about cost recovery. It is a very good thing from the Commonwealth's perspective but if the Commonwealth is seeking to lead the dissemination of information it might be seen as a threshold issue. Other agencies might say: 'This is not our main brief. Are we going to put the money on the table to participate? We can put some resources in but we do not have the budgetary allocations for these things.' What has been the take-up of the offer thus far?

Mr Lawler—At this stage we have had one course and that is currently in progress.

Mr KERR—I meant from the states. The course that you are operating is an internal AFP course, isn't it?

Mr Lawler—That is right. We are still to develop the program and go to the states and our overseas partners for participation in the course. This is still developing.

Mr KERR—There is no take-up yet?

Mr Lawler—Not at this point in time.

Mr KERR—What about the reference in the submission to the APMC meeting that was held in November 2003 about the various operational arrangements between the different state and federal agencies? What were the outcomes of that for the training package or any of the other material that we should be interested in?

Mr Lawler—The actual Australian policing strategy to combat the trafficking in women is still being developed. I think I indicated in my opening statement that that is not due to be presented to the APMC until July 2004, so that is still subject to endorsement.

Mr KERR—What happened with the reference in the paragraph which says:

The AFP is leading the development of the plan ... and proposals will be considered by APMC at its meeting in November 2003.

This just died, did it?

Mr Lawler—The APMC, as I understand it, agreed to the framework of the strategy with six focus areas. That was at the November 2003 meeting. The six focus areas were: prevention, capacity and resources, victim assistance, partnerships, training and education, and regulation and legislation.

Mr KERR—But that has not been operationalised yet?

Mr Lawler—It is coming back before the Australasian Police Ministers Council in July 2004 for endorsement.

Mr KERR—I would like to now go to a couple of issues that flow from that in the victim assistance area. Somebody mentioned the Office of the Status of Women. I understand—and I may be wrong, correct me if I am—that the Office of the Status of Women has funding to develop support packages for victims of sexual servitude but there has been a delay in tendering, that in fact there has been no tendering out of the packages and that it is not going to happen for another 12 months. Is that right?

Mr Lawler—The Office of the Status of Women are probably best placed to advise you on that, but certainly the advice I have is that the Office of the Status of Women have indicated to the AFP that they are working towards a finalisation of the tender process by 15 March this year.

Mr KERR—Does that mean issuing tenders or does it mean actually putting programs on the ground?

Mr Lawler—Again, I am not familiar with that process and I think that question is better addressed to the Office of the Status of Women.

Mr KERR—There has been evidence given to us, both direct and apocryphal, of two things. One is that historically when women were identified as working in the sex industry but did not have valid documentation they were administratively expelled from the country and there was no interceding interview to look at the circumstances—whether they were victims rather than people who were wilfully abusing our immigration laws. Is there now in place a protocol to set a

flag off so that every person who is swept up working illegally in the sex industry is at least asked some threshold questions about the circumstances by which they came to this country so that a safety net is placed over the whole group to ascertain whether or not they came, as a number of witnesses have said to us, with representations—for example, they were working in the hospitality industry and then they were subjected to brutality and forced to work in the sex industry. In the past such people would not have been asked those questions and would have been administratively expelled. Is there now a protocol that requires everybody to be at least asked threshold questions?

Mr Lawler—Yes, there is. I can tell the committee that the communication and referral protocols between the AFP and DIMIA are developed and are working well. You will no doubt hear from DIMIA—I think later in the day. In practice the DIMIA threshold for referral is low so that if they are in any doubt, matters are referred to the AFP. The AFP accepts about 60 per cent of DIMIA referrals for evaluation.

Mr KERR—Why not the other 40 per cent?

Mr Lawler—My understanding is that following discussions with DIMIA, following assessment of the material that the AFP has before it and interviews with the women concerned, it is established quite clearly that these are not matters of sexual servitude. But the point I am making is that it is erring on the side of caution so that we absolutely capture everybody.

CHAIR—Who does the interviewing, though, and makes the assessment? Is it DIMIA?

Mr Lawler—I understand that joint interviews occur, so DIMIA will speak to the women.

CHAIR—With AFP?

Mr Lawler—Yes.

Ms Fagan—In relation to the tender process and OSW that we were just speaking about, interim arrangements were put in place last year in order to deal with this period until that process is completed. So we now actually have an interim arrangement in place.

Mr KERR—It was suggested to us—and the question of its reliability is, I think, uncertain—that in the past there was a practice that, when women became troublesome and had passed their useful economic value for the operators of brothels, they would be doxed in to DIMIA and that DIMIA provided a very useful service to them by getting rid of women who were now surplus to requirements by administratively removing them. It was also suggested that there were some relationships between DIMIA—

CHAIR—We are about to go in camera, so perhaps it would be safer to ask some of those questions then.

Mr KERR—I am happy to do that. I could go to some issues that are less controversial.

CHAIR—We have another 15 minutes for this segment, and we have to allow for enough time in camera.

Mr KERR—I think the in camera issues are important and I would hate to take up that time.

Evidence was then taken in camera, but later resumed in public—

[11.39 a.m.]

BLACKBURN, Ms Joanne, First Assistant Secretary, Criminal Justice Division, Attorney-General's Department

FAIRBROTHER, Mr Richard, Principal Legal Officer, Transnational Crime Unit, Attorney-General's Department

JOSEPH, Ms Margaret, Senior Legal Officer, Criminal Law Reform Unit, Attorney-General's Department

LEONARD, Ms Kerin, Senior Legal Officer, Transnational Crime Unit, Attorney-General's Department

CHAIR—I welcome officers of the Attorney-General's Department. As you know, we prefer evidence to be given in public but should you at any stage wish to go in camera please let us know. My colleagues may wish this to happen in this session but we will advise you if that is the case. I invite you to make an opening statement and then we will follow up with questions.

Ms Blackburn—I have a reasonably short opening statement. Having listened also to the questioning of the AFP—

CHAIR—Yes, I think that is helpful too.

Ms Blackburn—it raised a number of issues that I thought I could address as part of my opening statement, and then we can go from there. The committee is obviously aware of the \$20 million package of measures which was announced by the Australian government on 13 October. I have available for the committee, if it does not already have it, the media statement and background paper which included details of the package.

In our view, the package represents a comprehensive and coordinated whole-of-government approach. The Attorney-General's Department was the lead agency with primary responsibility for developing that coordinated approach and for monitoring its implementation. The package is designed to focus on the full cycle of trafficking from recruitment to reintegration and to giving equal weight to the three critical areas of prevention, prosecution and victim support. The package was the result of a fairly comprehensive whole-of-government review of the measures which were in place prior to that date, including the 1999 legislation and the existing law enforcement aid and diplomatic measures. That review was part of normal assessment of the measures already in place and has led to the new package which was announced. In developing the package there was wide-ranging consultation with NGOs, including Project Respect. The Minister for Justice and Customs met with Project Respect and a number of other NGO representatives in June last year, and their input was very valuable in developing the package. Implementation of the package is now progressing quite well and is essentially fully operational. The response to the package from NGOs, HREOC and international organisations was very positive.

I will track through each of the parts of it in very short order. The package comprises development of a Commonwealth action plan to eradicate trafficking in persons. This is to coordinate the new initiatives. It is being prepared and is expected to be published in April this year. We have commenced the first stage of the community awareness project, which will involve a consultant undertaking a scoping study to ensure that the community awareness products from that effectively target the appropriate people with the appropriate messages. The AFP have provided details of the establishment of their TSETT team and its work. As Senator Greig mentioned, the Senior Migration Officer (Compliance) has been posted to Thailand and is operating there now. AFP and DIMIA officers have developed close operational links, including protocol arrangements, to ensure the efficient detection and investigation of claims of trafficking. The new visa arrangements for potentially trafficked persons are in place and four bridging visas have been granted under these new arrangements which came into force on 1 January this year.

Centrelink has been appointed as the interim victim support provider until the permanent support provider is established, which is expected to be in April—and I would like to come back with some further details on that in a moment. AusAID are proceeding with a reintegration assistance project in South-East Asia and they have had discussions in Thailand with a view to progressing that project. We have tabled before the Joint Standing Committee on Treaties the United Nations protocol to prevent, suppress and punish trafficking in persons, especially women and children. That was tabled along with the transnational organised crime convention and the people-smuggling protocol with a view to the three international instruments proceeding to ratification. As the final part of that, the government announced that there would be a review of the legislation which is currently in place at the federal level and that review is under way. It is also mentioned by the AFP that we are working with the states and territories through the Crime Commissioners Forum and the Police Ministers Council to develop a national law enforcement plan to combat trafficking in persons.

Moving on to AGD's specific responsibilities, of the three areas which are under consideration by this committee in its terms of reference, AGD has primary responsibility for the adequacy of the current legislative framework. We have, nevertheless, taken the lead in coordinating the government's response to these issues and their implementation. We have built strong and productive working relationships across all of the agencies which are involved in delivering the package. Some of the earlier questioning identified the need for the involvement of quite a number of agencies in responding to any particular instance of alleged trafficking. Part of the *raison d'être* of this package was to ensure that all of those agencies that do need to be involved in it are linked into it in a seamless way to ensure that victims are properly responded to.

Our efforts are necessarily focused on the two areas where we have primary responsibility: improving the relevant legislation to comprehensively criminalise trafficking activity—and I have other expert people with me here today who can deal with detailed questions on the legislation—and also the development of the community awareness strategy. The strategy is aimed at increasing public, including media, awareness of this crime and its consequences, assisting in efforts to identify trafficked women, and providing information about the extensive support which is now available to them. In our submission to the committee of 22 October last year we outlined the legislative framework, including the existing laws, and the areas which would be under consideration for further legislative amendment.

Moving briefly to some of the areas which came up in earlier questioning, just to give some further information to the committee which may assist your consideration, there was a reference—and I have referred to it again myself—to the development of the national law enforcement plan of action to combat trafficking in persons. I think the AFP witnesses mentioned that there were six specific strategies under consideration in that. It is a document which, as Mr Lawler mentioned, has not yet been endorsed by the Police Ministers Council but it is fully expected to be so endorsed in July this year. Under the training and education area of that strategy we have specific reference to the need to provide police personnel with specialist training to analyse and investigate sexual servitude; to provide police personnel with training and education on the nature, scope and sensitivities associated with those crimes; and for police personnel to participate in and engage with training and community awareness organisations to educate the community about those issues. This is part of the plan to ensure a national response across all of the police services in Australia which have varying responsibility for these crimes.

On the victim support issue—and there was some questioning about what it is and how it is being provided—I can confirm that Centrelink was appointed as the interim provider of victim support and has been doing that since 5 January this year. There are presently four victims who are receiving support from Centrelink under those arrangements. We expect that the three additional witnesses who have been mentioned in the press as part of the New South Wales operation in the last couple of days will also be on those Centrelink benefits. Five other victims of trafficking, who are assisting law enforcement agencies, were identified before this package came into place on 5 January this year. They are presently being provided with victim support directly by the AFP and the DPP.

In terms of the detail of that available support, as was mentioned, it is the responsibility of the Office of the Status of Women to manage the provision and delivery of that support, initially through Centrelink and then through a permanent provider. The tender for the permanent provider was issued, as I recollect, sometime around 17 December 2003. The tender has closed, and applications have been received and are presently being assessed by a steering committee convened by the Office of the Status of Women. A permanent provider is expected to be appointed in April 2004.

The package that is being provided now by Centrelink and that will continue to be provided by the permanent provider has an initial phase of 30 days, during which the person will be holding the bridging F visa. It is 30 days of intensive support specifically designed to enable a person who has been identified as a possible victim of trafficking to be given the necessary support for them to consider their position and whether they wish to participate and assist Australian law enforcement agencies to prosecute the crimes have been found to be or are claiming to be the victim of. In that period of time they will have a case manager and they will have access to interpreters, counselling, medical health, housing, money and security. As our AFP colleagues mentioned, it is meant to be a flexible, responsive, case-by-case response. The extent to which any of those particular components are provided to a witness will be a matter for consultation between the case manager, the law enforcement agencies and of course the victim, each of them to determine what they need in that period of time. It is intended to be a period of time for reflection—for the person to consider their position and what they might like to do in terms of either assisting Australian law enforcement agencies or not assisting Australian law enforcement agencies.

After the first 30 days, if it is assessed that the person is able and willing to provide assistance to Australian law enforcement agencies they will go on to the criminal justice stay visa. It is designed to be a seamless transfer then to a system of longer term support for victims who are participating in law enforcement activities. The package that they move on to includes access to a Centrelink benefit in much the same way as many other people in Australia receive a Centrelink benefit, which provides financial assistance to the victim for the purposes of providing food and shelter. They also have access to Medicare and Pharmaceutical Benefits Scheme benefits. They continue to have a case manager, who is able to access counselling, legal assistance, English training and vocational training for them.

Finally, on that point, it is expected that the permanent provider will be a community provider of these services. That decision was made because there is significant evidence in the international community that a community provider is better able to make the witnesses feel comfortable and able to properly consider their own position and what they wish to do in the circumstances that they are in. In that context, I should also mention that, of the witnesses who are presently assisting Australian law enforcement, only one is presently in detention. All of the others are residing in the community. I now turn briefly to the international activities. There were some questions about those. Obviously, they are the primary responsibility of the Australian international development agency AusAID. I will briefly draw your attention to current projects.

Mr KERR—Why would somebody assisting the authorities in this regard be in detention?

CHAIR—I wrote it down as a question to ask you as well.

Ms Blackburn—I might hold off on answering that question for a minute. I am trying to recall the conversation I had with my colleagues from the Department of Immigration and Multicultural and Indigenous Affairs yesterday or the day before in which I specifically asked them the question: ‘Are there any in detention?’ So I might take that question later.

CHAIR—On the face of it there would not seem to be any justification why one person is treated differently, unless there is some security aspect involved. That is always a good line by—

Ms Blackburn—I will ask someone to ring DIMIA and confirm that. I apologise for that lapse of memory on my part; I thought I remembered the answer to that question and I do not. I will go back to the international activities and briefly take you to a summary of those. An Asia Regional Cooperation to Prevent People-Trafficking project is being undertaken by AusAID at a cost of \$8.5 million. It is a project which aims to strengthen regional cooperation and legal policy frameworks in the region and to build national and regional capacity to prevent trafficking in women and children. The initial focus of those activities is on Cambodia, Laos, Burma and Thailand. It commenced in April 2003 and is expected to be completed in April 2006.

We have provided \$1 million to support the United Nations Development Program interagency project on trafficking in women and children, which aims to reduce the incidence of trafficking in the Mekong subregion. That includes Cambodia, China, Laos, Burma, Thailand and Vietnam. It commenced in May 1999 and is due for completion this year. There is also \$4.7 million provided for the implementation of the International Organisation for Migration project for the return and reintegration of trafficked persons in the Mekong region. There has also been

\$350,000 provided to Child Wise Australia to prevent child abuse in ASEAN tourism destinations. The objective of that funding is to develop regional international standards and tourism industry guidelines on the protection of children from sexual exploitation in tourist destinations.

I would like to add a final personal comment, drawn from the chair's questioning of the AFP officers who were here. In developing this project I have had personal contact with the operational AFP officers who are engaged in working with the TSETT team and dealing directly with the victims. I also had the opportunity to travel with Senator Ellison in the last week before Christmas to Thailand, Malaysia and Cambodia, where I had the opportunity to meet the AFP liaison officers who are on the ground in those countries working with these issues. I was very impressed with their sensitivity to the issues and with their considerable empathy and compassion for the victims whom they are dealing with. I offer that purely as a personal comment in this context. Thank you for tolerating my long introduction. We are pleased to take your questions.

CHAIR—Thanks very much for the comprehensive briefing. I suspect that most of our comments will relate to victim support, but my first question is on legislation. When do you expect the whole package of legislation to be finalised? Perhaps Mr Fairbrother might tell us.

Ms Blackburn—Ms Joseph is in charge of the process we are going through. We have a number of proposals under development within the department. Since the government announced this package in October we have been working within the department to identify the areas in which we might suggest to the government that we could benefit from making changes to the legislation. I am happy to mention those areas to the committee but make it very clear that I do so on the basis that these are issues being developed within the department. They have not been submitted to the Minister for Justice and Customs. Neither he nor the government has made any decision on whether we will go forward in those areas.

Just to give you some idea of the areas in which we are currently investigating, we are looking at the question of deceptive recruiting offences to include deception about the fact that an engagement to provide sexual services will involve slavery, sexual servitude, forced labour, debt bondage or the removal of an organ. This is, of course, referencing it straight back to the protocol definition of trafficking. We are looking at the need for a general trafficking offence which criminalises organising or facilitating the entry of a person into Australia by means of threats, force or deception. It does not require proof of the element of exploitation. We are looking at the possibility of aggravated trafficking offences to apply in a range of circumstances, including where an element of exploitation is present and where the victim is under 18 years of age. We are looking at the possibility of debt bondage offences which criminalise causing a person to enter into the condition of debt bondage, and there is also the possibility of employment offences.

That is the range of areas that we are presently investigating. The department would be proposing to put those to the government for decision on whether the government wishes us to proceed with those. We then propose to undertake a fairly extensive public consultation process on those offences. Members of the committee may be familiar with the process that was undertaken for the 1999 amendments to the Criminal Code. That was an extensive consultation process. These are difficult offences. They raise a number of not really conflicting but competing

issues when you are looking at what behaviour you seek to criminalise and what elements of an offence you seek to put into the legislation. We expect to go through a process of preparing a draft, after the government has considered which ones it would like us to pursue, and then put that draft out for a fairly extensive public consultation process. The time line on that will get us to when, Ms Joseph?

Ms Joseph—We are probably looking at mid-year for getting an exposure draft of the legislation, provided that the government wishes to pursue that.

Ms Blackburn—I will go back to your question, Chair, about why one person is in detention.

CHAIR—I was sure you would give an answer to that, otherwise I was about to ask you.

Ms Blackburn—It was as you expected: there is an identification issue with the particular person. I understand the person has also expressed an interest in returning to her home country. That is all the information I have. DIMIA is appearing before you this afternoon and may have further details, but that is the only reason why the distinction is being made, as I understand it.

Mr KERR—Sorry, but I still do not understand. How would a question of identity emerge? Why would you be putting in detention somebody who is being treated as a victim of sexual exploitation? That is not an answer to me.

Ms Blackburn—I am not putting anyone into detention. It is a responsibility—

Mr KERR—Well, you are if you are in charge of victim support and coordination—

Ms Blackburn—No, I am not. The question of whether or not a person is put into immigration detention is solely a decision for the department of immigration.

Mr KERR—So on top of everything you say about all these support structures there is a capacity for anyone who comes forward as a victim to be detained. Is that correct?

Ms Blackburn—The department of immigration will make a determination on whether the person—

Mr KERR—So you go into queue A and you are protected and looked after under the protective arrangements that you have given us great account of, or into queue B and you go to jail. Is that right?

Ms Blackburn—No. If you are, for reasons determined by DIMIA, being held in detention, notwithstanding that you have identified yourself or have been identified as a victim of trafficking, the package of victim support which I detailed earlier is also available. It is available to people who are being held in detention. Obviously, it is not providing them with accommodation outside the detention centre but it is fully intended that any victim who, for reasons that DIMIA determines, is being held in relation to—

Mr KERR—Let us get this absolutely clear. If somebody who has been raped and abused, having been brought to this country and mistreated, and is then detected—after somebody does

them into Immigration because they are working under this imprisonment system—and they go directly to immigration detention, they miss out entirely on all of those provisions in the community: their accommodation and their support. Instead they go into immigration detention; perhaps they get English language help or what have you but they are effectively in detention. Is that correct?

Ms Blackburn—They are housed in a detention centre.

Mr KERR—Where?

Ms Blackburn—The one that I am aware of at this stage is the Maribyrnong detention centre.

Mr KERR—This is not much of an inducement to identify yourself.

Ms Blackburn—I would have to take some issue with you on that. We have nine, possibly 12, victims now who have been identified who are living in the community with full access to the victim support services which I have described to you.

Senator FERRIS—But that begs the question as to why this one is not.

Ms Blackburn—The information I have been provided with is that it is because there are identification issues with the person. It is not possible for DIMIA—and it is better for them to answer this—to provide appropriate visas to people if they are unable to identify the person. I obviously would prefer that further questioning about the basis on which DIMIA have retained this one person in detention be referred to DIMIA.

Mr KERR—Fair enough.

Senator FERRIS—I understand that.

Ms Blackburn—I would make the point: there is one; there are 12 other identified victims who are living in the community.

Mr KERR—These are people you have identified as assisting the AFP in possible prosecutions.

Ms Blackburn—The one person—

Mr KERR—If one person is being held in detention it sends an extraordinarily bad message to others who might come forward.

Senator FERRIS—I am just extrapolating on what you said: it may be that she has not got a passport, and we do not exactly know—

Mr KERR—Lots of these people will not have a passport.

Senator FERRIS—But the question of identification, presumably, is that she cannot prove who she is. I agree with you that it seems to be an extraordinary double standard. It is something to raise with DIMIA, I suspect.

Ms Blackburn—If I could just emphasise a couple of points. The full victim support package is available to people who are held in detention, notwithstanding that they are held in detention.

CHAIR—But you cannot say it is ‘victim support’ if they are held in detention—it is not a great package or incentive.

Mr KERR—I have been to detention centres, and it is an absolute nonsense to say that you are treated as a victim if you are held in detention—it is an absolute and utter piece of hypocrisy. It may be that there are proper reasons, but if people coming forward identifying themselves as victims are being held in detention—and that is a category of people that are being dealt with—then the whole fundamental of treating people as victims is undermined.

CHAIR—From the people that we have had contact with—and without wishing to go into any more detail—there is also the question of passports being taken away. There is an identification problem there automatically. It is DIMIA’s responsibility and we flag it is issue we are concerned about, because it would seem that victim support should override whatever other people might do.

To pursue this whole area of victim support, what is being offered, again, sounds very attractive, but that does not fit with what we have been told before. You were here sitting through other evidence where it was suggested there was very little money. Do you know the actual amount they are provided with? Is it a normal unemployment benefit?

Ms Blackburn—Once they move beyond the initial 30-day intensive support period, yes, they go onto a Centrelink benefit, which is the same as Centrelink benefits provided to many other beneficiaries in Australia. I am sorry, I do not have the exact amount of money that is provided to them.

CHAIR—Can I say, Ms Blackburn, that if you are in charge of victim support and you do not know how much people are getting that is a little bit surprising, because that is one of the relevant areas.

Ms Blackburn—Can I restate again: I am not personally responsible for the delivery of victim support.

CHAIR—I thought you said you were responsible for the overall development of the package of victim support.

Ms Blackburn—I am responsible for the overall coordination and development of the entire package, which the government announced on 13 October, and its implementation. Within that package, there are clearly quite a number of streams of activity the delivery of which is being managed by the responsible agencies. The Office of the Status of Women has sole responsibility for managing the funding—

CHAIR—It sounds like giant buck passing. If you are responsible for bringing together the package, I would have thought that central to the whole process is what it is made up of. It clearly seemed to us in our discussion that there were inadequacies in what was there. If you are not briefed then so be it; we will have to ask somebody else.

Ms Blackburn—I am briefed to the extent that what I am saying to you is that after the first 30 days they go onto a Centrelink benefit.

CHAIR—But you do not know.

Ms Blackburn—I am happy to take that on notice. Another option which is clearly available to the committee is that the Office of the Status of Women, which is responsible for the delivery of this package, would obviously be available to come before the committee to take those questions. Alternatively, I am happy to take them on notice and provide them to you.

CHAIR—Wasn't there some suggestion, Mr Kerr, that the Office of the Status of Women did not in fact have their own people on the ground? Are you aware of that?

Ms Blackburn—The Office of the Status of Women is responsible for managing the contracts for—

CHAIR—You said that before. We were asking the question: have they got the package up and running and have they got the people involved in the process?

Ms Blackburn—Yes, they have. Centrelink is the contracted interim provider from 5 January. Centrelink is delivering the victim support package to—

CHAIR—Where does the Office of the Status of Women come into it then?

Ms Blackburn—They are responsible for the contractual arrangements with Centrelink. They will be responsible for the contractual arrangements with the community provider. They are currently managing the tender process to identify the community provider of victim support and to put in place the contractual arrangements for the delivery of that service on the ground.

CHAIR—Are you concerned that, from the limited evidence we have had to date, there does not seem to be a whole lot that has hit the ground?

Ms Blackburn—There are four current victims who are accessing the benefit as provided by Centrelink.

Senator FERRIS—Can you tell us what that is?

Ms Blackburn—I can go back to my previous advice to the committee that within the first 30 days it is an intensive victim support package which provides—

CHAIR—We have had that before.

Senator FERRIS—Yes, but I did not hear it.

Ms Blackburn—Unfortunately, the senator was not in the room. It provides housing, money, security as determined by law enforcement agencies, access to medical and health services, interpreters, counselling and legal advice. After the first 30 days they move onto the second stage of the package, which includes the Centrelink benefit which I have mentioned, access to Medicare and the Pharmaceutical Benefits Scheme, access to lawyers, counselling, English language and vocational training. Throughout that whole period each victim will have a nominated case manager who is responsible for the personal welfare of that person during the delivery of the victim support package.

CHAIR—I was interested in what happens in that 30 days. Is there questioning by AFP to determine whether they actually meet the criteria of the sexual slavery definition? Is that what happens in the first 30 days?

Ms Blackburn—The first 30 days is a period which enables the law enforcement agencies to interview the person and to see whether the person has information which will assist in the prosecution of offences and also if the person is willing to assist the law enforcement agencies. They also have, during that period, a case manager and counselling to ensure that the victim is fully aware of their rights to not cooperate and the support which is available to them if they are able to cooperate.

CHAIR—What happens if they do not wish to cooperate?

Ms Blackburn—If they do not wish to cooperate with the law enforcement agencies, at the end of the 30-day period they will not move onto the criminal justice stay visa because that is a visa which is only available for people who are assisting the criminal justice system. At the end of that 30-day period, it would be a matter for determination by DIMIA as to whether that person was eligible for the witness protection visas. To clarify that, the witness protection visas are obviously visas which are designed to provide security and support for people who have come into a form of danger to themselves—either in Australia or with prospect of that on their return—because of their assistance to the law enforcement agencies. If a person is not able or willing to assist the law enforcement agencies, then at the end of that initial period of assessment they will be dealt with by DIMIA in accordance with the ordinary provisions of the immigration law—and also with the assistance that we are able to provide through the AusAID reintegration project.

CHAIR—So is it possible that someone who refused to cooperate with the AFP could still get a protection visa in Australia? We probably need to direct that question to DIMIA.

Ms Blackburn—DIMIA obviously can provide you with greater detail. My understanding is that, with regard to the witness protection trafficking visas, the *raison d'être* for that range of visas is that they are available to people who, because of the assistance they have provided to law enforcement, have put themselves in need of protection. For people who do not cooperate with law enforcement agencies, the situation they are in is as victims of a crime who have whatever immigration status they have, either having come here legally or illegally, and they will be dealt with according to that regime. People who may be victims of crime who then have concerns about their return to their country have the range of issues which are normally considered in determining whether a person is a refugee available to them, which is a separate stream of activity.

Mr KERR—They would not be eligible as a refugee because the refugee convention deals with persecutions of a kind that are not material to this.

Ms Blackburn—Whether or not the person would be determined as a refugee would be determined by reference to the refugee convention criteria.

Mr KERR—I understand that, but that has nothing to do with this. Let us put that to one side because ordinarily none of the convention criteria apply to somebody in these circumstances.

CHAIR—It would have to be humanitarian.

Ms Blackburn—They would have to have a well-founded fear of persecution on return to their home country.

Mr KERR—By reason of their membership of a particular class and for a whole range of subsidiary reasons, most of which would make it a difficult argument to put at best. But what the chair is getting at is that obviously it is preferable and highly desirable that people in these circumstances do provide assistance to the authorities and that the people up the chain are the subject, ultimately, of prosecution. But there may be people who, for a whole range of reasons, some of which we are aware of—for example, because of the great delay some of the prosecutions are not taking place for four years; we understood one woman was here for four years and was not able to see her child for that period of time—would simply say: ‘I am not going to cooperate. This is far too hard. This is something I am not going to go through. I am not going to put myself through that.’ Yet they remain in danger from criminal elements. In that circumstance, other than the notional availability of protection under the refugee convention, which we recognise as being unavailing in these kinds of circumstances—

CHAIR—Unless it was using the mechanism that Ms Blackburn talked about—that is, that they could prove that they were subject to attacks and so on in their country of origin or were persecuted.

Mr KERR—Because of their membership of their social class or a particular class. What is the class that they would belong to and how could they make that claim? I am just wondering whether there is a framework of thinking about this. I am not certain that I have the answer.

Ms Blackburn—In the development of the new arrangements, the decision was made by the government that people would be offered protection if they were able and willing to cooperate with law enforcement agencies.

Mr KERR—Yes, but does that imply that there is a decision to offer them no protection if they do not cooperate? You start off saying that people are to have a choice. Everything is about giving people a choice. The next stage is that if they cooperate they are given protection. Am I to draw the inference that if you do not cooperate you are left on your own and junked, and you are a victim of crime notwithstanding?

Ms Blackburn—If you are not providing assistance to the law enforcement agencies then you may be a victim of crime. There are many victims of crime in Australia who are not offered any differential immigration status because simply they are victims of crime.

Mr KERR—I am not talking about that; you are going off at a tangent. You say you give people a choice. Whether out of fear or out of consideration of other consequences, what is the consequence of person's decision that they cannot cooperate or do this? If the answer is that that is the end of the process, that they have no consideration as victims of crime as such, just tell us. We can then consider what the consequences are if we want to make any recommendations.

Ms Blackburn—That is exactly what I did say.

Mr KERR—No, it wasn't.

Ms Blackburn—I will try to answer that question very clearly.

Mr KERR—If your answer is yes, that will do.

Ms Blackburn—If a person is willing and able to assist law enforcement agencies, the new visa arrangements apply to them. If the person is not willing and able to assist law enforcement agencies, the new visa arrangements do not apply; they are dealt with under existing arrangements under the Immigration Act. The intensive victim support package is available for the first 30 days to all victims of trafficking, specifically to enable the victims the time and space to determine whether they wish to cooperate with law enforcement agencies.

Mr KERR—I am interested in following up a couple of the specifics in general legal areas; one is the accession to the treaty. In the submission and in relation to all the press releases it says, 'Ratification, once all domestic requirements are in place.' What were the domestic requirements that needed to be put in place, and are they now all in place?

Ms Blackburn—As I mentioned, there were three parts to the package, which have been tabled before the joint standing committee, and we have had one public appearance before the committee to explain that. The position we have taken before that committee, and the department's assessment, is that Australia is fully compliant with the terms of the transnational organised crime convention and would be able to ratify immediately, and similarly that our laws meet all of the requirements of the people-smuggling protocol. However, we have expressed the view before the JSCOT that we do not consider that we are at this stage fully compliant with the people-trafficking protocol. Part of the package of legislative issues we are considering that I went through earlier is associated with us putting forward to government a proposal that says in our view these changes to our laws will need to be made so that we meet the obligation under the protocol to fully criminalise people-trafficking.

Mr KERR—So it is Commonwealth legislative requirements that you are addressing, not state or territory laws or administrative procedures?

Ms Blackburn—That is correct.

Mr KERR—I was just trying to identify where the issues that are still live were.

Ms Blackburn—The issue for us lies at the question of the adequacy and comprehensiveness of the Commonwealth legislation. However, in that context, as you may be aware, four states and territories have legislation that mirrors the Commonwealth criminal code offence of 1999

criminalising sexual servitude. South Australia, Northern Territory and ACT have also enacted deceptive recruiting offences. Western Australia introduced sexual servitude and deceptive recruiting offences in a bill in 2003. The remaining jurisdictions—Queensland, Victoria and Tasmania—have other criminal offences that could be used to prosecute trafficking in persons if that conduct was identified in the state. For Australia to be able to ratify the protocol we consider it only necessary for us to amend the federal laws that apply in that area, but there is in place quite extensive mirror legislation in the states to ensure that these activities can be dealt with both under federal law or under state law.

Mr KERR—I do not know whether you are going to be in a position to assist us either with these visas, but one of the most heartbreaking stories we heard was of the first instance where this came to light. The Victorian police officer who initiated this gave us the account of the woman who was at the centre of that, who was unable to leave Australia for four years to see her child. She had been brought here under circumstances of abuse and, had she left Australia, she could not have returned to give testimony and her child was not permitted to come here to see her. That in itself seems to me to be a human rights abuse, even though she was staying in order to give that testimony.

CHAIR—You cited another case about somebody who was to be a witness and who went back for her brother's funeral. She disappeared totally. There are real dangers.

Mr KERR—Have these kinds of issues been addressed in the way this new visa has been adapted to the purpose? Obviously, it was not satisfactory before.

Ms Blackburn—I can make two comments about that. There is in place an arrangement which will enable a person who wants to leave the country to do so and come back in to give evidence as a witness in a prosecution. Those visa arrangements are in place. You mentioned someone going back and then disappearing.

CHAIR—Apparently they can only come back when they are called to appear in the court. They cannot come back until then.

Mr KERR—The arrangements are that you can stay here but you cannot bring your child, and you cannot visit relatives if someone dies. If you do you have to stay in that overseas country until you are called as a witness. Then you can get the visa back again to attend and to give testimony. You are at risk for an extended period of time. If you do take the risk of going back home because you have family circumstances that oblige you to, for example, a funeral, you are then stuck there for perhaps two-and-a-half years. The people against whom you are going to testify know that you are a crucial witness adverse to them and you cannot come back to take the benefit of all these supportive mechanisms. You can only come back on the threshold of the court case. That may have been fixed. I am asking whether it has been.

Ms Blackburn—No, that is a correct statement of the operation of the visa requirements.

Mr KERR—Has attention been given to that? Was it a consideration in this? It seems to me to be a vast abuse of human rights to find somebody in those circumstances.

Ms Blackburn—It would not be appropriate for me to comment on the question of whether it is an abuse of human rights.

Mr KERR—You are the expert in this area, aren't you? I do not ask you give that answer; I say that frivolously.

Ms Blackburn—I am not an expert in human rights or international human rights law at all. The way the current arrangements operate is that the new visa arrangements were specifically designed to encourage and enable witnesses to remain in Australia. If a witness chooses to leave Australia then there is in place a separate visa arrangement which enables that person to return for the purpose of participating in the relevant prosecution activities.

CHAIR—The committee is saying that if there are justice factors involved in this—and you have the overall responsibility of putting together the victim support program—then the question is whether this has been looked at. The implication is that you are going to have problems with people coming forward as witnesses or disappearing if they go back. That is crucial to what we are about. We are spending \$20 million on this program but we have elements of it which seem to us, having now listened to the evidence over a number of days, are going to cause problems. You can have the best programs in the world in terms of psychological support—which, by the way, certainly did not appear in the evidence of some of the witnesses we talked to—but this creates a real problem in terms of the integrity of the package. Could those types of issues be addressed?

Ms Blackburn—That is a conclusion that is clearly open to this committee to make in its report. It is not appropriate for me to comment.

Senator FERRIS—Can you see the point we are trying to make? A woman goes back to attend her brother's funeral. She is a crucial witness in a likely prosecution of a trafficker. She returns to the point where she was seduced for trafficking purposes and she disappears. By taking the view that she cannot come back immediately because her safety is at risk, you jeopardise the outcome of the entire trafficking investigation and possible prosecution.

I simply cannot understand why it cannot be seen that when she returns to the point at which she was recruited for trafficking her life will be in danger, perhaps more than it is here. Therefore the whole trafficking trail may come to a full stop because she is murdered. We do not know whether this woman was murdered. We know she has disappeared and we know that nobody has been able to find any trace of her. As a result of that, the potential prosecution, and maybe end of trafficking, for hundreds of other women comes to a dead end—simply because we say, 'No, without any visible sign of support and maybe no family structure to go back to, you stay there until we tell you to come back.' Then, if she disappears, we say, 'Oops, sorry, our prosecution falls over.' It seems to me to be completely stupid as well as a fundamental breach of that woman's human rights. I cannot understand why we are going around in a circle of bureaucratic rubbish instead of addressing the issue of the prosecution being dependent on the witness.

Ms Blackburn—I have provided you with details of the way the current system works. I cannot comment on the policy statements that you have just made.

Senator FERRIS—It is not a policy statement; it is an observation, which I would have thought anybody involved in the collection of information for a prosecution would be acutely aware of, not least of whom the lawyers sitting at this table. It is just unbelievable.

Mr KERR—Assuming that you are the officer responsible for the overall construction of this package, were the facts of these two cases drawn to your attention and did you take them into account?

Ms Blackburn—We have read all of the written submissions that were provided to this committee and analysed them. I can assure you that there has been nothing raised in those submissions which was not available to the people involved in the construction of the package. I would also have to take issue with the way you are presenting this as a personal responsibility of mine. I was responsible—

Mr KERR—I was just asking a question about whether you were aware of those facts when you put together the materials that went to government.

Ms Blackburn—We were aware of a number of allegations and a number of scenarios. There was a range of options considered by the public servants who were responsible for preparing advice to the government on the package. I feel that this is a difficult situation for me because what I am here articulating to you is the package which has been agreed to and announced by the government.

Mr KERR—I am sorry; I am not wishing to infer that you are responsible for the package. It is the ministers', collectively, announcement. I was simply trying to clarify whether that particular point, which seems an egregious human rights abuse that people in the law enforcement agencies have expressed concern over, had been changed in this package. It has not; now it is clarified.

Ms Blackburn—No, if a person chooses to leave Australia then their access to those new visa arrangements terminates on their departure.

Mr KERR—Do you think that is appropriate?

CHAIR—She cannot answer that.

Ms Blackburn—I cannot express a view on that.

Mr KERR—What about the other issue, about the woman—who had a child of quite tender years—who was brought here exploitatively, misused and then had to remain? There is quite often quite a period of time between the investigation of a matter and an ultimate trial. In this instance, she went four years without seeing her child, who was 3½ when their mother left her home country. So she saw her child again when the child was 7½ or eight. She stayed to assist in the prosecution. Is there any vehicle where a person can have the care of their child under these protection arrangements?

Ms Blackburn—I cannot answer that question; I do not know. The department of immigration—

Mr KERR—If the visas have not changed, the answer would be no. Have the visas changed in their substance?

Ms Blackburn—I cannot answer that question. I can either take it on notice or ask that you direct that question to DIMIA this afternoon. I simply do not know.

CHAIR—I understand this to be one of the problems, so I ask you this question: who is responsible for putting together the whole package of victim support? Is it Attorney-General's or should we be talking to another?

Ms Blackburn—You should be talking to the head of the Office of the Status of Women, Kerry Flanagan.

CHAIR—So it is not your responsibility putting together—

Ms Blackburn—I am not responsible for the delivery of the victim support package.

CHAIR—No. The delivery is one.

Mr KERR—One of the problems is that we keep hearing from people that we have a whole-of-government approach.

Ms Blackburn—We do, and it has several parts to it.

Mr KERR—It seems to disaggregate very quickly when you actually ask a tough question.

Ms Blackburn—Can I just say that I think that is really unfair.

CHAIR—It well might be; so we want to try to get to the bottom of this.

Ms Blackburn—As I said at the beginning, the whole-of-government aspect is that it is a package that goes from recruitment to reintegration. There is no single Commonwealth government or state agency that is capable of delivering that whole range of services.

CHAIR—We are not talking about delivery; we are talking about policy. On the question of who puts together the policy of the whole asylum support program, I understood from what you said that it was your responsibility. If we are wrong, please let us know. Delivering the service is one aspect, but putting together the policy of victim support is another aspect. If that is not your area, then perhaps we should be talking to somebody else.

Ms Blackburn—Let me clarify for you the process which was undertaken. There is no one Commonwealth government agency responsible for all of the policy aspects that this quite complex problem raises. The department of immigration is responsible for immigration policy. The Office of the Status of Women is responsible for the victims support. The Attorney-General's Department is responsible for the legislation. There is no one agency.

If I could just take a short minute to advise you of the process. We had an IDC that included 12 agencies across the Commonwealth. When I used the phrase 'whole-of-government' in my

introductory comment, I said that the Attorney-General's Department had the responsibility for coordinating the development of that response. It was developed by an interdepartmental committee, which had 12 agencies represented on it, and the announcement of the package by the government was an announcement jointly made by four ministers.

CHAIR—I understand.

Ms Blackburn—It is a complicated issue that cannot be managed solely by one agency. That is precisely why the process of pulling together all of the agencies was undertaken. No one agency can deal with this problem in isolation.

Mr KERR—Accepting that to be so, what continuing vehicle has the government established or exists—perhaps none does; you had the IDC—so that there is an overarching appreciation of whether this particular piece of implementation or action fits in with the overarching strategic view of the government? I am not criticising the strategic view of the government. It seems to me that the aspirations that the government is expressing and its intentions to ratify the convention are admirable objectives. But the question may be, for example, with this visa issue: who takes overall responsibility to say, 'Do all the bits fit now?' on an ongoing basis, if not you?

Ms Blackburn—The interdepartmental committee, which was established to develop the package, has a continuing responsibility to monitor and report on its implementation and to evaluate its effectiveness and report to government on the need for what is being achieved in the package and the need for any modification to the package.

Mr KERR—So the IDC continues?

Ms Blackburn—Absolutely.

Mr KERR—I want to ask you one other question about coordination: what role do you see the ACC playing in this?

Ms Blackburn—The ACC has been a member of the IDC since its inception. The Australian Crime Commission has been a member of the IDC since its inception and continues to participate.

Mr KERR—I understand that. But how do you conceptualise? How did the task force or the IDC conceptualise the intended roles of the ACC in this overall system?

Ms Blackburn—The ACC has a role—which I am sure they are here to tell you all about that—in providing a contribution to the information which is available to the IDC, which is taken into the mix to develop the government responses to it. I know that sounds—

Mr KERR—Essentially you see them as an intelligence providing body in this area.

Ms Blackburn—ACC is an intelligence providing body. That is correct.

CHAIR—Thank you very much for your presentation. I would have liked to have heard a bit from your support team so that we can have a full representation of the department. Clearly you

get the feeling, from our point of view, that there are some frustrations. Perhaps there should be somebody where the buck stops—somebody who is responsible for this overall development of policy. You can see individual agencies who are going to develop it according to their way. That seems to me to be a problem if no-one person is responsible for the overall coordination of the policy.

Ms Blackburn—It certainly is the intention that the IDC, which I chair, has that responsibility to monitor its implementation and consider any issues arising. I too am unhappy that my colleagues have not had an opportunity to speak.

CHAIR—Seeing that you told one of them not to speak, I am surprised. I have never seen that happen before.

Ms Blackburn—I apologise if you were offended. You were asking questions about victim support and Mr Fairbrother is neither an expert on nor responsible for victim support. Mr Fairbrother is the manager of our transnational crime section.

CHAIR—He was introduced as the chief legal officer.

Mr Fairbrother—Principal legal officer is what we call the section head.

Ms Blackburn—He is the head of the section which is responsible for the TOC and protocol ratification processes, and also for managing the people-trafficking policy outcome. Ms Joseph is in our criminal law area and is responsible for developing the legal package. Ms Leonard is responsible for the people-trafficking convention and protocol activities and also people-trafficking policy within the Attorney-General's Department. Had we had any questions in those areas, they would have been well able to inform the committee.

CHAIR—Thank you for coming.

Proceedings suspended from 12.41 p.m. to 1.38 p.m.

DANIELS, Ms Yole Aurora, Assistant Secretary, Compliance and Analysis Branch, Border Control and Compliance Division, Department of Immigration and Multicultural and Indigenous Affairs

DAVIS, Mr Stephen Donald, First Assistant Secretary, Unauthorised Arrivals and Detention Division, Department of Immigration and Multicultural and Indigenous Affairs

McMAHON, Mr Vincent, Executive Coordinator, Border Control and Compliance Division, Department of Immigration and Multicultural and Indigenous Affairs

WATTS, Mrs Sharon Rebecca, Acting Director, Migration Fraud and Investigations Branch, Border Control and Compliance Division, Department of Immigration and Multicultural and Indigenous Affairs

CHAIR—Welcome. As you know, we prefer evidence to be given in public, but at some stage if you wish to go in camera we will be happy to oblige. I have already highlighted to you that we wish to go in camera towards the end of this discussion period. Thank you for coming today. We look forward to your opening statements.

Mr McMahan—I have no opening statement. Our submission covers our areas of interest. I have a table with some updated data on it in front of me.

CHAIR—That would be good. Do you believe that the numbers of women who are involved in the so-called sexual slavery trade are somewhat exaggerated? Are they people who have entered into contractual arrangements that they knew about before coming here, are they women who have simply been picked up in a raid and use this as a ruse for claiming protection visas, or all of the above? How many do you think there are?

Mr McMahan—It is a question of definition. There are many people in the community who would regard any woman who is brought to Australia for the purposes of sex as a trafficked person. That is not the definition in the UN protocol. Our analysis has always been around what would constitute trafficking in terms of that protocol. It requires three things: movement across borders, which is almost always satisfied; coercion/deception, which happens sometimes, and exploitation. In terms of that analysis, we clearly encounter people who have been trafficked. The numbers are very low, despite the fact that we access information from a number of areas, including the public. I do not believe that there are any significant numbers of women who would claim to have been trafficked for the purposes of staying here.

When we interview a person we do not ask them if they have been trafficked. When we conduct interviews, we ask a series of questions which establish whether they have been trafficked. That is quite important because many of the women who have been trafficked have been schooled through intimidation et cetera not to answer the questions. For example, if we asked, have you been trafficked? They may not know what 'trafficked' means and may be so apprehensive that they know the answer to that question is: 'No, I have not been trafficked.' The sorts of questions we ask may seem a bit bizarre and offbeat. For example, we might ask them where they go shopping. People who have been trafficked often cannot leave the premises or

name an area. We ask them where their passport is and a whole range of operational questions I would prefer not to go into in a public forum. We try to come at the issue of trafficking by looking for what we believe are indications. Obviously, there can be physical indications too. If there is only a handle on the outside of a door, our suspicions would immediately be aroused.

I want to register another matter quite early. You will notice that the number of people we are referring to the AFP has grown quite rapidly and suddenly. There is a very good reason for this. Up to about 12 months ago, we believed we needed to investigate trafficking before we did a referral. We took the responsibility of questioning people, establishing whether there was a case to be prosecuted and then passing it to the AFP. In the last 12 months or so we have changed our modus operandi to reflect the fact that we do not have responsibility under the Criminal Code for prosecutions. If we see any signs of trafficking or we have a suspicion that trafficking might exist, we now refer it almost immediately to the AFP. Consequently, many of them are being rejected for further investigation because what appeared to be trafficking did not stand up to their examination. In essence, discounting for the fact that we now make referrals very rapidly, we might work on around 30 a year who are possibly genuinely trafficked.

CHAIR—I think the Scarlet Alliance were saying they thought they had been in contact with about 10, and then you have Project Respect who say that several hundred are involved. Apparently there is a definition in terms of knowledge of the contract into which they are entering.

Mr McMahon—I do not think I fully answered that part of the question. I think that Project Respect—and I have great admiration for that organisation and what they do, and we have certainly tried to learn from them—would regard someone entering with a bonded arrangement, for example, as trafficking. The simple existence of bonding would not in our minds constitute trafficking but if someone is told, ‘You are coming to Australia for the purposes of prostitution and you will owe \$20,000,’ and then they enter the country and are told, ‘Sorry, it’s \$50,000,’ we would regard that as an example of trafficking.

CHAIR—There are a lot of practical issues involved with the types of questions we want to ask you. Please indicate if you would prefer us to wait until we go in camera, because we can easily do that. The Attorney-General’s Department mentioned that we have 14 people here under the criminal justice visa, one of whom is in detention at Maribyrnong. I am wondering why this person is at Maribyrnong.

Mr McMahon—No-one with a visa is in detention. I am aware of the woman who is in detention. She does not have a visa. Our normal policy is not to take women into detention. We have a strong view that they should not be in detention and we do everything in our power to avoid their going into detention. In this particular case the woman wants to leave the country. In normal circumstances just the fact that she wanted to make arrangements to leave the country would have got her out of detention, but we cannot establish her identity. We hope that within the next couple of days we will have documentation back from Thailand that will establish her identity. In her case it is entirely around identity.

Senator FERRIS—So that is the exception rather than the norm?

Mr McMahon—Absolutely.

Senator FERRIS—What benefits does she have while she is there? For example, if she has a language difficulty does she still have access to health advice, translators and perhaps the Scarlet Alliance or one of the other agencies that work in that area and might have the opportunity to give her a sense of confidence about what is happening to her?

Mr Davis—The basic services provided to her would be similar to the services provided to other detainees at Maribyrnong. They would include things like health, counselling and psychiatric or other support as needed. The female and family area of Maribyrnong is separated from the adult male area of Maribyrnong. Generally she would be managed within our contractual arrangements with GSL Australia, the company now running Maribyrnong, and they would provide the full range of normal detention support arrangements. The question of contact with those external groups goes a bit beyond that and back to the other area, but all her welfare, counselling and immediate health needs would be dealt with there. There is on-site 24-hour nurse support within the centre as well as referral to doctors or other specialists as needed to meet the particular needs of each detainee. The approach adopted is that the needs of individual detainees are identified in individual care plans which dictate the range of services needed for the particular detainee.

Senator FERRIS—So she has chosen to go home and, therefore, is not availing herself of the opportunity to get the other services that she would get if she agreed to give evidence against the trafficker or the perpetrator, presumably.

Mr Davis—That is a matter for my colleagues.

Mr McMahon—Many of the services which would otherwise be available go to support, which is largely accommodated within the centre. Ms Daniels just wanted to add to the answer, because there is contact with non-NGOs on this.

Ms Daniels—The person has been seen already by representatives from Project Respect and one other NGO in Melbourne. They have obviously provided her whatever other information they wish to convey.

CHAIR—When you establish the identity, is she likely to be offered the justice visa?

Mr McMahon—We would be very keen on her taking up that opportunity, but—

CHAIR—She wants to return.

Mr McMahon—Yes. It is a longstanding problem which I think is changing now with the publicity around the package. There was a view that we simply deported women when we found them, which was not true, although it may have happened on occasions. Many of the women are scared. They want to depart immediately. Some of them may not be scared, but they are stuck with a fundamental problem: they have a large debt, and there is only one way they can deliver on that debt and that is to continue with prostitution. We are told that some of the women who are returned immediately are then taken to another country for the same purpose. But we cannot detain a person simply because we want them to give evidence or whatever. The detention is an administrative issue about regulating their visa status. If they decide that they are going to go, we will not even take them into detention. What we are trying to do now is leverage off the NGOs—

CHAIR—We were concerned about some evidence—and you might want to check the *Hansard*—that was given yesterday by a senior sergeant from Victoria. He was involved in a case where they had a successful prosecution of sexual trafficking. It took four years for the case to finally come to the courts since the woman gave the evidence. During this time she could not leave the country, and she had a daughter in Thailand. If she returned to Thailand, she would have had to stay there until such time as the case came up. There was another woman who was involved in the case who went back for her brother's funeral and then disappeared. We were concerned about that situation, and the policeman who was dealing with the case said it seemed to him very unfair—she was on a justice visa—this was not allowed to happen.

The previous witness from Attorney-General's was saying that, once the person leaves the country, that category of visa finishes and they are only brought down when the case is on. I do not know whether you have any views on it, but the committee was concerned about those cases, especially as it would jeopardise people coming forward to give evidence—and especially, if they have got a child involved, to wait that length of time—and there is also the danger of them being exposed to retaliatory action in the country concerned and not being able to return. We have only started seriously in this area a couple of years ago, so it is not surprising that we have not formalised our response. It was an area that we were concerned about.

Mr McMahan—I have two comments on that. The first is that, certainly with the new visa regime with the witness trafficking protection, we did put in an ability to bring family members—

CHAIR—That is new, is it?

Mr McMahan—That is new.

CHAIR—That is good. It is a pity Attorney-General's did not know about that.

Senator DENMAN—How long has that been there?

Mr McMahan—That was introduced when the government's package was announced, so it basically started on 1 January. It does relate to the witness protection trafficking visa, and no such visas have been issued to date, although people may—

CHAIR—There is a capacity, though. Would that also cover the case of the witness who disappeared? Would that cover someone who wanted to go back for a funeral and then return and come under the same visa?

Mr McMahan—The visa regime at the moment is domestic. We are continuing to review in this area, and so if there are gaps we will continue to try to work towards those gaps.

CHAIR—You can see that that is a real danger, though, if you want them to provide the evidence and there is a length of time involved. You have addressed one issue, which is good, but the other one may need to be looked at as well.

Senator FERRIS—We have heard evidence of a woman who returned for a family funeral and then disappeared. Not only does that raise questions about her safety but also the whole

pathway to prosecute the perpetrator is potentially lost if she was the only person we had to name them. I suppose what we were trying to find out was whether they could return immediately. If there was a traumatic event in the family at home, could they return to Australia immediately after that visit and go back onto the program? Do they then have to stay inflexibly in the country that they returned to until they have to come back for the trial? In that case I would have thought the chances of being able to find them and get them to return would be significantly less.

Mr McMahon—I well understand the point you are making. I think that under the new arrangements return is quite possible. I think it is backed up by support arrangements. I suspect that this is less a visa issue than an issue about the way in which organisations may have been funded for support. If someone has gone offshore then their primary interest has been their return for the trial. When they came back, they had to individually support those people as an organisation.

CHAIR—I see what you mean.

Mr McMahon—From a visa point of view I do not think we would have had any concerns about the issuance of a visa over that period of time. I cannot say that absolutely definitively, but I hear the point that you are making. If there were particular examples we would certainly look at them. Take, for example, the one about a woman with a child overseas. I would have seen nothing in the policy and the legislation that would have prevented a visitor visa being issued, provided the child was going to return again. So if that is an actual example I would want to look at that.

CHAIR—It is. The details are in yesterday's hearing if somebody would like to get a copy of them. We could provide them for you. Who provides the funding? Is it Attorney-General's, the AFP—

Mr McMahon—It is the Office of the Status of Women, as I understand it, under the new arrangements.

CHAIR—That highlights the fact that we probably need to speak to them, seeing that they are not on our agenda—and that Attorney-General's have flick passed it to them.

Ms Daniels—There is a visa regime that allows people offshore to enter Australia for criminal justice purposes. The criminal justice visa that we use for people remaining in Australia is called a criminal justice stay visa, but for somebody coming in from offshore there is a criminal justice entry visa, which enables them to come into the country. We do have an example of a person who was granted a criminal justice stay visa and then went offshore and came back on a criminal justice entry visa.

CHAIR—That is good. That is at least reassuring. I will change the pace a bit and turn to something a bit provocative. It was raised by several people—I think Scarlet Alliance and others. Part of the problem exists in terms of trafficking. We have the decriminalisation of brothels in various states in Australia, so prostitution is seen as a legitimate industry, where they pay tax and do everything else. But we do not have a category in which they can enter the country. Therefore for them to enter the country various ruses are used. They come in as students under working

holiday arrangements. I have a provocative suggestion—although the committee is not suggesting it. We just want you to test what your views would be—I suppose to some degree it is a political issue; whether the community would wear it—on having a category for sex workers, with a limit on the numbers coming through. In your view would this assist to crack down on the racketeers, who obviously are exploiting the difficulty of getting in under current arrangements?

Mr McMahon—You are quite right. Obviously a lot of society type judgments would sit behind that. But I will answer it from a purely technical immigration viewpoint, which will not go to the heart of what you are asking. The migration program is structured around various categories. In general, we do not allow unskilled entry. Essentially, we have family reunion, we have the humanitarian side and we have skilled entry. That would not fit within skilled entry. Consequently, it would be the same sorts of arguments as you might raise as to why we do not allow housekeepers to come into Australia, et cetera.

CHAIR—Do working holiday makers have to nominate what area they are going to work in? Do they nominate ‘fruit picking’?

Mr McMahon—They have to satisfy the determining officer that they will only work for a maximum of 20 weeks. So the only real requirement on them is to demonstrate that they are coming here for work and a holiday—not for working per se. Similarly, some of the people we are picking up are students as well. We have, on occasions, picked up students who are working as prostitutes. They have been able to satisfy that they are genuine students and that they are not working more than 20 hours. We basically operate under a legislative framework and in those circumstances we would immediately regard them as bona fide entrants, and we would not take them into detention or cancel their visas.

CHAIR—But if somebody comes in saying they are going to work on a working holiday visa, they can actually nominate that they are going to look for work in cafes or restaurants and so on, I presume. They do not have to be skilled for a working holiday visa.

Mr McMahon—No, it is an unskilled category.

CHAIR—So they could put that down and end up in a brothel—

Mr McMahon—I have not seen the form for quite some time. A lot of it is done electronically now. I am not sure whether the occupation is identified. A lot of people coming in would not know where they are going to work.

Senator DENMAN—You spoke about the legislation. Does the legislative framework vary from state to state?

Mr McMahon—In respect of the legalisation of prostitution? Yes, it does. In most states it is legalised, but sometimes they have limitations. For example, you cannot work in the suburbs.

CHAIR—We have working holiday maker agreements with Korea and Japan, but not Thailand and Cambodia; is that right?

Mr McMahon—That is correct.

CHAIR—From anecdotal evidence quite a number of people are coming to Australia from Korea on working holiday visas and working in the sex industry. What has been holding back the agreement with Thailand?

Mr McMahan—I would not be able to answer that. A lot of these agreements have resulted from bilateral relations and a satisfaction that they are going to work in the way that they are intended. We have a major problem with Thai sex workers. Of the 257 people we picked up last year, 100 of them were Thai. If we had a working arrangement, there could be similar issues in other industries. But I cannot comment here at the moment. I have not been briefed on the ins and outs of a Thai agreement. I do not know of any which are proposed.

CHAIR—There is a free trade discussion under way now. Has it been negotiated? It has been completed, hasn't it?

Senator McGAURAN—It has been long completed.

CHAIR—It is a wonder it did not emerge out of that. I am interested in whether, when people are on a criminal justice visa, they pass out of your hands? The only one you had responsibility for was the one in Maribyrnong, is that right?

Mr McMahan—That is correct. Once people have a legal status, we have no interest in them other than as to whether or not they are meeting the conditions of their visa.

CHAIR—And if they are on the victim support visa, which is a 30-day one, are they your responsibility then or are they the responsibility of the AFP?

Mr McMahan—What would typically happen in those circumstances is that we would have had either a joint operation or an operation ourselves. If we have detailed prior information, we would involve the AFP straight up. If we saw signs that trafficking may have occurred, then we would immediately alert the AFP. They are meant to get back to us quite quickly once we have actually given them the information on whether or not they have a continuing interest in the person. In other words, whether legal issues or whatever are sufficiently aroused for them to actually want to pursue a possible legal action. We can then issue a bridging visa F, which is the bridging visa, for a month. It immediately entitles them to support which is basically administered by OSW.

CHAIR—Do you know how much that is?

Mr McMahan—I do not know, but I think it is very close to special benefit.

CHAIR—Which is what?

Mr McMahan—I do not have that information.

CHAIR—We struck out with the A-G as well in terms of how much. We can talk about it in camera, but there were some questions about whether the small amount resulted in some of these women having to return to prostitution to support themselves during that time.

Mr McMahon—Our interest would continue fairly closely on that, because we will want to know the result of the action of AFP, whether or not it is going to move onto a criminal justice stay arrangement or whether or not they simply established that there is no trafficking involved and the women then need their immigration status otherwise resolved. In those circumstances, we will keep very close contact. If a criminal justice stay certificate is issued by the law enforcement agencies, which leads to a visa, then our interest will obviously be significantly reduced because they are in somebody else's hands for a different purpose. But certainly for the first month we will have a close interest because we need to know what is going to happen to the women.

CHAIR—They are not your primary responsibility.

Senator DENMAN—If you have got a suspicion about someone but no real evidence, but your antenna are out there, do you do a random check or do you alert the Federal Police at that stage?

Mr McMahon—This is in respect of possible trafficking by a brothel or something?

Senator DENMAN—Yes.

Mr McMahon—The operation of law means that we could not simply go in because we have a general suspicion. We have to have information and so we would issue a search warrant where we had specific information, and then we would go in. We are actually getting some reasonable information out of clients who basically strike up some sort of relationship with the women and the women will confide that they have been trafficked. If a woman says, 'I'm locked in at night,' or something and we got that information, we would immediately pass that information on to the AFP. We can get into a brothel on the basis of that information probably faster than they can, and if we receive that information we may be there on the same day—sometimes we will be there within hours.

Senator DENMAN—Thank you.

CHAIR—If everyone is in agreement, we might go in camera now. All of the people at the back are members of the ACC. The Attorney-General's and Justice people are behind you.

Senator FERRIS—How do you feel about having all of those people present?

CHAIR—Are you comfortable with all of those people being present?

Mr McMahon—Yes. They are all in government. I am not uncomfortable.

Evidence was then taken in camera, but later resumed in public—

[2.39 p.m.]

CLARK, Mr Chris, Head of Operation, People Trafficking, and General Manager, Intelligence Services, Australian Crime Commission

KITSON, Mr Kevin, Director, Intelligence, Australian Crime Commission

MILROY, Mr Alastair, Chief Executive Officer, Australian Crime Commission

NEWMAN, Mr Lionel, Director, Executive Services, Australian Crime Commission

CHAIR—Welcome. As you know, we prefer evidence to be given in public but if you should wish to go in camera and the committee wishes to do so as part of this hearing we will advise you of the committee's agreement to that. Your submission is before the committee. I now invite you to make an opening statement after which we will ask questions.

Mr Milroy—Thank you for the opportunity to make a presentation. I will provide a short opening statement, and any detailed responses to your questions can, if required, be provided by my colleagues. I note that several departments and agencies have already addressed the committee on a range of policy, law reform and operational initiatives in relation to the trafficking of women for sexual servitude. In relation to the terms of reference on the work in establishing the extent of people-trafficking in Australia for the purpose of sexual servitude, I will run through a chronology.

In June 2002, the Office of Strategic Crime Assessments identified people-trafficking as one component of labour exploitation as an emerging criminal issue. As you know, the Office of Strategic Crime Assessments was part of the merger which formed the Australian Crime Commission. In February 2003, the Crime Commission threat assessment identified 56 threat issues, including illegal and indentured prostitution. In April 2003, the ACC advised the minister and the chair of the Australian Crime Commission board that people-trafficking was becoming a high profile issue and that the ACC could undertake some work on the problem. As a result, the ACC initiated an intelligence probe which included the preparation of an assessment into people-trafficking for sexual exploitation. In May 2003, the board endorsed the ACC intelligence probe and, at the same time, the ACC board designated illegal and indentured prostitutes as a category B national criminal intelligence priority. In August 2003, the collection phase of the intelligence probe concluded. An investigation under the ACC money laundering and fraud against the Commonwealth determination, Midas, also looked at people-trafficking issues during that period.

In October 2003, the ACC assessment was completed and disseminated to the ACC board members. As a result of approval from the board, the Attorney-General's Department and DIMIA were provided with a copy. In November 2003, the ACC consideration of the assessment determined that an intelligence operation was required to further study the scope of people-trafficking for sexual servitude and to develop law enforcement and other strategies to counter the problem. The statement in support of the determination was developed in consultation with other agencies and incorporated findings from the strategic assessment.

On 4 December 2003, the board agreed, based on the statement in support, to a special intelligence operation on people-trafficking for sexual exploitation. This was to enable the ACC to contribute to the national law enforcement response through intelligence support to partner agencies including the AFP and DIMIA, including access to the ACC special powers; and intelligence development work, including updated assessment, supporting a proactive targeting development program and establishing, where necessary, and coordinating systems for intelligence collections and analysis, information management and dissemination between the ACC partner agencies and other stakeholders, including a desk on aliens for information sharing. It also included working with partner agencies in relation to all aspects of intelligence operations and the development of an appropriate national structure to specifically respond to this continuing threat.

In relation to term of reference (2), in preparing the assessment the ACC consulted with DIMIA, the New South Wales police, the Victoria Police, the AFP, the Attorney-General's Department, Project Respect, the Sex Workers Outreach Project and Flinders University. It also reviewed the asset database for relevant holdings and had access to information indirectly sourced from other police forces.

The ACC has developed a wide variety of productive relationships with Commonwealth and state partner agencies through extensive liaison with the Commonwealth and state law enforcement agencies when preparing the ACC assessment and also through membership of the Commonwealth Interdepartmental Committee, IDC, in developing a coordinated government strategy to address people-trafficking. Amongst other things, this has resulted in the Commonwealth action plan to eradicate trafficking in persons that was announced by the minister on 13 October 2003 and has been adequately covered by other presenters. We also worked in collaboration with DIMIA in 2003 in relation to a project related to people-trafficking. We have looked at increased international links with the assistance of the AFP liaison officer network to gather further information internationally on this particular problem and we looked at increased cooperation with the AFP and other jurisdictions investigating people-trafficking for sexual exploitation through the special intelligence operation.

In respect of the adequacy of the current legislative framework, I believe the Commonwealth Attorney-General's Department is the agency with prime responsibility for the development of the Commonwealth law enforcement policy response to people-trafficking, and I have addressed this term of reference in some detail. The Attorney-General's Department, as you are aware, is currently reviewing the adequacy of the current legislative framework and identifying options for new offences.

In conclusion, the AFP and DIMIA are the lead agencies in countering people-trafficking, but the ACC is well positioned to assist the lead agencies in relation to the problem. The ACC will continue to support a whole-of-government approach to this issue through its intelligence activity, its collaboration with partner agencies and its special intelligence operation, in particular the use of the coercive powers.

CHAIR—Thank you. I appreciate that you sat through all the sessions today. They will at least provide you with a bit of background in terms of the discussions with other departments.

Senator McGAURAN—Mr Milroy, I am not sure from what you said whether you have yet sought a board authorisation and determination to conduct an intelligence operation or investigation specifically in relation to people-trafficking.

Mr Milroy—Yes. The board provided approval on 4 December for us to carry out a special intelligence operation. Since that date, over the past seven weeks, we have marketed the opportunity for all agencies, both state and Commonwealth, to use the coercive powers and activated the collection of intelligence, both internationally and nationally, to develop further information so that we will be better placed to advise the board on the extent of this problem.

Senator McGAURAN—Thank you. I thought you said that, but I am reading from an old submission here—September.

CHAIR—What is your view on the recommendation that came forward during submissions that the ACC becomes the collection body for the registration of all foreign nationals who are working in brothels around Australia? That would then enable you to work further in relation to the sexual trafficking area. Some people have said that they think that is a great idea and others have said that they think that is an invasion of privacy, that you are going to get a lot of people who will avoid registration, illegal brothels and so on.

Mr Milroy—I think at this stage it is premature, because the board has given us a specific task with clear strategies. I think at some stage down the track, once the ACC has completed its considerable amount of collecting of information from a variety of sources as well as from the special intelligence operations and from using the coercive powers, one might be in a better position, in providing information to the board and other agencies, to make some decision as to the viability of such a proposal. At the present moment I think a considerable amount of work has to be undertaken, because I think everybody believes there is insufficient data available to identify clear trends in this particular field.

We are very keen—and it is important that we do this—to look at a wide range of sources both in law enforcement and externally, both here and overseas, to really clearly understand why there is a market, if there is a market, what are the drivers and what are the policy, crime prevention or other necessary strategies that need to be developed or activated by law enforcement or governments. To do that I think they really need this research that we are undertaking to be carried out and the results tabled before the board. I think it is something we could take into consideration if there are people who have views and who wish to make submissions. I think the coercive powers are clearly one of those opportunities where we do have people who are prepared to come forward and make confidential submissions in relation to how this area could be improved. We would welcome receiving them.

CHAIR—You have been looking at this area for some time now—not years but an amount of time. What are your conclusions at this stage? Are the numbers that have been suggested extensive? It has come up today that we are talking about 30 or so a year; DIMIA were talking about that number. Is that in line with what you see?

Mr Milroy—As I indicated, since we had the board determination it has been seven weeks, and we have now activated a collection of information from a variety of sources. It is probably quite clear from the information that you have received over the last few days in your hearings

that there are many varied opinions in relation to the extent of this problem. I would think that we would be far better placed in some months time—once we have gathered all this information and encouraged those who have information to come forward, and also when we have used the coercive powers in a confidential way to allow people to provide information—to provide information on what the scope of this problem is.

CHAIR—When are you being called into these discussions? Are you called into the loop at the stage when someone who is deemed to be an individual who has been trafficked activates DIMIA and the AFP, or are you advised of that development?

Mr Milroy—Yes, we actually have a formal process in our work to complement the AFP and DIMIA. Chris Clark and staff attend regular meetings with the AFP for information that we have collected that may be of benefit to their operations, and we are actively engaged in consultation with all state and federal bodies to ensure that the coercive powers and our intelligence gathering services are available proactively rather than reactively. We are monitoring, for example, the recent arrests in New South Wales. We have been in contact with them, virtually the day it occurred, to offer our services and to see what opportunities there would be for the use of the coercive powers so that we can better understand this problem. So it is a proactive approach that we are taking. We have marketed our determination. As you know, the commissioners on the board fully support this proactive approach and they have encouraged their services to work closely with the ACC. Likewise, we are tapping into some of those sensitive sources in the community that we have heard a lot about, such as the carers and other groups, to encourage people who have information to come forward, so that we can not only develop our own understanding but also use any information to pursue any operations against alleged criminals who may be involved in this market.

CHAIR—You mention in your submission that, in the ACC’s classified overview threat assessment, ‘illegal and indentured prostitutes’ are classified as a category B national criminal intelligence priority. Then you explain:

(Category B issues are “emerging matters, significant matters dealt with largely by individual member agencies (or other relevant agencies), or matters requiring less than the highest priority resourcing”).

What does this mean in practical terms? Does it mean that you do not see it as being all that significant in terms of priorities, that you put it down the list?

Mr Milroy—No, far from it. I might actually get Kevin to explain the A, B and C category process and how we came to develop these threat assessments and provide this information to the board for them to make this decision.

Mr Kitson—The process by which we give a relative evaluation of the various perceived threats in the Australian criminal environment is based on a reasonably extended risk assessment methodology in which we look at the level of harms and try to develop a sense of a threat that emerges from those. We judge those harms according to economic impact, political impact, social impact and a range of variables within those. There is nothing particularly unusual in the way that we assess those. It is standard risk assessment methodology which is consistent with the established Australian and New Zealand standards. But we take it a step further to try to understand the organised crime dynamic that applies to those harm issues and end up with a

relative ranking that allows us to recognise that it is impossible in realistic terms to say whether there is a greater threat to the Australian community from the possession of an illegal firearm, possession of a small amount of cannabis or the illegal trafficking of women for sexual exploitation. So in our overview threat assessment we come up with a broadbanding of where we think the relative threats stand and we propose to the ACC board a level of response in categories A, B and C which is essentially tied to the amount of resources available within the agency to focus on intelligence gathering to support the further understanding of those threats.

CHAIR—So we are to gather that you have not allocated many resources to following this through?

Mr Kitson—Most category B criminal intelligence priorities have generally something in the order of a full-time analyst, normally based in Canberra or somewhere like that, working to study the problem, to mine the data available—from other agencies such as DIMIA and the AFP, from other sources and from open source information—to not only contribute to the collation and assessment of that intelligence but also disseminate it where we believe we have something which the others may not have. It is supported by a range of IT personnel and open source gatherers. In terms of the overall effort, any single one of the category B intelligence priorities may have two or three people working on it at any given time. For something of the magnitude of the sexual exploitation area, we enhance the level of support that we give to it in intelligence terms so that we have greater capacity to respond. Naturally we have escalated that response since the allocation of the board determination in December last year in recognition of the greater priority that is there.

Mr Milroy—Another point is that one should not just look at this problem in isolation, because allegedly the groups that are involved in people-trafficking are also involved in crimes which fall into category A. All of our determinations, other than this determination, are all category A and things like tax fraud, money laundering, identity crime and possible corruption are all alleged to be part and parcel of people-trafficking in sexual servitude, so I think we have to look at this in the right context. It should not be looked at as being just in category B. We look at it as part of the big picture and of these allegations of it being involved in more serious crime.

CHAIR—Colleagues, are there further questions?

Senator DENMAN—I was going to ask whether there was any evidence of people-trafficking being interrelated with trafficking in drugs and firearms, but you have answered that.

Mr Milroy—Yes.

Senator FERRIS—I wish to ask a question in relation to gender. I suppose we assume when we are talking about sexual servitude that we are generally talking about women, but there are of course young men involved in sex services, being in the sex workers industry. Have you come across any young men who have been in this category?

Mr Milroy—I cannot answer that question. Chris or Kevin, who has recently done some overseas research on this, are quite welcome to answer.

Mr Kitson—I have seen nothing in the entirety of the intelligence gathering that we have done that points to the existence of males in the sexual exploitation area but I think that, given the scale of the market and the scale of the pool that may feed this, we cannot exclude the possibility. During a recent series of visits to some of our regional partners, I asked the very same question: do we have information that points to the presence of males and do we have any age or demographic profiles? The answer was simply: ‘We do not know. We have not seen it. We do not believe that it is a prominent factor.’

CHAIR—Mr Clark, do you have further information provided from the back row?

Mr Clark—The research we undertook last year did not come across any indicators of male victims.

Senator FERRIS—There is another question that arises from some evidence we received yesterday which suggested that we tend to think of these women as being victims of some form of seduction into the trade but that in fact there are women who enter the contracts willingly and who come to Australia fully understanding what they are going into. They might have come from an experience in that industry and when they are caught they simply use the victim framework to improve their opportunity of staying in Australia. Do you have any comment on that evidence?

Mr Milroy—No.

Senator FERRIS—It is an expeditious form of activity.

Mr Milroy—I suppose that something that we are undertaking at the moment is hoping to come up with some profiling in relation to the various areas it is alleged and to come up with a profile of the various types of people who may fall into this category, some unwilling or willing, or at the beginning, or it is all organised or it occurs later. It is an issue that we will take on board.

CHAIR—You have been doing this for seven weeks and you have already set up the structures to do it, so we are really speaking to you a bit ahead of the game.

Mr Milroy—That is correct.

CHAIR—Maybe what the inquiry comes up with can be useful in terms of what you are doing. It might be useful to talk about the protocols and partnership arrangements: have they been put in place with the various departments or agencies?

Mr Milroy—Yes. Chris might pick up on the time he spent developing the process with the various agencies.

Mr Clark—I have been quite active in the last month or two. I have visited all eastern state policing jurisdictions. I have not been to the Northern Territory, Western Australia and Tasmania. Everybody else has had an overview of ACC’s powers and, most importantly, how to access them. My role is to facilitate that access when required. I have set up an informal network so that when we do get to a position where we are running examinations or using our coercive powers

in other ways, I can make those opportunities available to law enforcement agencies generally across the country. It seems that, if we are putting the time and effort into getting people into these sorts of environments and asking them to answer questions which they would not normally have to answer, we have to maximise those opportunities. I am fairly confident that the AFP and DIMIA—which are the two lead agencies here—do have access and will have access whenever they need it. As importantly, the other law enforcement agencies, also with responsibilities, are there in the background just waiting for an opportunity and I will make sure they get it.

CHAIR—In your submission you say that the ‘adequacy of the current framework for trafficking in women’ was being finalised. Have you now finalised the framework?

Mr Milroy—Is that in relation to the discussions with the IDC?

CHAIR—Your comment in the submission concerns the adequacy of the current framework for trafficking, so I presume you are talking about your overall structure within to look at it.

Mr Newman—As Alastair has indicated, our investigative structures in relation to how we are going to approach this are developing, especially since we have moved on to special intelligence operation. As you say, the submission was done at the time when we were looking at an intelligence probe. I do not believe it was a comment on the adequacy of the legislative framework at this point in time. As we have indicated, this is probably a matter for the Attorney-General’s Department. As the Attorney-General’s Department indicated, we are part of that IDC. We attend so that we get a better understanding of the full context that we need to operate in.

CHAIR—What do you think are the most important regulatory and legislative initiatives that need to be taken to control the trafficking issue?

Mr Milroy—I would have to take that on notice.

CHAIR—How significant is the gathering of intelligence?

Mr Milroy—For us to provide the board and other agencies, in due course, with sufficient information to assist them, whether it is to do with policy, crime prevention or law enforcement initiatives, the gathering of intelligence is absolutely critical. As part of that process we have developed this framework to ensure that, first of all, we profile the subject areas so that we understand people-trafficking for sexual servitude. We have looked at where we have to go to find out about this problem. As I indicated, Kevin just recently returned from South-East Asia. We have been to New Zealand to set up an intelligence collection, not only with this determination but with all our determinations. We have looked at open source information and academia. So we are taking a fairly wide ruler as part of our research base. We are gathering intelligence and information from a variety of fields so that we have a sound knowledge base to be able to not only advise the board but also assist with the IDC if need be and other agencies to deal effectively with this determination and all the other determinations that we are currently doing special intelligence operations on.

CHAIR—Does that differ in nature from your other intelligence operations?

Mr Milroy—The collection process model is similar to the one we use for all the determinations, with the exception that we may get more information on a particular matter in the academic field than we would get in law enforcement. In other words, we are looking to profile where we would have to go to find out the most up-to-date information on a subject. In some areas it is the same area that we go to, and in others it is quite unique to that particular area that we are investigating. In other words, it is all about profiling and then setting our strategy in place, our action plan, to go out and collect this intelligence from a wide range of sources.

CHAIR—When you say ‘gathering from academic sources’ and so on, it seems to me that you are operating on a higher plane; you are not down at the street level getting—

Mr Milroy—We are doing both—

CHAIR—the various pimps, brothel owners and madams et cetera telling you where they think this might be happening.

Mr Milroy—You are fully aware that we do have another operational arm that is on the ground gathering intelligence. We target specific areas to gather intelligence, and of course that is a confidential process. As well as that, through the consultative process that Chris Clark has outlined, we are tapping into all of the work that has been carried out by the various law enforcement agencies on the ground.

CHAIR—With the various state police.

Mr Milroy—Yes. We go to most of the police commanders meetings to brief them on our determinations and what we are looking for specifically, because it is all about making them more aware and giving them a better understanding at their level. The commissioners are very keen for that to happen. So we are able to receive the information on a timely basis. Of course we have our own intelligence collectors within the intelligence directorate who are targeting areas of information within state, territory and Commonwealth agencies. We have our internal targeting process, our covert operations and our other sources from which we are gathering intelligence. So it is not at the higher plane. We are trying to indicate here that we are looking to gather all the available knowledge that will clearly assist us to get far better outcomes at the end of the day on the specific projects that we are undertaking on behalf of the board.

CHAIR—That is all very interesting.

Senator GREIG—I want to pursue for a moment the question of the protocols in terms of cross-agency communication. You mentioned that you took the initiative of contacting the New South Wales Police in relation to the recent raid—which is great. It shows the initiative and the interest of the ACC. With the government’s package, its imprimatur and its resources, I am wondering whether we are yet at the time point where trafficking is discovered or suspected at a ground level and those people think to contact the ACC. Is there that kind of understanding, protocol and communication taking place?

Mr Milroy—Yes, I think it is starting to improve now. Only two days ago I received a direct call into our office from a local command that had identified an opportunity in one of our determinations. Part of this is our marketing program. It is not only through the commissioners,

who are feeding that information down to their commanders. As well as our own intelligence officers who are working in police forces, we are speaking to the officers in the relevant areas to ensure that they understand that we want this information and that we want it now and not in a week's time. We have seen a significant improvement over the last few months, and I think that it is an ongoing process that we continually have to keep working at.

Senator GREIG—Is there a role for the ACC to work with comparable international bodies to try to address this? I asked a similar question earlier today of the Federal Police in relation to the work that they have been doing in Bangkok and other places. Is there any opportunity or mandate for you guys to also be involved in international cooperation?

Mr Milroy—Yes. Through the chair of the board, and of course through the AFP's extensive international network, there is an intelligence collection process being undertaken at the present moment through all AFP liaison officers worldwide, seeking information on this and all the other determinations. As well as that, we are identifying areas in Asia and in other parts of the world where we have to be bit more proactive in seeking out the information. As I indicated, Kevin only recently returned from a seven-country visit to market what we are interested in—in particular, the determinations, including this one—so that we can set up a process of regular flows of information to look at the emerging trends as well as the specifics of the determination. So we are working on this global and national framework of intelligence collection.

Senator GREIG—Do you experience any difficulty with other countries perhaps not taking the issue as seriously as Australia does for social or cultural reasons—that the trafficking in women is not perhaps seen as a serious issue or one that should be vigorously pursued by authorities? Do you have some difficulty in trying to communicate or cooperate in that regard?

Mr Milroy—No. Kevin might comment on his recent visit, but from discussions with the AFP liaison network it is interesting that with some of the crimes the ACC is currently looking at some countries have a similar problem. They are conscious of the problems and are quite willing to help.

Mr Kitson—I think there is a very great willingness to engage with Australia—with the ACC and the AFP—on the issue of people-trafficking generally. In the countries I visited recently there was a widespread recognition of the nature of the problem, the scale of it and the need for international cooperation to address the issue. Given that intelligence agencies and policing agencies are not always well renowned for exchanging information, there was a very strong sense that this is an area where we can exchange information because of the complexities and the cross-cutting nature of a number of the other crime issues that are involved with people-trafficking. We have seen agencies in the countries that I have visited, which included the Philippines, Thailand, Malaysia, Singapore, Hong Kong and Korea, indicate to us that they are prepared to push intelligence through the AFP to us in areas where they may not previously have done so, because we have specifically heightened their awareness of the role of the ACC and of the availability of our coercive powers. Indeed, we have supported that by talking to the DIMIA people posted overseas, including the dedicated person in the Bangkok post, to underline the existing flow of information they have from their own headquarters in Canberra about the existence of the ACC. But to put it into a more realistic context of what are actually doing and the progress we have made thus far, the short answer is yes, I think there is a very strong willingness to cooperate.

Senator GREIG—What about with comparable Western jurisdictions? Is Britain or America, for example, taking the same kind of strong approach that Australia seems to be taking? Is that an area where better involvement or cooperation with comparable countries might assist the work that you do?

Mr Kitson—The indications that we have are, yes, very much so. In fact, if anything, I would argue that there are probably more highly developed systems and more highly developed awarenesses, particularly in Europe, of some of the issues of people-trafficking. On the ACC's relationship, it is on the agenda for the early to mid part of this year to continue that process of liaison and to build exactly the same relationships which we believe we have established regionally.

Senator GREIG—Thank you.

CHAIR—As there are no further questions, thank you for coming. We appreciate the input. When we have our review at the end of year we will undoubtedly be talking to you about what progress you have made and what you have found, and at least some of the work we are doing might be useful to you. We wish you well on your journey.

Mr Milroy—Thank you.

Committee adjourned at 3.16 p.m.