

## **QUESTION TAKEN ON NOTICE**

**ADDITIONAL ESTIMATES HEARING : 27 February 2017**

**IMMIGRATION AND BORDER PROTECTION PORTFOLIO**

**(AE17/045) - Exercised powers - Programme 1.1: Border Enforcement**

Senator Pratt, Louise (L&CA 87) asked:

Senator PRATT: Please take on notice how many staff have been trained and how many are still to be trained on an appropriate definition of 'coercive power'.

Mr Quaedvlieg: We might have to agree on what 'coercive' is. Our officers are trained across a variety of functions and actions. As I indicated, I think the majority of those are not coercive in nature.

Ms Connell: I will just supplement the answer—

CHAIR: The crime commission has what are strictly called 'coercive powers'—which means you do not have the right to remain silent and that failure to answer and cooperate is a crime in itself, as I understand it. That is probably a very poor description, but are those the sorts of coercive powers you are talking about?

Mr Quaedvlieg: That is certainly my definition of coercive: where there is a capacity for an entity to summon someone to appear before a hearing and give evidence, where there is a requirement for that person to answer—they cannot remain silent—where that entity can issue a summons requiring someone to produce documents, and where they must produce those documents. Those sorts of powers are coercive in nature.

CHAIR: Do you have those sorts of powers?

Mr Quaedvlieg: We do not have those powers.

CHAIR: It is only the crime commission that does, is it?

Mr Quaedvlieg: I think some prudential authorities may have some as well.

CHAIR: But the Border Force does not have those powers.

Mr Quaedvlieg: We do not have coercive powers.

Senator PRATT: Perhaps your definition of 'intrusive' might give us a better framework for my questions.

Mr Quaedvlieg: What I will take on notice is how often our officers have, for example, exercised powers in the last 12 months for search warrants or have taken actions of that nature—actions at the upper end of intrusion.

Senator PRATT: I will give you an example that is in the report:

Some personal searches of passengers at international airports examined by the ANAO were unlawful or inappropriate, indicating weaknesses in the control framework. A number of searches of premises under the Migration Act potentially exceeded the authority of the warrant which authorised them, and officers routinely questioned people without documenting their legal authority to do so.

Are those things that you would characterise as intrusive?

Mr Quaedvlieg: Only the second one: the execution of warrants under the Migration Act. The other two that bookend that I would not characterise as coercive.

Answer:

Details of warrants executed are as follows:

**1 July 2016 to 28 February 2017**

<b>Warrant Power</b>	<b>Offences</b>	<b>Number</b>
s198 and s203 Customs Act 1901	Customs Act Offences	237
s251 Migration Act Warrants	Migration Act Offences	294*
<b>Total</b>		<b>531</b>

\*Figures are based on 'issued' and 'acquitted' warrant status type recorded in DIBP systems.

Figures for 1 July 2016 to 28 February 2017 were extracted as at 7 March 2017.

**1 March 2016 to 30 June 2016**

<b>Warrant Power</b>	<b>Offences</b>	<b>Number</b>
s198 and s203 Customs Act 1901	Customs Act Offences	68
s251 Migration Act Warrants	Migration Act Offences	167*
<b>Total</b>		<b>235</b>

\*Figures are based on 'issued' and 'acquitted' warrant status type recorded in DIBP systems.

Figures for 1 March 2016 to 30 June 2016 were extracted from DIBP systems as at 7 July 2016.

As data has been drawn from a live systems environment, the figures provided may differ slightly in previous or future reporting.