



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION  
COMMITTEE

ESTIMATES

**(Budget Estimates Supplementary Hearings)**

WEDNESDAY, 5 NOVEMBER 2003

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE**

**FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE**

**Wednesday, 5 November 2003**

**Members:** Senator Sandy Macdonald (*Chair*), Senator Cook (*Deputy Chair*), Senators Chris Evans, Ferguson, Payne and Ridgeway

**Senators in attendance:** Senators Allison, Bartlett, Mark Bishop, Jacinta Collins, Chris Evans, Ferguson, Greig, Hogg, Johnston, Kirk, Sandy Macdonald and Payne

**Committee met at 9.01 a.m.**

**DEFENCE PORTFOLIO**

**In Attendance**

Senator Coonan, Minister for Revenue and Assistant Treasurer

Senator Hill, Minister for Defence

**Department of Veterans' Affairs**

**Portfolio overview**

**Corporate and general matters**

**Outcome 1—Eligible veterans, their war widows and widowers and dependents have access to appropriate compensation and income support in recognition of the effects of war service.**

Mr Bill Maxwell, Division Head, Compensation and Support

Mr Ken Douglas, Division Head, Health

Mr Barry Telford, Principal Adviser Rehabilitation, Compensation and Support

Ms Peta Stevenson, Acting Branch Head, Defence Links, Compensation and Support

Dr Keith Horsley, Senior Medical Adviser

Mr Mark Johnson, Branch Head, Disability Compensation, Compensation and Support

Ms Jeanette Ricketts, Acting Branch Head, Income Support, Compensation and Support

Ms Olivia Witkowski, Acting Branch Head, Aged and Community Care, Health

Mr Paul Pirani, Branch Head, Legal Service, Compensation and Support

Mr Arthur Edgar, A New Military Compensation Scheme, Compensation and Support

Mr Mal Pearce, Branch Head, Military Compensation, Department of Defence

**Outcome 2—Eligible veterans, their war widows and widowers and dependents have access to health and other care services that promote and maintain self-sufficiency, wellbeing and quality of life.**

Mr Ken Douglas, Division Head, Health

Mr Roger Winzenberg, Branch Head, Health Services, Health

Mr Wes Kilham, Branch Head, Younger Veterans and VVCS, Health

Mr Chris Harding, Branch Head, Hospitals and Business Development, Health

Ms Jo Schumann, Branch Head, Health Infrastructure, Health

Ms Olivia Witkowski, Acting Branch Head, Aged and Community Care, Health

**Outcome 3—The service and sacrifice of the men and women who served Australia and its allies in wars conflicts and peace operations are acknowledged and commemorated.**

Ms Kay Grimsley, Acting Branch Head, Commemorations, Corporate

Ms Katherine Upton, Assistant Director, Office of Australian War Graves

**Outcome 4—The needs of the veteran community are identified, they are well informed of community and specific services and they are able to access such services.**

Mr Ken Douglas, Division Head, Health

Ms Carol Bates, Branch Head Strategic Support Branch, Corporate

Ms Olivia Witkowski, Acting Branch Head, Housing and Aged Care, Health

**Outcome 5—Current and former members of the Australian Defence Force who suffer an injury or disease which is causally related to employment in the ADF are provided with compensation and rehabilitation benefits and services.**

Mr Bill Maxwell, Division Head, Compensation and Support

Mr Barry Telford, Principal Adviser Rehabilitation, Compensation and Support

Mr Mark Johnson, Branch Head, Disability Compensation, Compensation and Support

Mr Arthur Edgar, Military Compensation, Compensation and Support

Ms Peta Stevenson, Acting Branch Head, Defence Links, Compensation and Support

Mr Mal Pearce, Branch Head, Military Compensation, Department of Defence

**Output group 6—Provision of services to the Parliament, Ministerial services and the development of policy and internal operating regulations—attributed to outcomes 1 to 5.**

Dr Neil Johnston, Secretary

Ms Carolyn Spiers, Branch Head, People Services, Corporate

Mr Sean Farrelly, Branch Head, Resources Branch, Corporate

Ms Gail Urbanski, Branch Head, Parliamentary and Corporate Affairs, Corporate

Mr Paul Pirani, Branch Head, Legal Service, Compensation and Support

Mr Bob Hay, Chief Information Officer, Corporate

Ms Karin Malmberg, Director, Budgets, Resources Branch, Corporate

Mr Dermott Walsh, Director, Output Pricing and Ownership, Corporate

**Department of Defence****Portfolio overview and major corporate issues****Portfolio overview**

Mr Ric Smith, AO, PSM, Secretary of Defence

General Peter Cosgrove, AC, MC, Chief of the Defence Force

Vice Admiral Russ Shalders, AO, CSC, RAN, Vice Chief of the Defence Force

**Budget summary, financial statements and improvement initiatives**

Mr Lloyd Bennett, Chief Finance Officer

Mr George Veitch, First Assistant Secretary, Budgets and Financial Planning

Mr Greg Welsh, First Assistant Secretary, Financial Services

Mr Jon Collings, Assistant Secretary, Planning and Budgeting

Mr Graham Weber, Assistant Secretary, Accounting Policy and Planning

Ms Alice Dobes, Assistant Secretary, Treasury and Tax Management

**Capital budget: major capital equipment and major capital facilities projects**

Rear Admiral Kevin Scarce, RAN, CSC, Acting Under Secretary, Defence Materiel

Mr Alan Henderson, PSM, Deputy Secretary, Corporate Services

Mr Mike Scrafton, Head, Infrastructure  
Mr Mike Pezzullo, Assistant Secretary, Strategic Planning and Estate Development  
Brigadier Peter Hutchinson, Director-General, Infrastructure Asset Development  
Mr Peter Dunn, AO, Head, Management Information Systems  
Dr Ian Williams, Head, Land Systems Division  
Ms Kim Isaacs, Director-General, Materiel People and Performance Branch  
Major General Peter Haddad, AM, Commander, Joint Logistics  
Air Vice Marshal John Monaghan, AM, Head, Aerospace Systems Division  
Ms Shirreane McKinnie, Head, Electronic Systems  
Ms Ann Thorpe, Head, Materiel Finance Division  
Mr David Learmonth, Head, Industry Policy  
Commodore Trevor Ruting, RAN, Acting Head, Maritime Systems Division  
Air Vice Marshal Norman Gray, AM, Head, Airborne Surveillance and Control Division

**Outcome 1—Command of operations in defence of Australia and its interests**

Major General Ken Gillespie, AO, DSC, CSM, Head Strategic Operations Division  
Rear Admiral Mark Bonser, CSC, RAN, Commander Australian Theatre  
Mr Kevin Pippard, Director Business Management Australian Theatre

**Outcome 2—Navy capability for the defence of Australia and its interests**

Vice Admiral Chris Ritchie, AO, RAN, Chief of Navy  
Rear Admiral Rowan Moffitt, RAN, Deputy Chief of Navy  
Mr Stephen Wearn, Director-General, Navy Business Management

**Outcome 3—Army capability for the defence of Australia and its interests**

Lieutenant General Peter Leahy, AO, Chief of Army  
Mr David Spouse, Acting Director-General, Corporate Management Planning—Army  
Brigadier Maurie McNarn, Director-General Personnel—Army

**Outcome 4—Air Force capability for the defence of Australia and its interests**

Air Marshal Angus Houston, AO, AFC, Chief of the Air Force  
Ms Grace Carlisle, Assistant Secretary, Resource Planning—Air Force

**Outcome 5—Strategic policy for the defence of Australia and its interests**

Ms Myra Rowling, Acting Deputy Secretary Strategic Policy  
Dr Ralph Neumann, First Assistant Secretary Capability, Investment and Resources  
Air Vice Marshal John Blackburn, AM, Head Policy Guidance and Analysis

**Outcome 6—Intelligence for the defence of Australia and its interests**

Mr Frank Lewincamp, Acting Deputy Secretary, Intelligence and Security  
Mr Steve Merchant, Director, Defence Signals Directorate  
Ms Margot McCarthy, Head, Defence Security Authority

**Business processes**

**Corporate Services**

Mr Alan Henderson, PSM, Deputy Secretary, Corporate Services  
Air Commodore Simon Harvey, Director-General, The Defence Legal Service  
Mr David Kenny, Head, Information Systems  
Mr Ken Moore, Head, National Operations  
Dr David Lloyd, General Counsel, The Defence Legal Service  
Colonel Gary Hevey, Director of Military Prosecutions

**People****Defence Personnel**

Mr Peter Sharp, Acting Head, Defence Personnel Executive

Air Commodore Tony Austin, AM, Director-General, Defence Health Service

Mr Mal Pearce, Director-General Military, Compensation

Brigadier Damian Roche, CSC, Director-General, Career Management Policy

Air Commodore Lee Roberts, Director-General, Workforce Planning, Recruitment and Retention

Mr Felix Bleeser, Director-General, Occupational Health Safety Compensation

Colonel Ross Boyd, Acting Director-General, Defence Community Organisation

Captain Marcus Peake, RAN, Acting Director-General, Personnel Policy and Employment Conditions

Brigadier Chris Appleton, Director-General, Defence Education, Training and Development

**Defence Housing Association (DHA)**

Ms Alice Dobes, Assistant Secretary, Treasury and Tax Management

Ms Marea Clarke, Director, Relocations and Housing

**CHAIR**—I declare open this meeting of the Senate Foreign Affairs, Defence and Trade Legislation Committee. I welcome Senator Helen Coonan, Minister for Revenue and Assistant Treasurer, representing Senator Robert Hill, Minister for Defence; the Secretary, Dr Neil Johnston; and officers of the Department of Veterans' Affairs. The committee will consider the budget supplementary estimates topics for the Department of Veterans' Affairs and the Department of Defence in that order. We now move to consideration of particulars of proposed expenditure for the Department of Veterans' Affairs, beginning with the topics nominated in the portfolio overview. The committee will then consider the outcomes in number order.

I remind officers that when written questions on notice are received, the chair will state for the record the name of the senator who submitted the questions and the questions will be forwarded to the department for an answer and the committee has resolved that the deadline for the provision of answers to questions taken on notice at these hearings is Thursday, 11 December 2003. Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. I also remind witnesses that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate.

The Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. An officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy. However, they may be asked to explain government policy, describe how it differs from alternative policies and provide information on the process by which a particular policy was selected. An officer shall be given a reasonable opportunity to refer questions asked of that officer to superior officers or to the minister. Minister, do you or any officers wish to make an opening statement?

**Senator Coonan**—No, I do not have an opening statement.



**CHAIR**—Dr Johnston?

**Dr Johnston**—No, thank you.

[9.04 a.m.]

### **Department of Veterans' Affairs**

**CHAIR**—I call Senator Bishop to begin questioning.

**Senator MARK BISHOP**—Dr Johnston, given the recent reshuffle of the ministry and the different allocation responsibilities for Defence and Veterans' Affairs, what is the fate of the Links Project?

**Dr Johnston**—The Links Project in a sense is based on commonsense. My experience is that when it is based on commonsense it tends to have ongoing validity. The program, as you know, has been under way for some years, and it is motivated by two things. One is that the Department of Defence and the Department of Veterans' Affairs, by working more closely together, can hopefully achieve more effective services for serving personnel and veterans and more cost-effective services for the taxpayer. It is also motivated by an understanding that, as the World War II population passes on and Veterans' Affairs scales down to some extent, it needs to have a clear view about its future in the defence family, and that requires ongoing attention.

**Senator MARK BISHOP**—Since the last time we met, and particularly since the ministerial reshuffle, has the government been giving any consideration to changing the status quo in terms of the Links Project?

**Dr Johnston**—No. In many respects the work between the two departments is as much as a result of agreed strategies between the two departments as it is of the support and the guidance of the minister of the day. We are about to brief Minister Brough and Minister Vale on the expected work program under the Links Project and seek their guidance on the way they wish to work together to continue to interact with those activities.

**Senator MARK BISHOP**—Can it be confirmed that Minister Brough has responsibility for defence personnel and hence also the new military compensation bill?

**Dr Johnston**—That is not my understanding. I think you need to wait for the government to table its draft legislation to confirm the basis on which it is intended to administer the legislation. But, as you may recall, the draft bill that was circulated for public comment had the administering minister as the Minister for Veterans' Affairs.

**Senator MARK BISHOP**—Yes.

**Dr Johnston**—You will need to wait for the tabling of the bill to see if that continues to be the case.

**Senator MARK BISHOP**—When the exposure draft was put out for public consultation in late June, from memory, the Minister for Veterans' Affairs was proposed to be the administering minister then.

**Dr Johnston**—That is correct.

**Senator MARK BISHOP**—There has been a reshuffle of the ministry. That decision is still current—it has not yet been changed—but you advise me that it could be subject to review when the bill is properly introduced into the parliament?

**Dr Johnston**—It is not appropriate for me to comment on what considerations might be under way within government, but I think it is significant that the draft bill that was circulated for consultation had the Minister for Veterans' Affairs as the principal minister responsible for the legislation but did recognise that there were a number of aspects of the bill that were clearly the responsibility of the Minister for Defence or the minister's delegate.

**Senator MARK BISHOP**—Okay, I understand that. Has a decision been made as yet as to whether the status quo, in terms of the administering minister, will remain? I am not asking you what the decision is; I am asking you whether a decision has been made.

**Dr Johnston**—I do not think I can answer that—I do not know that it is proper to. I think I have given you as much information as I can to help you think through the possibilities.

**Senator MARK BISHOP**—Okay. What are the current plans for the introduction of the bill into the parliament?

**Dr Johnston**—The drafting of the bill is substantially completed. The drafting of the consequential and transition bill is proceeding apace. That has proved to be a very complex exercise, so we are hoping the bills will be available to table in the near future.

**Senator MARK BISHOP**—We were advised formally—so it is no secret—that it was 24 November. Is that your understanding of the situation?

**Dr Johnston**—I think the target dates are 26-27 November but, as you understand, these things are always movable, depending on what needs to be done.

**Senator MARK BISHOP**—All right. Once the bill is enacted, where will it sit in the administrative arrangement orders? Is that a subject for a later decision or what?

**Dr Johnston**—If it remains as foreshadowed in the draft bill circulated for consultation, the bill would be assigned to the Department of Veterans' Affairs under the administrative arrangement orders.

**Senator MARK BISHOP**—If that were to be changed, would that be a decision of executive government or would that change be found in the bill itself?

**Dr Johnston**—I think the administrative arrangement orders would normally follow the named minister in the bill, and of course that is always open to amendment by any government of the day if they want to change the administrative arrangements.

**Senator MARK BISHOP**—So that is a decision of the parliament, not a decision of executive government at a later stage.

**Dr Johnston**—No, I think I am saying the reverse, that the government of the day can change who has responsibility for different parts of the legislation.

**Senator MARK BISHOP**—Understood. I refer you to page 7 of the annual report. Under the heading 'Commission activity' there is a list, at the bottom of that page, of issues considered by the Repatriation Commission. You might recall that in February this year when I wrote to you requesting information about a range of issues you responded to me declining

to provide that information. Given that background, which I am sure you will recall when you think about it, could you provide the committee with a precis of each of the particular matters considered, and the outcome, in the dot points attached under the heading 'Commission activity' on page 7.

**Dr Johnston**—We will take that on notice.

**Senator MARK BISHOP**—I turn now to program 1. The first thing I want to talk about is some of the atomic issues. Can I have a progress report on the cancer and mortality study of the atomic test ex-service people?

**Dr Horsley**—The study is continuing to progress. We are in a situation where we are now finalising the approaches to ethics committees before we get into data collection.

**Senator MARK BISHOP**—What has been the length of time so far for doing the preparatory work?

**Dr Horsley**—It is difficult to say exactly when the study started but it has been close to four years.

**Senator MARK BISHOP**—Do you have figures on the costs to date?

**Dr Horsley**—I would have to take that on notice, but in fact the majority of the cost is still in front of us. We have entered into a contractual arrangement with a number of academic groups and we will need to pay them upon completion of their work, so the majority of the cost is on notice. In terms of the actual dollar amount, I would prefer to take that on notice.

**Senator MARK BISHOP**—That is fine. Do you have a ballpark figure? Are we talking about less than \$100,000 to date?

**Dr Horsley**—No, I think we are talking about more than \$100,000 to date.

**Mr Maxwell**—Perhaps I can add to that, as the health studies group fall within my bailiwick. The expenditure to date has been pretty much covered by my standing allocations. I have a standing health study group that has in fact been looking at this along with other exercises and it has not actually involved any additional outlays over normal running costs.

**Senator MARK BISHOP**—Do you line identify it as a separate item?

**Mr Maxwell**—We do but, once we have a contract that we are administering, then it is certainly counted as a separate item. But at this stage it has been preparatory work and it has been covered by Dr Horsley and the team as part of their daily duties.

**Senator MARK BISHOP**—So can you give me a ballpark figure on costs to date, Mr Maxwell?

**Mr Maxwell**—No, I could not either, for the same reason.

**Dr Horsley**—I could perhaps amplify that. It is difficult to work out, for example, my salary because a portion of my time is spent working on this project. You would have to allocate a proportion of my time and my staff's time. We would presumably still be paid even if we were not doing the study, so there is always a degree of ambiguity about the costs of these studies.

**Senator MARK BISHOP**—I understand the point you are making, but I would ask you to take that on notice.

**Mr Maxwell**—It is likely to be fairly notional.

**Senator MARK BISHOP**—Yes, at this stage—understood. What is the thinking in terms of process now: who is going to do the work, the period of consultancy, the report date—those sorts of things?

**Dr Horsley**—The major consultancy will be the University of Adelaide. Our thoughts are that there will now be a period of fairly rapid progress. A protocol has been developed and has been approved by the scientific advisory committee and the consultative forum of veterans, who have had a very valuable input into the protocol. That protocol is now in a position where various ethics committees are examining it. There are some ethical considerations which need to be moved through before we can start data collection. However, we are envisaging that that should happen within the next few months. Data collection will then start. We are hoping to have a conclusion to the main part of the study towards the end of next year. There are some difficult elements associated with the estimation of dose which the scientific advisory committee have suggested that we should look at, and in relation to that work there is still some ambiguity about exactly how long that work will take. But we are envisaging the study to be completed towards the end of next year.

**Senator MARK BISHOP**—When you say ‘completed’, do you mean in a document ready to be disclosed to the public, or for internal consideration by the experts?

**Dr Horsley**—I am hoping for a document ready to be disclosed to the public.

**Senator MARK BISHOP**—The study is going to be of atomic test ex-service people, isn't it?

**Dr Horsley**—We are doing some work on civilians as well—civilians who were involved in the actual construction of the range. There were a large number of civilians who worked on the range during the tests. For example, employees of the then Postmaster General did such things as establish telephone lines. They ran a post office. There were all sorts of civilians who went up there in support of the military personnel who were there at the range.

**Senator MARK BISHOP**—Will it extend to day labour construction people for example, or to day labour transport and truck drivers and the like?

**Dr Horsley**—Yes, it will, provided that the evidence that we have from the records is that they were there when the tests were undertaken. There was a decision taken during the construction phase that as many people as possible would be removed from the range after construction, before the explosions were undertaken. Our search of the records has enabled us to divide those people who were present at the site when the explosions occurred and those people who were present prior to the explosions being undertaken.

**Senator MARK BISHOP**—Could you explain what you mean by ‘when the tests were made’? For example, if they let off one of the devices on 5 March 1955 and I am there digging a trench on 20 March 1955, would I then come within the test time or is that excluded?

**Dr Horsley**—No, you would come within the test time. The people we are excluding are the people who left prior to the explosions. There was a conscious decision made by the authorities of the time to remove as many construction workers as possible who had worked on building roads and building the actual places where the bombs were detonated. There was a conscious decision to remove as many of those people as possible from the site.

**Senator MARK BISHOP**—So this is a lot more than just the members of the ADF who were present at the time the devices were let off, isn't it?

**Dr Horsley**—Yes, it is.

**Mr Maxwell**—Although it is fair to say that the vast majority of the civilians involved were there in the construction phase and were off the sites before the detonations. Nonetheless, it is still wider than just an ADF cohort.

**Senator MARK BISHOP**—You hear all these stories—I do not know how much truth they have—of both Army and civilian personnel being marched down and told to turn around whilst the device went off. That has the status of folklore now. Anyway, that will be covered off. That will raise some interesting complications in terms of non-ADF personnel in the future, in terms of civilians, isn't it, Dr Johnston?

**Dr Johnston**—We will see.

**Senator MARK BISHOP**—I am sure we will. When will the review of dosimetry be completed?

**Dr Horsley**—We are working on that. It turns out that it is much more complex than we had originally envisaged. We have some measures of external dose in the sense that some of the personnel wore external badges. The greater difficulty comes with estimating the internal dose. Some of these people would have inhaled radionucleotides and/or ingested them with their food by accident. Estimating that dose, which in a biological sense may be the more significant dose, is much more difficult. We have spent a long time looking at wind patterns and, in the case of the Montebello tests, tide and current flows, trying to work out if it is possible to do an accurate measure of dose. Our feeling at this stage is that it is most likely that we will not be able to do a particularly accurate measure of dose for the entire 15,000 people, but that, for that group, we will be in a situation where we will be able to classify them into some sort of category—low, medium, high, unknown.

**Senator MARK BISHOP**—In terms of internal?

**Dr Horsley**—In terms of internal and external. What we would be proposing to do is a case reference study. In relation to the people that we have identified who developed leukaemia, our intention is to do a much more in-depth analysis of them to see if we can get a much more precise measure of both the external and the internal dose. And we want to compare those to some people whom we will select from the tests and see if there is evidence that those people who developed leukaemia had a higher dose. That is going to take some time to do, but we are hopeful that 2004 will be the year in which we will complete that task.

**Senator MARK BISHOP**—So current plans are for the review of dosimetry to be concluded by the end of next year?

**Dr Horsley**—Yes, but I offer a reservation: we have yet to get into this work in a real full-on sense. It often is the case that, when we get into the work, we find that the task is more complicated than we originally envisaged. But, with that—

**Senator MARK BISHOP**—Is this going to be done internally within the department or is it going to be contracted out to some expert group?

**Dr Horsley**—It is being contracted out to an expert group, which has been appointed and designed to do this task in consultation with the veteran community and the scientific advisory group. The scientific advisory committee appointed one of their members, who went away and spoke to other experts in Australia and came back with a panel of people and said to the scientific advisory group, 'Here is an expert panel that I think will be able to assign dose.' We then approved that panel from the scientific advisory committee point of view. We then had discussions with the members of the consultative forum, and they also signed off on that. We are taking some precautions to try to ensure that the people involved in assigning dose—that group of experts—has no knowledge of the health outcomes, so they will be blinded to health outcome and their assignment of dose will not be in any way influenced by their knowledge of the health outcome of the people.

**Senator MARK BISHOP**—Hopefully, then, it will be a very authoritative report that comes out?

**Dr Horsley**—That is our hope.

**Senator MARK BISHOP**—Have we got to the stage yet of protocol development and sign-off on ethics and the like?

**Dr Horsley**—For the major part of the study, yes, the protocol has been signed off by the scientific advisory committee, and members of the consultative forum have also signed off on it. That protocol has been approved by some ethics committees and is before some other ethics committees. It is the nature of these ethics committees that each one tends to have a desire to make minor changes. We then need to go back to the ethics committees that have already approved it and notify them. There is a process that we need to go through.

**Senator MARK BISHOP**—I see. Dr Johnston, have any civil claims for damages from the Commonwealth involving cancers caused by ionising radiation ever succeeded? Are you aware of any?

**Dr Johnston**—I am not, but I will ask my colleagues if they are.

**Mr Maxwell**—With respect, I do not think we are the witnesses to ask that question of. Any claim for a civil action would not be against the Repatriation Commission or be administered by the Department of Veterans' Affairs; it would be, I would guess, Attorney-General's.

**Senator MARK BISHOP**—Even though, for example—

**Mr Maxwell**—None of the civilians involved had any coverage by the Veterans' Entitlements Act or its precursors.

**Senator MARK BISHOP**—Dr Johnston, do you have the estimated cost of giving ex-service people hazardous service under the VEA as recommended by Justice Clarke?

**Dr Johnston**—I am advised that it is something of the order of \$25 million over five years.

**Senator MARK BISHOP**—That is for all the subgroups, is it?

**Dr Johnston**—I am advised it is for ADF only.

**Senator MARK BISHOP**—So that is SAS, the BCOFs and the submariners.

**Dr Johnston**—Sorry, I thought you were talking about atomic tests.

**Senator MARK BISHOP**—No, talking about—

**Dr Johnston**—There is a recommendation in the Clarke committee report that atomic test veterans be regarded as having served hazardous service.

**Senator MARK BISHOP**—Are they the only ones?

**Dr Johnston**—Yes. The recommendations in respect of the other groups are more specific. For BCOF, for example, there would be qualifying service and so on.

**Senator MARK BISHOP**—So it was just the atomic test people?

**Dr Johnston**—Yes.

**Senator MARK BISHOP**—That is \$25.5 million over five years. What sort of numbers are involved in that?

**Dr Horsley**—The total number of people involved in the atomic tests?

**Senator MARK BISHOP**—No, the question concerned the estimated costs of giving ex-service people service under the VEA—giving them hazardous service—as recommended by Justice Clarke.

**Dr Johnston**—I will ask Mr Farrelly to speak to that.

**Mr Farrelly**—Our estimates suggest that there would be about 300 successful claims for disability pension and treatment and a further 240 who would be eligible for cancers and PTSD.

**Senator MARK BISHOP**—We do not have a great deal of time this morning. I might ask you to take on notice and provide a more detailed response as to those numbers—to which groups the recommendation of Justice Clarke would apply in terms of which areas they served in, numbers affected at the time, numbers now surviving and the nature and quantum of entitlements, compensation or benefits that they might be legitimately entitled to claim.

**Dr Johnston**—Is this in respect of all the Clarke recommendations on eligibility or just atomic test veterans?

**Senator MARK BISHOP**—Just atomic test veterans. I am starting to receive correspondence—it has either been copied to me or the originals are coming to me and copies are going to the minister—from a couple of people whose children are now suffering from anodontia. As I understand it, that is where adult teeth do not form in the child as the child matures. Then, of course, they have to have dentures, probably in their mid-teens or whatever. These people are alleging that there is no family history of that particular complaint on either the mother's side or the father's side, that they have served in Vietnam and elsewhere and that the failure of their children to produce adult teeth has just come out of the blue, so to speak.

That is what they say in their correspondence. Having that background, is there any scientific basis that you are aware of for their claim being related to their service?

**Dr Horsley**—We have looked into this area and, as far as we can tell, there is no research at all that has been done on spontaneous inability to develop adult teeth. In the main, the cases that have been described in the literature are associated with congenital abnormalities or genetic defects. There are a number of genetic syndromes where there is a family history that you can see cascading down through the generations of an inability to develop permanent teeth. Beyond that we could not see any evidence that anyone has done a great deal of research into this area. So the question of environmental exposures resulting in this in the second generation is one where, as far as we could see, there is a very limited amount of research. In fact, there may be none at all.

It is an area which, from first principles, would be difficult to research because partial failure to develop permanent adult teeth is a very common phenomenon. It occurs in quite a proportion of people who, for whatever reason, do not develop one or more of their adult teeth. So it is not a question of it being absolutely present or absolutely absent. A good proportion of people, for reasons that are not particularly well understood, go on not to develop either one or usually both on either side of particular teeth. A complete lack of development of teeth is very rare and the only known aetiological cause that I could identify from the literature is an association with certain genetic diseases. If they could give us further details, we would be happy to see what further work we could do in trying to help them to understand what the cause of their condition was.

**Senator MARK BISHOP**—I would need to have the individual's authority to do that. I think they probably would give it. They may even have had some correspondence with your department but I will chase it up and come back to you. Previous governments made provision for second generation children who suffered from spina bifida and cleft palate after their fathers had served in Vietnam. It is my memory that there was no serious scientific basis established for the genetic linkage for any of those disabilities. Is that assertion correct?

**Dr Horsley**—I think there was what we would call limited or suggested evidence that there was an association between exposure to the herbicides used in Vietnam and the development of those conditions in the next generation. The whole area is very interesting and it continues to evolve but there is evidence that suggests that at least one of the chemicals that was used in Vietnam does have a second generation effect.

**Senator MARK BISHOP**—This might go back a bit before your time, Dr Horsley. Why were spina bifida and cleft palate accepted by the government of the day? Do you recall the policy reasons for that?

**Dr Johnston**—Those measures were introduced by the current government, you might recall, and it was in response to the Vietnam veterans health study. The health study did find evidence of an elevation of incidence of those things.

**Senator MARK BISHOP**—But it was not a great elevation, was it?

**Dr Johnston**—No. I think Dr Horsley used the appropriate terminology.



**Senator MARK BISHOP**—What was the policy reason for the current government choosing to accept those two particular ailments as eligible for compensation?

**Dr Johnston**—In broad terms, the veteran jurisdiction does take a beneficial approach to considerations of compensation and income support for veterans and their dependants. On the basis of the evidence in the study and other scientific knowledge, they felt on balance there was sufficient reason.

**Senator MARK BISHOP**—Dr Horsley, have you any knowledge of this issue being referred to you or complaints or correspondence being received in recent times?

**Dr Horsley**—About spina bifida and cleft palate?

**Senator MARK BISHOP**—No, about anodontia.

**Dr Horsley**—No, I could not recall that having been referred to me. We did undertake a search of our correspondence system trying to find correspondence.

**Senator MARK BISHOP**—Such a letter would come up to you, would it not?

**Dr Horsley**—It is highly likely that it would. But I add the caveat that we deal with very large numbers, and it may not necessarily be that we could recall every case.

**Senator MARK BISHOP**—But, at this stage, your advice is that you do not recall any correspondence or complaints, the issue certainly has not been raised with you and the scientific evidence is very limited.

**Dr Horsley**—Yes.

**Senator MARK BISHOP**—Could I now have a progress report on the third Vietnam veterans mortality study?

**Dr Horsley**—Yes. The study is well under way. We have begun data matching. It is a study which has two aspects to it: the mortality and the cancer incidence. The mortality aspect has been through all the appropriate ethics committees and the study is progressing well, on schedule, on budget, on time. The cancer incidence study has had one or two little wrinkles. The cancer incidence studies are dependent upon each of the cancer registries, and these are state based and the state based legislation and rules relating to each of these cancer registries changes. Recently a number of states—I think, from recollection, Victoria and South Australia—have changed the rules relating to these databases and we have had to reapply to committees to get appropriate approval. We have received oral guarantees now, I think from all of the committees, that approval has been given but it is nice to get the written confirmation, and indeed we must get the written confirmation before we proceed. But at this stage our expectation is that the study will be completed on time and on budget some time towards the middle of next year.

**Senator MARK BISHOP**—Is that both aspects of the study?

**Dr Horsley**—Certainly the mortality aspect, and it is our intention at this stage to deal with mortality and cancer incidence simultaneously.

**Senator MARK BISHOP**—So you are aiming for June 2004 for mortality?

**Dr Horsley**—Yes, about that time. If the cancer incidence aspect looks in any way like it is going to delay the process, we might split the two and do mortality first and cancer at a second point. The nature of the study is such that the report will be so large that it will be at least two and probably three volumes, so it might be administratively sensible to put out volume 1 pertaining to mortality and volume 2 and 3 pertaining to cancer incidence.

**Senator MARK BISHOP**—But current intention is to have both mortality study and the cancer incidence study, by and large, completed by the middle of 2004?

**Dr Horsley**—Yes.

**Senator MARK BISHOP**—If that were not to be the case, when would you make that decision?

**Dr Horsley**—I can't say.

**Senator MARK BISHOP**—But that is your current intention.

**Dr Horsley**—It is, and I have a reasonably good degree of confidence in the mortality study that that intention will become a reality. I am less confident that the cancer incidence aspect will be available at that time but it is still our intention to shoot for that timetable. That is our current plan.

**Senator MARK BISHOP**—How different is this study to the first study?

**Dr Horsley**—There are a number of differences. There have been three mortality studies of Vietnam veterans, as the name implies. The first was a study that focused only on national servicemen, and it is a very good study in terms of the science. The second study, however, was broadened to include all ADF personnel—the Navy, the Regular Army and the Air Force were added in. This study we are doing, again, includes all ADF personnel but we also have, in respect of the Army, a comparison group who did not serve in Vietnam, so it is quite a powerful study. We are also, in this study, doing both mortality and cancer incidence so that is another difference. A third difference that we have so far identified is that we are proposing to study dapsone dose in relation to both mortality and cancer incidence. We have done a dapsone study previously and we are repeating that study.

**Senator MARK BISHOP**—What is dapsone?

**Dr Horsley**—Dapsone was an antimalarial agent that was used in Vietnam for a brief period. His Honour Mr Justice Evatt found that it was possible that the drug may have had carcinogenic effect and recommended that there be a study of that, which the government of the day accepted. The study was completed, from recollection, in 1990. We occasionally get people asking us whether there are health effects associated with dapsone and it seemed to us prudent to repeat the study to allay concerns that the dapsone dose was not the reason that we see abnormal patterns of mortality and cancer incidence in Vietnam veterans.

**Senator MARK BISHOP**—So the differences are a much bigger cohort comparison base and new areas being examined. Are there any other differences?

**Dr Horsley**—An additional difference was that we have had out in the public domain for many years the Vietnam veterans nominal roll and our ex-service people have been very diligent in going through and checking that against their records. We have found some more

veterans as well, particularly RAN veterans—we found a couple of thousand more of those. So the cohort gets a little bigger.

**Senator MARK BISHOP**—Dr Johnston, turning now to the Clarke report, is there any indication of when the government will be formally responding to the Clarke report?

**Dr Johnston**—The government has indicated that it has been consulting with the veteran community. We of course have been talking with veteran organisations. I cannot foretell when the government might announce its response to the report but I assume it will be before too long.

**Senator MARK BISHOP**—Is the consultation process still continuing or has that concluded and the government is considering the responses from the consultation process?

**Dr Johnston**—As you know, Senator, there has not been a formal process of consultation asking for further submissions and so on, but a number of organisations have written to government and to the department with further views. The working party for the development of the new legislation has been used as a forum to exchange views on a range of Clarke issues. I think it would be fair to say that the government response will be in the near future as there has been plenty of opportunity for the veteran community and the department and government to interact on the issues.

**Senator MARK BISHOP**—Is the government intending to respond in the near future?

**Dr Johnston**—I think that it would be reasonable to expect the government will be responding before too long.

**Senator MARK BISHOP**—Can reports that the special rate TPI is to be restructured be confirmed?

**Dr Johnston**—I do not think that I can comment on that.

**Senator MARK BISHOP**—Is any consideration being given to splitting the special rate into the two components as suggested by Justice Clarke?

**Dr Johnston**—Justice Clarke did have quite a complex model, as you would be aware. In discussions with the working party we have certainly opened up the issue of whether a distinction between economic and non-economic loss should not be made in respect of any indexation arrangements that might be introduced. So to that extent that sort of divide has been discussed. But I think it would be all that I would be aware of in terms of dialogue between the department and the veteran community.

**Senator MARK BISHOP**—Understood. Can you take on notice how many letters or phone calls the minister has received on this issue in the last 12 months—that is, splitting the special rate into the two components, as suggested by Justice Clarke?

**Dr Johnston**—Yes, I can. I just make the point that the statement that you have made can be interpreted in all sorts of ways in terms of what splitting might be.

**Senator MARK BISHOP**—In terms of the discussion you and I have just had.

**Dr Johnston**—In terms of indexation arrangements.

**Senator MARK BISHOP**—In terms of dividing the economic and non-economic components—the different forms of indexation.

**Dr Johnston**—I note, Senator, the draft legislation that was circulated for public comment did provide for interaction or provision of a TPI safety net in the new legislation, and it needed to make a distinction between economic and non-economic loss as a means of integrating that into the legislation.

**Senator MARK BISHOP**—You would be aware, as I am—probably more so than I, Dr Johnston—that it is still a live issue out there.

**Dr Johnston**—Yes.

**Senator MARK BISHOP**—I am also getting a lot of correspondence about rehabilitation. We have been advised that the Repatriation Commission is intending, firstly to do a review of all of those persons currently in receipt of the TPI; secondly, the review will be done over a number of years—as would be the case, because there are about 25,000 of them; and, thirdly, the basis of the review, although not the justification, is that a significant proportion of those TPIs have not had any medical treatment, it is alleged, since they were awarded TPI. The question is: is there any change in current practice regarding TPI reviews?

**Dr Johnston**—Some of the measures that you are describing would need amending legislation to enable that to be done. Of course, that is a decision for the government, not the commission or the department. It is possible that there is discussion in some quarters of the veteran community reflecting the discussion we have had in the legislation working party on possible approaches to rehabilitation. There have been two meetings of the working party when these issues have been discussed. I am commenting here because we have always assumed that the working party is an open meeting and we talk openly about the issues that are discussed there.

We have agreed in the working party, I think it is fair to say, that we should use the working party to develop a protocol for how the rehabilitation function would be administered under the new legislation. At the last meeting there was an exchange of views between the various organisations and ourselves about the sorts of considerations that might be important there. We undertook at the next meeting to try to pull that together as a draft protocol for another discussion in that forum. You might recall that the minister in releasing the draft bill gave a commitment that that protocol would need to be developed in consultation with the veteran community, so we would expect to have a draft protocol for discussion at a further meeting of that working party.

At the same working party meeting we provided a structured basis for talking about rehabilitation under the Veterans' Entitlements Act and suggested that there was a hierarchy of possibilities which you would follow, depending on how closely you wanted to have arrangements under the Veterans' Entitlements Act match existing practice under the Military Compensation Scheme and possible practice under the new legislation. It is fair to say that there was fairly clear feedback from the veteran community to the department that they were certainly supportive of a much more active approach to rehabilitation under the Veterans' Entitlements Act, but that it should be very much under the current provisions of the legislation. They wanted to wait and see how we go with the implementation of the new

protocol for the new legislation before considering any extension of that to the Veterans' Entitlements Act.

**Senator MARK BISHOP**—All right; that is fairly clear. You said during your introductory comments then that, if the government was intending to go down the path I suggested in my opening comments, that might require amending legislation. But the Repat Commission has always had extraordinarily wide powers in the field of rehabilitation, has it not? I would be surprised, with respect to doing reviews, whether it involves one per cent, 30 per cent or 100 per cent of the community over a period of time, if there is not that power already in the act.

**Dr Johnston**—Senator, you are quite correct. The commission does have the power to review under the current legislation. The difficulty that we, the veteran community and the wider community have is that we do not have an associated power to require rehabilitation. I suggest to you that the power to review is a very unfriendly power, because you have to make a decision—sudden death, as it were—that somebody can work or cannot work. You cannot make a decision in between to the effect that this person, possibly with a rehabilitation program, could work subject to a successful program, which you would then review at the end of the program.

**Senator MARK BISHOP**—So your reference to possible legislative amendment was in reference to aspects of rehabilitation?

**Dr Johnston**—That is correct, Senator. The new legislation very clearly provides power for review as a VEA, but it also provides the power, arguably in a sympathetic way, to provide rehabilitation, to test whether or not that is a reasonable decision—subject, of course, to access to review of administrative decisions.

**Senator MARK BISHOP**—Thank you. Can I now turn to section 125 of the VEA, because there is a level of agitation within the veteran community at present concerning the inalienability of pensions as provided for in the act. I have had a look at the act, and it makes it quite clear that the payment of pensions is inalienable. The complaint we are starting to receive is that bank fees and charges routinely deducted by the banking institution detract from the inalienability of the pension that has been deposited in accounts. My question to you, Mr Maxwell, is: are you aware of the discussion, has the department taken any legal or policy advice on this argument and what is your advice to those who are making these complaints?

**Mr Maxwell**—Yes, we have taken advice. This is a perennial question. It has been occurring with increasing frequency over recent years. In essence, the legal advice we have is that the pension remains inalienable at source.

**Senator MARK BISHOP**—What does that mean?

**Mr Maxwell**—‘At source’ means that no-one can in fact subpoena a discount or a deduction from the pension from the Repatriation Commission or the department. The problem arises once the pension is in fact paid into the recipient's bank account. We have a view there, advanced by the banking ombudsman, that once the pension is in the hands of the recipient it is no longer pension; it is in fact an asset or an amount of cash held by that individual and is therefore susceptible to any claim under law in the same vein as any other asset held by that pensioner.

**Senator MARK BISHOP**—Has the department taken any legal advice on that issue?

**Mr Maxwell**—I have certainly taken internal legal advice. I would need to check with Mr Pirani as to whether we have in fact sought wider counsel.

**Senator MARK BISHOP**—Could I ask you to take on notice whether the department has investigated that issue, whether it has legal advice and whether a copy of that legal advice can be provided to the committee?

**Mr Maxwell**—I can certainly confirm for you, Senator, that we have investigated it. I will take on notice the aspect of external legal advice and what that advice might be.

**Senator MARK BISHOP**—And whether you could provide the internal and external advice on that issue to the committee?

**Mr Maxwell**—I will take it on notice.

**Senator MARK BISHOP**—The reason I ask this is that I did a lot of industrial negotiations years ago, and in those days wages were generally cash paid at place of employment on a weekly or fortnightly basis. With the shift to electronic banking and EFT, it became very common for that to occur, but it was also our practice that any fees, levies or charges incurred by the individual were paid for either by the bank or by the respective employer—for example, if an employee earned \$200 per week, he or she received \$200 in their bank account and \$1 or \$2 was not deducted from the bank account by the banking institution for having provided that service—and that became the norm. Has the department given any consideration to that sort of possibility?

**Mr Maxwell**—I can remember the happier days when the bank would actually pay you to use your money, but that is long gone I am afraid. I am not aware that we have had any recent look at the question of bank fees.

**Senator MARK BISHOP**—Most employees of DVA, for example, would have their wages paid every fortnight—

**Mr Maxwell**—Every one of them, Senator.

**Senator MARK BISHOP**—by electronic means.

**Mr Maxwell**—And, as I understand it, any charges levied by the bank become an allowable tax deduction—but, of course, pensioners do not pay taxation.

**Senator MARK BISHOP**—Pardon?

**Mr Maxwell**—Pensioners on a disability pension are not liable for taxation.

**Senator MARK BISHOP**—No, they are not.

**Dr Johnston**—It is not the practice of Commonwealth departments to subsidise bank accounts, and I am not aware that it is the practice of Centrelink or Family and Community Services with welfare payments either—although there have been periodic consultations between the Commonwealth and the banks looking for concessional banking facilities for the less well-off in the community. But that is a separate approach, as you would understand.

**Senator MARK BISHOP**—Okay. This discussion we are having: is it about only disability pensions or does it include all service pensions? It is an across-the-board issue?

**Mr Maxwell**—I am sorry, which particular facet of the discussion?

**Senator MARK BISHOP**—The issue of the deduction of bank fees after deposit of the fortnightly payment into the individual's bank account: is it just for disability pensions or all pensions that you pay?

**Mr Maxwell**—The clear policy preference is to have payments made to bank accounts, so I would think that any bank deduction imposed after it is in the bank account would fall in the same bailiwick. Is your question whether, in fact, the service pension is inalienable?

**Senator MARK BISHOP**—Yes.

**Mr Maxwell**—I might have to seek counsel on that.

**Senator MARK BISHOP**—The act says, 'subject to this act, a pension, allowance or other pecuniary benefit under this act is absolutely inalienable whether by way of' so and so.

**Mr Maxwell**—My recollection is that the service pension is covered, but I will just seek confirmation from my colleagues.

**Senator MARK BISHOP**—Okay. Is section 125 going to be replicated in the new bill?

**Dr Johnston**—I will have to ask.

**Mr Maxwell**—While that exchange is taking place I can tell you that, yes, the service pension is covered by the inalienability provisions.

**Senator MARK BISHOP**—Okay.

**Dr Johnston**—I am advised that there was no provision for inalienability in the draft bill that was circulated for comment, but drafting has been done for inclusion of such a provision in the bill to be tabled.

**Senator MARK BISHOP**—Thank you. Can we now turn to the issue of super offsetting. You might recall, Dr Johnston, that when the draft bill was released for disclosure there were references to a VEA consequential provisions bill to be introduced at the same time providing for the offsetting of superannuation against the T&PI special rate. You probably recall that Minister Vale answered a question to that effect some two or three weeks ago in the House where she reaffirmed the previous decision was still the status quo. Can you confirm that that policy position is still the status quo?

**Dr Johnston**—I cannot comment on that. I think you need to wait for the government to table its bill and its associate statements. I would not add anything to the answer my minister has already given in the House.

**Senator MARK BISHOP**—And what was that? Do you recall the discussion in the House?

**Dr Johnston**—I think she was asked a question in relation to the offset, with the inference that it amounted to means testing of benefits. The minister talked about the concerns she had about the possibility of double payment of entitlements. I think all I can say is that that is as far as I could go today. You need to wait for the minister to table the bill.

**Senator MARK BISHOP**—No, I do not think that is right, with respect. I am simply asking you to confirm in a public forum that the provisions that the government released in

terms of its bill for public comment have not altered. I am not asking you to outline the change in any alterations that might come in the future.

**Dr Johnston**—Certainly the draft bill and the minister's statement at the time indicated that that was a proposition that the government wanted comment on from the veteran community. Yes, the material that was circulated then did envisage that there would be a consequential amendment to the Veterans Entitlements Act to encompass future claims against the future—

**Senator MARK BISHOP**—And there has not been any change between that time and the current time?

**Dr Johnston**—Apart from the minister's statement in the House there has been no statement by the government further to that.

**Senator MARK BISHOP**—All right. In the exposure draft of the bill and the EM that is attached to it there is a reference to Commonwealth super as the offsetting provision. Is that only the DFRDB and the MSBS or does it extend to be the CSS and the PSS as well?

**Dr Johnston**—There has, in fact, been some discussion of this issue within the working party on the legislation since the draft bill was tabled for consultation purposes. There has been extensive discussion between us, the Department of Employment and Workplace Relations and Finance seeking clarification of the way in which those provisions currently apply under ComSuper provisions to ensure that, if the government is to proceed, there is comparability of treatment. If there were to be comparability of treatment, the guideline would be that superannuation entitlements derived from the employment at the time would be relevant. In nearly all cases, that would just be the relevant military superannuation, but reservists who are in the Commonwealth employ may have ComSuper entitlements that might be relevant. For all intents and purposes, the effect—if there were to be comparable treatment—would be to limit it to military superannuation. I will see whether my colleagues want to add to that.

**Senator MARK BISHOP**—That has been unclear to us from reading the EM.

**Dr Johnston**—I think it is fair to say that, at the time of the explanatory memorandum, it was not entirely clear to us either. We think we have clarified it now.

**Senator MARK BISHOP**—So discussions have been held and the suggestion is that it might be tightened up in the way that you have just outlined?

**Dr Johnston**—This is a decision by government, but if it were to be comparable with arrangements, yes this would be the way in which it would be.

**Senator MARK BISHOP**—Is there any state government superannuation involved in this discussion at all?

**Dr Johnston**—Not that I am aware of.

**Senator MARK BISHOP**—Okay, so it is just for Commonwealth government employees in the military at the time.

**Dr Johnston**—The issue that we in the veteran community are struggling with is: for the employer who provides the compensation as well as the superannuation, as it were, how



should those entitlements benefits interact, given that superannuation before retirement age is a disability based entitlement? The employer has to decide how to relate these two sets of payments.

**Senator MARK BISHOP**—That is right. As you say, that is a discussion for those who are disabled prior to normal eligible discharge age in the ADF. The government is giving consideration to that distinction as well?

**Dr Johnston**—That is correct.

**Senator MARK BISHOP**—Going back to this discussion on Commonwealth superannuation, as unclear as it was in the EM, does it apply only to direct employees of the relevant service at the time they enjoyed the benefits of being a member of the fund? Or does it also apply to employees who today we would categorise as outsourced or contracted employees doing a task or job for the Commonwealth but who are members of another superannuation fund?

**Dr Johnston**—That would be up to the employer concerned, I believe.

**Mr Edgar**—The existing policy under the SRCA, as I understand it, is that it extends to employees of organisations like Telstra and other licensed authorities under the Comcare legislation. So we would be picking up that same definition. As to outsourced bodies, I imagine the terms of the outsourcing might be relevant, but you are getting into the depth of a particular case, as we always do when we discuss things like superannuation, which we would have to take on notice.

**Senator MARK BISHOP**—Could you take it on notice and advise us of the policy response of the government, if there is one?

**Dr Johnston**—Yes, we will.

**Senator MARK BISHOP**—I turn now to the case of Mrs Palmer in Queensland. Can I have an update on the progress of a settlement with Mrs Palmer regarding the disputed back pay for the period during which she was wrongfully denied a war widows pension and other allowances. Has the matter now been finalised?

**Dr Johnston**—Yes, the matter has been finalised.

**Mr Pirani**—Yes, Senator, the matter was settled on 14 August, with a cheque being delivered to Mrs Palmer and terms exchanged.

**Senator MARK BISHOP**—All right; so that has been done. The cheque has been paid, the contract has been signed, the file is closed.

**Mr Pirani**—That is correct.

[10.05 a.m.]

**Senator MARK BISHOP**—I turn now to outcome 2—Eligible veterans, their war widows and widowers and dependants have access to health and other care services that promote and maintain self-sufficiency, wellbeing and quality of life. Mr Douglas, are you the appropriate person to receive questions on the gold card?

**Mr Douglas**—We will start with me, Senator, and see how we go.

**Senator MARK BISHOP**—Can you give us an update on the number of LMOs who have now signed up to, and resigned from, the gold card?

**Mr Douglas**—The government currently has 14,200 local medical officers, representing approximately a 99 per cent acceptance of offers made to those LMOs previously contracted with the government, and there are a further 700 applicants to become local medical officers.

**Senator MARK BISHOP**—Are they part of the 14,200?

**Mr Douglas**—They are.

**CHAIR**—I interrupt in order to welcome to the hearing a delegation from the East Timor National Assembly. I welcome you to our estimates committee hearing. I hope you enjoy your time in Australia.

**Senator MARK BISHOP**—So 14,200 LMOs have signed, including 700 new ones, and that represents a figure of 99 per cent. How many have resigned from the gold card?

**Mr Douglas**—I am not aware of the number that have resigned. As I said, having regard to the offers to existing LMOs, 99 per cent of those accepted the government's offer.

**Senator MARK BISHOP**—How many chose not to renew?

**Mr Douglas**—One per cent of the original offer.

**Senator MARK BISHOP**—What was the original offer?

**Mr Winzenberg**—There were 13,500, so it would be one per cent of that figure. As Mr Douglas said, in addition there are 700 new ones.

**Senator MARK BISHOP**—Understood.

**Mr Douglas**—I don't know that you should take that figure as formally declining to accept, because our registers now should be fairly up to date. But, as you know, doctors can retire, they can pass away, they can decide to take on another career and do not necessarily advise us that they are moving on to other things.

**Senator MARK BISHOP**—I understood what Mr Winzenberg meant. So 135 declined to accept. How many specialists have now indicated their refusal to treat veterans at gold card rates?

**Mr Douglas**—My information is that the latest number is 319.

**Senator MARK BISHOP**—Can you give us those numbers by specialty and state?

**Mr Winzenberg**—I can give the numbers by state. I do not have them by specialty, but the majority are orthopaedic surgeons. In terms of state, it is five in the ACT, 129 in New South Wales, 118 in Queensland, 16 in South Australia, four in Tasmania, 33 in Victoria, eight in Western Australia, one in the Northern Territory, and five with an unknown address, which gives a total of 319.

**Senator MARK BISHOP**—With respect to that figure of 319, it certainly was my understanding from correspondence and anecdotal reports that the majority were orthopaedic surgeons. Do you have a ballpark figure as to whether it is 50 per cent, 60 per cent, 70 per cent orthopaedic?

**Mr Winzenberg**—I do not have that information. I know that it is across the board, but, as I said, the majority are orthopaedic.

**Senator MARK BISHOP**—When you say ‘the majority’, do you mean 50 per cent plus 1?

**Mr Winzenberg**—I would not like to put a figure on that without checking.

**Senator MARK BISHOP**—What do you mean by the word ‘majority’ then?

**Mr Winzenberg**—In terms of the numbers of specialists that have declined, the majority are orthopaedic surgeons. But, in terms of what per cent the figure of 319 represents, I do not have that information.

**Senator MARK BISHOP**—So theoretically you could have something like 30 groups of 10 and one group of 11 who are orthopaedics and you would call the group of 11 a majority?

**Mr Winzenberg**—No, the numbers would probably be a bit more significant than that, but, as I said, I would have to check.

**Senator MARK BISHOP**—Can you take that on notice and provide the detail to us by specialty?

**Mr Winzenberg**—Yes.

**Senator MARK BISHOP**—What were the figures in Queensland again?

**Mr Winzenberg**—In terms of specialists, it is 118. By way of background: we do not actually have individual contracts with specialists, as we do with LMOs, so we can only determine the numbers of specialists we deal with from the billing information on our database. We have between 8,000 and 9,000 specialists that would routinely bill the department for services to veterans.

**Senator MARK BISHOP**—So that figure of 118 was from Queensland. Is that basically from the Gold Coast or is it spread fairly widely?

**Mr Winzenberg**—I just have the state figure. We could look at drilling down. I am not sure how complex that would be. I would imagine, based on anecdotal evidence, that most of the specialists are in the built-up areas.

**Mr Douglas**—There is an important distinction here, as Mr Winzenberg has pointed out. These are the 319 who have notified us of their intention. It does not include any number, which we could only conjecture about, who have simply stopped billing us for whatever reason. It is conceivable that in some states specialists have decided to notify us to make a particular point and in other places they have not.

**Senator MARK BISHOP**—They have just dropped off using DVA.

**Mr Douglas**—That is right. Nor do we have any indication of what percentage of the total number of specialists in that state that particular number represents.

**Senator MARK BISHOP**—I understand. These are the ones who have formally advised you that they are not going to use DVA services in the future.

**Mr Douglas**—That is correct.

**Senator MARK BISHOP**—What is the current status of negotiations with the various specialist groups' representatives?

**Dr Johnston**—As I think you realise, the issue of fees for LMOs and fees for specialists is seen by the government as part and parcel of its review of health policy and health service delivery for the community as a whole. We do not yet have a green light to separately settle arrangements with specialists. The government is talking with specialists about a range of issues, particularly indemnity insurance issues, and we are part of that process of broader review.

**Senator MARK BISHOP**—I might be a little bit out of the loop, Dr Johnston. Last time I had discussions with you, the government had resolved satisfactorily the issue of LMOs in terms of the increased service fee. At that stage there were, from memory, no plans to enter into negotiations with the AMA or other organisations on behalf of specialists in terms of their then campaign. Are you now saying that since that time the issue of their claim for an increase in fees has been subsumed in wider health issues?

**Dr Johnston**—As you are aware, Senator, the government is talking to specialists about indemnity insurance and broader health service issues, and veterans matters are being subsumed within those broader discussions at this point.

**Senator MARK BISHOP**—Does that include the issue of an increase in fees for specialists?

**Dr Johnston**—Potentially, yes.

**Senator MARK BISHOP**—Potentially or actually?

**Dr Johnston**—Until the decisions are made, I cannot be more definite than that.

**Senator MARK BISHOP**—Last time we met the answer was, 'No, we are not having any negotiations with specialists on an increase in fees.' I do not know if you are putting the same position in different words now as to the current position. That is what I am trying to establish.

**Dr Johnston**—If I can clarify it, then, on an ongoing basis, when we last met with you—and it is still the case now—the government was in dialogue with specialists about a range of matters, including specialist fees. We do not yet have authority to negotiate separate arrangements for veterans in relation to specialists. That might be the way in which the government handles it in due course or it might be that veteran arrangements are settled as part of a broader package.

**Senator MARK BISHOP**—And that job has been done by the department of health?

**Dr Johnston**—As you know, the department of health and the Prime Minister's department are actively involved in reviewing health policy issues.

**Senator MARK BISHOP**—Are particular problems on the Central Coast of New South Wales and Gosford being brought to the attention of the department in terms of specialists declining to offer services? I am starting to receive correspondence from vets in the Central Coast and Gosford area saying that there are now no urologists on the Central Coast who accept a gold card and that doctors in North Gosford Private Hospital are refusing to use the

gold card and that veterans are being told that they will have to go Gosford public hospital, pay the gap or find another specialist. Have these problems been brought to your attention?

**Mr Douglas**—I am not aware of any.

**Mr Winzenberg**—When a veteran has difficulty accessing either an LMO or a specialist, the department helps them find alternative arrangements. To date, where a veteran or a war widow has not been able to access a specialist or LMO, we have been able to make other arrangements.

**Senator MARK BISHOP**—I do understand the practice within the department. The question, though, is whether any particular or out-of-the-ordinary problems have been drawn to the department's attention on the Central Coast of New South Wales and Gosford.

**Mr Winzenberg**—As Mr Douglas said, we are not aware specifically of any issue there.

**Senator MARK BISHOP**—So you have not received any correspondence or noted any newspaper articles?

**Mr Winzenberg**—We have not here. We could check with the New South Wales state office. They might have.

**Senator MARK BISHOP**—Could you take that on notice—if you have received any correspondence or complaints as to problems in the Central Coast area—and, if so, advise us when they were made and what the department's action or response, if any, has been.

**Mr Winzenberg**—Yes.

**Senator MARK BISHOP**—I turn to the Centre for Military and Veterans' Health. I refer you to page 10 of the annual report, where it refers to the creation of the new Centre for Military and Veterans' Health. What is the stimulus for this proposition?

**Dr Johnston**—I think the initial stimulus came from the Department of Defence having a view that they could significantly improve their health research, health database and training arrangements for serving personnel by building up a partnership with a university group. As you know, we work very closely, as two agencies, on health research and so on, so we were drawn into the development of the proposals. They are now a successful strategy that is in the process of being implemented.

**Senator MARK BISHOP**—What is the projected budget of the new centre?

**Dr Johnston**—I do not have that.

**Mr Douglas**—I am not sure that I have that information to hand. I know what the department's contribution is to that budget. The Department of Veterans' Affairs will be contributing \$1 million per year.

**Senator MARK BISHOP**—For the foreseeable future?

**Mr Douglas**—For the term of the contract. I would have to take the length on notice, but I think it is around three years.

**Senator MARK BISHOP**—Who is the other contributor? The Department of Defence?

**Mr Douglas**—Defence. And the Defence Health Service is also providing staff for the centre. There will be a serving officer who will be working at the centre.

**Senator MARK BISHOP**—Which university will it be attached to?

**Mr Douglas**—I believe that announcements are yet to be made by government in this respect. I believe they are imminent.

**Senator MARK BISHOP**—It is just that there are only two lines in the annual report, and it was the first time I had seen it. I was unaware of it completely.

**Dr Johnston**—We can take on notice providing a bit more detail. By then we will be able to confirm the total budget and the extent to which it has been publicly announced.

**Senator MARK BISHOP**—Mr Douglas, I think you said that an announcement was imminent.

**Mr Douglas**—That is correct.

**Senator MARK BISHOP**—Is that by Senator Hill or Mrs Vale, or both?

**Mr Douglas**—It could involve either or both—or Minister Brough.

**Senator MARK BISHOP**—How would it link into the RMA and existing Defence and DVA health research functions?

**Mr Douglas**—The department will obviously take note of having made a significant investment in the centre, but as part of the discussions for establishing the centre the department has also reserved its right to ensure that it gets best value for money for its research, having already invested fairly significantly in a number of centres of excellence around the country and letting contracts with a number of different providers. It will continue to do that. The obvious expectation is that the Centre for Military and Veterans' Health will acquire expertise over a fairly short space of time which would make it more competitive to tender for research contracts let by the Department of Veterans' Affairs.

**Senator MARK BISHOP**—You have had some heavy consultancy costs in recent years for these projects, haven't you?

**Dr Johnston**—In respect of the Repatriation Medical Authority, that remains a quite separate entity. As you know, the government has from time to time referred matters of scientific investigation to the RMA. Once the new centre is established, in principle, depending on its authority and reputation, it may be another source for obtaining those sorts of advices. But I would expect that the RMA would continue to play an important role.

**Senator MARK BISHOP**—In terms of the Centre for Military and Veterans' Health, government has made a decision to go down this path and establish it, DVA is making available \$1 million a year for three years, Defence is making a contribution plus providing staff, it is going to be attached to a university and an announcement is imminent—is that right?

**Mr Douglas**—The only caveat I would put on it is that I have conjectured the contract for a duration of three years. We will be taking it on notice to confirm the duration of the contract for you.

**Dr Johnston**—It has just occurred to me that formally the contract will be with the Department of Defence. We are a part-funder, but it is formally a contract with the Department of Defence. It would be quite appropriate to seek clarification of this matter over

the next couple of days with our Defence colleagues. Subject to any exchange on that, we will take on notice confirmation of our role.

**Senator MARK BISHOP**—I turn to the issue of nursing homes. I am also starting to receive correspondence in the nursing home area. Does DVA have any active engagement here at all with respect to capital investment targeted at veterans in terms of nursing homes, or are you out of that completely?

**Mr Douglas**—We are pretty much out of that. That is a matter for our colleagues at Health and Ageing.

**Senator MARK BISHOP**—So DVA does not make any capital applications and you are not involved in providing funding to organisations that might be in the process of building new nursing homes for veterans—is that correct?

**Dr Johnston**—That is a fair statement. Of course, we resource the activities of NERTAC, which is the veteran forum for dialogue and discussion.

**Senator MARK BISHOP**—And you make grants for safety and so on.

**Dr Johnston**—Yes.

**Senator MARK BISHOP**—I am not talking about that. I am talking about the funding of nursing homes per se for veterans.

**Ms Witkowski**—No, we do not make any payments for facilities. We used to have the old residential care development scheme, but that is a lapsed program. We have not made any payments in the last two years.

**Senator MARK BISHOP**—Is the department aware of development proposals on vacant land at Narrabeen?

**Mr Douglas**—No.

**Ms Witkowski**—No, I am certainly not.

**Senator MARK BISHOP**—Does the department still hold title to that land?

**Dr Johnston**—By the look on our faces, I do not know that we know that we ever did, but maybe we should know that.

**Senator MARK BISHOP**—It is my understanding that the Commonwealth resumed the land some years ago for the erection of a war veterans' home and that DVA was involved in that. Does anyone have any corporate memory? Mr Maxwell is saying no.

**Dr Johnston**—Certainly not in my time. We will have to take that on notice.

**Senator MARK BISHOP**—Can we now turn to the issue of the VVCS, the Vietnam Veterans Counselling Service. I have received representations in Western Australia about cuts to VVCS programs such as healthy heart, anger management and alcohol management. Can I have an appraisal of the situation over there, please.

**Mr Kilham**—Nationally, we have had no cuts to our funding; in fact, we have had a slight increase in funding. However, the situation is that we have introduced a resource allocation formula to ensure that funding across the country is fair and equitable for all veterans. This has resulted this year in a slight decrease in funding for Western Australia.

**Senator MARK BISHOP**—How slight?

**Mr Kilham**—In the last financial year, VVCS in Western Australia had a slightly increased share of the national funding. We have brought it back to what is a fair and equitable distribution. The actual cut this year is hard to quantify because it will depend very much on expenditure in the other states. If there is a shortfall in spending in the other states, we will make sure that that funding goes to where the demand is.

**Senator MARK BISHOP**—That is a real neat answer, Mr Kilham, but it has too many ifs in it. Let us go back and do it sentence by sentence. How much was the expenditure last financial year on the VVCS in Western Australia?

**Mr Kilham**—You will have to quantify that. It depends on whether you are talking about the funding on group programs or total expenditure on staffing and group programs. I do not have those figures in front of me. I would need to take that on notice.

**Senator MARK BISHOP**—You do not have them? What was your title again?

**Mr Kilham**—I am branch head of Younger Veterans and VVCS branch.

**Senator MARK BISHOP**—Are you the senior officer?

**Mr Kilham**—I am.

**Senator MARK BISHOP**—And you do not have the budget figures for the last financial year with you?

**Mr Kilham**—I do not have them with me.

**Senator MARK BISHOP**—Why not?

**Mr Kilham**—I have a level of detail about activity with me, but I do not have the exact detail of expenditure.

**Senator MARK BISHOP**—Why not? That is a reasonable question that gets asked every time and you have been put on notice about this. Do you think we put VVCS on the list in writing for no reason?

**Mr Kilham**—No, Senator.

**Senator MARK BISHOP**—You know there have been complaints in Western Australia.

**Mr Kilham**—I can suggest that the funding was approximately \$1.2 million, but if you want exact figures I would need to produce them on notice.

**Senator MARK BISHOP**—So the funding last year was \$1.2 million.

**Mr Kilham**—Approximately.

**Senator MARK BISHOP**—For VVCS Western Australia.

**Mr Kilham**—For group program expenditure, Senator.

**Senator MARK BISHOP**—Is group program expenditure the totality of the budget?

**Mr Kilham**—No, it excludes the staffing expenditure.

**Senator MARK BISHOP**—What was the staffing expenditure?



**Mr Kilham**—Once again, I do not have those figures with me. I would need to produce them on notice for you.

**Senator MARK BISHOP**—Why don't you have them with you?

**CHAIR**—I think he said he was going to get them for you.

**Senator MARK BISHOP**—He said he was going to bring them on notice. I asked the question: why hasn't he brought the budget figures with him on staff outlays in Western Australia when the department was advised in writing that the questions would be asked? That is a normal request and you deliberately choose not to bring them. That is your choice, isn't it? Why did you choose not to bring them?

**Senator Coonan**—Senator Bishop, it is not established that he chose not to bring them. Obviously the officer inadvertently did not bring the figures with him and he said that he was going to get them for you. Perhaps we can move on.

**Senator MARK BISHOP**—With due respect, Senator Coonan, we were asked to provide exact details of which departmental programs and agencies we wished to examine. We provided that information. VVCS were advised. They know there have been cuts over there because they are engaged in dialogue with the local groups and it has been in the press. It is not unreasonable to expect an officer of the department to come prepared on topical and current issues that are being discussed within the last month. That is not unreasonable. Not to do so is not inadvertence; it is deliberate. The process of this committee is to examine government outlays. You are choosing to flout that, Mr Kilham.

**Senator FERGUSON**—I do not think that it is in order for someone to accuse an officer of any department of deliberately not bringing material to this hearing. You may be disappointed, Senator Bishop, that information is not here but any officer has a right to take any question on notice at estimates regardless of whether they have been requested or not. I think you have been badgering the officer fairly well. I understand your disappointment but I do not think it is fair to say that he deliberately did not bring the material.

**Senator Coonan**—What I was saying, Senator Bishop, is that I do not think your request is unreasonable. But it is inappropriate to be accusing the officer of deliberately not coming prepared to answer your questions. He said he will get the information and I think that ought to be accepted.

**CHAIR**—I think you have made your point. I think it is a fair point and I think you have made it very strongly.

**Mr Kilham**—I can advise you, Senator, that the total program expenditure for the VVCS is \$9.6 million, and that represents an increase from the previous year from \$9.46 million. The way we have distributed money to each of the states is on a resource allocation formula basis that largely takes into account the number of veterans in each state. In Western Australia we believe we have approximately 11 per cent of the population of veterans who are our clients within Australia. So we have distributed money to Western Australia on that basis. It is approximately 11 per cent of the total budget, although that is fluid because it depends on how much is spent of the total budget in other states.

In the previous financial year we had a decrease in spending in two states in particular—Victoria and South Australia—and we were able to reallocate some of the unspent money from those states to Western Australia. So in fact in the previous financial year the total allocation to Western Australia was in the order of \$1.2 million for program expenditure, which represented increased expenditure for that year. This year we have sought to bring Western Australia back into line with the resource allocation formula so that program expenditure is fair and equitable across all states. In particular this year we are seeking to provide services to parts of South Australia that were not funded last year.

**Senator MARK BISHOP**—Okay. I understand what you have said there, Mr Kilham. But, is the net result that, in this year, there will be a reduction of funding for the healthy heart, anger management and alcohol management programs in the state of Western Australia.

**Mr Kilham**—There may be. It will depend on expenditure in the other states. We review that every three months or, in fact, more often than that. We do a full review of expenditure every month state by state. If there is a shortfall in other states and a clear demand for services in Western Australia, we will meet that demand from the shortfall in expenditure in other states.

**Senator MARK BISHOP**—If there were not a shortfall in expenditure in other states, if the outlays there were to go to plan, what would happen then to the cutbacks in Western Australia?

**Mr Kilham**—We would expect that we would probably have to reduce a number of programs. This year we are looking at four lifestyle management courses, last year we ran six, so we would have to reduce by two but these programs are not always easy to organise. We have organised programs in the past in Western Australia and then had to cancel them through lack of attendance.

**Senator MARK BISHOP**—I understand that. You have answered the question. I thought the VVCS was an uncapped program—is that correct? I thought that expenditure effectively followed demand as opposed to a capped program such as home care. Is that understanding wrong?

**Dr Johnston**—That is not correct, Senator. For basic VVCS services, it is an uncapped program but we allocate estimates and managers are expected to try to manage within their means but the funds can be adjusted to meet requirements. For a range of these programs, there was special funding provided in response, you might recall, to the Vietnam veterans health study that we were discussing earlier.

**Senator MARK BISHOP**—Where would I find funding for these programs in the PBS?

**Dr Johnston**—That might take a second, Senator.

**Senator MARK BISHOP**—Okay. I have also received a complaint from the Bunbury group participating in the healthy heart program that, when they sought some worthwhile publicity for the program by inviting local media along, the VVCS intervened refusing the proposal unless the local government member was present. Can you confirm these events, Mr Kilham?

**Mr Kilham**—No, that is not strictly correct. The VVCS had no role in either refusing or not refusing the right of the veterans to go to the media. They have a total right to seek media interviews if they wish and they were informed of that.

**Senator MARK BISHOP**—I am informed of this by a Mr Robertson of 168 Lucy Victoria Avenue, Australind, which is down near Bunbury. His correspondence is to Mrs Vale and copied to me. In respect of that issue, he says:

As a matter of courtesy, the Perth VVCS office was informed of the proposed media attendance. Initially the proposal was simply acknowledged. Then the MHPE—

the men's health peer education representative—

was advised that permission for media contact with the group had to be obtained from the DVA Media Office in Canberra, but this was only a formality. At that point the exercise turned sour. The group was subsequently advised that the request was refused unless the local Federal Government member was 'involved'.

That is the complaint Mr Robertson has made in writing and that is a different fact outlined to what you have just said, Mr Kilham, isn't it?

**Mr Kilham**—There is a distinction in that the group wished to present to the media with VVCS staff and VVCS staff, you will appreciate, have to seek permission for any media involvement.

**Senator MARK BISHOP**—The advice was:

The group was subsequently advised that the request was refused unless the local Federal Government member was 'involved'.

The local member is Mr Prosser. Mr Prosser is not a member of the staff. I accept that it is entirely proper for DVA to be directing its staff on how they might conduct themselves with the media because they are officials of the department. But the complaint here is that the DVA media office in Canberra advised that the request was refused unless the local federal government member was involved. Are you aware of that?

**Mr Kilham**—Yes, but that applies only in respect of staff involvement. It has no relevance as far as the veterans involved in the Heart Health Program are concerned. They were at liberty to go to the press if they wished.

**Senator MARK BISHOP**—Who advised them that the local federal government member had to be involved?

**Mr Kilham**—If there is a request from the media for our staff to be involved then I seek permission from our media section. That is the pathway I follow. They handle it from there and come back to me with an answer to that request.

**Senator MARK BISHOP**—Let's fine down the discussion, because you keep throwing up this point. We are not talking about your staff, so I would appreciate it if you did not make that response again. We are talking about an officer of the VVCS or the DVA who advised the group that press could not proceed unless the local federal government member was involved. I am inquiring as to who said that.

**Dr Johnston**—I suspect there has been some misunderstanding as to the nature of the advice. For the VVCS staff to be involved, that would be the requirement, but—as Mr Kilham has tried to explain—if the participants in the program wanted to involve the media, that was entirely up to them. It is possible that there has been some misunderstanding on their part of the nature of the response from our staff, but I suspect Mr Kilham cannot confirm that one way or the other. We will need to talk to our Western Australian office to clarify that.

**Senator MARK BISHOP**—I have not given you the rest of the information I have on affidavit; Mr Kilham may or may not be able to. Did you or any of your officers at any time advise the relevant group that the local federal government member had to be involved in media interviews?

**Mr Kilham**—It certainly came from the media that it was their preference that the local member be a party to that media interview.

**Senator MARK BISHOP**—So there was a preference that the local member be involved.

**Mr Kilham**—That is correct.

**Senator MARK BISHOP**—Did you offer that guidance off your own bat?

**Mr Kilham**—No.

**Senator MARK BISHOP**—Did you receive advice to that effect from elsewhere?

**Mr Kilham**—I received advice.

**Senator MARK BISHOP**—Who gave you that advice?

**Mr Kilham**—The media section of the department.

**Senator MARK BISHOP**—Who was the person in the media section?

**Mr Kilham**—Mr Steve Pye.

**Senator MARK BISHOP**—You carried out his advice. Is Mr Pye available?

**Dr Johnston**—I do not believe he is here today.

**Senator MARK BISHOP**—Who is Mr Pye's senior officer?

**Dr Johnston**—Ms Urbanski, who is here.

**Senator MARK BISHOP**—Can Ms Urbanski come forward, please. Welcome, Ms Urbanski. You have heard Mr Kilham's comments. Can you now outline for us the DVA's policy in respect of the attendance of local government members at these sorts of events?

**Ms Urbanski**—I am not aware of the particular incident that you have raised. We would like to have a look at the full case and get back to you on that.

**Senator MARK BISHOP**—Why aren't you aware of it?

**Ms Urbanski**—I am not aware of this particular incident.

**Senator MARK BISHOP**—Why not? Mr Kilham took direct advice from Mr Pye. Mr Pye would never have made that up of his own volition.

**Ms Urbanski**—That is right.

**Senator MARK BISHOP**—He gave effect to a policy. You are not aware of the policy?

**Dr Johnston**—There is a standard policy in the department that where media are to be involved, there is consultation with the media unit in Ms Urbanski's branch and consultation with the media officer in the minister's office on the appropriate handling of media matters. That is about as far as standard policy goes. I think we need to take the opportunity to check the facts for you and give you any further detail.

**Senator MARK BISHOP**—The policy appears to have been—as Mr Kilham expressed it—'a preference' for the local member to be involved. That was the way he expressed it under instruction or guidance from Mr Pye. That is consistent with what you have said. The complaint is that, if the local federal government member is not involved, it cannot go ahead.

**Dr Johnston**—I do not think that is what we are telling you, with respect, sir.

**Senator MARK BISHOP**—No, that is what the complaint is.

**Dr Johnston**—I understand that, but we are professional public servants; we do our best and, in this case, Mr Kilham has advised you that the veterans were free to do what they wished with the media. Without having the papers, I cannot take the matter much further than that. I suggest that there has been some misunderstanding between the veterans concerned and the staff of the department as to what was being proposed. Until we have all the facts, I do not know that we can take it much further.

**Senator MARK BISHOP**—You probably do not have to take it much further, Dr Johnston, you are probably right—the complaint went directly to the minister, addressed to Mrs Vale, on 2 October, so you may not have it.

**Dr Johnston**—I have not seen the papers. I think Ms Urbanski is telling you that she has not seen the papers. Until we can check all the details, I do not know that we can take the matter much further.

**Senator MARK BISHOP**—The policy that the department's media unit has of liaising with the media officer in the minister's office and then giving out either preferential advice or clear instructions, however described, to the person making the request, does that apply to ALP members as well?

**Dr Johnston**—What do you mean 'to ALP members as well'?

**Senator MARK BISHOP**—It seems to me that we have in the expenditure of government funds by your department, through its media unit, a clear preference to local government members, but no similar application to local opposition members. Could that be the case?

**Dr Johnston**—I think you have raised some of these issues before, and I think we have been able to demonstrate that, as far as we can, we try to involve parliamentary members comprehensively in the work of the department, reflecting the long tradition of bipartisan interest in and support for veterans' matters.

**Senator MARK BISHOP**—I hear you say that, Dr Johnston, and generally I would not quarrel with it. In the last discussion we had on this about three estimates ago, it was not bipartisan—only local government members were advised of a lot of government activities. I refer to Queensland.

**Dr Johnston**—I think in that case it was Queensland, yes, and we indicated our concern that the practice was inappropriate and would change.

**Senator MARK BISHOP**—All right. I think you have got the message. Can I ask you then to take on notice and provide the committee with a full report of this instance at the VVCS in Western Australia, provide copies of the guidelines, provide detail as to how they are applied and provide details over the last six months of every instance where local federal government members have been requested, advised or preferred to attend functions at DVA offices or within DVA programs, and, similarly, the instances where requests, advice or preferences have been made to local federal opposition members of parliament?

**Dr Johnston**—That is a fairly wide-ranging question, but we will do our best. Do you want an explanation of the management of the funds for the VVCS, or shall we take that on notice? You were asking what sums were in effect capped and what were entitlement based.

**Senator MARK BISHOP**—Yes, if you do not mind.

**Dr Johnston**—Take it on notice?

**Senator MARK BISHOP**—No, if you can provide the explanation, I would appreciate it.

**Dr Johnston**—I will ask Mr Farrelly to speak to that.

**Mr Farrelly**—The reference in the PBS is page 47. Expenditure on counselling is part of the health care expenses. The amount budgeted for this year is \$12.3 million, and the amount spent last year was about the same—\$12.3 million. That is consistent.

**Senator MARK BISHOP**—Thank you. On that particular matter we were just discussing, Dr Johnston, I did give you a very broad question. Take it this way: on how many occasions have state officers, VVCS, Office of Australian War Graves and the Australian War Memorial media/promotional functions been referred to this central monitoring point, and on how many occasions has a government member's availability been tested?

**Dr Johnston**—I am not sure that we have a database that will enable that to be answered, but we will do our best.

[10.53 a.m.]

**Senator MARK BISHOP**—I turn to outcome 3—The service and sacrifice of the men and women who served Australia and its allies in wars, conflicts and peace operations are acknowledged and commemorated. I want to talk briefly about Changi in Singapore. Ms Upton, what is the current position with respect to the preservation of parts of Changi jail in Singapore?

**Ms Upton**—Kay Grimsley will handle Changi today.

**Dr Johnston**—I will cover that one. As you are aware, the Singapore authorities are well advanced in developing plans for redevelopment of the Changi site for a much more modern, larger prison complex. The Australian government and the High Commission have been talking with the Singapore authorities to see whether there are further elements of the existing structures that could be preserved as a memorial. I think statements by the Singapore authorities indicate some sympathy with that. We now need to wait to see what detail they might propose.

**Senator MARK BISHOP**—So negotiations are still proceeding?

**Dr Johnston**—There is good dialogue between our authorities and the Singapore authorities on this.

**Senator MARK BISHOP**—Is that being handled by DFAT?

**Dr Johnston**—The High Commission is taking a very active interest in the matter.

**Senator MARK BISHOP**—So the answer is yes, it is DFAT?

**Dr Johnston**—Yes.

**Senator MARK BISHOP**—On how many occasions have direct meetings been held between Australian ministers and officials and the Singaporean officials?

**Dr Johnston**—On these matters?

**Senator MARK BISHOP**—Yes.

**Dr Johnston**—I think it is fair to say that the matter has been raised whenever there is an opportunity, including at social gatherings, if I can put it that way. I do not think it would be meaningful to give you a list of the number of formal meetings.

**Senator MARK BISHOP**—Regular and ongoing?

**Dr Johnston**—There are regular, ongoing discussions on the matter and there have been over a period of months.

**Senator MARK BISHOP**—Are the British and Dutch governments involved?

**Dr Johnston**—To a certain extent, I think. But I must say that we are less familiar with the extent to which they are talking with the Singaporean authorities.

**Senator MARK BISHOP**—It is not a tripartite approach from the respective governments?

**Dr Johnston**—Not actively so, but I would stand to be corrected. Certainly the Australian government is actively talking.

**Senator MARK BISHOP**—Are there any consultations with the ex-service community in Australia on this issue?

**Dr Johnston**—Not with specific groups that I can think of. As you would understand, the veteran community has a great interest in this and is raising the matter as agenda items when various groups meet with the minister and so on.

**Senator MARK BISHOP**—Has the minister received correspondence on this issue?

**Dr Johnston**—Ms Grimsley might add to my comments.

**Ms Grimsley**—I can add that when Major-General Peter Phillips, the previous president of the RSL, was last in Singapore he did get briefed on the Changi redevelopment issue by the Australian High Commission. He is seeking to have a commemorative plaque erected in St Andrews Cathedral there, and the High Commission is assisting him in that process. So he certainly was directly briefed when he was there. I am not sure exactly when but it was earlier this year.

**Senator MARK BISHOP**—The St Andrews Cathedral is in the city, isn't it?

**Dr Johnston**—It is the main cathedral in the centre of Singapore.

**Senator MARK BISHOP**—Yes, that is right. The proposition is a commemorative plaque to be put in St Andrews Cathedral commemorating the Changi jail?

**Ms Grimsley**—I assume it is commemorating those veterans who were interned there. It is something that the RSL is progressing.

**Senator MARK BISHOP**—Is that different and separate to the government's—

**Dr Johnston**—That is correct.

**Senator MARK BISHOP**—That is an RSL proposition?

**Ms Grimsley**—It is.

**Senator MARK BISHOP**—The MIAs in Vietnam: there was a press report yesterday, I think, in the *Courier-Mail* in Queensland that the government has refused US requests for DNA.

**Dr Johnston**—That is a Defence matter.

**Senator MARK BISHOP**—Nothing to do with vets?

**Dr Johnston**—We try and keep ourselves informed, but I think it would be more appropriate for Defence to deal with it.

**Senator MARK BISHOP**—You do not have a brief on it?

**Dr Johnston**—We keep ourselves informed, but it is more appropriate to ask—

**Senator MARK BISHOP**—Can you inform me? It is good that you have got the information and knowledge. Can you share it with the committee?

**Dr Johnston**—I think formally, Senator, you are directing questions to the responsible department, and that is the Department of Defence.

**Senator MARK BISHOP**—All right. I have received representations from Mr R. J. Price of Gatton in Queensland concerning his long campaign to have his allegations of fraud and unprofessional behaviour at the VVCS in Brisbane investigated. I understand the DVA has offered to conduct an independent inquiry into the allegations. Could you tell me where this matter is up to, its history and where DVA intends to go with it?

**Dr Johnston**—It might make sense to focus particularly on the proposed review. Mr Price is not satisfied with the way in which the department has examined and conducted its investigations into his complaints; nor is he satisfied with the way in which the department has handled his FOI request for access to his papers. We have sought to encourage Mr Price to utilise his right to go to the Privacy Commissioner or the Ombudsman to seek a review of the way in which we have handled these matters. For his own reasons, he seems reluctant to do that. We have also suggested to him that we would be supportive of an independent review—not an inquiry—by a respected independent party that both parties accept would deal appropriately with the matters. I think Mr Price is giving thought to pursuing that option but has not yet come to us with any formal proposals in that regard.



**Senator MARK BISHOP**—That is both a generous and radical offer by the department, Dr Johnston. I do not offer any criticism. Why is it that you have gone down that path? You get tens of thousands of pieces of correspondence and lots of complaints.

**Dr Johnston**—We do, Senator. To be frank, the department did the wrong thing by Mr Price. We inappropriately disclosed information pertaining to him to Queensland authorities at the time. We have apologised to Mr Price. We have disciplined the only remaining officer that was still with us after we had concluded our investigations. When departments, in a sense, are in the wrong, you do feel obliged to take the matter further.

**Senator MARK BISHOP**—I understand. Basically you have made the offer for an independent review and you are awaiting a formal response from Mr Price.

**Dr Johnston**—We are assuming that he would nominate somebody from the legal profession or an eminent veteran who he would respect as having an independent look at the way we have handled these matters.

**Mr Maxwell**—We have also offered the option of mediation. So he has the offer of a review by an independent party on the handling and the offer of mediation aimed at reaching a settlement.

**Senator MARK BISHOP**—Understood. Thank you, Mr Maxwell, Dr Johnston and officers, for your assistance this morning. My outstanding matters will be placed on notice by close of business tomorrow. Is that the practice?

**CHAIR**—That is. Thank you, Senator Bishop.

**Proceedings suspended from 11.02 a.m. to 11.17 a.m.**

**CHAIR**—Order! The estimates hearing is back in session.

**Senator BARTLETT**—I am interested in the opportunity for Gulf War veterans to undertake urine testing for uranium. The testing is being provided currently for people returning from the recent Gulf War and I understand that at least one, if not more, from the first Gulf War has sought similar testing. I am just wanting to ascertain whether that is available and whether there has been any demand much for it to date.

**Dr Horsley**—Our department does not have a program for testing urine for depleted uranium at the moment. The Department of Defence has offered it for people coming back from the current conflict and we have not done any such testing. Nevertheless, if a particular veteran were to approach us and if he had eligibility in terms of a gold card, we might well consider that. In a particular case that I am aware of, my understanding is that the veteran does not have a gold card. In that circumstance we would consider suggesting to the veteran that, if he wanted to put in a claim for contamination of his urine with depleted uranium, we would be under an obligation to investigate that claim. The secretary would, under section 17 of the Veterans' Entitlements Act, and an obvious course of action in that case would be to arrange a test. In effect, if a person wants to have their urine tested we will facilitate it, but we do not have a formal testing program in place at the moment. The Department of Defence does for those serving personnel returning from the current conflict in the gulf region.

**Senator BARTLETT**—Just to clarify that, there is urine screening available at present through Defence for people returning from the current or recent conflict. Any veterans of the

previous Gulf conflict would have to approach DVA. Would that be made available to them if they requested screening or would they have to make some case that they had some health symptoms?

**Dr Horsley**—I think we would consider it. Contamination with depleted uranium is symptomless so the absence of symptoms would not necessarily militate against it. We would be saying to the veteran, ‘Let’s understand the circumstances by which you believe you became contaminated by depleted uranium.’ Our expectation is that the number of people from the Gulf War in 1990 to 1991 who were actually contaminated with depleted uranium in any real sense is very small. As you are aware, the vast majority of our deployment to the first Gulf War was naval and we had, for other reasons, phased out the use of depleted uranium munitions on board our ships by the time the conflict took place.

It is true that one of the ships docked in Kuwait City immediately afterwards and spent two days in port. My understanding is that half the ship’s company was given leave on the first day and the other half of the ship’s company was given leave on the second day. They took the opportunity to visit a number of sites within Kuwait City and it is possible, in that process, that one of them may have entered a tank that had been knocked out by depleted uranium munition, and contamination could have occurred in that circumstance. If a veteran was to come forward and say, ‘Look, this is my circumstance,’ I think we would sympathetically consider it.

We do not have a formal testing program in place at the moment and my understanding is that we are yet to receive a formal request. I understand a veteran has requested that from Defence. Perhaps it would be better to ask Defence about this but I understand that there was some lack of communication where initially the officers responding to that request thought that the veteran was talking about the most recent Gulf War. So they went through a process of saying, ‘Yes, we have a program in place; give us all your details and we will talk to you about it.’ And it was only after some communication that they realised he was talking about the previous war and said, ‘You are not now a serving member. You are a customer of the Department of Veterans’ Affairs and if you talk to them they will be happy to look at your needs.’ They sent us a copy of that communication and we look forward empathetically to receiving a request.

**Senator BARTLETT**—So if you were to receive a request from this person, or from other 1991 war veterans, you would look at that sympathetically. Would that mean that the department would cover the cost of the tests, transportation to where the test needs to be taken or anything like that?

**Dr Horsley**—That would vary on a case-by-case basis and we would like to talk to the veteran about the nature of the test that we would do. It is best if 24 hours of urine is collected. You can do a spot urine test but it is better if 24 hours of urine is collected. There are logistic issues relating to the transport of that that we would need to overcome and it would depend upon the location of the veteran, but we would look at all of those issues empathetically. We would also like to talk to the veteran, prior to his undertaking the test, about the likely result. Everyone has uranium in their urine in trace elements. It is a ubiquitous part of our environment and everybody has levels of uranium within their urine. So a measure of some level of uranium does not mean you have been contaminated by depleted

uranium and we would like to go through that process with the veteran prior to arranging the test.

**Senator BARTLETT**—Thanks for that. I know we have had questions earlier today about the Clarke review. One component that I do not think was specifically raised this morning is the longstanding issue of whether the disability compensation payments should be assessed as income and means tested through social security. That has been raised in both the Senate and at estimates a number of times. A few years back I was given an estimated costing if that change were made. The last time I asked for that costing it was not so forthcoming. Is it possible to provide any estimate now on what that change might cost?

**Dr Johnston**—It is not a straightforward matter. It depends on the way in which such a change would be administered, both in respect of Centrelink's administrative responsibilities and our administrative responsibilities. It depends on how linked entitlements would be handled as between ourselves and Centrelink. So it is not a straightforward matter. It depends on the particular proposition that needs to be costed.

**Senator BARTLETT**—Is it possible to give a top and a bottom figure? Is that option no longer being considered at all—in which case you would not bother costing it? But I know that option has been around for some time.

**Dr Johnston**—Options of a nature similar to those considered by the Clarke committee are of the order of \$100,000 plus over a period of four administrative years.

**Senator BARTLETT**—My next question goes to money and the restructuring of TPI et cetera, and I know there have been other questions on this issue this morning. One specific issue that has been raised a couple of times is perhaps an unintended consequence of the GST: TPIs previously did not pay sales tax on essential car parts and had exemptions to the labour component of repair costs, but those items now attract the GST. TPIs have raised concerns in this area in terms of this being a further erosion of the value of their entitlements. Is that particular area of expense being considered in the future direction of payments for that group of people?

**Dr Johnston**—The issue of the status of TPI veterans in respect of GST on sales of motor vehicles, motorcycles and so on has already been addressed by the government. One issue that has been raised in the Clarke committee is the nature of any such benefits for EDA veterans. So, when the government responds to the Clarke report, it will have to be clear on how it intends to address those elements.

**Senator BARTLETT**—Did you give a rough ballpark earlier today of the potential response time to the Clarke report?

**Dr Johnston**—Senator Bishop did ask when we expected a response. We said we were hoping for a response before too long, but that is a matter for government.

**Senator BARTLETT**—I do not know whether you will be able to answer this next question with the people you have here today. A few people have raised concerns about the length of time it takes from applying for medals and clasps, and the like, to when they are actually received. Is there any benchmark for response times?

**Mr Maxwell**—I am delighted to inform you that medals are not an issue for the Veterans' Affairs portfolio; it is an issue for the Department of Defence.

**Senator BARTLETT**—I will save that one up for later.

**CHAIR**—Thank you, Dr Johnston, Mr Maxwell and officers of the Department of Veterans' Affairs. We will see you again in February.

**Proceedings suspended from 11.29 a.m. to 11.39 a.m.**

**Department of Defence**

**CHAIR**—I welcome Senator Robert Hill, the Minister for Defence; General Cosgrove, Chief of the Defence Force; Vice Admiral Shalders, Vice Chief of the Defence Force; Mr Ric Smith, Secretary to the Department of Defence; and officers of the defence organisation. The committee will now consider the estimates for Defence, beginning with the topics nominated in the portfolio review and major corporate issues. We will then move on to outputs, business processes and people. When officers are first called upon to answer a question they should state clearly their names and positions. When written questions on notice are received, the chair will state for the record the name of the senator who submitted the questions, and the questions will be forwarded to the department for an answer. The committee has resolved that the deadline for the provision of answers to questions on notice taken at these hearings is Thursday, 11 December 2003.

Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. I also remind witnesses that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. The Senate has also resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. An officer of a department of the Commonwealth shall not be asked to give opinions on matters of policies. However, you may be asked to explain government policy, describe how it differs from alternative policies and provide information on the process by which a particular policy was selected. An officer shall be given reasonable opportunity to refer questions asked of the officer to superior officers or, in fact, to the minister. Minister, do you wish to make an opening statement?

**Senator Hill**—No.

**CHAIR**—Do you, General Cosgrove?

**Gen. Cosgrove**—No, thank you.

**CHAIR**—We now move to the general portfolio overview.

**Senator CHRIS EVANS**—As I indicated to you and as I have just mentioned to General Cosgrove, I thought the best starting point was the process that we adopted last time where we started with overseas deployments and how they are going, particularly in Iraq. We can then go to the security arrangements for the troops et cetera. So, with the minister's agreement, I thought I would ask General Cosgrove to give an update, particularly on Iraq, but basically on the overseas deployments—a status report effectively. That would probably curtail a range of specific questions.

**Gen. Cosgrove**—As the committee knows, the operation in Iraq continues with Australia's contribution standing at around 800 people in an operation known as Operation Catalyst. Operation Catalyst came into effect on 16 July this year and it comprises several elements. There is an Australian joint task force headquarters for command of ADF elements deployed in the Middle East. The headquarters is responsible for both Operation Catalyst and Operation Slipper, and I remind senators that that is Australia's contribution to the war on terror. Next is a naval component of about 270 personnel, comprising the crew of HMAS *Newcastle*, which is soon to be replaced by HMAS *Melbourne*.

We have an RAAF C130 Hercules detachment based in Qatar of about 140 personnel with two transport aircraft, ground crew and other support elements. Still with the Air Force, we have an air traffic control detachment and support personnel at Baghdad International Airport and a combined air operations staff totalling around 80 people. There is a security detachment of about 70 personnel, including armoured vehicles, and an explosive ordnance detachment to provide protection and escort for Australian government personnel working in our representative office in Baghdad. We have up to 15 analysts and technical experts supporting the 1,300-strong Iraq survey group, which is the coalition effort to locate, identify, account for and subsequently destroy Iraq's weapons of mass destruction and associated programs.

We have an Australian contribution to coalition headquarters and units and combined logistics and communications elements comprising about 90 people. We have an Air Force P3 Orion detachment of about 160 personnel with two aircraft and associated command support elements supporting both the rehabilitation operation in Iraq and the war on terror. They are not based in Iraq; neither are the C130s. We have a military adviser to the UN Special Representative of the Secretary-General in Iraq.

We have also contributed a few smaller elements and assets to Iraq's rehabilitation. These include three ADF officers in the Coalition Provisional Authority—two working in Baghdad and one working in the provincial authority office in al-Hilla. We have four ADF personnel working with the coalition military assistance and training team to assist in the development of the new Iraqi Defence Force. We have two defence civilians who are providing policy advice to the Coalition Provisional Authority's Office of Security Affairs. Finally, we have a temporary military liaison officer who is supporting the Australian representative office in Baghdad. He is essentially performing the role of a defence attache. All those personnel work hard. There are obviously significant threats on the ground, especially in Iraq. The great focus of the commander of our task force, who is responsible for all personnel, is on constant monitoring of the security position and the safety measures that need to be taken for our people on the ground—especially in Iraq, but in other parts of the Middle East area of operations as well.

**Senator CHRIS EVANS**—How many of the Australian element are actually inside Iraq? A lot of these headquarters staff are not inside Iraq. I know that you have been a bit coy about telling me where they are; I do not know whether you still are.

**Gen. Cosgrove**—At the last count, which was a few days ago—and the number goes up and down a little—there were 258 actually in Iraq.

**Senator CHRIS EVANS**—Given the continuing security situation there, have there been any recent changes in the security arrangements for protection of those staff?

**Gen. Cosgrove**—It is essentially at the highest level it could be. From time to time people are more on their toes because of perceived threats, but they are actually at the highest level of alert. Any additional responses are over and above that. If this were a domestic warning scenario, we would call it extreme, but because it is a war zone it is a war zone, and we regard it that way.

**Senator CHRIS EVANS**—I know the air traffic control and supporting operations are at Baghdad airport, and obviously the security forces are in Baghdad providing security for diplomats et cetera, but are the majority of the 258 actually in Baghdad or are they spread throughout the country now?

**Gen. Cosgrove**—They are mostly in Baghdad.

**Senator CHRIS EVANS**—I will take you through the arrangements for continuing deployment or withdrawal. I think last time we talked about the P3s being there on arrangement for the anniversary of one year of deployment until January 2004. Is it anticipated that they will stay, or will they be withdrawn?

**Senator Hill**—There has been no decision taken beyond that of which you are aware. They were sent for a 12-month deployment, which expires in January—from memory—next year. However, as I think I said in the Senate, the force structure is currently under review, so that will depend on what, if any, further decisions are taken.

**Senator CHRIS EVANS**—Are they being held against Operation Slipper now or against Operation Catalyst?

**Senator Hill**—They went for Operation Slipper and they are still doing maritime patrol work within the broader war against terror, but they are also doing support work for Catalyst in relation to Iraq.

**Senator CHRIS EVANS**—Will this be a cabinet decision about whether or not they are deployed for a further period?

**Senator Hill**—Correct.

**Senator CHRIS EVANS**—In terms of the Navy deployment, I think last time we had a discussion, Minister, you indicated that in respect of that sort of role which the Australian Navy has played in the Middle East for a considerable period of time, preceding Iraq operations, there were a lot of other international offers to provide Navy resources and there was some likelihood of the commitment of the Navy in the Middle East being downgraded. Has any decision been made on that? I notice that you continue to rotate.

**Senator Hill**—We have moved from three ships back to one ship, and we made a recent decision to rotate the last of those ships. I think that trend reflects the general direction we see for that, but there is still important maritime surveillance work to be done at the head of the Gulf and thus we made the decision to rotate the third of those ships.

**Senator CHRIS EVANS**—The *Melbourne* is there currently. Has any decision been taken as to whether it will be replaced?

**Senator Hill**—No, no decision at this time.

**Senator CHRIS EVANS**—That will be a question of a decision taken as to whether or not to replace the *Melbourne* at the appropriate time. Is that a fair summary?

**Senator Hill**—Correct.

**Gen. Cosgrove**—You said, Senator, the *Melbourne* is there currently. It is en route; it is not there yet.

**Senator CHRIS EVANS**—In terms of those inside Iraq, the 15 supporting the Iraq Survey Group are the actual 15 personnel who are part of the Iraq Survey Group.

**Gen. Cosgrove**—This is correct.

**Senator CHRIS EVANS**—What is the time frame for their withdrawal? Is there a decision on that?

**Gen. Cosgrove**—We would normally work on a six-month tour of duty for individuals, but that would respond, I suppose, to the speciality of the individual and perhaps requests to consider extending them. We would talk about those people in terms of their individual time there. In terms of the extent of the mission, it seems that it will extend, so we are at this stage considering that it will go into 2004, perhaps into the middle of 2004.

**Senator CHRIS EVANS**—So you expect the survey group to be in full activity well into 2004?

**Gen. Cosgrove**—Yes, but this is not to say that the roles being performed by Australians will necessarily of themselves be extended within those 1,300 people in the Iraqi survey group. Because of the specialist nature that our people fulfil it is a moot point whether that will continue. We will be making judgments on that as the work of the Iraqi survey group continues to develop.

**Senator CHRIS EVANS**—Sure. But is there an Australian commitment to maintain an element of 15?

**Gen. Cosgrove**—It is not, in principle, an element of 15; it is absolutely targeted and tailored. Maybe Mr Lewincamp could, without going into the details of their precise duties, give you more on that a little later, if you ask him.

**Senator CHRIS EVANS**—Yes, I will ask him later on. In terms of the air traffic control operation, I asked the minister about this the other day in the Senate. As I understood it, it was planned that this work would be contracted to private companies once the security situation stabilised. It is obviously the case that the security situation is still fraught. What is the length of the commitment or the expectation now about the air traffic control group?

**Gen. Cosgrove**—We are prepared to extend the tour of duty of the air traffic control group—not the individuals but the commitment—into 2004, and nominally we can go to the middle of 2004. The expectation at the moment is that the commercial arrangement will start up some time in early 2004. I would hesitate to name an exact date because the raising of a commercial group to perform the duty is out of our hands, basically.

**Senator CHRIS EVANS**—Why do you say it can go nominally until the middle of 2004?

**Gen. Cosgrove**—Simply so we have got a planning horizon to allow Chief of Air Force to look at his stock of air traffic controllers and make those sorts of arrangements, if need be.

**Senator CHRIS EVANS**—Is the delay on the outsourcing of that purely driven by the security situation?

**Gen. Cosgrove**—That may be part of it, but it is simply an issue of getting a group to be able to do it in the environment that is there now. I might be able to tell you a bit more about whether that has a security dimension when I come back from the Middle East in a week or so.

**Senator CHRIS EVANS**—What are the expectations for the ongoing role and time frame for the C130s?

**Gen. Cosgrove**—Government has taken advice from us that the C130s are a very valuable asset and that we are prepared to see them go—again with a constant review date—until the middle of 2004.

**Senator CHRIS EVANS**—So they are committed until the middle of 2004?

**Gen. Cosgrove**—Yes. We will review this along the way, but that is the horizon we have created for ourselves.

**Senator CHRIS EVANS**—And is their rate of effort still very high?

**Gen. Cosgrove**—It is pretty high. It is very sustainable. One of the things about a capability that is going to be there for a while is that you do not want to run yourselves into heroic statistics. It is sustainable and quite high.

**Senator CHRIS EVANS**—And the actual aircraft are being rotated through?

**Gen. Cosgrove**—They are from time to time. Certainly the aircrew are.

**Senator CHRIS EVANS**—In terms of the broader picture, is it fair to say then that we anticipate having roughly the same number of people deployed in the Middle East and deployed inside Iraq for the foreseeable future?

**Gen. Cosgrove**—Inside Iraq once the air traffic control task is finished the people devoted to that—which is numbered at around 80—would presumably come home. The sense is that we are looking to continue those jobs we are contributing to where there is an obvious need.

**Senator Hill**—The numbers will probably be about the same for some time, but it is reviewed on an ongoing basis.

**Senator CHRIS EVANS**—But there is no indication at this stage that the rate of Australian effort in Iraq will be diminished in the foreseeable future.

**Senator Hill**—No.

**Senator CHRIS EVANS**—Minister, a number of times you have spoken about other niche capabilities. Are there any current plans to send other groups, in terms of the Australian contribution, into Iraq?

**Senator Hill**—There have been no decisions taken to vary the mix of the force elements. But, again, these issues are constantly under consideration.



**Senator CHRIS EVANS**—Are there requests for any other particular skill or capability to be deployed to Iraq?

**Senator Hill**—There are plenty of requests for all sorts of capabilities but they are requests that are made to everyone, basically. There are a lot of areas of need.

**Senator CHRIS EVANS**—Are we considering making any other contribution at this stage?

**Senator Hill**—We are considering the mix of the force elements but, as I said, decisions have not yet been taken. As I have said before, we try to ensure that the contribution that we are providing is of a type that brings maximum benefit in terms of our objectives. The environment is constantly changing, therefore it is important that the force mix reflects the most important of the tasks that currently exist.

**Senator CHRIS EVANS**—Have there been any revisions of budget estimates through out years? I will talk to Mr Veitch later about the detail—just to make sure he does not relax too much—but as a general government policy decision have you changed the parameters of how long you think we are going to be involved in Iraq?

**Senator Hill**—There have been no surprises but obviously if the operation is going to last longer than we might have thought there will be ongoing costs associated with that.

**Senator CHRIS EVANS**—In general terms, though, has there been any budgeting done for the 2004-05 years? Obviously you are anticipating the operation proceeding well into 2004. What is the status of the budgetary consideration?

**Senator Hill**—We have not really looked beyond the middle of next year, which will be the start of that financial year.

**Senator CHRIS EVANS**—But that is not because you have made any decision to withdraw or in expectation of reduced effort; it is merely that you have not made those decisions as yet?

**Senator Hill**—I think it is too far ahead. As I said, we review the force—the size and the composition—on an ongoing basis. I have said for the moment I anticipate that the force will remain at roughly the same size as it is now. There may be some change in the mix of force components, but the costs should remain much the same as they are now.

**Senator CHRIS EVANS**—In terms of the contribution to Operation Slipper, what does that include other than the P3s, General?

**Gen. Cosgrove**—We have one officer on the staff of the UN in Afghanistan and we are in the throes of sending another officer to participate in a demining project in Afghanistan.

**Senator CHRIS EVANS**—But all the other contributions in the Middle East are held against Operation Catalyst—is that a fair summary?

**Gen. Cosgrove**—Yes, that is correct.

**Senator CHRIS EVANS**—Has there been any reconsideration of the contribution to Afghanistan, given reports of the deteriorating security situation there?

**Senator Hill**—Our focus has been on Iraq, and I expect that to remain for the time being. Whilst we recognise the work that needs to be done in Afghanistan and appreciate what is being done by others—Europeans, the Canadians, some New Zealanders and the like—we also recognise there are limits to our capacity to contribute. We have been operating at a high rate now for some time; therefore, in the view of the government, our focus should remain on the Iraq theatre for the time being.

**Senator CHRIS EVANS**—Is there any active consideration of the Australian government deploying peacekeepers to Iraq?

**Senator Hill**—No.

**Senator CHRIS EVANS**—Is there a request for us to do so?

**Senator Hill**—No.

**Senator CHRIS EVANS**—The US has been seeking greater assistance from allies in dealing with what seems to be an ongoing and probably more difficult situation than they first anticipated. Has there been any consideration of the Australian government lifting its contribution or helping in that regard?

**Senator Hill**—No, not in any increase in the overall size of the force. As you would have heard last week, the US is very appreciative of what we have been able to contribute and continue to contribute. There are urgings, particularly directed to countries that have not made a force contribution to date. They are having some success in that regard but, I think it is fair to say, some disappointments as well. They would clearly like to see more forces on the ground but they do not believe that that is a responsibility that Australia should accept.

**Senator CHRIS EVANS**—Is Australia playing any role in urging other countries to commit peacekeeping forces?

**Senator Hill**—I think that should be principally directed to the Minister for Foreign Affairs. Certainly, when I was in Japan, I discussed it with the Japanese.

**Senator CHRIS EVANS**—General Cosgrove, in terms of the security detachment, I suspect that they are the group most at risk in terms of the Australian forces. Their role is still primarily providing security for diplomatic staff and visits by the minister and you and that sort of thing—

**Gen. Cosgrove**—You would be relieved to know that very infrequently are they obliged to protect the minister and me, though from time to time that is their duty—

**Senator CHRIS EVANS**—I was aware that you are both going there shortly so I presume that is part of their charter.

**Gen. Cosgrove**—and even you, Senator, if you wish to visit. They do primarily provide static protection for the Australian representative office—that is, the chancery and accommodation—and they do provide protection for the Australian government personnel that work in the ARA as they move around on their duties. Naturally they do provide protection for visitors, and it is an issue for us to ensure that visitors there for an important purpose and for the minimum time can do their job.

**CHAIR**—The 258 that are housed in Iraq—where are they housed and who is providing their security?

**Gen. Cosgrove**—The 258, as I said, are largely in Baghdad. Some are outside Baghdad on training tasks. The folk who are working to help raise the new Iraqi army, for example, are not ordinarily in Baghdad. The remainder though are, by and large, in Baghdad. They are domiciled—you will forgive me if I am not particularly specific for very obvious reasons—in guarded accommodation which is, we hope, relatively anonymous. Physical security arrangements help to protect them and there are guards of course who have some control over access into the vicinity where they live.

**CHAIR**—As for those providing the security detail for the embassy and other related security matters, has there been consideration given to increasing the number of those soldiers?

**Gen. Cosgrove**—We have considered all aspects of the security of the people we are there to protect and we are not at this stage disposed to need more soldiers there. But certainly we are there to do everything we can to maximise the effect of those soldiers and by using other material security measures to further protect the people we are there to protect. So we are not proposing to send more soldiers at this stage.

**CHAIR**—Do we have any troops in Iraq operating within the British controlled area?

**Gen. Cosgrove**—We may have troops who visit there but, if my memory serves me, I do not think we have anybody who is working under the British. We may have some people attached to them soon in terms of folk who were working in another British organisation in the Balkans. We may move a couple of individuals to work with the British headquarters in Iraq but I do not think that decision has been taken yet.

**Senator CHRIS EVANS**—I was going to ask General Cosgrove whether he has a similar status report on the Solomons operations, as a starting point.

**Gen. Cosgrove**—The ADF is providing logistic and operational support in line with the objectives of the Regional Assistance Mission to the Solomon Islands. The operation has been a resounding success and, on behalf of the ADF, I would like to pay tribute to the non-ADF men and women of the Regional Assistance Mission to the Solomon Islands. I refer to those government officers, particularly the police service of Australia and other countries, who have done such a tremendous job. Talking about the military, I will give you the original figures but then talk to you about withdrawal. The combined military deployment was at one stage over 1,700 personnel comprising military personnel from New Zealand, Fiji, Papua New Guinea and Tonga with the Australian contingent, at that stage, being about 1,400 people. Troops were deployed to the capital, Honiara, and to provincial police posts on Guadalcanal and Malaita. In addition, troops provided security and response forces to a number of police operations across those areas. The Navy was conducting and continues to conduct support, logistic and maritime patrol operations and provides support to police operations.

Significant progress has been made in removing the key threats to law and order in the Solomon Islands, particularly the peaceful arrest of Harold Keke and Jimmy Rasta. Over 100 charges have since been laid against suspected ex-militants and investigations into serious

crimes committed in recent years are continuing. Other achievements include the successful weapons amnesty and the establishment of several police outposts.

You will be aware that the Minister for Defence announced a drawdown of ADF personnel. Around 800 of the 1,400 Australian Defence Force personnel will have returned to Australia by early December, including HMAS *Manoora*, which had been providing a transport, logistic and medical support base. It departed Honiara on 27 October. HMAS *Betano*, which is home ported in Darwin, and HMAS *Diamantina*, which is home ported in Sydney, will be withdrawn and I remind you that, taking into account those departures and some others of the military forces, around 600 personnel will remain after December 2003. The forces to remain will be, of course, an Australian-led combined headquarters in Honiara, HMAS *Brunei* to oversee the transition of the logistics function to a commercial company and HMAS *Wollongong*, which has been carrying out patrolling activities. We will have a shore based ADF health and medical support element to replace the facility that was on board HMAS *Manoora* and two infantry companies will remain in the Solomon Islands to provide ongoing and necessary backup for the police. Finally, the Air Force Caribou detachment support personnel are due to remain.

**Senator CHRIS EVANS**—Are the two infantry companies solely Australian infantry or is one of them the mixed unit?

**Gen. Cosgrove**—One is mixed and one is Australian.

**Senator CHRIS EVANS**—And the mixed unit is comprised of whom?

**Gen. Cosgrove**—It is Fiji, Tonga, Papua New Guinea, New Zealand and Australia. It will be quite a large company.

**Senator CHRIS EVANS**—How many actual infantrymen are we still supplying?

**Gen. Cosgrove**—I have not done the sums on that but I am guessing it will be around 220 or 230 in those two infantry companies and then there will, of course, be support personnel beyond that.

**Senator CHRIS EVANS**—How many are the other countries supplying as the other half of that one company?

**Gen. Cosgrove**—That hybrid company, a multinational company, will have one platoon from each of the participating nations with the headquarters being provided by Australia.

**Senator CHRIS EVANS**—So there will be a platoon from Fiji, New Zealand and Papua New Guinea.

**Gen. Cosgrove**—And Tonga.

**Senator CHRIS EVANS**—Are Tonga supplying a whole platoon?

**Gen. Cosgrove**—Yes, that is right.

**Senator CHRIS EVANS**—I think there was a mixed island contribution at one stage, wasn't there?

**Gen. Cosgrove**—That was my impression. I must say that I have not checked this, but the Tongans had a platoon and that is what they are looking to retain.

**Senator CHRIS EVANS**—Are we still supplying support to those military contributions?

**Gen. Cosgrove**—Yes, we are.

**Senator CHRIS EVANS**—What does that entail now?

**Gen. Cosgrove**—It is certainly all the logistics that a soldier would normally expect in the field—from rations through to health support.

**Senator CHRIS EVANS**—Are the New Zealanders supplying their own, or are we supplying them as well?

**Gen. Cosgrove**—We are supplying logistics support for the entire force, and I would have to defer to the financiers to see whether there is a financial arrangement with the Kiwis for that. It is likely that there is, because we have had longstanding arrangements with them for years.

**Senator CHRIS EVANS**—As I understood what you said last time, the arrangements with Fiji, Tonga and PNG were essentially that we would provide the logistics support for them at no cost—is that right?

**Gen. Cosgrove**—That is my impression. Again, I think there will be a chance to check that later.

**Senator CHRIS EVANS**—What is the long-term view then about the military contribution to the Solomons?

**Gen. Cosgrove**—Our intention and that of the leadership of RAMSI is to, in a phased and logical way, reduce the military contribution in favour of, in the support areas, contractor type support and to bring what I might call the protective and reactive elements down to a minimum. But that minimum will have some multinational flavour to it.

**Senator CHRIS EVANS**—What do you think the size of that military contribution would be in the longer term?

**Gen. Cosgrove**—I think an infantry company will carry over into 2004, but I would not want to go too much further ahead than that. Again, it must be something which the head of RAMSI and the Australian government reviews as the situation continues to improve there.

**Senator CHRIS EVANS**—But the intention would be that any ongoing company would be a multinational company rather than an Australian only force—is that right?

**Gen. Cosgrove**—I think that is the intention.

**Senator CHRIS EVANS**—What arrangements are being put in place in terms of backup from Townsville? I understand you provide support from Townsville.

**Gen. Cosgrove**—We would always make sure, as we do as a matter of course, that we have troops who can, if there is a need, provide support. Troops are already in place, but I would not want to overemphasise that because it might be seen to reflect on the tremendous success of the mission. Suffice it to say that an ordinary part of our planning is to have further support for troops who are deployed.

**Senator CHRIS EVANS**—But you have contingency and support arrangements based in Townsville for rapid response.

**Gen. Cosgrove**—We always have contingencies available. Again, I am very anxious not to have any suggestion that the mission there is other than going in the right direction.

**Senator CHRIS EVANS**—Has the military component in the Solomons been involved in any incidents requiring firepower or use of force?

**Gen. Cosgrove**—They have not had to apply force in any way.

**Senator CHRIS EVANS**—What is going to be their role in the next six months or so?

**Gen. Cosgrove**—Much the same as they are doing now, which is to provide a level of confidence to the combined police force which allows that police force to go about these law and order duties unarmed.

**Senator HOGG**—Are they providing any training at all?

**Gen. Cosgrove**—Not that I am aware of.

**Senator CHRIS EVANS**—Senator Hogg was going to the question of the Solomons military development.

**Gen. Cosgrove**—We are not involved in any consideration of that at the moment.

**Senator CHRIS EVANS**—So there is no plan in place to replace the international military? In East Timor there was a lot of emphasis placed on providing training and support—

**Gen. Cosgrove**—I have had no discussions along those lines at all.

**Senator Hill**—Certainly there are plans to enhance and support the Solomon Islands police. The Australian Defence role traditionally has been a number of functions: support of the two patrol boats, some clearance of explosives—those sorts of functions. As to our defence cooperation for the program for the future, we are looking at it at the moment. On the one hand there is what has been needed as part of what you might describe as an emergency response and then there is the more traditional ongoing support role.

**Senator CHRIS EVANS**—It was not clear in my mind whether there had been discussion or a decision about whether a Solomons army or some form of formal military force was to be raised. I know they had the patrol boats previously, but that was about it, I think, apart from the police.

**Senator Hill**—There is no discussion that I have heard of for an army as such, and I hope there is not.

**Senator CHRIS EVANS**—I am just trying to get a sense of what the policy decision was. Who is it envisaged will provide the ongoing security inside the Solomons beyond our contribution and the contribution of the other countries?

**Senator Hill**—The Royal Solomon Islands Police.

**Senator CHRIS EVANS**—Is there any indication of how long we would expect to be making a military contribution to the Solomons?

**Senator Hill**—Sorry?

**Senator CHRIS EVANS**—I am just trying to get a sense of whether there is any estimation of how long it would be expected that Australia would be making a military contribution to the Solomons?

**Senator Hill**—We have not set a fixed time frame, but we do not want to stay any longer than is necessary for the task. We said we would reduce the force as the task changed, and that is what we have been doing.

**Senator CHRIS EVANS**—That is what the Americans said about Korea.

**Senator Hill**—That is what we have been doing. We are turning over all the logistics functions to civil contractors. At the moment, we think two infantry companies are what is necessary to provide the back-up to the police. When we think that that can be further reduced, we will do so.

**Senator HOGG**—Have Defence been involved in any infrastructure projects?

**Senator Hill**—Yes. They have been involved in infrastructure for the police and for our own Defence Force. They have been involved in an infrastructure program in relation to the prison and the police headquarters. There are a range of tasks that the engineers have been involved in. Do you have the detail of that, General Cosgrove?

**Gen. Cosgrove**—I think you have just about named the projects of any consequence that they have done.

**Senator HOGG**—Have they been involved in the roads in any way? I know that when we were there the roads were in a shocking state.

**Senator Hill**—The roads are not too good, are they?

**Senator HOGG**—No, that is right. The roads were in a shocking state. That is why I was wondering if the engineers had been involved there.

**Gen. Cosgrove**—No, they have not at this stage. I know that bulldozers have been used to re-establish collapsed roads, but that is very ad hoc, just to enable the supply to go through. We do not have a line of funding that has been organised, or asked for, for road construction. We do have funds that have been used to help with the prison and the main police station.

**Senator HOGG**—My other question goes to the patrol boat. What is happening with that? Is that being used to advantage in the present circumstances, and, if so, how?

**Gen. Cosgrove**—The patrol boat had fallen into a state of unserviceability. I think it is being rehabilitated with a view to putting it back into operation as soon as possible. I do not have an exact figure, but the intent is to get it back out there and working.

**Senator HOGG**—It just seemed to me that that was a problem when we were there and, if it had been rehabilitated, it would have been good in the circumstances.

**Senator CHRIS EVANS**—While we are doing a tour of the world at the start, giving General Cosgrove a run around the hot spots, I was going to ask him about East Timor—the troop deployment to Timor and what the plans were there.

**Gen. Cosgrove**—With East Timor we have just changed over between the eighth battalion to have been sent and the ninth battalion to have been sent. With respect to the identification

of battalions, the 1st Battalion of the Royal Australian Regiment is in a handover now with the 6th Battalion of the Royal Australian Regiment. In that changeover, the next reduction takes place which will see an Australian headquarters, an Australian infantry company and a Fijian company have responsibility, as part of what is now a multinational battalion, for the western part of East Timor—the border area—and the Oecussi enclave. The Australian presence will reduce from around 800 to about 440, and that number of Australians in the Australian battalion will prevail until the expiration of the mandate on 20 May. It is then our intention that they will, in an orderly way, be brought home.

**Senator CHRIS EVANS**—So we would not have any commitment of ADF personnel in Timor beyond 20 May?

**Gen. Cosgrove**—We will no doubt still have a training team and, depending on what construct the UN may or may not come up with in terms of an observer group, we would certainly look at that. How we participate in that will be a matter for government. The simple fact is that it is our understanding that when the mandate finishes on 20 May there will no longer be a peacekeeping force in East Timor.

**Senator Hill**—Did you say that is subject to any new mandate that the UN may agree upon?

**Gen. Cosgrove**—Yes, that is right. That may happen but we will wait and see.

**Senator CHRIS EVANS**—Minister, are you implying that there might be a new mandate? I think General Cosgrove used the term ‘observer group’. Are you suggesting there might be a—

**Senator Hill**—There is informal debate in the UN at the moment about what should follow the completion of the existing mandate. There is obviously a range of possible options. The government of East Timor is obviously also making a contribution to that discussion, but the United Nations is yet to make any decision on that.

**Senator CHRIS EVANS**—Has the East Timor government expressed the view that they would prefer Australia, through the UN, to continue to make some sort of military contribution?

**Senator Hill**—You probably should ask them, but I think, speaking generally, they would like to see a continuation of security support in some form or other.

**Senator CHRIS EVANS**—What is the Australian government attitude? Are you open to that?

**Senator Hill**—We are sympathetic to what they say, but, again, it is important that the level of support that is given is appropriate to the circumstances at that time. The gradual reduction of the force that has been taking place and continues to take place, we think, is appropriate.

**Senator CHRIS EVANS**—So it is fair to say that 20 May may not necessarily see the end of ADF involvement in East Timor?

**Senator Hill**—That is correct.

**Senator CHRIS EVANS**—When do we move to the 440, General Cosgrove?



**Gen. Cosgrove**—We are in the throes of doing that now. With the rotation that is presently under way, the dates selected for the change of command from one battalion to the next is 15 November but, by the end of November when the last of the troops from 1RAR have returned home, the steady state of the Ausbatt will be 440 Australian Defence Force personnel. But I remind you that to that should be added a company from the Republic of Fiji military forces.

**Senator CHRIS EVANS**—But they will actually be working as one battalion?

**Gen. Cosgrove**—They will be.

**Senator CHRIS EVANS**—And Fiji will maintain that company until 20 May as well?

**Gen. Cosgrove**—Yes.

**CHAIR**—Senator Evans, are you happy to take a break now?

**Senator CHRIS EVANS**—Yes.

**Proceedings suspended from 12.30 p.m. to 1.34 p.m.**

**CHAIR**—We are continuing with the portfolio overview and major corporate issues. We were just concluding the section on East Timor, but I think General Cosgrove has some explanation he would like to give to the committee.

**Gen. Cosgrove**—I just wanted to clarify an issue. We discussed the patrol boat situation in the Solomon Islands. They have two Pacific patrol boats. One of them is quite unserviceable, up on slips, and we are devoting our efforts to the one that is a little less unserviceable and should be back in the water before the other one. So our work is focused on one at this stage.

**Senator HOGG**—My recollection might not be serving me too well but I believed that they were going through a refit program for the patrol boats at one stage?

**Gen. Cosgrove**—That is probably correct.

**Senator HOGG**—I am just wondering where these are in the queue. Someone, when they come to the table later on, can tell us.

**Gen. Cosgrove**—That might be the go if you do not mind waiting until later.

**Senator HOGG**—I do not mind waiting; I am just flagging it.

**Mr Smith**—Ms Rowling is here now, or you could do it later.

**Senator HOGG**—I am happy to get an answer now.

**Ms Rowling**—At the end of last year we put one of those boats through a half-life refit program. That is the boat that is now being used in the Solomon Islands.

**Senator HOGG**—When does the second one go up for the half-life refit?

**Ms Rowling**—We have not scheduled its life extension program yet. That is an issue still to be decided in the whole context of our defence cooperation with the Solomon Islands and with other Pacific islands.

**Senator HOGG**—So that was not part of the budget allocation that was put aside?

**Ms Rowling**—Not for that boat, no.

**Senator CHRIS EVANS**—I was just going through the tour of the globe with General Cosgrove and I wanted to catch up with Relex as well. What have we got committed to Relex, now?

**Gen. Cosgrove**—Operation Relex is currently based on a task group comprising one frigate, a P3C Orion maritime patrol aircraft, Navy patrol boats and an Army transit security element. I do not have the detail of the number of Navy patrol boats. I suspect that is because we allocate them in different numbers from time to time.

**Senator CHRIS EVANS**—What is the frigate assigned to that at the moment?

**Gen. Cosgrove**—HMAS *Arunta*.

**Senator CHRIS EVANS**—Is that the same commitment as in May? As I recall it, you changed the commitment level in May.

**Gen. Cosgrove**—There was a deliberate process earlier this year—and I will agree that it was in May—to review the arrangements for Relex. That is why we have called it Relex II, to signify that there has been a review and that there was an outcome.

**Senator CHRIS EVANS**—You are calling it Relex II now, are you?

**Gen. Cosgrove**—That is our name for it.

**Senator CHRIS EVANS**—Has there been any change to the level of operations since May?

**Gen. Cosgrove**—It has remained at that level, Senator.

**Senator CHRIS EVANS**—I am just trying to check because I did not want to verbal you. I asked you about this at estimates in June. When did Relex II start? I said it started in May but I might have been wrong, so I am just checking whether you were going along with me or that was right.

**Gen. Cosgrove**—I was agreeing with you. We have more of an expert here.

**Senator CHRIS EVANS**—I thought I had better warn you of the dangers of agreeing with me.

**Rear Adm. Bonser**—Relex II commenced in March 2002 and then in March of this year the drawdown that was talked about at the last estimates occurred. The force level has remained the same since.

**Senator CHRIS EVANS**—So it was in March 2003 that it went to the one frigate, one PC3 Orion and Navy patrol boats?

**Rear Adm. Bonser**—Yes.

**Senator CHRIS EVANS**—What has been the practical effect of that? Obviously you are covering less ground. Has your area of operation changed? In the sense that you had more platforms involved earlier, are they patrolling the same area or did you reduce the area?

**Gen. Cosgrove**—You can understand we are a little reluctant to go into the specifics in the area of operations. I think you could say that it is broadly the same, but the actual dimensions of it and the tempo et cetera are issues of operational security that we would normally not talk about here.

**Senator CHRIS EVANS**—I understand. That is why I did not ask you what your area was. At one stage we had a very large commitment to that operation. I understand that it has appropriately been scaled down. It also strikes me that capacity for one frigate and P3 Orion to cover the same territory would be restricted as well.

**Gen. Cosgrove**—It should be seen, too, in the context of Coastwatch activity. We believe that the overall coverage of the whole of government is adequate to the threat.

**Senator CHRIS EVANS**—So you are saying that the Coastwatch activity supplements Relex II?

**Gen. Cosgrove**—There is very close coordination between what the military is doing and what other agencies are doing.

**Senator CHRIS EVANS**—What are they doing that augment the Relex II operations of the ADF?

**Gen. Cosgrove**—Again that is a matter of detail that I would prefer not to specify. Indeed, they are best to respond on their detail. I am probably not authorised to say precisely what they do, except that it is to the satisfaction of the government effort and is being coordinated closely on a day by day operational basis.

**Senator CHRIS EVANS**—I am always sensitive to these types of questions. I am just really asking what the level of effort is or what resources are deployed. I am not after any operational detail. What are Coastwatch adding? Are they adding a P3 Orion to the operation?

**Gen. Cosgrove**—They do not have any P3 Orions, but they have their own surveillance assets. Between that effort and ours there is an adequate surveillance of the area.

**Senator CHRIS EVANS**—But you do not count their effort as part of the Relex operation per se?

**Gen. Cosgrove**—It is part of the whole-of-government operation and it is certainly acknowledged within our Relex planning.

**Senator CHRIS EVANS**—Does that mean, though, that Coastwatch would, for instance, take a certain part of the survey area and take responsibility for that part. Is that how it works?

**Gen. Cosgrove**—Again, I would prefer not to go into the detail of who has what part, whether it overlaps or whether it is shared maritime airspace.

**Senator CHRIS EVANS**—I am just trying to understand conceptually how it works.

**Gen. Cosgrove**—If you can imagine that there is an area and a finite number of assets, and that those assets have got surveillance capabilities, and planning would call for a comprehensive coverage of the area by surveillance with a certain frequency, then in that sense you could see that we could either cover each other's areas as a matter of course or share responsibilities for contiguous zones et cetera. These are techniques, and I will not specify which one we use.

**Senator CHRIS EVANS**—The budget for Relex is separate from the Coastwatch budget but you run a coordinated effort—is that reasonable?

**Gen. Cosgrove**—Certainly our budget is separate and reported on.

**Senator CHRIS EVANS**—I will come to that a little later. Have we had any interception of unauthorised boats by Relex assets in the last year?

**Gen. Cosgrove**—I can give you the overall statistics. Since the commencement of Operation Relex in September 2001, 17 vessels have attempted to land over 2,500 unauthorised arrivals and crew in Australia. The Australian Defence Force has been directly involved in 15 of these incidents and has returned 643 of these people to Indonesia. Since 17 December 2001 there has only been one suspected illegal entry vessel arrival in Australian waters—that is, until a recent incident—and that occurred in July 2003. Those unauthorised arrivals were transported from the Port Hedland area to Christmas Island.

**Senator CHRIS EVANS**—So since Relex II commenced in 2002 we have only had the Port Hedland incident and now this latest arrival at Melville—is that fair?

**Gen. Cosgrove**—That is correct.

**Senator CHRIS EVANS**—What is the ADF involvement with this latest arrival at Melville?

**Senator Hill**—What would you like to know?

**Senator CHRIS EVANS**—I was interested in the ADF involvement in this latest arrival. I gather there is a patrol boat involved.

**Senator Hill**—We have taken possession of the illegal entrant and, basically, that is where it is at the moment.

**Senator CHRIS EVANS**—You have taken possession of the boat—

**Senator Hill**—Yes.

**Senator CHRIS EVANS**—Are the people who are on the boat still on the boat?

**Senator Hill**—Yes.

**Senator CHRIS EVANS**—There were reports I saw on the news of you towing—

**Senator Hill**—There were a little while ago anyway.

**Senator CHRIS EVANS**—Is it in tow?

**Senator Hill**—Not at the moment. It was towed for a while but the last advice I had is that it is stationary.

**Senator CHRIS EVANS**—It was towed by whom?

**Senator Hill**—It was towed by Navy.

**Senator CHRIS EVANS**—The patrol boat involved is HMAS *Geelong*—is that right?

**General Cosgrove**—Yes.

**Senator HOGG**—In which direction was it being towed? Was it being towed towards Darwin or away from Melville Island—north, south—

**Senator Hill**—It was towed a little further out to sea and then it was searched.

**Senator HOGG**—So it was not an attempt to move it to some other area? It was just to take it away from the island.

**Senator Hill**—That is my understanding. Then it was searched, and investigations have been taking place with the Immigration people and quarantine people and the like.

**Senator CHRIS EVANS**—When did ADF first become aware of this vessel?

**Senator Hill**—I am not sure of the answer to that.

**Rear Adm. Bonser**—Yesterday afternoon when it was reported by locals on Melville Island.

**Senator CHRIS EVANS**—So the boat had not been detected prior to that?

**Rear Adm. Bonser**—Not by Defence, no.

**Senator CHRIS EVANS**—You then got locals from Melville Island contacting authorities. What did you do then? Did Defence send *Geelong* to the area?

**Rear Adm. Bonser**—Nearby response vessels were sent there, and that is the state it is at now.

**Senator CHRIS EVANS**—Was *Geelong* the only one despatched?

**Rear Adm. Bonser**—No, there were two patrol boats.

**Senator CHRIS EVANS**—What is the other patrol boat?

**Rear Adm. Bonser**—*Launceston*.

**Senator CHRIS EVANS**—Where were they despatched from? Were they at sea or in Darwin?

**Rear Adm. Bonser**—One was at sea and one came out of Darwin, I understand.

**Senator CHRIS EVANS**—Did they take onboard non-ADF officials when they put to sea?

**Rear Adm. Bonser**—No, not to my knowledge.

**Senator CHRIS EVANS**—So it was just a Navy crew onboard?

**Rear Adm. Bonser**—Yes.

**Senator CHRIS EVANS**—They then located the vessel—

**Rear Adm. Bonser**—Where it had been reported—that is correct.

**Senator CHRIS EVANS**—What action did ADF personnel take when locating the vessel?

**Rear Adm. Bonser**—It was then moved clear of the shore area and the shoal water and the search and the investigation were conducted to the state that it is at now.

**Senator CHRIS EVANS**—So the captain of the *Geelong* had instruction to tow them back out to open water. What was the nature of the instruction to the captain of the *Geelong*?

**Rear Adm. Bonser**—Put them in a safe position where they are not near shoal water or rocks and conduct the normal investigations and searches of the boat.

**Senator Hill**—They provided humanitarian assistance, I gather, from this brief.

**Senator CHRIS EVANS**—What do you mean when you say ‘safe position’? Are you saying that they were in an unsafe position previously or that they were too close to shore for your liking?

**Rear Adm. Bonser**—In a position where it would have been difficult to search them and keep watch over them with the patrol boat in very shallow water.

**Senator CHRIS EVANS**—So this was in part to stop them landing, in effect, was it?

**Rear Adm. Bonser**—And to be able to keep a safe watch on the boat.

**Senator CHRIS EVANS**—Where were they escorted to? They were placed under tow. Were they towed because they were not able to move themselves? Is the boat disabled?

**Rear Adm. Bonser**—I understand the engines were disabled.

**Senator CHRIS EVANS**—So it had to be towed?

**Gen. Cosgrove**—I think the motor is probably now in running order.

**CHAIR**—I am sorry?

**Gen. Cosgrove**—The motor is now in running order.

**Senator Hill**—Navy sought to repair the engine and it seems that they have succeeded.

**Senator CHRIS EVANS**—But on locating the vessel it was thought at the time that the engines were out of order?

**Senator Hill**—My advice was that the engines were out of order. The engines had been disabled.

**Senator CHRIS EVANS**—How far were they towed?

**Rear Adm. Bonser**—Just north and clear of Melville Island, of the shallow water.

**Senator CHRIS EVANS**—So we are talking hundreds of metres rather than miles.

**Rear Adm. Bonser**—A few miles.

**Senator CHRIS EVANS**—Were they boarded at that time?

**Rear Adm. Bonser**—Yes.

**Senator CHRIS EVANS**—They were boarded by crew of the *Geelong*?

**Rear Adm. Bonser**—Yes.

**Senator CHRIS EVANS**—What tasks did they undertake in that first boarding?

**Rear Adm. Bonser**—They would have searched and investigated the boat and attempted to establish where they came from and they clearly conducted some repairs to the engines.

**Senator CHRIS EVANS**—What have they learnt about the occupants of the boat?

**Senator Hill**—This is an ongoing investigation and I do not think we are yet in a position where we can make public comment on that. We assist the department of immigration in these matters and that is what we are doing. The results of the investigation as to who they were, what papers they might have and all of that sort of thing are really a DIMIA matter.

**Senator CHRIS EVANS**—Were you able to establish how many occupants of the boat there were?

**Senator Hill**—There are 14 unauthorised arrivals.

**Senator CHRIS EVANS**—And a separate number of crew?

**Senator Hill**—Four.

**Senator CHRIS EVANS**—Are they Indonesian nationals?

**Senator Hill**—I understand so.

**Senator CHRIS EVANS**—After the crew boarded it they then towed it to another spot and set about repairing the engines—is that right?

**Senator Hill**—That is my understanding.

**Senator CHRIS EVANS**—Navy now say that the engines are in working order.

**Senator Hill**—That is what we are advised.

**Gen. Cosgrove**—Just to not clarify but qualify: it is not clear to me at the moment whether they boarded the vessel before they towed it, but it seems to me they may well have boarded it before they towed it in order to secure the tow. So could we leave it as ambiguous as that anyway.

**Senator CHRIS EVANS**—That is probably helpful. I assumed from what you and Admiral Bonser told me that they had actually boarded it first and then towed it.

**Gen. Cosgrove**—Chief of Navy has just confirmed that they did board it before they towed it in order to establish the tow.

**Senator CHRIS EVANS**—We know the engines are now in working repair. What do we know about the general seaworthiness of the vessel?

**Gen. Cosgrove**—We do not have any more information, Senator.

**Senator CHRIS EVANS**—So you are not sure at this stage whether it is seaworthy.

**Gen. Cosgrove**—We do not have any more information on the further state of the vessel. It is obviously not sinking at the moment but we do not have that sort of detail.

**Senator CHRIS EVANS**—We know that the engines did not work and we fixed them, so I figured we would know whether it was seaworthy.

**Gen. Cosgrove**—We just do not have a report on it.

**Senator CHRIS EVANS**—This initial action was taken by Navy personnel. When did immigration officers arrive and who is in charge now?

**Senator Hill**—I do not know that. Ask Immigration.

**Senator CHRIS EVANS**—So, technically, are ADF in charge of the boat or Immigration?

**Senator Hill**—They are in charge of security of the boat, but the investigation is being run by Immigration.

**Senator CHRIS EVANS**—Immigration have taken over investigation of the persons and their history and authorisation—I accept that—but Navy are still in charge of the physical security of the boat and its occupants. Is that fair to say?

**Senator Hill**—This does not actually say that, but I assume that that is the case.

**Rear Adm. Bonser**—That is correct.

**Senator CHRIS EVANS**—And *Geelong* is staying alongside the vessel?

**Gen. Cosgrove**—Yes, *Geelong* is still with the vessel.

**Senator CHRIS EVANS**—Does it have any instructions to move the vessel?

**Gen. Cosgrove**—None that we have given but, as has been said, we are there in a supporting role.

**Senator CHRIS EVANS**—Is the other patrol boat, the *Launceston*, still in the area or has it gone elsewhere?

**Rear Adm. Bonser**—It is still in the area.

**Senator CHRIS EVANS**—But it is not actually overseeing the fishing vessel?

**Rear Adm. Bonser**—The two vessels are doing this jointly.

**Senator CHRIS EVANS**—So, while *Geelong* did the tow, the two vessels are still basically involved with the operation—is that right?

**Rear Adm. Bonser**—That is correct.

**Senator CHRIS EVANS**—And they are likely to stay there until the status of the personnel on board the ship is resolved?

**Rear Adm. Bonser**—That is the current intention.

**Senator HOGG**—Was Navy aware of the vessel through routine surveillance that had taken place over previous days—not the nature of what has now finally come out, but was it aware of its presence in Australian waters?

**Senator Hill**—I do not know the answer to that. The question might be a little premature.

**Senator HOGG**—It seems to me that there are regular surveillance flights over these areas and such vessels may well be identified without being identified as being a threat. I am just trying to find out if it was identified.

**Senator Hill**—There are large number of fishing boats north of Australia between Australia and Indonesia.

**Senator HOGG**—I presume this is a type 3, is it?

**Rear Adm. Bonser**—It is a common type fishing vessel that is frequently found in the area.

**Senator HOGG**—Known as a type 3?

**Rear Adm. Bonser**—That is correct.

**Senator HOGG**—My experience from having been on one of those flights is that such vessels can be identified and their movement can be reasonably noted over a period of time. I am just wondering if, without it being identified as being a renegade vessel, it had been identified in proximity of the Australia coastline.

**Senator Hill**—I am sure, as is always the case in these circumstances, the authorities will go back over the records and see whether the fishing boat was observed by any of the flights or other surveillance assets. But on the basis of what I have been told there would be nothing to identify it other than as a typical 12-metre Indonesian fishing vessel.



**Senator HOGG**—In respect of the 18 persons, I presume all 18 are on board. Did any set foot on the mainland?

**Senator Hill**—Not that I know of.

**Rear Adm. Bonser**—Not on the mainland.

**Senator HOGG**—I am sorry, on the island.

**Rear Adm. Bonser**—I understand that occurred, yes, and they went back to the boat when directed to.

**Senator Hill**—This does not tell me that.

**Senator CHRIS EVANS**—Who directed them to get back on the boat?

**Rear Adm. Bonser**—The local authorities or the local people who found them at the time.

**Senator CHRIS EVANS**—So that was not done by ADF personnel; this was prior to their arrival?

**Rear Adm. Bonser**—Prior to the arrival of the ADF.

**Senator CHRIS EVANS**—We know they had disembarked, or at least some of them had disembarked, and then, upon being requested to return to their boat by local people or authorities, they returned to the boat. Do we know that they were all on board?

**Rear Adm. Bonser**—That is the understanding that I have, yes.

**Senator CHRIS EVANS**—And they are remaining on board while the investigation occurs?

**Rear Adm. Bonser**—That is correct.

**Senator CHRIS EVANS**—And you are confident that there are none on the island?

**Gen. Cosgrove**—We can't be confident but I think the local people are confident.

**Senator HOGG**—Following up on a comment that the minister made in terms of humanitarian assistance that had been given, do we know the state of health of the people at this stage?

**Rear Adm. Bonser**—The reports are that they were in reasonable health. There was nothing reported to the contrary.

**Senator CHRIS EVANS**—Mr Chairman, I have a range of questions about the budgetary issues surrounding each of the operations. I was going to invite Mr Veitch to explain them to me.

**Gen. Cosgrove**—He can't wait, Senator!

**Senator HOGG**—I know; he loves these moments!

**CHAIR**—We are now dealing with the budget summary and the capital budget.

**Senator CHRIS EVANS**—I want to ask a few questions about the cost of the operations on which General Cosgrove has provided an overview. I suppose the starting point for me, Mr Veitch, is that what is still not clear to me is this confusion I had last time about the Operation Bastille-Falconer-Catalyst interface. I think the minister handed over a table last time but it

only included the conditions of service information. Having looked again at your annual report, you get a big tick because you managed to completely confuse me again. I and any other reader will not know what the war in Iraq is costing us. If that was the aim, you have succeeded, and the minister is pleased. If not, can you tell me what the operations in Iraq are costing us this year and next year?

**Mr Veitch**—Yes, I can. Overall, all three phases of the operation—Bastille, Falconer and Catalyst—are still being contained within the original approval provided by government of \$644.7 million.

**Senator CHRIS EVANS**—For?

**Mr Veitch**—For all three phases of the operation.

**Senator CHRIS EVANS**—But over which financial years?

**Mr Veitch**—I am just coming to that now. In 2002-03 we spent \$285.3 million; in 2003-04 our revised estimate, including the residual costs for Bastille and Falconer and the new cost for Catalyst, is \$279.5 million; and there are some small costs that carry over into 2004-05 and 2005-06 of \$59.3 million and \$13.8 million. All up, at this stage we are within \$6.8 million of the original approval of \$644.7 million. The sorts of options to force structure that the minister and General Cosgrove were talking about this morning are considered within that cost cap. Those estimates are based on the current approvals.

**Senator CHRIS EVANS**—That is for 2003-04?

**Mr Veitch**—Yes.

**Senator CHRIS EVANS**—Clearly, the \$59 million you said was a spill-over for 2004-05 would not fund the level of operation we have there now though?

**Mr Veitch**—No, it principally relates to things like bringing equipment home, remediating equipment and those sorts of things. The bulk of the cost in 2004-05 relates to the wind-up of the Bastille-Falconer phase of the operation—returning equipment, remediation costs and those sorts of things—and to funding the ongoing commitment to Catalyst for the 800-odd people, the levels of commitment that General Cosgrove described this morning.

**Senator CHRIS EVANS**—What are you saying about that, though—that the \$59 million for 2004-05 would meet that cost?

**Mr Veitch**—There are some spill-over costs. All costs of the operation will not be completed this year, because some of the remediation costs from all three phases of the operation continue on beyond the end of the financial year.

**Senator CHRIS EVANS**—Can you give me an easy example of that?

**Mr Veitch**—The remediation work on some of the platforms that are involved in the operations, like the P3s and the vehicles, takes some time to complete once you bring the equipment home.

**Senator CHRIS EVANS**—So this is for repairs and maintenance beyond what you would have budgeted for?

**Mr Veitch**—Yes—and in some cases, for the smaller equipment items, the actual replacement of equipment. It takes lead time to actually arrange for the ordering, purchase and delivery of equipment.

**Senator CHRIS EVANS**—You say that \$279.5 million will be the budgeted cost for 2003-04.

**Mr Veitch**—That will be the new number that you will see in the additional estimates when we publish the portfolio additional estimates statement, and I will have a full breakdown of those costs in that document.

**Senator CHRIS EVANS**—And you think you are pretty well on track for that sort of figure?

**Mr Veitch**—All indications at this time are that, yes, we are.

**Senator CHRIS EVANS**—I accept the logic of that. What are you saying to me about the \$59 million for 2004-05? I thought you were suggesting that that would meet the operational costs, and I thought that that could not be right. The \$59 million is purely those remedial costs?

**Mr Veitch**—The remediation sorts of costs, yes.

**Senator CHRIS EVANS**—So no allocation has been made at this stage?

**Mr Veitch**—Definitely not.

**Senator CHRIS EVANS**—So the \$644.7 million envelope does not cover any operational costs in 2004-05 or 2005-06?

**Mr Veitch**—It covers the operational costs as they are currently approved, the level of force commitment that General Cosgrove described this morning, but it does not include any allowance for any modifications to the force structure that the government might wish to make.

**Senator CHRIS EVANS**—I might be misunderstanding this: are you telling me that we have budgeted \$59 million for 2004-05?

**Mr Veitch**—Yes.

**Senator CHRIS EVANS**—Are you saying that we can maintain 800 people in and around the Middle East for that amount of money in 2004-05?

**Mr Veitch**—The bulk of the personnel related cost of maintaining the people there falls in financial year 2003-04, which is \$279.5 million. I think you must have your financial years mixed up. It is \$279.5 million in this budget, in 2003-04; and there is \$59 million in the following year, in 2004-05.

**Senator CHRIS EVANS**—But does the budgeted figure for 2004-05 include the costs of maintaining a deployment in Iraq?

**Gen. Cosgrove**—There has been no commitment to stay, but the money that is there was set aside for remediation and repatriation of equipment against the possibility that that would be when we would be bringing it home. It needs to be at the back end of the program.

**Senator CHRIS EVANS**—That is what I thought you meant, but I may not have made myself clear. I asked Mr Veitch whether that included the operational cost for the next financial year, and I thought he said yes. That surprised me. I obviously did not phrase it correctly.

**Senator Hill**—Part of the puzzle is the fact that the funding is spread over a number of years so you cannot equate particular funding in one year to the level of operations in that year. Basically, as I understand it, in the funding that we have to date, we would be able to maintain the level of operations we have at the moment until the middle of 2004 and pay for the remediation and removal et cetera of those forces. But if we are going to continue with operations after the middle of next year, we would need supplementation.

**Senator CHRIS EVANS**—I should have got the minister to ask the questions! You are much better at asking them than answering them, Minister.

**Senator Hill**—I spent 13 years asking them.

**Senator CHRIS EVANS**—I am getting too much practice myself. If we are to continue operations beyond this financial year, we will have to have a separate budget allocation to cover that operational cost.

**Mr Veitch**—Yes.

**Senator Hill**—What has been pleasing to us, if we could put in a plug for the bean counters, is that basically their estimates of the costs of the operation have proven to be very accurate. Therefore, the forecasts we provided to government have turned out to be very much on the ball. I should also say that when we talk about that one sum of money, it was not all determined up front. Of course, we did not know whether we would be in a conflict environment when we had to start spending money. What we are talking about now is the aggregate of funding that has been provided.

**Senator CHRIS EVANS**—I understand that. I am loath to go into the question about the borrowing from cash reserves, but I feel obliged to. Just before we finish this point, would it therefore be reasonable to say that, if we were to continue operations at the same level in Iraq in 2004-05, we would be looking at that sort of cost of \$270 or \$280 million being required?

**Mr Veitch**—I think that would be a reasonable assumption, but again that is just speculation.

**Senator CHRIS EVANS**—I am not trying to hold you to the figures, but is that the sort of annual cost of operating at the sort of level we are operating at now in the Middle East?

**Mr Veitch**—Yes.

**Senator CHRIS EVANS**—Do you want to tell me what you have been doing in terms of borrowing from cash reserves and giving the money back? I notice in the annual report there are a lot of references to carryover, payback and so on.

**Senator Hill**—How much time have you got?

**Senator CHRIS EVANS**—I was hoping for the simple version. Are you still going to be reimbursed the \$248.6 million from Defence cash reserves?

**Mr Veitch**—I think the simple way of describing it is this: at the end of the financial year, the cash receivable was \$164 million higher than we had planned when we talked about it last time. It comes about for two reasons. One is that we did not need to spend as much money on Bastille and Falconer as we had originally planned, due to changed timings and the way events unfolded during the operation. The second thing is that we received more proceeds from our property sales than we had planned in the budget. Those two things taken together account for the \$164 million increase. The money—

**Senator CHRIS EVANS**—That was the extra money the government allowed you to keep from the property sales?

**Mr Veitch**—That is right. Our intention with that—and you should see this in later documentation, either in the PAES or in next year's PBS—is that the money relating to Bastille and Falconer will be drawn down in the additional estimates to contribute to the Catalyst costs. So that goes in and it comes out. And in relation to the property proceeds, we are currently negotiating with the department of finance as to the timing in terms of bringing that money back out of the bank, either to contribute to cost pressures this year or to go towards next year's budget. Again, if you take those two things out of the equation, the bank pretty much finished up where we talked about last time we met.

**Senator CHRIS EVANS**—So has the \$135.6 million from cash reserves that was not spent in 2002-03 gone to help fund Catalyst this financial year?

**Mr Veitch**—Yes. Because we did not spend it this year, it stayed in the bank. It will now be required for Catalyst, so we will do the accounting change in the additional estimates and that will be the source of funds for part of that money I talked about for Catalyst just a little while ago.

**Senator CHRIS EVANS**—What about the money allocated to Bastille and Falconer for 2004-05? Is that just getting rolled into Catalyst or is that still going to be—

**Mr Veitch**—No, that just gets rolled into those.

**Senator CHRIS EVANS**—So there will not be anything—

**Mr Veitch**—So there is no net increase on the Defence budget if you take it over the two financial years. It is carried over in the bank and then it draws down to contribute to the operation.

**Senator CHRIS EVANS**—Will we have any further accounting for Bastille and Falconer?

**Mr Veitch**—That will be accounted for properly in the additional estimates when you see that documentation, but it will be broadly in line with what I just described to you and what the minister described just a few moments ago.

**Senator CHRIS EVANS**—But essentially the funding on that is really this sort of maintenance and withdrawal of equipment costs. Is that the only active funding that you have allocated under those programs?

**Mr Veitch**—Yes, that is right.

**Senator CHRIS EVANS**—There is no operational—

**Mr Veitch**—No, not in terms of paying people. The original group of people have been returned. The money that is carried over in relation to Bastille and Falconer is more, again, in the nature of remediation and that sort of thing. The Catalyst money, on the other hand, is for operations—the additional cost of maintaining the 800-odd people in Iraq.

**Senator CHRIS EVANS**—Let me turn to the Solomons. What was the cost of the Solomons and how has that been accounted for?

**Mr Veitch**—I just need to check something with the minister.

**Senator Hill**—The question concerned what has been the cost to Defence of the operation in the Solomon Islands. We are not in a position yet to publicly state that. We have done some internal work and made a bid for the sum of money that we believe has been the cost of defence through the supplementary estimates process, but that is not yet finalised. Basically, similar to the other operations, we fund it internally and then seek supplementation for the additional cost of the operation. Those figures should be known soon.

**Senator CHRIS EVANS**—So are you meeting the cost of the Solomons out of the cash reserves currently or out of Defence's budget and seeking supplementation in the additional estimates round?

**Mr Veitch**—The latter will be the approach. We are absorbing any costs at the moment from our normal appropriation. The intention is to supplement us at additional estimates, but those numbers have not been finally agreed and included in the appropriation bills as yet.

**Senator CHRIS EVANS**—Obviously there will be a cost in the out years as well. Will that be applied for at that time or will it just be part of the next year's budget?

**Mr Veitch**—When the costs become known, there will be some provision in the following financial year, for the same sorts of reasons—remediation of equipment and those sorts of things. But they are nowhere near the scale of the other ones that we talked about earlier.

**Senator CHRIS EVANS**—So we do not even have a rough estimate of the cost of the Solomons?

**Mr Veitch**—I have a very good cost, but I am not prepared to announce it publicly at this stage until the government has made a final decision.

**Senator CHRIS EVANS**—So as to protect your reputation in case Finance only give you half of it?

**Senator Hill**—Protect all our necks.

**Senator CHRIS EVANS**—You can always tell them it is accrual accounting.

**Senator HOGG**—You have a few tricks up your sleeve.

**Senator CHRIS EVANS**—What about the accounting for the costs of the other members of the multinational force? How is that handled?

**Mr Veitch**—In relation to Anode? As we talked about this morning, Defence is meeting the costs for the islander contribution, but they are only fairly minimal. But, in relation to the New Zealanders, we are actually recovering funds from them. I think the amount is something like \$31.50 per day that we cover in costs to cover accommodation and messing. In terms of

New Zealand's logistics arrangements, under our logistics agreement with New Zealand, they draw from our supplies and we just bill them for those costs. The New Zealanders are paying for their contribution to the operation.

**Senator CHRIS EVANS**—So I am not supposed to tell Finance that you told me it was costing you \$4 million a month a couple of months ago.

**Mr Veitch**—I think the minister might have quoted that number. That number at the time was a cost that we assessed that comprised the personnel related costs only. It did not take into account things like logistics support and some of the broader costs like remediation. That number is broadly right in terms of the personnel part of the exercise.

**Senator CHRIS EVANS**—So it is fair to say you have upped your bid on that figure, have you?

**Mr Veitch**—No comment.

**Senator HOGG**—We cannot record a smile.

**Senator CHRIS EVANS**—What about the ongoing costs for East Timor?

**Senator Hill**—We can probably help you with those.

**Mr Veitch**—I think I have those here.

**Senator Hill**—But you have to take into account what we get paid by the UN. Don't you want to fess up to that?

**Senator CHRIS EVANS**—If we remember to send them the bill.

**Senator Hill**—We do these days.

**Senator CHRIS EVANS**—Yes, I know. It was not always the case, though.

**Mr Veitch**—As part of the white paper funding commitment, you might recall that Defence was allowed to retain, from 2004-05 onwards, an amount of \$431 million towards force generation. That was basically to pay for the additional 3,000 for Army—the increase in the size of the Army—and the 555 people in the Air Force combat support group. That funding has been allocated across defence groups. It basically is to cover the cost of the additional forces, their equipment support and equipment purchases and the like—and additional costs like housing, health care and that sort of thing that will be incurred by naturally increasing the size of the force. Those funds are now an integral part of the Defence forward estimates. They have been allocated to the purposes intended. For all intents and purposes, we just consider that to be part and parcel of the normal Defence funding base.

**Senator CHRIS EVANS**—What about the operational costs?

**Mr Veitch**—The operational costs for this year, from memory, were about \$260 million in the budget. We have reviewed those costs in the context of the additional estimates and, when that documentation becomes available, there will be a reduction of \$27.7 million. Our new estimate this year for the operation is \$233.1 million.

**Senator CHRIS EVANS**—Is that because the drawdown is bigger than expected?

**Mr Veitch**—No. I think what it does is better match the finances to the drawdown. I think General Cosgrove may have described the drawdown when we met last time. What we did

was better match the costs; it is just a refinement of the estimates we have been through with the Department of Finance and Administration, and it reflects our best number.

**Senator CHRIS EVANS**—Is there anything in the out years for Timor for the next financial year?

**Mr Veitch**—No, from the following financial year it moves straight over to the force generation, the \$431 million that I talked about before.

**Senator CHRIS EVANS**—So there is no budget for operational costs in Timor?

**Mr Veitch**—Not based on current planning.

**Senator CHRIS EVANS**—Thank you.

**CHAIR**—Senator Bartlett is here now so we might take the questions that he flagged, including the potential purchase of tanks and fighter jets, which I understand he advised you about.

**Senator BARTLETT**—As the minister will probably recall, I asked a question in question time last week about potential future purchases. I presume there is no fresh information since then about any specific decisions?

**Senator Hill**—No, no decisions.

**Senator BARTLETT**—The issue that has been raised a few times by commentators is the likelihood of Australia purchasing some new tanks of some variety or other. Last week the minister confirmed that, whatever type of tanks we may or may not buy, the ammunition to go with them would not be depleted uranium ammunition, which I was glad to hear confirmed. Is it the case that any type of tank we might buy these days would have depleted uranium shielding or casing, or whatever the technical term is?

**Senator Hill**—If we were to replace the current Leopard 1 tanks, it would not be with a tank with depleted uranium armour.

**Senator BARTLETT**—It would not?

**Senator Hill**—It would not.

**Senator BARTLETT**—Am I correct in my understanding that until the reconsideration of our defence priorities last year, or the updated paper was developed, that new tanks were not seen as likely or desirable purchase but that under—

**Senator Hill**—I think it is fair to say that the issue of replacing the existing tanks was debated in the development of the white paper, and it was decided not to replace the tanks, but to continue to refurbish and to some extent upgrade them. There has been an ongoing debate on that issue. I think recent operations have tended to somewhat strengthen the arm of those who have argued the value of tanks in terms of force protection for infantry on the ground. So that is another factor that the government has to take into account as it considers these issues.

**Senator BARTLETT**—Do you mean the recent operations in the Middle East, I presume, rather than the ones in the Solomons or East Timor?

**Senator Hill**—I was thinking of the Middle East.



**Senator BARTLETT**—Is there any likely time line or potential time line for decisions on these? I know there is a long lead time between decisions and expected delivery.

**Senator Hill**—The process of an update of the DCP we hope to have concluded in the reasonably near future.

**Senator BARTLETT**—The updated paper that came out earlier this year?

**Senator Hill**—In terms of the debate on these issues within defence, I think that continues forever.

**Senator BARTLETT**—Some people enjoy those sorts of debates, I guess. The answer you gave to my question last week, which I asked because of some media speculation was that, if we were to purchase tanks, they would be stored in Australia rather than in the US or anywhere else. That is correct, isn't it?

**Senator Hill**—They would be based and stored in Australia.

**Senator BARTLETT**—At the last estimates or maybe the estimates before the issue of the potential development of a missile defence shield and potential Australian involvement in that was raised. Has that progressed any further in terms of any Defence expenditure towards such possible collaboration?

**Senator Hill**—It has progressed. I think I probably said we were exploring the concepts and we were in dialogue with others, in particular the United States. That has been progressing but the government is not ready to make any specific announcements on the issue.

**Senator BARTLETT**—Has there been any expenditure so far?

**Senator Hill**—No significant expenditure. There may have been some travel costs for experts and the like but there is no acquisition program or anything like that.

**Senator BARTLETT**—I know Senator Bishop raised the question of remains of Australian soldiers and that there is some dispute about us not releasing DNA. Are you aware of the report referred to in the press that stated that the Department of Defence was refusing to pass on DNA to the US to assist in identification of some remains they may have?

**Gen. Cosgrove**—Yes. It was an interesting report. We have an answer on that if the committee wants it now. My information is that it was not that we refused, it is just that it was not up to us; it was up to the next of kin. There was an issue there. It may be that we have been poorly represented in that report.

**Mr Sharp**—The question is tied up with how we deal with missing persons. Any casualties in action—killed in action, missing in action, wounded in action—are of course particularly distressful for families. Our approach in relation to 'missing in action' has been to be particularly sensitive to families and to deal with cases where we are fairly satisfied that there is some evidence that makes them worth pursuing. For families, as you would appreciate, there is a substantial amount of grieving that goes on over somebody missing in action. Some put it behind them; some keep it to the forefront, so we have been particularly sensitive about dealing with that issue. In relation to DNA, that is part of the sensitivity of the issue and, as General Cosgrove has said, it is an area where we have not put pressure on families but have

always expressed willingness to assist them in the event that they wish to provide DNA samples and in the event that those DNA samples might be useful.

There has been a deal of publicity this week in relation to a DNA bank operated by the United States in Hawaii. Accordingly, in relation to the six persons missing in action from Vietnam, as indicated by Minister Brough in a statement to the paper today, we are going to contact the six families involved to see whether they wish us on their behalf to pursue the matter and lodge DNA samples with that laboratory in the US. A related matter is the protocols on the privacy of information on those DNA samples, which is a matter we would also have to attend to.

**Senator BARTLETT**—So at this stage it is more just a matter of questioning the families?

**Mr Sharp**—Correct.

**Senator BARTLETT**—And you will facilitate that if they agree?

**Mr Sharp**—Yes, Sir.

**Senator BARTLETT**—Thank you for that.

**Senator HOGG**—I have a question about the tanks. What is happening to the existing tanks? Minister, you mentioned the word ‘refurbished’. Are they being refurbished? Is there an active program?

**Gen. Cosgrove**—It is more to do with the more intensive maintenance needed on them as they age. An alternative option is to give them some night fighting capability. That is not a refurbishment; it is more of an upgrade.

**Senator CHRIS EVANS**—You have not started anything. That was in the plan, wasn’t it?

**Gen. Cosgrove**—It is planned. It is in an early phase. I do not know whether we have actually put any of these new sights on any tanks.

**Senator HOGG**—There was a budget allocation for that, if I recall correctly.

**Gen. Cosgrove**—You do recall correctly; there is money set aside.

**Senator HOGG**—There is money set aside but nothing has significantly been spent.

**Senator Hill**—For what?

**Senator HOGG**—For the upgrade on the tanks.

**Gen. Cosgrove**—Night vision for the tanks.

**Senator HOGG**—I understand that some of the electricals are so old that they burn out. I presume that as they burn out they are being replaced, just as part of an ongoing maintenance program.

**Gen. Cosgrove**—That is the sort of refurbishment I am referring to: the more intensive labour and expense required to keep them in good running order. On the issue of the night sights, there are only prototypes at this stage, so we have not got into the program.

**Senator HOGG**—Thank you.

**Senator JOHNSTON**—I want to talk about these charges arising from East Timor. As I am given to understand, we have been conducting for some 3½ years a fairly intensive

prosecution of some 19 charges arising from the events of 6 October 1999. Could you tell me what the cost of the inquiry has been?

**Lt Gen. Leahy**—Off the top of my head, no. I do recall a figure, which I will ask the staff to confirm later, of about \$300,000 for additional costs.

**Senator JOHNSTON**—Can you confirm for me that we have had large numbers of personnel visit East Timor in pursuit of the inquiry, several personnel have gone to the United Kingdom to interview witnesses, several personnel have gone to New Zealand to interview witnesses, we have exhumed two bodies, carried out extensive post mortems, and we have reinterred those bodies? And at the end of the day, the charges were withdrawn.

**Senator Hill**—I think we had better clarify it a bit in the sense that there were a whole series of different allegations and they were investigated at different levels depending on the nature of the allegation and the way in which it could be best pursued. In relation to charges against one individual, that may have been withdrawn, that was in relation to one of those allegations that was taken through to a prosecution.

**Senator JOHNSTON**—As I understand it, General, we had a number of charges relating to allegations by military police as to breaches of the Geneva Convention. Is that correct?

**Lt Gen. Leahy**—In the initial round of allegations there were some six allegations. The military police, assisted by the Naval Investigative Service, the Commonwealth police and other authorities, including the United Nations Serious Crimes Unit, expanded those initial six to a total of 19 allegations. I will just go back to your earlier point. We did visit four different countries. More than 350 people were interviewed. We did not exhume the bodies in East Timor. They were exhumed as part of the normal process of investigations by the United Nations. So any costs in relation to that were not costs for us. I will try and get you the exact dollar figure but you are correct: most of the additional costs were in travel.

**Senator JOHNSTON**—Who conducted the post mortems?

**Lt Gen. Leahy**—We had a pathologist from Australia in attendance, but I believe the post mortem was conducted by the United Nations Serious Crimes Unit and that it was part of a process of exhuming bodies of all people killed during that period of activities in East Timor.

**Senator JOHNSTON**—Did we not end up with something like 23 witnesses with respect to the former individual accused, as a result of these investigations?

**Lt Gen. Leahy**—In respect of what allegation?

**Senator JOHNSTON**—The two allegations that survived to be withdrawn by the magistrate in Sydney—I think it was on 8 August.

**Lt Gen. Leahy**—I am not aware of the exact number of the witnesses but I believe it was a substantial number.

**Senator JOHNSTON**—How is it that you could conduct an inquiry and do the things we have just discussed for 3½ years, have 23 witnesses, and withdraw the charges at the eleventh hour?

**Lt Gen. Leahy**—That is a matter for the magistrate who was conducting that.

**Senator JOHNSTON**—He never heard the charges. The prosecution withdrew the charges. They never went up. They called no evidence.

**Lt Gen. Leahy**—The magistrate had given some rulings in pre trial hearings that precluded the evidence being heard; you are correct. But that was the action of the magistrate.

**Senator JOHNSTON**—So in preliminary hearings the magistrate ruled inadmissible the case against the former accused?

**Lt Gen. Leahy**—Air Commodore Simon Harvey, who is the current Director General of Defence Legal Service, is joining me at the table and will be to assist me here but my understanding is that the requirements of the primary witnesses, who were from the New Zealand Defence Force, in terms of protection of their identity, were not able to be met by the arrangements inside our court.

**Senator JOHNSTON**—Are they all still New Zealand servicemen?

**Lt Gen. Leahy**—My understanding is that four are New Zealand servicemen. One may no longer be serving in the New Zealand Defence Force.

**Senator JOHNSTON**—Do you know where he is now?

**Lt Gen. Leahy**—I believe he is in the Australian Army.

**Senator JOHNSTON**—He is in the Australian Army, so one of the witnesses is now one of our people. Correct?

**Lt Gen. Leahy**—That is correct.

**Senator Hill**—I suppose you should say ‘prospective witnesses’.

**Senator JOHNSTON**—Prospective witnesses, all right.

**Lt Gen. Leahy**—I do not know the nature of the witness statement that he may have made. I can only assume that the prosecutor may have made some judgment on that.

**Senator JOHNSTON**—To cut to the chase, aren’t you a bit concerned about the manner in which we have discussed these things? It strikes me that we have gone to an awful lot of trouble here for absolutely no result. You have said to me that you think the cost is \$300,000. I have to tell you that I would be very surprised if you came within a bull’s roar of that.

**Lt Gen. Leahy**—I will get you the exact figures.

**Senator Hill**—You could use that argument whenever there is an acquittal. What you have to take into account is that senior legal advice was taken at every stage in the development of this case, including outside advice, not just within the ADF. If the advice is that there is sufficient evidence to pursue the prosecution, you would expect that to occur. The fact that, in the end, it turns out to be unsuccessful is an aspect, but you then cannot say that it has come to nothing. It did not lead to a successful prosecution, that is true.

**Senator CHRIS EVANS**—There was no evidence—

**Senator Hill**—But you do not base every—

**Senator JOHNSTON**—The evidence was withdrawn on the day. In other words, the prosecution was called upon to adduce evidence. They gave no evidence and had nothing to provide, and the judicial officer presiding had no alternative but to dismiss all the charges.

**Senator Hill**—That is correct.

**Senator JOHNSTON**—In the face of 23 witnesses, all of this travelling—

**Senator Hill**—With great respect, the travel is irrelevant. It has to be properly investigated. I said that it took a long time, and I have been somewhat critical of that, but on the other hand I have also said that it had to be thoroughly and properly investigated. The prosecutors, as I said, not only on their basis, their own expertise, but with senior legal advice outside, developed their case. In the end, the case collapsed.

**Senator JOHNSTON**—Is 3½ years a reasonable period of time when you have so many witnesses to persist with an inquiry and then simply adduce no evidence on the day?

**Senator Hill**—When you talk about 23 witnesses, it does not mean that the 23 witnesses are critical witnesses. Obviously, in the end, the witnesses that were critical to the case were not able to give evidence and, as a result of that, the prosecutor could not put the evidence and the case was dismissed. The reason why they could not put that evidence came out of the preliminary hearing process, not out of the previous three years.

**Senator JOHNSTON**—Are you suggesting that the evidence was of such a calibre that without any opposing evidence it simply did not breach the prima facie tests required for it to sustain these charges? Is that what you are saying? Is that what happened?

**Lt Gen. Leahy**—My understanding is that the evidence was not presented.

**Senator JOHNSTON**—You said to me that the charges were adjudicated on at some point by the magistrate. I am not sure that that is correct.

**Lt Gen. Leahy**—What I said was that the magistrate who was hearing the case made a number of pre-court judgments as to how that evidence could be presented, and that did not meet the requirements of the New Zealand Defence Force. Therefore, the evidence could not be presented.

**Senator JOHNSTON**—Are you suggesting that the witnesses wanted to give evidence on affidavit and the magistrate ruled that out of order—inadmissible? Is that the bottom line?

**Lt Gen. Leahy**—I am not sure of the legal terms and involvements there.

**Senator JOHNSTON**—If that is the bottom line—

**Senator Hill**—What was the question?

**Senator JOHNSTON**—The tenor of what the Lieutenant General is telling us is that application was made to the judicial officer for the evidence against the former accused to be adduced by way of affidavit or statutory declaration. That would be so obviously inadmissible in a matter such as this as to be trite.

**Lt Gen. Leahy**—My understanding is that we tried to have the New Zealand Defence Force personnel appear in the court to give their evidence in person. Because we could not

meet the confidentiality requirements of the New Zealand Defence Force, they were not able to do that.

**Senator JOHNSTON**—When was the New Zealand Defence Force availed of the potential for their servicemen to attend and give evidence in this matter?

**Lt Gen. Leahy**—I am not able to tell you now the exact dates, but it was some considerable period before the case was to be heard—perhaps Air Commodore Harvey can help me. Certainly there was an extensive exchange between us and the New Zealand Defence Force, but we were not able to meet their requirements.

**Senator JOHNSTON**—All right. Could you take on notice the approximate date when it became questionable as to whether the vicariously responsible authority for those witnesses was prevaricating on permitting them to attend to give their evidence?

**Air Cdre Harvey**—I might be able to illuminate a bit some of the sequences of events that occurred at the post-charging stage. As I understand it, the member concerned—who will not be named—was charged on 3 February 2003. The normal process under our Defence Force Discipline Act is for the matter to be heard by a commanding officer in the first instance. In this particular case, to ensure a fair initial hearing the member's commanding officer was not chosen for that job; it was basically given to another person. What subsequently happened was that the matter was referred by the commanding officer to the convening authority, the senior military person, who made the decision on whether to convene a court martial or a Defence Force magistrate's trial. It was referred for trial by a Defence Force magistrate. At that stage discussions were then held extensively with New Zealand Defence—

**Senator JOHNSTON**—So there was a prima facie case?

**Air Cdre Harvey**—The hearing before the commanding officer is for the purpose to justify that there is evidence to justify it being referred to a convening authority.

**Senator JOHNSTON**—So we got that far.

**Air Cdre Harvey**—Yes.

**Senator JOHNSTON**—So the evidence sustained a prima facie case?

**Senator Hill**—You are putting words in his mouth. It is not quite what he said.

**Senator JOHNSTON**—Well, you tell me if I am putting words in your mouth to get over the first threshold—

**Senator Hill**—He said it twice. He can say it three times.

**Air Cdre Harvey**—Maybe I could just backtrack and explain again the procedure. As I said, the commanding officer is the one who first hears the initial information and makes a decision on whether he believes that there is a sufficient evidentiary basis to proceed for this matter to be referred. Obviously in this particular case his understanding of the evidence that was presented to him—which may not have been the evidence in total; it may have been an outline of the proposed prosecution case—

**Senator JOHNSTON**—Was it in deposition form?

**Air Cdre Harvey**—No, the procedure is that the charge will be read out and that will give the commanding officer some information. The next step which invariably happens is the prosecutor will give an outline of his case and indicate, flesh out, for the commanding officer what the evidence is that is available to justify whether these charges should proceed.

**Senator JOHNSTON**—So the judicial officer accepted everything the prosecutor said?

**Air Cdre Harvey**—It is up to the commanding officer under the Defence Force Discipline Act to satisfy himself that there is a case to answer and that there is sufficient evidence. I obviously cannot go behind the mind of the particular commanding officer.

**Senator JOHNSTON**—Were there any sworn statements before the judicial officer at that stage?

**Air Cdre Harvey**—I would not call it a judicial office; it was a summary authority. I am not aware of that at this stage, Senator. We could maybe find that out for you.

**Senator JOHNSTON**—Could you take that on notice please?

**Air Cdre Harvey**—Certainly. If I could proceed: once the matter had been referred to the convening authority it was then up to the convening authority to consider the evidence and the matter that had been referred, and to make a decision on whether to refer it to court martial or a Defence Force magistrate.

**Senator JOHNSTON**—Can you tell me what they were considering?

**Air Cdre Harvey**—The convening authority?

**Senator JOHNSTON**—Yes.

**Air Cdre Harvey**—What happens at that stage is the convening authority will receive legal advice from his in-house legal adviser, who will assess the evidence that is available and advise the convening authority on the sufficiency of the evidence to justify the matter proceeding to either a court martial or a Defence Force magistrate. Obviously this is a decision of the convening authority and I am not privy—

**Senator JOHNSTON**—Do they have any sworn statements or other testimony before them?

**Air Cdre Harvey**—Generally what will come up for decision by the convening authority will be the evidence that has been presented at the summary level. That is the question on notice that you have asked, which I will have to get back to you on.

**Senator JOHNSTON**—So we have just got the prosecutor reciting the facts again?

**Air Cdre Harvey**—I am not quite sure in this particular case. As I said, we will get back to you to find out exactly what evidence was presented. It is available under the Defence Force Discipline Act for all the evidence to be heard at the hearing stage before the commanding officer. I am not quite sure exactly what happened in this particular case. We will have to take that on notice.

**Senator JOHNSTON**—There are only two ways you can put evidence before someone: a sworn statement that he accepts or vive voce—that is, he gives testimony there in the courtroom. Can you tell me what happened?

**Air Cdre Harvey**—As I said, I am afraid I do not know exactly what happened in this particular case. I am just simply telling you what the process is. Obviously we can get back on the record afterwards to tell you exactly what happened in this particular case. The point I want to make is that there was an opportunity for the convening authority, as is standard practice, to obtain independent legal advice on that matter. That was the basis on which it was referred to a Defence Force magistrate. The point I want to make is that once it came towards the Defence Force magistrate he then held a number of directions hearings—I think there were at least three; there may have been four—

**Senator CHRIS EVANS**—Weren't there eight? My information is that there were eight.

**Air Cdre Harvey**—I am not quite sure of the exact number but certainly there were a number of directions hearings, Senator.

**Senator CHRIS EVANS**—I think you have to be accurate. You said three or four; my information is that there were eight. Do you know or are you just guessing?

**Air Cdre Harvey**—The information for me is that it was of the order of three or four, but again I am not privy to the actual—

**Senator CHRIS EVANS**—Perhaps you could take that on notice for us.

**Air Cdre Harvey**—Certainly.

**Senator JOHNSTON**—Perhaps you could also take on notice what each one of those preliminary hearings dealt with in terms of the procedure leading to the hearing date.

**Air Cdre Harvey**—Very good, Senator. The next step was basically that the magistrate was concerned about securing the attendance of witnesses. At that stage there were a number of directions hearings which were geared towards securing the attendance of foreign special forces.

**Senator JOHNSTON**—Was the magistrate concerned of his own volition or was he concerned from information that the prosecutor had provided him?

**Air Cdre Harvey**—I am not quite sure about that. I think it was the case that he was hearing applications by the prosecution to secure the attendance of witnesses and an issue arose—I think it may, quite frankly, have arisen just simply at the stage of the actual directions hearing—about the availability of the New Zealand witnesses. The issue here—and I think it is the key issue to point out—is that the ability of the Australian Defence Force to compel a foreign national residing in his own country to attend a trial in Australia is very limited. In fact it is nonexistent.

**Senator JOHNSTON**—But that point does not really apply if there is no real evidence before the court at any stage prior to wanting to compel them to attend. It is pretty important, I would have thought.

**Senator Hill**—But the evidence wasn't put before the magistrate.

**Senator JOHNSTON**—Correct. Why would we want to compel witnesses when we did not know what they were going to say?

**Senator Hill**—The witnesses would have been briefed.



**Senator JOHNSTON**—The magistrate has not seen any of these briefs.

**Senator Hill**—I do not know that.

**Senator JOHNSTON**—He has only heard the prosecutor.

**Senator Hill**—I do not understand your point.

**Senator JOHNSTON**—The point is that the whole matter has gone forward on a nod and a wink. There has been no sworn testimony before the magistrate to determine whether or not there is a prima facie case.

**Senator Hill**—No. You are obviously not listening to what is being said. The magistrate did not get to hear the evidence because we could not comply with rulings that he made in the preliminary hearings.

**Senator JOHNSTON**—But the evidence was such as for it to proceed. Surely there has to be a point where you assess the calibre of the sworn testimony before you list the matter for hearing. Did that not happen here?

**Senator Hill**—Who assesses it?

**Senator JOHNSTON**—The magistrate.

**Senator Hill**—No, the prosecutor does. The prosecutor decides whether to list a matter.

**Senator JOHNSTON**—Also the prosecutor told the magistrate about the evidence—

**Senator Hill**—The matter was listed as a result of the various processes that have been outlined and then the magistrate, as I understand it, in the preliminary hearings made certain rulings in relation to particular witnesses. As it turned out, it was not possible to comply with the requirements that he had put on those witnesses and therefore they could not proceed.

**Senator JOHNSTON**—So the requirements that he put on the witnesses were that they attend in person—is that correct?

**Air Cdre Harvey**—The application before the magistrate was directed at securing the attendance of foreign national witnesses. The issues were discussed about how this could be achieved to meet the needs of the New Zealand Defence Force to have their witnesses made available. My staff—not me personally, but my staff—entered into a number of negotiations to try to secure the attendance of those particular witnesses and a number of options were explored by the magistrate such as closed court, in camera evidence and the like.

You must remember that the direction which we tried to follow in this particular case, because of the profile of this matter, was to have maximum openness and transparency in the conduct of this particular trial. It was a case of the competing demands of meeting transparency while at the same time satisfying the requirements of a foreign military force as to protection of identity. The key issue it really boiled down to in my view was the point that any direction that would have been given by the magistrate under our military justice system would not have been binding in the foreign country.

**Senator JOHNSTON**—Surely that was known at a very early point in this inquiry. The first thing you would ask would be: are these witnesses coming to court when we want them?

**Air Cdre Harvey**—My understanding is that there was no suggestion that the witnesses would not be made available.

**Senator JOHNSTON**—Were they asked?

**Air Cdre Harvey**—I am not quite sure, Senator. I do not have the information.

**Senator JOHNSTON**—It is pretty fundamental, isn't it? Could you take on notice when the New Zealand authorities were approached to make available their witnesses to attend a likely future hearing as to this particular officer?

**Air Cdre Harvey**—Okay.

**Senator JOHNSTON**—When no evidence was adduced, the magistrate dismissed the charges and the accused was acquitted, he was informed, was he not, prior to this that administrative charges would be laid against him?

**Senator Hill**—Going back to that previous point, I think there is a reasonable expectation that we and New Zealand would support each other's military justice system. But what came out of the hearing before the magistrate was conditions that could not be met. We will check the record, but I would think there would be a reasonable assumption on the part of the prosecutors from the start that the New Zealand defence force would cooperate. In fact, the New Zealand defence force wanted to cooperate. That was not the problem.

**Senator JOHNSTON**—With great respect, as I understand it, there are four New Zealand prime, central witnesses to the alleged offences, one of whom is now a serving Australian Army officer, all of whom have, together with their then employer, declined to appear. It strikes me that that fact should have been pivotal to the commencement of the inquiry from the outset, given that I understand there was also an onshore INTERFET inquiry initially in October-November 1999, which said that these matters should not go any further. Are you aware of that?

**Senator Hill**—I am not satisfied with leaving the previous matter where it is. I don't think the prosecutors would have known that they had an insurmountable barrier until they got before the magistrate. They did not know what the magistrate's rulings were going to be.

**Senator JOHNSTON**—With great respect, the situation is that, with a charge of a nature such as this, it is a logical conclusion that the witnesses must attend in court, they must be identified, it must be an open court and the case must proceed. With special forces witnesses, as these witnesses were, and if the boot were on the same foot, I suggest we would have a similar problem, in going to a foreign country, to the sovereignty of another nation and giving evidence against one of the serving officers of that nation's defence force. It is an obvious problem from the outset, with great respect.

**Senator Hill**—It might have been an issue, but I cannot see that it would not have been an issue that would have been considered at all the different stages of preparation of this prosecution, including by the various senior counsel that advised on the matter.

**Senator JOHNSTON**—Three and a half years says to me that it was not considered at all until far too late, and all of this work that we have heard about—the trips to the UK, the trips to New Zealand, the trips to East Timor and the exhuming of bodies—was all carried out

without proper preparation being done as to the security of the witnesses attending and giving evidence.

**Senator Hill**—They don't even know what prosecutions, if any, will flow from the investigation. It was a complex investigation in relation to a whole range of different allegations—some of those allegations, of course, being very serious. What one person was ultimately charged with, you might say to me, was not so serious, and I am not going to try to evaluate these matters. Certainly, some of the allegations that were made were as serious as they could be. In such circumstances—

**Senator JOHNSTON**—I could not agree more.

**Senator Hill**—you would expect a thorough and proper investigation. It was made complex because the witnesses were from a number of different countries, because the alleged impropriety took place in another country. There were problems with language, interpreters; there were problems with bodies having to be exhumed. It was a complex and difficult matter.

**Senator JOHNSTON**—All to nothing?

**Senator Hill**—Not all to nothing. You cannot say that an unsuccessful prosecution was all to nothing.

**Senator JOHNSTON**—This was not an unsuccessful prosecution.

**Senator Hill**—It is part of the judicial process.

**Senator JOHNSTON**—This was not an unsuccessful prosecution. The merits of the case were never, ever tested. No evidence was adduced; the accused did not have an opportunity to defend himself in court. When the charges were withdrawn, the defence department announced publicly in a press release that he had been acquitted on a technicality.

**Senator Hill**—It is not unusual for cases to fail on procedural matters and it is not unusual for some of those issues to arise as late as the hearing itself.

**Senator JOHNSTON**—With respect, Minister, when the costs of this inquiry are fully known and the time frame is reconciled with what went on: this is an unusual case.

**Senator Hill**—It is an unusual case and the costs will be extensive for the reasons that I have outlined but if it had not been investigated properly, you would have every right to be sitting up there and criticising in the way that you are today. If you are criticising the job being done thoroughly, you would have equally been entitled to criticise the job not being done thoroughly.

**Senator JOHNSTON**—The point I am making is simply this: the central witnesses being secured to attend and give evidence was such a fundamental part of this whole inquiry that it was a first threshold matter that was apparently not undertaken.

**Senator Hill**—I do not know; I was not the prosecutor. As someone who observed the process, I ensured that each step was supported by outside legal advice to the highest level. It is easy afterwards to say that something should have been done or something should not have been done.

**Senator JOHNSTON**—It is always easy afterwards but, for me, the point is to find out why this thing went on for so long to no result and apparently was done in such a way that,

without the security of knowledge of those witnesses attending, it never had a snowball's chance in hell.

**Senator Hill**—I do not know about that. That there was no result is not true either. There were results in relation to every allegation.

**Senator JOHNSTON**—No allegations were sustained.

**Senator Hill**—I know. That is a result.

**Senator JOHNSTON**—Many of them were unsustainable because the original charges that were laid were misconceived.

**Senator Hill**—No.

**Senator JOHNSTON**—Military policemen did not understand the terms of the Geneva Convention.

**Senator Hill**—When serious allegations are made, they have to be investigated. The fact that the investigation is complex, because of circumstances such as I have just outlined, just happens to be the facts of life in this particular matter. You cannot avoid doing the job thoroughly because it is complex.

**Air Cdre Harvey**—I think it is also material to note that one of the considerations which preyed upon the mind of the magistrate in the directions hearing was the requirement to ensure a fair trial for the accused. It seems to me that that was one of the considerations which prevented an arrangement being made which would satisfy the New Zealand authorities. There obviously could have been some mechanism put in place to totally conceal the witness under shields and god knows what else but the magistrate, quite correctly, in his deliberations on these issues and in the considerations of the directions hearing, was not satisfied that it would be possible for the accused to get a fair trial. I might also add that once these directions—

**Senator JOHNSTON**—Could I just interrupt there? Is not that the usual expression that a judicial officer uses when he is not going to accept a mode of adducement of evidence such as sworn statements, stat decs and affidavits. It is the equivalent of saying, 'The accused cannot have a fair trial.' Nowhere that I know in this country do people get convicted without being able to confront their accusers on serious charges such as these.

**Air Cdre Harvey**—That is exactly the point. The inability of the accused, in this particular case, to cross-examine witnesses who were testifying against him without knowing their names and without knowing how they fitted into the equation of the evidence against him, obviously in the mind of the magistrate—and I cannot put myself into the shoes of the magistrate—led him to the conclusion that it was not possible to get a fair trial.

**Senator JOHNSTON**—With great respect, Air Commodore, that is a fundamental tenet of any judicial process. You just do not get hung, drawn and quartered on the say-so of someone on a piece of paper. It does not happen.

**Senator CHRIS EVANS**—As I understand it, Air Commodore, you are agreeing with the magistrate's decision. You are saying that on balance you accept that—

**Senator Hill**—It is not up to us to agree or disagree.

**Senator CHRIS EVANS**—The *Hansard* speaks for itself—I will put it another way.

**Senator Hill**—We hear the argument but we live with the magistrate's decision.

**Senator CHRIS EVANS**—I think to be fair the Air Commodore provided an explanation as to why there was merit in the decision or said that he understood the argument for it. I do not want to repeat what he says; it is on the *Hansard*.

**Senator Hill**—That is slightly different.

**Senator CHRIS EVANS**—I am not trying to position him. I do not have Senator Johnston's legal background, but that begs the question: didn't we know that beforehand? If this is a central tenet of justice, surely the prosecuting authority—who handled the prosecution?

**Air Cdre Harvey**—At that stage it would have been a prosecution cell based in Sydney that was under my chain of command.

**Senator CHRIS EVANS**—So this prosecution was within your chain of command?

**Air Cdre Harvey**—Yes.

**Senator CHRIS EVANS**—They would have known that this was likely to be a problem, wouldn't they? I think that is one of the things that Senator Johnston is getting at. Why did you not know it was a problem or why did you think you could prosecute the case anyway?

**Senator Hill**—What I said was that the Air Commodore's prosecutors took outside advice as well, senior counsel's advice. The advice clearly was that there was sufficient evidence to proceed with the prosecution.

**Senator CHRIS EVANS**—I will come to the question about anonymous outside advice in a minute.

**Senator Hill**—That was not anonymous.

**Senator JOHNSTON**—There may well have been sufficient evidence to proceed with the prosecution, given that the presumption would have been that the evidence was able to be adduced. Were the QCs ever told that these central witnesses would not be permitted to attend? It is very unlikely that you would ever proceed with a matter in the knowledge that the witnesses were not going to front.

**Lt Gen. Leahy**—Senator, we did not know that until the trial.

**Senator JOHNSTON**—Precisely. So what you got was asking a QC on pristine presumptions—that is, that the witnesses would turn up, be sworn and give evidence. Certainly a QC will say on that basis, 'The case will be sustained.'

**Senator Hill**—Let us not assume that. I have never seen the brief to the QCs.

**Senator JOHNSTON**—If the QCs were told, 'The witnesses will not be present in court,' I would be very, very surprised if they supported the trial.

**Senator Hill**—If procedural matters were anticipated then I would assume that that would be brought to the attention of the counsel giving advice on the prosecution.

**Senator JOHNSTON**—Minister, the point is that, notwithstanding that it was questionable that the witnesses would attend in person, the legal advice was that the charges should proceed.

**Senator Hill**—No, you are trying to put words in my mouth. What I am saying is that, at each stage, outside and senior legal advice was taken in relation to this matter and the prosecution was brought after taking into account that advice.

**Senator JOHNSTON**—But we do not know the terms of the brief seeking advice.

**Senator Hill**—We do not know the brief to the senior counsel. It is not our job to get inside the brief to the senior counsel.

**Senator JOHNSTON**—All I am suggesting then is that the statement that every matter was adjudicated upon by an independent outside source is not of great moment if we do not know what was asked of those QCs, given the end result.

**Senator Hill**—A good QC with a background in criminal law knows the questions to ask.

**Senator JOHNSTON**—That is right, and he presumes that the witnesses will attend in court to give the evidence or else the matter is doomed from the beginning. Can we go to what happened on the day—I think it was 6 August—when the charges were withdrawn.

**Air Cdre Harvey**—I am not so sure about the date, Senator; I thought it was on 9 August.

**Senator JOHNSTON**—Sorry, let me withdraw that—when no evidence was called to support the charges and a press release was issued by the Australian Defence Force. Do you recall that? Statements were made.

**Air Cdre Harvey**—If I could go back just one step there, Senator. When the problems arose in relation to securing attendance of the New Zealand witnesses, I would just like to point out that independent advice on the way to proceed was sought from the Director of Military Prosecutions, independent of the command chain, and his advice was to proceed with the trial. I understand, without going into the detail of his advice, that it was based upon considerations related to ensuring that the accused had his day in court and had an opportunity to clear the air rather than not having the charges proceed.

**Senator JOHNSTON**—All right, I accept that, and so on the day no evidence was called.

**Air Cdre Harvey**—I understand that the prosecutor did not lead evidence, that is correct.

**Senator JOHNSTON**—There is only one possible outcome of that type of instruction, that type of conduct in the prosecution of a criminal matter, and that is that the prosecution fails. Correct?

**Air Cdre Harvey**—I would not necessarily agree with that, Senator. I think the issue here is essentially that, on the basis of the advice of the independent Director of Military Prosecutions, advice was provided to the relevant person that there was no chance of success without the testimony of the New Zealand witnesses. It was a clinical, factual analysis, independent of the command chain, as I mentioned, of the evidence available, and that was the only course available.

**Senator JOHNSTON**—On the one hand you had someone saying, ‘Yes, go forward with the prosecution, even though you can’t get the witnesses,’ and on the other hand, shortly prior to trial, another piece of advice has said, ‘No, we can’t win’?

**Senator Hill**—No, we did not say that in relation to the first one. I said that advice was sought on the prosecution by the in-house lawyers and proceeding with the prosecution was supported. On what basis it was supported, I do not know, because I was not a party to the brief.

**Senator JOHNSTON**—Air Commodore said to me, as I recall—and the *Hansard* will bear witness—that there was advice taken from a senior legal adviser when it became apparent that the New Zealand witnesses would not be attending and the charges proceeded. Shortly prior to the matter coming on for hearing, further advice was obtained that there could be no success with the matter and no evidence was called. That is two pieces of starkly conflicting advice, I would suggest.

**Senator Hill**—The advices that I was talking about were at an earlier stage. You are arguing—

**Senator JOHNSTON**—I am talking about the Air Commodore’s evidence.

**Senator Hill**—Earlier today you were arguing that there was clearly a failure within the process well before it got to the magistrate.

**Senator JOHNSTON**—I think there is.

**Senator Hill**—I know you were saying it. What I was saying is that outside advice was to the contrary. Now you are talking about a different stage in the proceedings.

**Senator JOHNSTON**—We have agreed, I think, Minister, have we not, that the brief for the outside advice may not have canvassed whether the witnesses were ever going to give evidence?

**Senator Hill**—I have not agreed with that—I do not know what the brief says.

**Senator JOHNSTON**—I am saying that we do not know that and I am saying that it falls on either side. But if you had advice that, notwithstanding, you could not call evidence, you would go forward, I accept that.

**Senator Hill**—There were a number of occasions in which outside advice was sought in the matter.

**Senator JOHNSTON**—So, in order to give this accused his day in court, no evidence was called—is that what you are saying, Air Commodore?

**Air Cdre Harvey**—I think the advice from the Director of Military Prosecutions at the time reflected upon the fact that this had been a matter hanging over the head, so to speak, of the accused person and that, in those circumstances, it was appropriate to have the matter dealt with before the tribunal to finality. The other option would have been not to proceed with the matter, which would have left a question mark over him.

**Senator Hill**—This is after he had already appeared before the magistrate. As I recall it—and all this is subject to testing the memory—there had been publicity given to the fact that he had already been before the magistrate on these preliminary matters.

**Air Cdre Harvey**—That is right.

**Senator JOHNSTON**—This was a hearing date. Do you understand that when the prosecution calls no evidence the defendant has no opportunity to present any case? He does not get up and start running his defence when there is no evidence against him; he simply has nothing to say and the magistrate has no alternative but to dismiss the matter.

**Air Cdre Harvey**—That is true, but the implications of proceeding with the matter to finality is that those charges cannot be resurrected and the man involved has the ability to say to the outside world that the charges were not successful against him.

**Senator JOHNSTON**—But you did not say that. One of your officers, the director of personnel operations, was quoted as saying:

“As a result of his advice—

talking about a senior counsel in Queensland—

advice, the Australian Army took action and charged this member, but based on a technicality that evidence has yet to be tested.

“So the Australian Army is now considering taking administrative action against the soldier and through that action testing the available evidence.”

Firstly, you say to me that it was about giving the accused his day in court an opportunity to clear the air as far as these allegations hanging over his head were concerned. Yet you said publicly—and I am quoting from the *Canberra Times* on Sunday, 10 August this year—that the matter fell away on a technicality. It does not matter, does it, whether it is a technicality or whatever—when you call no evidence, he is acquitted.

**Air Cdre Harvey**—Absolutely.

**Senator JOHNSTON**—Regardless of whether it is a technicality, the case is not sustained.

**Air Cdre Harvey**—I cannot comment upon the press reports. I was not involved in that and the claim that it was a technicality. All I can comment upon is what happened at the trial procedures based upon the information that I have.

**Senator JOHNSTON**—Can I tell you that the evidence to sustain the administrative charge and the evidence to sustain the charge that fell away because no evidence was called was identical.

**Air Cdre Harvey**—I cannot comment upon the administrative action.

**Senator Hill**—Do you know what the administrative charge was? I do not know.

**Senator JOHNSTON**—I am asking the question of the Air Commodore.

**Senator CHRIS EVANS**—In your letter to me, Minister, on the subject you made it clear that they were in the alternative and that they related to the same matter. I presume it is the same charge. We had this debate at the last estimates. My understanding was—and it was confirmed in your correspondence to me when I expressed some concern about the evidence at the estimates hearing—that there was an administrative charge on both charges in the alternative dealing with exactly the same allegation. I therefore assumed, supported by the same evidence—



**Lt Gen. Leahy**—I might be able to help here. I must ask the indulgence of those who have a far superior knowledge of the legal matters to mine.

**Senator HOGG**—Don't worry.

**Lt Gen. Leahy**—You and I are together, then, Senator Hogg.

**Senator HOGG**—Yes. We are on the same side.

**Senator FERGUSON**—There are not many of us.

**Lt Gen. Leahy**—To my imperfect legal understanding, the requirement of proof in the judicial hearing was 'beyond reasonable doubt' and the evidence was not able to be presented in such a manner. The requirement of proof in the administrative hearing was 'beyond the balance of probability'. So we are looking at different issues. If I could continue—

**Senator JOHNSTON**—That does not help your situation one iota, the evidence being the same. Are you aware of what double jeopardy is all about?

**Lt Gen. Leahy**—They were not the same charges.

**Senator JOHNSTON**—It does not matter whether they were the same charges. The same factual matters gave rise to the culpability. You could not sustain those charges on the first round, yet you sought to do it on administrative charges.

**Lt Gen. Leahy**—We took advice from the—

**Senator JOHNSTON**—Let me interrupt you for a second.

**CHAIR**—Senator Johnston, let the Lieutenant General answer the question.

**Lt Gen. Leahy**—We took advice from, I believe, the Solicitor-General that an administrative process was open to us.

**Senator JOHNSTON**—On the same facts.

**Lt Gen. Leahy**—I believe so, and I will table that if my staff can get it for me.

**Senator Hill**—As I recall, it was not the same charge.

**Lt Gen. Leahy**—The administrative process was one of—and I may get this wrong—an invitation to answer the question of why he should not be censured for inappropriate behaviour.

**Senator JOHNSTON**—He would have said, for any number of good reasons, 'I want to have a hearing on that matter.' Guess what? Those charges fell away also.

**Lt Gen. Leahy**—Through the administrative process he did have his hearing. He was able to make a detailed statement. They were judged and, you are correct, they fell away.

**Senator JOHNSTON**—It took the commanding officer four weeks, as opposed to almost four years, to resolve that the matter was unsustainable. Yet, if you cannot win on the swings, you go to the roundabouts. Are you aware of what happened in 1999 with the joint standing committee's inquiry into the administration of military justice?

**Lt Gen. Leahy**—I am certainly aware of that.

**Senator JOHNSTON**—There were 59 recommendations, one of which dealt precisely with this issue. What are we doing here? You cannot win on one charge, so you run the same facts again on an administrative charge and it falls away just like the first one did.

**Lt Gen. Leahy**—What I see is that the soldier has had his day in court—

**Senator JOHNSTON**—No, he has not had his day in court, not when you have issued press releases like this and he got off on a technicality. I hasten to say that he is the holder of an Order of Australia, thanks very much! This is a very serious matter.

**Lt Gen. Leahy**—That is why we pursued it in this manner—to make sure we could take it all the way to the end.

**Senator JOHNSTON**—It has not been taken all the way to the end. You never had a proper case because you never asked the witnesses to guarantee that they would turn up.

**Senator Hill**—You cannot come in here, having not been a party to the development of the case, and draw conclusions like that.

**Senator JOHNSTON**—If I can just take you back to these administrative charges—

**Lt Gen. Leahy**—If I may, I will look at some of the dates that have been given to me on the way through and I will read into the evidence a correction to my figure on the costs—the costs totalled \$130,000.

**Senator JOHNSTON**—For what?

**Lt Gen. Leahy**—For the complete investigation. Those were primarily costs relating to travel.

**Senator JOHNSTON**—I am not talking about the travel costs. I am talking about the total costs of the investigation in terms of the time, the expenditure and all the consequential costs flowing to the ADF of this inquiry.

**Lt Gen. Leahy**—The additional costs, apart from salaries and other processes—

**Senator JOHNSTON**—How many dollars per hour were spent, and what on?

**Lt Gen. Leahy**—I will have to take that on notice.

**Senator JOHNSTON**—Absolutely.

**Lt Gen. Leahy**—I am advised that on 1 April—and the charges were preferred in February—contact was made with the New Zealand authorities to give them the heads up that this was about to occur.

**Senator JOHNSTON**—On 1 April 2003?

**Lt Gen. Leahy**—That is correct.

**Senator JOHNSTON**—Are you seriously telling me that the principal witnesses' attendance was sought three months after the accused had been charged? You have got to be kidding.

**Air Cdre Harvey**—That is my information.

**Senator Hill**—The New Zealand military authorities would have been aware of the process well before that because members of the New Zealand military force were critical to the whole case.

**Senator JOHNSTON**—Absolutely. The very first thing that should have been done was to ensure that the government of New Zealand agreed that their servicemen would attend.

**Lt Gen. Leahy**—This was the formal approach. We then met on 8 April with the New Zealand attache to make the arrangements. A prosecutor travelled to New Zealand and briefed the witnesses on 25 to 28 April. We then had correspondence at a formal level on 8 May, saying they would not be available under the conditions made by the Defence Force magistrate.

**Senator JOHNSTON**—So it was April when we found out we had a problem?

**Lt Gen. Leahy**—When we formally found out we had a problem.

**Senator JOHNSTON**—And we charged him in January.

**Lt Gen. Leahy**—February.

**Senator JOHNSTON**—When did we informally find out?

**Lt Gen. Leahy**—I will have to take that on notice as well.

**Senator JOHNSTON**—Thank you. These administrative charges—

**Lt Gen. Leahy**—I would prefer not to use the word ‘charge’ as that has a legal connotation.

**Senator JOHNSTON**—Disciplinary charges?

**Lt Gen. Leahy**—Administrative questions or action.

**Senator JOHNSTON**—Who is responsible for laying those charges, that action?

**Lt Gen. Leahy**—They were issued by the Director-General Personnel Army.

**Senator JOHNSTON**—Is it the practice of the director-general to not adhere to the principal and doctrine of double jeopardy?

**Lt Gen. Leahy**—It is the practice of the Director-General Personnel Army to follow the advice that we had from the Solicitor-General which said administrative action was open to us.

**Senator JOHNSTON**—Let me understand this. If you have an identical set of facts giving rise to two interchangeable types of charges, one in front of a military magistrate and another, which is a disciplinary charge that is dealt with administratively, and you fail on the first, you can run on the second?

**Lt Gen. Leahy**—No, as I have said to you, we followed advice. I will get that advice and I can show you that. We would not do it without seeking that advice.

**Senator JOHNSTON**—Is that what you normally do? The advice that you received is that you were allowed to do that, was it?

**Lt Gen. Leahy**—In this case, it was and in other cases, because we have two degrees of proof—beyond reasonable doubt and balance of probabilities—we do see that it is open to us

to pursue administrative action. Again, I might turn to the Director-General, Defence Legal Services, to advise me on that.

**Air Cdre Harvey**—I might point out that it is quite common that administrative action and discipline actions will be taken in the same situation. In fact, it is often the case where conviction results that separate administrative action with a view to maybe as far as discharge will take place. This case was unusual in the sense that there was not a conviction of a service tribunal under the Defence Force Discipline Act. I think that factor alone resulted in the formal request for advice from the Australian Government Solicitor, I think the Senior General Counsel, to provide guidance to Army in relation to what the options were in this particular case. That is the legal advice that the Lieutenant General has just referred to.

So, it is unusual situation that you have a situation of a discipline proceedings that has not been successful and that you consider administrative action. That was the very reason we went out and obtained independent legal advice from the Australian Government Solicitor to ensure that what we were doing was appropriate. That was the advice that was provided to Chief of Army and his staff, and was obviously the basis that Director-General Personnel Army decided to proceed with the matter.

**CHAIR**—In pursuit of my work-to-rule policy, we will take a short break.

**Proceedings suspended from 3.29 p.m. to 3.49 p.m.**

**CHAIR**—For the information of my colleagues, questions on notice will have to be received by the committee secretariat by 5 p.m. on Friday so that they can be tabled in the appropriate way.

**Senator JOHNSTON**—Air Commodore, are you aware of why the administrative processes fell away?

**Air Cdre Harvey**—No, I am not, Senator. It is not something that I was involved in. I am afraid I cannot answer that.

**Senator JOHNSTON**—Can you take it on notice?

**Lt Gen. Leahy**—Senator, I might be able to answer the question. I mentioned before the break that a document was issued asking why the soldier should not be censured on the basis of unacceptable behaviour. I can add now that we had advice not only from the Solicitor-General but also from the director of military and administrative law that that was a course of action open to us. The officer was issued with that notice to show cause by Director-General Personnel Army and an officer was required to judge that matter—that is, to make an assessment, rather than use a legal term, on the matter—after the individual had been given time, with legal advice, to make a statement in his own defence, that is, in writing. That officer determined, on the balance of probabilities, that there was no cause to find adversely or to proceed with the matter any further. So the reason why it fell away was that a judgment was made by a senior Army officer that, on the balance of probability, there was insufficient information to proceed.

**Senator JOHNSTON**—Do you understand that a balance of probability is in fact a lower threshold test than beyond reasonable doubt?

**Lt Gen. Leahy**—Very clearly, Senator. As I explained before, the trial proceedings are beyond reasonable doubt. This is a lower probability, yes.

**Senator JOHNSTON**—Do you think that the subsequent administrative action and the result flowing therefrom have anything to say about the original charges?

**Lt Gen. Leahy**—I do not believe so, Senator.

**Senator JOHNSTON**—In closing, can we summarise that we spent 3½ years investigating some 19 charges?

**Lt Gen. Leahy**—That is correct.

**Senator JOHNSTON**—Travelled to three countries and obtained the exhumation of two bodies?

**Lt Gen. Leahy**—We participated in the exhumation of bodies.

**Senator JOHNSTON**—We directed post-mortems.

**Lt Gen. Leahy**—They were conducted by the Serious Crimes Unit of the United Nations.

**Senator JOHNSTON**—Did you say we interviewed 300 witnesses?

**Lt Gen. Leahy**—In the order of 350 witnesses.

**Senator JOHNSTON**—We had 23 witnesses called for trial.

**Lt Gen. Leahy**—I am not sure of the exact number, as I mentioned earlier.

**Senator JOHNSTON**—And, at the end of the day, no evidence was called.

**Lt Gen. Leahy**—That is correct.

**Senator JOHNSTON**—We then instituted administrative procedures. In a very few weeks the general in charge of reviewing those said there was no case to answer.

**Lt Gen. Leahy**—That is correct.

**Senator JOHNSTON**—Are you aware that the New Zealand witnesses are in fact recanting?

**Senator Hill**—I do not believe that is right way to put it.

**Senator JOHNSTON**—Let me ask another question—we will leave that. Are you aware of a statutory declaration by one of the New Zealand witnesses?

**Lt Gen. Leahy**—I have not seen a stat dec; I have heard of it.

**Senator JOHNSTON**—It says the mode of inquiry and the way the investigation was initially carried out was such as to misrepresent their evidence.

**Senator Hill**—I asked about this mysterious stat dec and was told that it did not exist. If you have got a copy, I would not mind seeing it.

**Senator JOHNSTON**—I will take that on notice!

**Senator Hill**—You are putting it forward.

**Senator CHRIS EVANS**—Is that a reply on behalf of Defence or is that a personal view? That is, is Defence aware of such a stat dec or not?

**Senator Hill**—Defence told me they were not aware of such a stat dec.

**Senator CHRIS EVANS**—I was just interested whether someone had seen it.

**Lt Gen. Leahy**—I am certainly not aware.

**Senator Hill**—Whether it has been found since, I do not know.

**Senator JOHNSTON**—Given that summary, are you not concerned about this whole process?

**Lt Gen. Leahy**—I am concerned that the allegations were made. I am not concerned that they have been pursued vigorously, as I would expect that any Australian would want us to pursue allegations of misconduct of anyone in the service of the Australian Defence Force.

**Senator JOHNSTON**—So you are unconcerned with the end result of all of the matters that I have described to you?

**Lt Gen. Leahy**—I think we have followed the process and it has come to a conclusion that can be justified and supported. I am not concerned.

**Senator JOHNSTON**—So it is not cause for concern and it is not cause for any further action or review?

**Lt Gen. Leahy**—I am not sure in what respect you mean there should be further action or review.

**Senator JOHNSTON**—You are comfortable?

**Senator Hill**—As far as we are concerned, that was the close of the process. Do you learn from a process? You always do. I must say that in relation to many of the allegations I am one Australian that was pleased to find that they were not substantiated.

**Lt Gen. Leahy**—What I might add is that some months ago, having formed concern as to the ability of our military police, in terms of both the quality of the training that we give them and the numbers of military police that we have, I initiated an internal Army review of the military police force, and that is proceeding now.

**Senator JOHNSTON**—Where is that at the moment?

**Lt Gen. Leahy**—It is in, I believe, phase 1 of a two-phase process. We are expecting a report towards the middle of next year. So, yes, I am concerned about some of the aspects but I am not concerned in the broad that we have seen some allegations and we have pursued them, as I think we would be expected to do.

**Senator JOHNSTON**—What was the motivation behind the instigation of the review?

**Lt Gen. Leahy**—That the investigation took a long time.

**Senator JOHNSTON**—So you were unhappy about that?

**Lt Gen. Leahy**—I was concerned that it took a long time. It would be nice to be able to finish these things off much more quickly, but it was a very complex investigation. I have also had a look at some of the investigations that occur in the civil world, and they also take a long time.

**Senator JOHNSTON**—Certainly. Are there any other matters you want to tell me you are concerned about with respect to the events arising from 6 October 1999 in East Timor?

**Lt Gen. Leahy**—No.

**Senator HOGG**—Following on from your statement about the review of the military police—and there are two phases, as I understood your statement—you said that the report was due out next year. Is that for phase 1 and phase 2?

**Lt Gen. Leahy**—I think it is for phase 2. I will get some more information on that. I will try to read into the—

**Senator HOGG**—Yes. It would be handy to know whether there is a report on phase 1, and that will see to further action—

**Lt Gen. Leahy**—I think phase 1 was more a scoping study. Phase 2 was the report. I will try to update you on that this afternoon.

**Senator HOGG**—Thank you.

**Senator CHRIS EVANS**—I will take you back a bit to a couple of questions in areas covered by Senator Johnston but where I was not quite sure I got all the information. In the administrative process that was in the alternative to the charges before the magistrate, my understanding from what I read about the comments of Colonel Gerard Fogarty was that that would allow you to test the available evidence. What evidence was led in that administrative charge process? For instance, were there any depositions or evidence led on behalf of the witnesses who were to be called, particularly the New Zealand witnesses?

**Lt Gen. Leahy**—The evidence, to my understanding, was that statements had been made but were not able to be substantiated in the court—that is, the written statements.

**Senator CHRIS EVANS**—So the statements that were to form the basis of a prosecution case before the magistrate were not sufficient to convict with a lower level of proof in the administrative charges?

**Lt Gen. Leahy**—That was the judgment of the senior officer who reviewed, yes.

**Senator Hill**—The first case has to stand on its own merits. As Senator Johnston has said, evidence was not put and it was dismissed, and that is the end of that. I think it is a mistake to try to link the two together and draw conclusions one from the other.

**Senator CHRIS EVANS**—I am not necessarily trying to draw a conclusion, but I am interested in what the test was and what evidence was led of the administrative charges. Who was the officer charged with hearing those charges?

**Lt Gen. Leahy**—The Commander, Special Operations Command.

**Gen. Cosgrove**—You had better correct that; they are not charges.

**Lt Gen. Leahy**—I am sorry; they are not charges. It is an administrative procedure asking the soldier involved to provide information as to why he should not be censured. The officer was the Commander of the Special Operations Command Australia, Major General Lewis.

**Senator CHRIS EVANS**—The commander of his unit?

**Lt Gen. Leahy**—Yes.

**Senator CHRIS EVANS**—So that goes back in-house—into his own unit structure—for the hearing of the administrative charges?

**Lt Gen. Leahy**—It is using the chain of command and using a vastly experienced soldier.

**Senator CHRIS EVANS**—I am not implying anything about Major General Lewis, for whom I have a very high regard, but I do have—as I think I have expressed to you before—some concerns about how the system works. I am just trying to understand how the system works on this occasion. The administrative action was then considered by the commanding officer of his unit once the charges before the magistrate had fallen away?

**Lt Gen. Leahy**—Technically I would correct you in terms of ‘commanding officer of his unit’; it is the formation commander. But, yes, it is within the Special Operations Command.

**Senator CHRIS EVANS**—And that is normal process?

**Lt Gen. Leahy**—Yes.

**Senator CHRIS EVANS**—Given that you were at pains to refer the earlier questions such as the one to the—I forget the terminology—commanding authority or whatever—

**Lt Gen. Leahy**—The summary authority.

**Senator CHRIS EVANS**—the summary authority outside the unit, it was not thought appropriate to do that when dealing with the administrative issues?

**Lt Gen. Leahy**—No, Senator.

**Senator CHRIS EVANS**—So the evidence that would have been considered there would have included the depositions?

**Lt Gen. Leahy**—Again, I defer to superior legal knowledge but, if you mean the witness statements—the written statements taken as part of the investigation, I assume—yes, that is what he used.

**Senator CHRIS EVANS**—For the record, you are saying they were used, they were considered?

**Lt Gen. Leahy**—I have not discussed it with General Lewis.

**Senator CHRIS EVANS**—Perhaps you could take that on notice. I do not want to end up with our misleading each other.

**Lt Gen. Leahy**—Sure.

**Senator CHRIS EVANS**—Were the depositions considered by him in dealing with the administrative matter?

**Lt Gen. Leahy**—We will take that on notice.

**Senator CHRIS EVANS**—Can I just go back to this original question about the New Zealanders giving evidence and strip away the technical form. I, too, do not have a legal background, but I am married to a lawyer, so I have never won an argument in my life. Is the fact that they were special forces personnel or is the fact that they were New Zealand personnel the problem at the core of this?



**Air Cdre Harvey**—Basically, to compel witnesses, we are fairly limited under the DFDA. We have no power to compel overseas witnesses located overseas. However, I think the Chief of Army or CDF mentioned before that the close relationship between our countries means that normally this would not be an issue. Close cooperation with witnesses would be made available. So it is a bit of both. There is technically no power legally under the Defence Force Discipline Act to compel a foreign witness in a foreign country, but, having said that, it practically is not a problem in most cases. It became a problem in this particular case because of the requirement that the New Zealand Defence Force preserve the confidentiality of the names of the witnesses.

**Senator CHRIS EVANS**—That is what I am trying to get to. It was not clear from your early evidence. What was different about this? Is it because New Zealand expressed a view of higher confidentiality because the witnesses were New Zealand special forces or was it because of the nature of the case?

**Air Cdre Harvey**—I must admit that I have nothing to suggest it was the nature of the case. My understanding is that it was the New Zealand Defence Force's concern to preserve the identity of its special forces. I think that was the key issue. Obviously, as a separate, sovereign nation, New Zealand is able to make its own decision about what protections it demands to allow its witnesses to appear. Even if they are not the same as the requirements that we may have, I guess we have to accept the New Zealand Defence Force's position.

**Senator CHRIS EVANS**—So have the New Zealand Defence Force made that requirement in any earlier cases, to your knowledge?

**Air Cdre Harvey**—I am not aware, no.

**Senator CHRIS EVANS**—Have we had that sort of restriction on our personnel giving evidence in any earlier cases that you are aware of?

**Air Cdre Harvey**—I am not aware of it, no.

**Senator CHRIS EVANS**—So there is no precedent for this that you know of?

**Air Cdre Harvey**—I cannot say there is no precedent, but I am certainly not aware of any cases. This issue certainly has not come to my notice. In fact, it strikes me as being rather unique to the circumstances of this particular case.

**Senator CHRIS EVANS**—It raises the broader issue about whether, therefore, we are hamstrung in terms of dealing with special forces.

**Air Cdre Harvey**—I guess that is what comes out of this particular fact situation, absolutely. What this case raises is that we have to be able to accommodate, as best we can, the requirements of a foreign force in relation to its special forces. Obviously, it has been a problem in this particular case. I do not think we should interpret that as meaning that it will always be a problem. It will be a case for individual nations to make their own decision.

**Senator CHRIS EVANS**—I am interested in the particular case, but I am also interested in the policy response to that. Does that mean that there is a cone of silence over anything involving special forces because ours or theirs would not appear as witnesses? Does that put them outside the law?

**Gen. Cosgrove**—I can only speak for the Australian Defence Force, but if it was a matter of high public interest, that would be weighed against the advantages of the confidentiality of their identities and it would be a judgment call on the day.

**Senator CHRIS EVANS**—But that is not right, is it? I am playing devil's advocate here, but you are not the Defence Force magistrate.

**Gen. Cosgrove**—But I am saying that the Defence Force magistrate will do whatever the Defence Force magistrate does. If that is an issue for us, and the issue is whether we do or do not reveal the names of our special forces, in a matter of a serious, possibly criminal, case, then the matter of the public interest vis-a-vis the confidentiality of their identities will be judged at the time.

**Senator CHRIS EVANS**—What is the policy response to this magistrate's decision in terms of us ensuring that we can pursue such matters in the future?

**Gen. Cosgrove**—There is no policy response. I am saying that there is no policy which says, 'Thou shalt not,' nor is there one where we would say that automatically, on every occasion, their identities can be compromised.

**Senator CHRIS EVANS**—No, but clearly in terms of a foreign force we have run into a problem here that—

**Gen. Cosgrove**—That is with a foreign force, though, Senator.

**Senator CHRIS EVANS**—your military prosecution team said this was worth pursuing and your outside legal advice said this was worth pursuing. Senator Johnston has made the argument as to perhaps why that should not be the case, but, if you like, I am pursuing a separate point. The other argument is that that has been frustrated, and in fact the soldier was frustrated from having his day in court, by this provision. What are we going to do to make sure this does not frustrate the pursuit of justice inside the military in future?

**Gen. Cosgrove**—A separate point again. I agree that there may be interest in having policies which take that into account in relation to foreign forces. I am simply saying that in relation to Australian forces, while we by and large seek to preserve the confidentiality of the identities of our special forces for all kinds of good reasons, if it is a matter of high public interest then there will be a judgment made on the occasion. I am saying that we have no policy to exclude, nor have we to reveal. We will judge it on the merits of the case.

**Senator HOGG**—Who would make that judgment?

**Gen. Cosgrove**—I think that would be one for the government.

**Senator CHRIS EVANS**—Was the New Zealand special forces member who is now a member of the Australian Army one of the four persons who was in dispute as to their ability to give evidence?

**Lt Gen. Leahy**—No, because I believe the four in dispute were New Zealanders and this fellow was not counted at this stage as a New Zealander.

**Senator CHRIS EVANS**—That opens up a separate issue which I want to talk to you about later on, about who is an Australian when they are in the Australian military, but I do

not want to get distracted by that now. So there were four witnesses who are still serving members of the New Zealand armed forces?

**Lt Gen. Leahy**—I must say at this stage that I am at a disadvantage in that I have not seen any of this evidence. We are in a process in which I might be asked at some later stage to make some reviews or be part of other judgments. So I cannot give you all of the details on this and, if I may at this stage, plead an imperfect knowledge.

**Senator CHRIS EVANS**—Perhaps the Air Commodore can help me out. I am just trying to identify whether the current serving Australian Defence Force member was one of these witnesses prevented from giving evidence because of this technicality.

**Air Cdre Harvey**—I am afraid I do not have that information. I have not been involved in the case to that detail.

**Senator CHRIS EVANS**—Perhaps you could take that on notice for me. I am not trying to ascertain what evidence he was going to give or what his depositions said. I am just trying to understand if he is part of that subset of four or if he is separate. The other issue I want to take up is the question of outside advice. We seem to be resorting to this quite a deal. How is the decision made to seek outside legal advice, by whom, and how we found that?

**Air Cdre Harvey**—I think this may have been the subject of a question on notice—the actual name of the person. I do not have the name with me but we can certainly find that out. The advice in relation to prosecutions is normally provided by the legal adviser to the convening authority. Under the new arrangements with the Director of Military Prosecutions, he also has a role to play in relation to providing advice on sufficiency of evidence and whether charges are justified, or the like. In certain circumstances they can seek access to external legal advice to supplement their own resources if their resources are not adequate or they require particular expertise in a particular area.

In this particular case I think the advice was given by a legal reservist who is one of the 300-odd legal reservists who work under my organisation and provide part-time service to us. In terms of paying them, it can be one of two ways: it can be on a training day rate, which is normally the way they would be paid, like any other Reserve member; or it can be a sessional fee payment, depending on whether it was urgent advice. I do not know the facts in this particular case. Suffice it to say that it is quite a normal practice that we do outside source from our legal reserve. That is why we have them to provide supplementary advice and specialist advice.

**Senator CHRIS EVANS**—Thanks for that.

**Lt Gen. Leahy**—If I could add to that. Each of the 19 allegations were referred to legal advice outside the investigation. Briefs of evidence were prepared, proposals were made that there may be some charges that could be preferred and then they were given to reserve officers who are typically QCs or senior legal practitioners in the states. In each of those cases it came back as either that we agreed with the evidence that there should be no charge or, in one or two other cases, that there was something that should be preferred. Each of them were tested and that in itself adds to some of the time delay that occurred.

**Senator CHRIS EVANS**—I want to take you back to those original allegations because I have been concerned for some time how little is on public record about this. Before I do that, what was the role of the DMP or Inspector-General in this process, if any?

**Air Cdre Harvey**—I do not think the Inspector-General had any formal role in relation to this process as far as I am aware. The Director of Military Prosecutions position had been fairly recently established, as of about the middle of this year, and that coincided with the time that, I think, some of these directions hearings and the like were being conducted. As I understand it, the convening authority, in this particular case, took advantage of the existence of the Director of Military Prosecutions for advice about whether charges should proceed to a trial. This was obviously after the process of directions hearings and some of the issues related to securing the availability of the New Zealand witnesses. That is basically how the Director of Military Prosecutions came in. He was given the evidence by the convening authority and, again, independent of the chain of command, provided advice to that convening authority.

**Senator CHRIS EVANS**—That was prior to the decision to take it to the magistrate then?

**Air Cdre Harvey**—I think it had been referred to the magistrate and some directions hearings had been held. Directions hearings, as you may appreciate, are preliminary hearings to deal with issues related to evidence and the like before the formal hearings begin. It was the case that a couple of pre hearings—directions hearings, as you would call them—were conducted with a view to exploring the issues of accommodating New Zealand Defence Force requirements. Subsequently, advice was fed back to the convening authority who made a decision on the basis of what had been found out in terms of the availability of witnesses and the like. An independent decision was made by the DMP, prior to the advice of the convening authority which he no doubt acted upon.

**Senator CHRIS EVANS**—Was he required to act on that or just take it into consideration?

**Air Cdre Harvey**—Not at the moment. We are under interim arrangements at the moment. When legislation is passed, it will become binding in relation to Defence Force magistrates and court martial proceedings to seek formal advice from the DMP. At the moment, it happens as a matter of policy but it is not binding on the convening authority. Obviously, it would be highly persuasive and I would not imagine a convening authority opposing his own legal view of the evidence in opposition to what the DMP had provided.

**Senator CHRIS EVANS**—Where would I find the guidance to a commanding officer in dealing with the balance of probability of an admin matter before them?

**Air Cdre Harvey**—I am not quite sure of the doctrinal base, I imagine it would be in either a DI(A) or a DI(G).

**Senator CHRIS EVANS**—Could you take that on notice for me please—

**Air Cdre Harvey**—Certainly.

**Senator CHRIS EVANS**—as to what guidance would be provided to the commanding officer, not just in this case but in any case, in having to deal with an admin charge and the requirements that puts on them.

**Air Cdre Harvey**—Quite apart from any sort of doctrinal guidance in a publication, extensive training is provided to the commanding officers of the three services. My officers get involved in providing extensive training, up to a week in some cases, to the services. They deal with these sorts of issues and lecture on administrative law and so forth. So there is quite extensive training and advice provided through the normal training processes for incoming commanding officers.

**Senator CHRIS EVANS**—Thank you for that. I want to ask you about the original allegations because the last time we spoke we did not have the detail on those. When you said you sought independent advice on those other 19 allegations in total, had there been a recommendation to pursue charges on any of the other matters apart from the one that has been the subject of discussion today?

**Lt Gen. Leahy**—There were two charges—and I do recall our conversation last time, Senator, when we were very reluctant to discuss those charges—that were unsubstantiated.

**Senator CHRIS EVANS**—And then I read about them in the *Sydney Morning Herald*, so I feel less constrained now. We were not able to discuss them at estimates, but someone was obviously able to discuss them with the *Sydney Morning Herald* in great depth.

**Lt Gen. Leahy**—There were two issues that some action was taken on. One was an issue of gender harassment. The other one was a broad allegation that involved excessive use of force. Part of the charge was that striking had occurred. That part of the charge was unsubstantiated, but we did confirm that methods of restraint and others which were consistent with our training and our doctrine were used.

**Senator Hill**—Which ones are we talking about?

**Senator CHRIS EVANS**—The 19 allegations made about the treatment of prisoners in East Timor.

**Senator Hill**—But what was the question?

**Senator CHRIS EVANS**—I asked Lieutenant General Leahy whether there had been a recommendation that there be charges laid in relation to any of the matters other than the one we have been discussing today.

**Senator Hill**—A statement was put out, as I recall, setting out the outcome in relation to each of those allegations. As I said, in most instances it was that they could not be substantiated.

**Senator CHRIS EVANS**—That turned out to be true of all of them in the end, didn't it?

**Senator Hill**—No, it did not turn out to be true.

**Lt Gen. Leahy**—I have just mentioned two where there was some substantiation. They did not proceed to disciplinary charges, but action was taken.

**Senator CHRIS EVANS**—What does that mean? I understand that no disciplinary action was taken, but what other action was taken? What did occur?

**Lt Gen. Leahy**—In the case of the use of force, we were obliged to look at the training and doctrine for the detention and tactical questioning of prisoners. We have made some adjustments there to make sure that we reinforce through our training the correct application

of the proper methods. In the other matter, which I have referred to as gender harassment, the officer was issued with a notice to show cause why he should not be censured. So it was proceed on as an administrative matter.

**Senator Hill**—I think we indicated in the public statement which ones were progressed by administrative action. As I recall it, there was only one where there was a recommendation for prosecution in the end.

**Lt Gen. Leahy**—Which is the one that we have been talking about for the last few minutes.

**Senator CHRIS EVANS**—Yes, but as I understand it, in seeking independent legal advice, the prosecuting branch put up a summary of the evidence and I am asking: did they recommend charges in more instances than the ones we have talked about?

**Lt Gen. Leahy**—I am not sure what the investigators said—I do not know the exact details of each one of them—but the experienced prosecutors who were asked to review the investigation determined that the charges were unsubstantiated and that we did not need to proceed.

**Senator CHRIS EVANS**—Unsubstantiated or unable to be proved?

**Lt Gen. Leahy**—The words that I have on all of them, except the two that I have spoken about, are ‘charge unsubstantiated’.

**Senator Hill**—That is what we said in the public statement.

**Senator CHRIS EVANS**—Thanks, Minister. I presume that there was some follow-up. As you said, one was the case of harassment. You said that it was pursued as an admin charge. Perhaps I am misusing the term. What is the best term—admin charge?

**Air Cdre Harvey**—Administrative action, Senator Evans, is about the best term.

**Senator CHRIS EVANS**—What was the outcome of that administrative action?

**Lt Gen. Leahy**—The notice to show cause why the officer should not be censured was issued. The officer replied to that and he was counselled by me, as the DCA at that stage, on his management and performance.

**Senator CHRIS EVANS**—Counselled?

**Lt Gen. Leahy**—Yes.

**Senator CHRIS EVANS**—What does that mean?

**Lt Gen. Leahy**—You write to the officer or you speak to the officer and point out their failings.

**Senator CHRIS EVANS**—So there is no finding, per se—

**Lt Gen. Leahy**—There is no formal finding, no.

**Senator CHRIS EVANS**—Is that something that goes on the record—the counselling?

**Lt Gen. Leahy**—No.

**Senator CHRIS EVANS**—I am just trying to understand the process not that particular instance.

**Lt Gen. Leahy**—There would be a notice on the record. Sometimes it would only stay on there for a specified period of time. In this case I would think by now it would not be on the record, that it has been lifted.

**Senator CHRIS EVANS**—The other allegation which warrants some action in your view was the question of food and sleep deprivation. Is that correct?

**Lt Gen. Leahy**—No, it was more in the method of restraint, not food and sleep deprivation.

**Senator CHRIS EVANS**—This is the zip ties—

**Lt Gen. Leahy**—Yes, that is correct.

**Senator CHRIS EVANS**—I think at one stage though you said that the Army response was that the use of zip ties was consistent with current interrogation methods taught in Australia.

**Lt Gen. Leahy**—That is correct.

**Senator CHRIS EVANS**—So what is the problem with the zip ties then if they were consistent with what is taught?

**Lt Gen. Leahy**—I think it was making sure that we have got the procedures right and the doctrine right and that we get the training correct.

**Senator CHRIS EVANS**—What guidance do we provide in terms of the use of the zip ties?

**Lt Gen. Leahy**—I will have to get that on notice.

**Senator CHRIS EVANS**—Perhaps you could take that on notice for me.

**Lt Gen. Leahy**—Yes.

**Senator CHRIS EVANS**—So what was your concern then? It just seems to me slightly contradictory. At one stage you say it is ‘consistent’ but that we have got to do something to work on the procedures. I do not quite understand what the bottom line is.

**Lt Gen. Leahy**—If I can get the details of that I will provide on notice exactly what we did. I am just aware at this stage that there were adjustments to our procedures and I will follow it through and give you a detailed answer.

**Senator CHRIS EVANS**—It is fair to say that there are now no ongoing actions arising from those 19 allegations?

**Lt Gen. Leahy**—From those 19 allegations, that is correct.

**Senator CHRIS EVANS**—And there has been no disciplinary action taken, other than the counselling on harassment charges, arising from any of those allegations?

**Lt Gen. Leahy**—That is correct.

**Senator CHRIS EVANS**—Are you aware of the allegations to be aired on the *Dateline* program tonight?

**Lt Gen. Leahy**—Yes.

**Senator CHRIS EVANS**—Were you aware of those allegations prior to *Dateline* bringing them to you?

**Lt Gen. Leahy**—Certainly not, Senator.

**Senator CHRIS EVANS**—I take it that that is an answer on behalf of the ADF, that it had no knowledge of those allegations inside the Army or ADF—

**Gen. Cosgrove**—I endorse that. There was no knowledge of them before this.

**Senator CHRIS EVANS**—I was just trying to make sure that I have asked the right question rather than seeking any personal knowledge General Leahy might have had. What response have you made to those allegations being given to you?

**Lt Gen. Leahy**—We first received some notice of this about two weeks ago. The allegations were rather imprecise. They were very sparse. We have been asking SBS to provide more details of those allegations, clearly with a view that, if they were of a nature that required investigation, they would be investigated. SBS have just recently provided us with the more substantial nature of the allegations and, as a result of that, I have directed that an investigation into these new allegations commence. I would stress at this stage that these allegations are now made after nearly four years. They have not been raised through the Serious Crimes Unit in the United Nations; they have not been raised through any other relevant authority; and they were certainly not directed towards the Army in any substantial way until after a series of questions. But I have now seen some of the things that may be said tonight and I am of a view that they require investigation, and I have directed that an investigation commence.

**Senator CHRIS EVANS**—Maybe just for the record I will indicate that I only know the generality of the allegations as well from someone from *Dateline* speaking to me. I have not seen them, but obviously they are very serious allegations. You referred to launching an investigation? Who will conduct that?

**Lt Gen. Leahy**—I have asked today the Chief of the Navy to provide a naval investigative service officer to commence that investigation.

**Senator JOHNSTON**—Mr Chairman, I am not privy to what is happening with SBS or ABC.

**Senator CHRIS EVANS**—As I understand it, on *Dateline* tonight they will air allegations of mistreatment of three prisoners in Timor.

**Senator Hill**—The process is starting again.

**Senator JOHNSTON**—Arising from the incident of 6 October 1999?

**Senator CHRIS EVANS**—No, that is what I want to come to.

**Senator Hill**—I think we are looking at September this time.

**Senator CHRIS EVANS**—That was going to be my next question.

**Senator Hill**—In 3½ years time we might be back here again.

**Senator CHRIS EVANS**—As I understand it they are separate allegations?



**Lt Gen. Leahy**—They appear to be for the period from about 20 September until about 29 September. Allegations that we have investigated previously were from 6 October on.

**Senator Hill**—When you say they are very serious, everything is relative. They are not of the nature of some of the allegations in the other instance.

**Senator CHRIS EVANS**—I have only heard them in general terms but I would have thought they were fairly serious.

**Senator Hill**—They are a bit revolting but they are not suggesting that anyone has been killed, for example.

**Senator CHRIS EVANS**—I think there is one suggestion about a prisoner going missing. I do not want to repeat them; I am just trying to understand what the ADF's knowledge of them is. I do not want to get into the whys and wherefores. I only know in general terms what they are as well.

**Lt Gen. Leahy**—That is part of my concern—that we have only just been told in generalities. SBS have not made available to us substantial information that we can start to work with.

**Senator CHRIS EVANS**—Do you know which units the allegations are made against or which units are involved?

**Lt Gen. Leahy**—No, Senator. That will be part of our investigation.

**Senator CHRIS EVANS**—Are you aware of whether these persons were held in Australian custody at some stage?

**Lt Gen. Leahy**—We have records of three names that accord with names that were held in our custody, yes.

**Senator CHRIS EVANS**—With respect to the naval investigative officer, when will they commence this task and how will they be tasked?

**Lt Gen. Leahy**—They will be tasked via terms of reference. I hope they will commence their work very soon.

**Senator CHRIS EVANS**—What resources will be at their disposal?

**Senator Hill**—They will have the resources that are necessary to do their job.

**Senator CHRIS EVANS**—I was trying to get a sense of that.

**Senator Hill**—They are professional investigators. That is what they are paid to do.

**Senator CHRIS EVANS**—Does that mean it is a task force or one individual? I was just trying to get a sense of—

**Lt Gen. Leahy**—I would prefer not to give you the exact details. As the minister has said, it would be enough to do the job. I think we need to wait and see the substance of the allegations.

**Senator Hill**—Are there any other outstanding allegations involving ADF personnel arising from Timor?

**Lt Gen. Leahy**—No, Senator.

**Senator Hill**—Not yet, anyway. We didn't know of these until a couple of weeks ago.

**Senator CHRIS EVANS**—So the first you knew of these was when the *Dateline* program contacted you?

**Lt Gen. Leahy**—*Dateline* have been speaking to my office for about two weeks. That is certainly the first we had heard of them.

**CHAIR**—I understand, Senator Evans, that you still have some questions on the capital budget with respect to Point Nepean and the Kinnaird review, but Senator Allison can ask her questions first.

**Senator CHRIS EVANS**—I will join in if Senator Allison misses anything but I doubt that she will.

**Senator ALLISON**—My first question is: has the lease for Point Nepean been signed?

**Mr Scrafton**—No.

**Senator ALLISON**—When is it anticipated to be signed?

**Senator Hill**—I extended the date by a month.

**Senator ALLISON**—So 1 December is the anticipated date?

**Senator Hill**—I have allowed an extra month for negotiations to be completed because of the complexity of the issue, and that would expire about then. I am not sure exactly what date.

**Senator ALLISON**—Will the terms of the lease be made public when you agree them?

**Senator Hill**—I would think so.

**Senator ALLISON**—Is it too early to say by whom and how the lease will be overseen and managed?

**Senator Hill**—In detail, yes, it is too early.

**Senator ALLISON**—Will it be your department that takes control of the lease arrangements?

**Senator Hill**—Probably.

**Senator ALLISON**—What are the other options?

**Senator Hill**—There has been some suggestion that because of the nature of the asset, Environment Australia, which has the responsibility for Commonwealth heritage assets, might be a more appropriate supervisory body. But there was nothing in the tender documents to suggest that. That is why when you asked me whether we are likely to maintain the oversight responsibility I said probably, yes.

**Senator ALLISON**—Can you indicate why Defence would be more suitable than Environment and Heritage?

**Senator Hill**—I am not arguing that we are more suitable. We certainly have an interest in aspects of defence heritage in this property, but it is much more complex than that. That is why you could argue that other agencies might also claim an interest.

**Senator ALLISON**—Is there is foreshore development in the lease which is to be signed?

**Senator Hill**—I think you have to go back to the tender documents and the plans that were associated with them—the master plans and so forth. I am not a specialist on that detail. My task, as the delegate, was to make a decision on which was the best tender, and I made a decision as to a preferred tender.

**Senator ALLISON**—Without noticing whether there was foreshore development or not?

**Senator Hill**—The tenders had to be compliant with the master plan.

**Senator ALLISON**—The master plan, as far as we can gather, allows foreshore development.

**Senator Hill**—What do you mean by foreshore development?

**Senator ALLISON**—As I understand it, the foreshore, the beach, the foreshore area is not excised from the leased land. When I last asked you in estimates whether that meant that development might take place on the beach, you said that it did.

**Senator Hill**—I do not think there is any development on the beach, from memory. Are you on top of the detail, Mr Pezzullo?

**Mr Pezzullo**—Since we last had dialogue about this matter in these proceedings, which was in June, the government has made a decision to take a different approach to the divestment, so the tender that went out subsequent to those proceedings was for a leasehold interest. The Commonwealth will remain as the underlying land owner and, therefore, the Commonwealth will be the landlord.

The terms of the request for tender documentation did include a draft lease which was made public—it was put on the web site et cetera. Included in that draft lease was what is known as a use and development framework. That says that the development proposals put forward by the lessee have to be consistent with a whole set of principles, rules and guidelines that are set out in that framework.

**Senator ALLISON**—And those rules and guidelines would preclude development on the beach?

**Mr Pezzullo**—They are not specific as to geographical zones. With the Commonwealth being the underlying landholder, its title will go down to the high-water mark. What it does require, as a condition of the lessee being allowed to develop in certain ways, is managed access to the entire foreshore area. There are some safety issues. Some of the foreshore is cliff base. Other parts of the foreshore are sand type beach. The lessee will be required to put forward concrete proposals that allow for managed public access to that foreshore.

**Senator ALLISON**—That does not preclude development; it just means you can walk around it? Is that the general thrust?

**Mr Pezzullo**—On top of managed public access to the beach, there are a whole series of rules pertaining to permitted uses for the whole site, whether it is near the beach or—

**Senator ALLISON**—Can we have a copy of those rules?

**Mr Pezzullo**—We can certainly make that available. It is in the draft lease that was published by the department at the time of the RFT. It is schedule 7 of the draft lease.

**Senator ALLISON**—So the basis on which the lease will be signed leaves open the question of where development might take place. Let us use an example of a beachside restaurant.

**Mr Pezzullo**—It does not leave open the question of what are known as permissible uses. Those are limited.

**Senator ALLISON**—That is a permissible use, is it not?

**Mr Pezzullo**—Under permissible use (d), tourism, the government has agreed to uses such as museums, restaurants, conference facilities and accommodation.

**Senator ALLISON**—So would the lease acknowledge that there was to be a restaurant on the beach, if there was to be one, or is that something that might be negotiated further down the track?

**Mr Pezzullo**—No. The framework that I have just described sets up a planning approval process, with the Commonwealth acting, in effect, if you like, as the planning authority. That is the significant difference between this conversation and our last one. In this case the underlying title, being held by the Commonwealth, places the Commonwealth in the shoes of being the planning approval authority.

**Senator ALLISON**—Except that the advice that the department has is that the state planning laws prevail—is that not right?

**Senator Hill**—Lots of legal advice.

**Senator ALLISON**—That was your legal advice. Have you had some other advice that disagrees with that?

**Senator Hill**—Yes.

**Senator ALLISON**—What is your position?

**Senator Hill**—You would have to interpret that legal advice to the facts to which it is addressed and then ask yourself whether those facts relate to what is proposed by the Commonwealth in this proposal we are talking about now.

**Senator ALLISON**—So will the Commonwealth come up with some planning regime other than what is expressed in the lease documentation? Will it have an overlay of some sort saying something is suitable in one place but not somewhere else? Presumably you do not have any development or planning laws or regulations that take care of that site at the present time.

**Senator Hill**—Under the terms of the lease, we will be able to ensure that the development is, to our mind, satisfactory.

**Senator ALLISON**—How does the public judge whether what is in your mind is satisfactory to them?

**Senator Hill**—They can look. They can go to the master plan; they can go to this framework that has been talked about. There has been huge involvement of the community in this.

**Senator ALLISON**—Does the lease arrangement preclude absolutely the conversion of any of this land to freehold?

**Senator Hill**—It could not be converted without the agreement of the lessor, and that is us. We are giving a lease. We are keeping the freehold.

**Senator ALLISON**—Can you have sublease arrangements under this lease?

**Senator Hill**—You might be able to. The tender documents refer to a lease, as I recall.

**Senator ALLISON**—How are the sublease arrangements dealt with? There is one lease for a consortium led by a developer, as I understand it.

**Senator Hill**—We are discussing with the preferred tenderer matters of detail at the moment.

**Senator ALLISON**—Which would include sublease arrangements?

**Senator Hill**—I think it is premature to discuss what might be included or excluded.

**Senator ALLISON**—The Victorian state government bid: is there any plan to release that publicly?

**Senator Hill**—In the end they did not make a bid.

**Mr Pezzullo**—We have not publicised the list of who did or did not make bids, other than the announcement by the Australian government on 18 October as to who the preferred tenderer was, and that was a consortium named by the parliament secretary by way of a press release. All the other details about who technically still has a bid before the Commonwealth are commercial-in-confidence.

**Senator Hill**—The Victorian government has never offered to put up any money.

**Senator ALLISON**—Not even in their most recent bid?

**Senator Hogg**—I am just speaking generally. They have never offered to pay anything for the land or a lease.

**Senator ALLISON**—What do you mean generally? Either it is in the bid or it is not in the bid.

**Senator Hill**—Let me finish. Furthermore, they have never put money on the table, even in relation to the conservation of the assets.

**Senator ALLISON**—So the Victorian bid included no offer of money?

**Senator Hill**—I will let it lie with what I have just said—that is, the Victorian government has never offered us money.

**Senator ALLISON**—That is fairly categorical; if they have never offered you money they could not have had an offer in the bid.

**Senator Hill**—You can draw whatever conclusion you like.

**Senator ALLISON**—How do the heritage aspects of the site fit within the Environment Protection and Biodiversity Conservation Act, now that we have the new heritage legislation? Will they be subject to it or does this lease arrangement preclude that?

**Senator Hill**—You cannot contract yourself out of Commonwealth law.

**Senator ALLISON**—So the sites will go onto the Commonwealth list?

**Senator Hill**—Do you mean the heritage register?

**Senator ALLISON**—Yes.

**Senator Hill**—The fact that they may have been leased to a community organisation—I am not sure in relation to the Commonwealth list. Have you looked at the law, Mike?

**Mr Pezzullo**—Senator, the entire 90-hectare site remains a Commonwealth place. With respect to any sites that are currently or prospectively to be listed on either register—we have made a discretionary choice—those conditions will have to be observed by the lessee of the Commonwealth.

**Senator ALLISON**—So is it ready to go on the list or not? What is the process now?

**Mr Pezzullo**—Senator, are you referring to the entire site or to particular heritage values within the site?

**Senator ALLISON**—It is my understanding that the entire site is not currently on the Commonwealth register.

**Mr Pezzullo**—That is right. There is no active proposal to put the entire site as such on—

**Senator ALLISON**—So how is it going to be done?

**Mr Pezzullo**—In the situation where the Commonwealth is both the landlord, in a property management sense, plus it is a Commonwealth place so therefore Commonwealth laws have got direct application and the lease period being proposed or tendered out by the Commonwealth is 40 years with an option of 10, the government is of the view that that affords ample opportunity to put in place greater and greater levels of heritage protection as are required. The lease explicitly requires the lessee—

**Senator ALLISON**—Do you mean before the end of the 50-year lease?

**Mr Pezzullo**—At any point—tomorrow or at any time over the life of the lease.

**Senator ALLISON**—You would want to do it before there was substantial development, would you not?

**Mr Pezzullo**—As part of any development approval, the use and development framework to which I referred earlier states that one of the conditions that the Commonwealth would make judgments about would be whatever level of heritage protection was prevailing at the time. That is inclusive of the Commonwealth making discretionary choices to apply state and municipal levels of protection as well. The tenderers have been well advised of this and have factored it into their bids.

**Senator ALLISON**—So the tenderer has been told that the quarantine station, for instance, will be on the Commonwealth list by the time approvals are provided for whatever it is that is proposed for that building?

**Mr Pezzullo**—Just before I answer that part of your question, the other thing that I should have said in my previous answer is that the Australian Heritage Commission is a member of the evaluation process and is providing advice directly to the Department of Defence as part

of that. To directly answer your question, in all of the due diligence documentation put out as part of the RFT, all of the Commonwealth's information pertaining to heritage information as well as a whole lot of other indices of information have been put before the prospective bidders.

**Senator Hill**—Identifying, conserving and presenting the heritage values is really the driving influence of this project as far as the Commonwealth is concerned.

**Senator ALLISON**—Some would say that it is the money, Minister, that is driving it. Can I ask about the tourist accommodation? There have been a lot of rumours around and a lot of speculation about the size of the tourist accommodation—whether it is 2 stars or some other stars—and its height. Is it possible to indicate what scale the development is that is being proposed? How many rooms are there?

**Senator Hill**—It would have to be compatible with the heritage values of the property.

**Senator ALLISON**—What does that mean?

**Senator Hill**—It means that it is not appropriate for me to detail the bid at this time. What I can do is assure you that we would not be interested in any development proposal that in any way degraded the important heritage values associated with that site.

**Senator ALLISON**—That might just mean painting them the same colour. What does it mean in terms of scale?

**Senator Hill**—As I said, I do not think it is appropriate whilst there is a process of negotiation taking place to talk about what is proposed. All I think it is appropriate to say is that we would ensure that any development was compatible with those heritage values. Preservation of those heritage values is our driving influence in this matter.

**Senator ALLISON**—Can you indicate the heritage protection that will be afforded to the cemetery within the site that is currently an unmarked one apart from a memorial sign close to it? What are the plans under the lease for the protection of that area?

**Senator Hill**—Is the cemetery listed at the moment?

**Senator ALLISON**—There are two cemeteries, one of which is not marked.

**Mr Pezzullo**—I would have to check whether they are listed or not. If they are not listed they will be picked up under the conservation management plan, which the lessee also recognises as being, if you like, a safety net for conservation purposes. The lessee is not required simply to acknowledge and act in accordance with places that are registered in the Register of the National Estate but, in addition to that, with places that are registered in the Victorian heritage inventory as archaeological sites or relics or are registered in the register of the National Trust of Australia, Victoria, and also—as that safety net that I referred to—are picked up in the conservation management plan. That plan was developed sympathetically with the community draft master plan, which is the overarching planning philosophy that applies to this site.

**Senator ALLISON**—The coastal moonah vegetation, the woodland, is threatened, as I understand it, as an ecosystem. What protection will there be on it? Is there a ban in the lease on any clearing of that woodland?

**Senator Hill**—Is there a what?

**Senator ALLISON**—Is there a ban?

**Senator Hill**—I am having trouble hearing in here today.

**Senator ALLISON**—Will the developers be able to clear that coastal moonah woodland or any part of it?

**Senator Hill**—What is the category of protection of the vegetation?

**Mr Pezzullo**—To the extent that that natural vegetation has been identified as having an environmental value in the environment management plan, which is a generic document at the moment, the lease provides for the lessee undertaking no works during the development of the overall development concept that will be the subject of Commonwealth approval. During that approval process, the lessee and the Commonwealth will come to an agreement on the environmental management plan to be applied in detail. Certainly if there is environmental value—and that is something I would have to take on advice in relation to those woodlands—no works that would damage or cause a detriment to those woodlands would be permitted under the environment management plan.

**Senator ALLISON**—So no studies have been done so far about that woodland?

**Mr Pezzullo**—I have a roomful of studies and I am sure in a corner of the room there would probably be a whole book on that woodland.

**Senator ALLISON**—So how is it we do not know whether or not they will be protected at this stage?

**Mr Pezzullo**—I am sorry, Senator, I just have not read every single report done on it. I guess what I am trying to say is that the overarching protections afforded in the lease are of a generic type, and the specific protections will be embedded through the negotiation process and then subsequent to that process with the specific development proposal that is put to the Commonwealth for consideration.

**Senator ALLISON**—Before the negotiation process is there going to be another kind of process that identifies what must be protected?

**Mr Pezzullo**—The negotiation process—if I take you to mean pre signing of the lease—pertains to the legal provisions of the lease.

**Senator ALLISON**—No, as I understood it there is another stage in the approvals process after the signing of the lease.

**Mr Pezzullo**—That is right. I was just trying to distinguish which—

**Senator ALLISON**—I will put the question in another way. What opportunity is there for community involvement in the decision making around what must be protected and what is not? Will you call for submissions?

**Senator Hill**—We are leasing it to the community. That is one of the good things about this proposal.

**Senator ALLISON**—After you have made the decision, Minister.

**Senator Hill**—I beg your pardon?



**Senator ALLISON**—Is this after you have made the decision?

**Senator Hill**—This is a community proposal. This is a good story. You should be cheering about this.

**Senator ALLISON**—Can I come back to that question: what is the process by which that will be decided? You say you have got a roomful of reports. How will you determine what level of protection that woodland receives? Will you just look in the reports or will you invite public submissions about the site?

**Mr Pezzullo**—The use and development framework to which I referred earlier, which cuts in in that second phase that you described after the signature of the lease, does provide for a series of principles that will be observed by the Commonwealth in the making of the decisions about particular development proposals.

**Senator ALLISON**—You keep talking about the Commonwealth, though. I am asking you what involvement there is from conservation groups, Indigenous groups, the parliament and local residents. What is the process by which they can be involved in the decision as to whether clearing, say, of any part of this moonah woodland would be permitted?

**Senator Hill**—Indigenous groups were part of the consortium.

**Senator ALLISON**—An Indigenous group was, Minister. There may be others who have got a view on this.

**Mr Pezzullo**—I can only answer in the terms of the publicly available draft lease that was put out as part of the RFT and approved by the government. The use and development framework contemplates the legal entity of the Commonwealth being the decision maker in respect of particular developments. However, it does—

**Senator ALLISON**—So there was no public process, in other words?

**Mr Pezzullo**—I was just going to say, if I can finish, that the Commonwealth may only approve such proposed developments if it is associated with an approved use and ‘is of benefit to the community’. The Commonwealth, as the legal entity, is ultimately run by government who in turn are answerable through democratic forms. Beyond that, I cannot answer about specific means by which the general community is involved in this process.

**Senator ALLISON**—So, if it is of benefit to the community, somebody might argue that clearing all that coastal moonah woodland is of benefit. Sorry to press it, but I am not getting straight answers.

**Senator Hill**—You are not going to clear all that coastal land!

**Senator ALLISON**—If the criteria is that it must benefit the community, who decides on behalf of the community if you do not have process whereby the community can express a view, whatever ‘the community’ is?

**Mr Pezzullo**—The only way I can answer that is by saying that the draft lease sets up a process whereby the Australian government makes those decisions as the landlord, and I guess is held to account through the various democratic forms that are available.

**Senator ALLISON**—Minister, can I ask you whether you would consider a process by which this vulnerable, threatened, coastal moonah woodland will be protected? Would you at

least set up a process whereby there would be something other than simply the government making a decision on whether it has to be protected or not?

**Senator Hill**—All I would want to say at the moment is that any threatened coastal woodland would be as important to us as it, hopefully, is to you.

**Senator ALLISON**—You do not know how important it is to me, nor do you know how important it is to others—how do you find out?

**Senator Hill**—I know how important it is to me.

**Senator ALLISON**—I do not know how important it is to you, so, you know—we are all in the dark here, Minister, without a process.

**Senator Hill**—We are very interested in conserving the heritage values of this property.

**Senator ALLISON**—These are environmental values; it may not be heritage at all.

**Senator Hill**—We are interested in finding a way in which that can be done—how it can be funded, how we can get sufficient community involvement and how we can present these assets to the wider community—and we think we have got the chance of getting a good outcome towards those goals from this bid.

**Senator ALLISON**—So, once the bid is accepted and the lease is signed, will there be a public meeting of some sort where you can start to explore this community attitude?

**Senator Hill**—We would like a lot of public involvement in this property.

**Senator ALLISON**—How will you go about it?

**Senator Hill**—I suggest you start by talking to the community groups who are the bidders. They are the community.

**Senator ALLISON**—Are they?

**Senator Hill**—They are in it because they wanted community ownership of this asset. They are not going to exclude you.

**Senator ALLISON**—Okay, but there is no process?

**Senator Hill**—I do not know of a detailed process that has been foreshadowed at this stage.

**Mr Pezzullo**—The framework that I have referred to contemplates the government making a decision. It sets certain time periods in which those decisions are taken and certain time periods whereby the lessee has got to submit its documentation. So it sets out a process in that sense, but it does contemplate that the relationship—and I think this is what you are getting at—is one between the landlord and the tenant.

**Senator ALLISON**—I am just wondering where the public role in all of this is. You are saying that the community is the bidder, the bidder is the community—it is the same thing—so we will deal with them and we have taken on board the community.

**Mr Pezzullo**—I can only repeat what the minister said. The bidder is a community based consortium, as described by the parliamentary secretary. The landlord is, in a sense, the

government of Australia, which is accountable through democratic forms. I really do not know how to better to answer your question, I am sorry.

**Senator ALLISON**—Is there a formal role for the Victorian state government?

**Mr Pezzullo**—There is a contemplation in the draft lease that all laws that the landlord concedes as having applicability—all laws, be they Commonwealth, state or municipal—are to be complied with, and that is known to all the bidders with eyes open.

**Senator ALLISON**—Have you had discussions with the Victorian state government about what their state laws are with regard to the site?

**Mr Pezzullo**—No, Senator.

**Senator ALLISON**—Would you expect them to be developing planning laws for the site?

**Mr Pezzullo**—I think Mr Scrafton has some comments on that.

**Mr Scrafton**—We expect they probably have. To go back to your question before as to whether they would announce their plans, they have already done that and, prior to the lease closing, they released their concept plan, which is publicly available. The question of state planning laws across the board in the way in which we do our business is that it is a great plus for us in most places, and we assume that will happen and work with state governments for that to happen. In the case of Victoria, while our advice was that, in a theoretical sense, it applied, the Victorian government's own advice was that it did not apply planning laws. However, we always operate on the basis of being a good neighbour in these sorts of activities by including in our sale or lease documentation a provision that, if the decision is made to comply with state planning laws, whoever is successful in the tender has to do that as a condition of the sale or lease. So, irrespective of how it works out for the state government on a discussion basis, those conditions are already contained in the lease documentation.

**Senator ALLISON**—So there have been no recent meetings with the Victorian state government?

**Mr Scrafton**—No.

**Senator ALLISON**—When do you propose to start mending relations over this issue?

**Senator Hill**—We would much prefer to be working with the Victorian government on this project.

**Senator ALLISON**—But their refusal to give any money to the Commonwealth, to offer a bid money wise, has precluded that good relationship?

**Senator Hill**—Partly, and partly because they were never prepared to put money on the table to guarantee that they would conserve the assets. They talked about doing it, but when you look at the Victorian government's state record in relation to other assets, as you should know, it is not always good. State governments are having a lot of trouble in conserving important heritage assets all around the country, and that is why we are interested in part of the solution being an income stream that could achieve that goal.

**Senator ALLISON**—So what budget will there be for preserving heritage assets at Point Nepean?

**Senator Hill**—I cannot go into the detail at the moment, but the preferred tender included an income stream for conservation of the assets.

**Senator ALLISON**—Does that mean all of the conservation will be funded by the lease arrangements, that the Commonwealth will not fund any of it?

**Senator Hill**—The Commonwealth is actually spending money at the moment on conservation of the assets.

**Senator ALLISON**—Yes, but post lease the Commonwealth will have no further financial obligations.

**Senator Hill**—I would not anticipate an obligation on the lessor in the lease to pay for conservation, but this Commonwealth government spends a lot of money every year in contributions towards conservation and heritage assets.

**Senator ALLISON**—Will you announce at the time of the lease the arrangements with regard to the Commonwealth's contribution?

**Senator Hill**—We would certainly announce the arrangements in relation to the preservation of these values which we think are important.

**Senator ALLISON**—Does the lease propose to have, other than for emergency services, a helicopter landing and take-off site?

**Senator Hill**—I do not know. That would have to be part of this negotiation, provided it is compatible with the community plan.

**Mr Pezzullo**—A permissible use under that framework that I mentioned earlier does include a reference to rescue services. The precise scale and nature of those rescue services, as with all those other developments we have been talking about, would be the subject of a detailed development application that would come to the Commonwealth.

**Senator ALLISON**—But you can assure us that it is not a commercial heliport?

**Mr Pezzullo**—I can assure you that the only thing that the Commonwealth will permit on the site are those things that are listed as permissible uses.

**Senator ALLISON**—And a commercial heliport is not one of those?

**Mr Pezzullo**—No.

**Senator ALLISON**—Yes, it is not one of those?

**Mr Pezzullo**—A commercial heliport, did you say?

**Senator ALLISON**—Or airport.

**Mr Pezzullo**—They are not listed as permissible uses.

**Senator ALLISON**—Which means they are not permitted?

**Mr Pezzullo**—They would not be permitted.

**Senator CHRIS EVANS**—How many bids did you receive for the lease for Point Nepean?

**Mr Pezzullo**—The government has not announced that information.

**Senator CHRIS EVANS**—That is why I asked so that you could announce it now.

**Mr Pezzullo**—Thank you, Senator, for giving me the opportunity. The tender is still a live one; there is not a concluded tender. There is a preferred tenderer and negotiations are on foot.

**Senator CHRIS EVANS**—I am aware of that. I have followed the DIDS debate for years now. But that does not alter the question. It does not seem to be commercial-in-confidence to ask how many tenders were received. I am not asking for the names or the details or the price; I am just asking for the number.

**Mr Pezzullo**—Sorry, Senator, unless the parliamentary secretary has done some media on this and has mentioned it and I missed it in a transcript, that is something that the government has not yet announced so I do not feel competent to blurt the number out.

**Senator CHRIS EVANS**—I am formally asking the minister and the department: how many tenders were received?

**Senator Hill**—We would announce that at the conclusion of the process.

**Senator CHRIS EVANS**—Why is that, Minister?

**Senator Hill**—It seems to me to be the appropriate time to do so.

**Senator CHRIS EVANS**—You have chosen the preferred tenderer so you have gone through some sort of selection process.

**Senator Hill**—But if the preferred tenderer fails—which we hope will not be the case—

**Senator CHRIS EVANS**—Then you will go to one of the other tenderers.

**Senator Hill**—We would have to make another selection and I do not think we would want to be disclosing how many bids we are selecting from.

**Senator CHRIS EVANS**—Why not?

**Senator Hill**—It might influence the strength of the arm of the proposed lessee in the negotiations. That is one reason.

**Senator CHRIS EVANS**—Are you refusing to make available the number of tenderers who tendered under this process?

**Senator Hill**—I do not think it is appropriate during the process. If it is a matter of great importance to you, I will take it on notice and give it more considered attention.

**Senator CHRIS EVANS**—I realise how valuable such an offer is, Minister, but I just do not understand what the defence against private information is. You are not claiming commercial-in-confidence.

**Senator Hill**—There is a distinction between how many bids are received and how many may be compliant bids. I just think that going into the detail of how many bids and the types of bids and all that sort of thing during a tender process is not appropriate.

**Senator CHRIS EVANS**—Let us come at it another way. Who made the decision to select the preferred tenderer?

**Senator Hill**—I made that decision.

**Senator CHRIS EVANS**—So it was by you, Minister, not by the parliamentary secretary?

**Senator Hill**—By me, myself.

**Senator CHRIS EVANS**—What happened to the role of the tender evaluation committee and the assessment panel?

**Senator Hill**—It provided advice to me. It went through its processes and provided very helpful advice to me.

**Senator CHRIS EVANS**—Are they two bodies or one, the tender evaluation committee and the assessment panel?

**Senator Hill**—It is really the one—

**Mr Pezzullo**—It is the one body.

**Senator CHRIS EVANS**—Who were the members of that body? How was it composed?

**Mr Pezzullo**—The board, or the panel, was proposed in a standard document known as a tender evaluation plan. In the normal course, a tender evaluation plan is signed off by the delegate who is going to make the decision. In this case, because the minister was the delegate for the decision, he approved the tender evaluation plan. An integral element of the tender evaluation plan is obviously how the tender will be evaluated and how the body that is going to write the evaluation will be constituted, who is going to be on it and the length of time they have to undertake those proceedings et cetera. All of that information is contained in a document known as a tender evaluation plan.

**Senator CHRIS EVANS**—Yes, but what is the answer to the question?

**Mr Scrafton**—Effectively, it was officers in my division plus outside independent people plus a probity auditor to ensure fair process.

**Senator HOGG**—How many people is that? How many people take part in the evaluation process?

**Mr Pezzullo**—From memory, there are about five people on the evaluation committee, or board. It is chaired by a director within my branch and, as Mr Scrafton has just indicated, supported by an officer from other agencies—I made reference to the Heritage Commission earlier—and by a property adviser and a legal adviser. I may be wrong in that there may have been two, from memory. There is also a probity adviser who does not take part in the evaluation but observes the proceedings.

**Senator CHRIS EVANS**—Who is that?

**Mr Pezzullo**—A commercial lawyer.

**Senator CHRIS EVANS**—Retained purely for that purpose?

**Mr Pezzullo**—Retained for that purpose on this property—in other words, not retained for that purpose generically.

**Senator CHRIS EVANS**—Did that evaluation committee recommend the successful tenderer?

**Mr Pezzullo**—The advice provided to government in these matters is always confidential. Unless the minister wishes to add anything, I would not propose to address that in any detail at all.

**Senator CHRIS EVANS**—How often would this body have met?

**Mr Pezzullo**—From memory, as the person who most directly had oversight of the process, they had one substantive session that ran into something like two days. They had some plenary meetings, I presume, to get themselves organised and then they had a subsequent process just to proof and edit their report. But the meat of their deliberations was conducted over a one- or two-day period.

**Senator CHRIS EVANS**—So that I am clear on this, apart from the probity adviser, was there anybody else from outside the department?

**Mr Pezzullo**—There was an officer from the Australian Heritage Commission, a property adviser who is not a public servant but a contracted specialist and one or two lawyers—you will have to forgive me; I have forgotten the numbers—in addition to the probity adviser, who is actually outside of the process. She observes—

**Senator CHRIS EVANS**—Were the lawyers Defence lawyers?

**Mr Scrafton**—No, contractors.

**Mr Pezzullo**—No, contracted commercial lawyers.

**Mr Scrafton**—I might add that that is standard practice for the way in which we run these sorts of things with external probity advisers and advisers from outside the department.

**Senator CHRIS EVANS**—That is standard practice for when you are dealing with a tender for lease?

**Mr Scrafton**—In any of our processes.

**Mr Pezzullo**—In any sale or leasehold.

**Senator CHRIS EVANS**—Who had access to the tenders before the announcement of the successful tenderer?

**Mr Scrafton**—We have not announced the successful tenderer.

**Senator CHRIS EVANS**—Who had access to the tenders before the preferred tenderer was selected?

**Mr Pezzullo**—Access to the tender documentation from each of the bidders was limited to the members of the board, senior managers in their line of management—

**Senator CHRIS EVANS**—Members of which board?

**Mr Pezzullo**—The tender evaluation board.

**Senator CHRIS EVANS**—I just want to make sure we are talking about the same thing.

**Mr Pezzullo**—We keep using the term interchangeably; that is my fault. The people who had access were the senior managers, starting off with an assistant secretary at my level and going, theoretically, all the way up to the secretary—although it did not go as high as that, but it would have been quite proper along that line for those officers to have access to the documentation—and then the minister and those with whom he chose to consult.

**Senator CHRIS EVANS**—Did the parliamentary secretary have access?

**Mr Pezzullo**—She was in the advisory chain but not as a decision maker.

**Senator CHRIS EVANS**—Did the member for Flinders have access?

**Mr Pezzullo**—Not that I am aware of, no. He is not a member of the department. He is not a member of the executive government.

**Senator CHRIS EVANS**—What was the basis for the preferred tenderer? What was the consideration?

**Mr Pezzullo**—I would have to refer you to the minister as the decision maker, I guess.

**Senator CHRIS EVANS**—Minister, what was the basis of the decision? Was it based on price, the quality of the bid or what?

**Senator Hill**—I took into account the advice obviously of the assessment body. I particularly noted the community aspect of the bid—I believed the sense of community ownership would be a particular asset in relation to this property. There were educational aspects of the bid that I was impressed with also. The assured income flow to conserve the heritage assets impressed me. A number of qualities I thought stood out.

**Senator CHRIS EVANS**—Minister, did you take the decision to abandon the sale process as well? Was that your decision?

**Senator Hill**—It was a whole-of-government decision. We will take a shared responsibility on that one.

**Senator CHRIS EVANS**—You seem quite selective on occasions—which is a whole-of-government decision and which is yours, Minister. I am always intrigued when it is a whole-of-government decision. Does that mean it was a cabinet decision?

**Senator Hill**—No, it was not.

**Senator CHRIS EVANS**—So it was not a decision by you, it was not a decision by cabinet—who was it a decision by?

**Senator Hill**—What is the technical answer to that, Mr Pezzullo?

**Mr Pezzullo**—The technical answer to that, Minister, is that advice was provided to the department by the parliamentary secretary to hold proceedings on the expression of interest process that we talked about at length in June. She provided guidance to the department that the government would further deliberate on the matter and she would get back to the department as to the next steps. At some point after that guidance came through and a leasehold process was then ramped up.

**Senator CHRIS EVANS**—I am not sure that quite answers the question.

**Senator Hill**—She reflected a whole-of-government position.

**Senator CHRIS EVANS**—Sounds like someone in the Prime Minister's office, usually, when it gets to this sort of level! Formally, someone must have halted the process. I assume you might be up for some compensation costs.

**Mr Pezzullo**—In a formal sense, Mr Scrafton or I—and I cannot remember which of us—would have instructed the lawyers to first of all suspend the freehold expression of interest process. You might remember from our deliberations last time that this was a two-stage process—an EOI to be followed by a request for tender. With the EOI having been closed and with documentation before the government, the department was directed to suspend that



process pending some reflections that the minister has just referred to. Those reflections took a period of time—I cannot quite remember how long; I would have to check my notes. At some point after that but obviously before the announcement about leasehold, which was done on 25 August, the parliamentary secretary confirmed the earlier guidance, and we obviously then shut down the freehold process—having suspended it for a period of time.

**Senator CHRIS EVANS**—Have you been approached by anyone for compensation for the cost of their bids in that process?

**Mr Pezzullo**—No.

**Senator CHRIS EVANS**—Were there any consultations outside of the government processes before that decision to shut down the sale process and adopt the lease process?

**Mr Pezzullo**—When you say consultations, consultations by whom?

**Senator CHRIS EVANS**—I would if I knew who had made the decision, because it seems like it is a whole-of-government process. I was hoping to ask that question after having received the answer to the last one but, given the contorted response to the earlier question, I am having difficulty identifying who would have been consulting. I think the whole of government is the answer. Did anyone in the whole of government consult with anybody outside the whole of government about this process, Mr Pezzullo?

**Mr Scrafton**—Can I answer that question?

**Senator CHRIS EVANS**—I would be happy if you did, yes.

**Mr Scrafton**—As public servants what we got was a direction from the Parliamentary Secretary to the Minister for Defence, who is delegated as my direct boss at Parliament House, to halt the process. We were then told that the process had to change from freehold to leasehold, and we acted on that. The department consulted with nobody outside the department in relation to that process, except legal advisers with regard to what that actually meant for us in terms of risk obligation and whether we could do it in relation to the previous process. Who the government may or may not have consulted with is not visible to us and is not of concern to us.

**Senator CHRIS EVANS**—What was the advice about the risks associated with changing the process?

**Mr Scrafton**—That we could do it. Provisions were in the previous documentation to allow government to halt the process and change it, and we were not at great risk at all in that process.

**Senator CHRIS EVANS**—Effectively, then, the answer to the earlier question is that the authority lay with the parliamentary secretary.

**Mr Scrafton**—The parliamentary secretary conveyed the government's decision to me.

**Senator CHRIS EVANS**—But effectively they had the delegation to handle the matter. Is that a fair statement?

**Mr Scrafton**—Yes.

**Senator CHRIS EVANS**—But since that time the minister has taken over responsibility for the lease arrangements. Is that also fair?

**Mr Pezzullo**—As we said in June, the minister was also the decision maker at that point for the freehold process.

**Senator CHRIS EVANS**—I think Senator Allison introduced this. The original time period for negotiations with the preferred bidder has been extended. Is that a fair description of what has occurred?

**Mr Pezzullo**—That is correct.

**Senator CHRIS EVANS**—And negotiations are only occurring with the preferred bidder; there are not parallel negotiations?

**Mr Pezzullo**—They are single negotiations with the preferred tenderer.

**Senator CHRIS EVANS**—Did any part of your assessment process deal with the issues about who supported particular bids? Senator Allison referred to the fact that a number of bids have claims associated with them about which groups support them et cetera. Is that part of the evaluation process?

**Mr Pezzullo**—It is not part of the evaluation process in the strict sense that it is critical to understand who lies behind each bid. Bids tend to identify principal and in some cases secondary or supporting partners. The key concern of the Public Service evaluators and their technical adviser is who the principals behind the bid are, what financial standing they have and whether they have the capacity to close the deal.

**Senator CHRIS EVANS**—So as part of that you would have done research on, or an assessment of, FKP Ltd?

**Mr Pezzullo**—Yes.

**Senator CHRIS EVANS**—What sorts of inquiries or investigations would you have undertaken?

**Mr Pezzullo**—Inquiries sufficient to give assurance that they could meet the evaluation criteria in the terms that they had self-described.

**Mr Scrafton**—The tender evaluation board called in the representatives of a number of the bidders and asked them questions that arose from the documentation they had provided so that they could satisfy themselves as to any gaps or anything that needed to be clarified.

**Senator CHRIS EVANS**—But I understand, for instance, that there is an allegation that one of these companies has been fined for illegal tree-felling. Is that the sort of thing that would show up in your search on the corporate or financial history of a company?

**Mr Pezzullo**—It is not the sort of thing that would show up on the checks we would have done. You are looking more at the standing of the company in a general sense and its capacity to comply with the obligations that it is committing itself to.

**Senator CHRIS EVANS**—So you were not aware of this fine for illegal tree-felling?

**Mr Pezzullo**—No, I was not.

**Senator CHRIS EVANS**—Have you since become aware of it?

**Mr Pezzullo**—I certainly have.

**Senator CHRIS EVANS**—Since becoming aware of it, has the department sought further information or clarified the situation?

**Mr Pezzullo**—During the course of the discussions with the consortium, and obviously the company that you have named has been declared as being part of the preferred tenderer, the issue has been raised as part of general discussions that we have had with them about their commitment to environmental and conservation issues.

**Senator ALLISON**—What about heritage issues—what sort of expertise do they have in heritage protection?

**Mr Pezzullo**—It is going to be a little bit difficult to answer the detail of their specific capacity. They have been named by the Australian government as being the preferred tenderer but we do have a negotiation on foot with them. I will confine myself to what the parliamentary secretary has said and what the minister also implied earlier, and that is that the consortium that has come together to mount this bid has, across the balance of that entity, strong credentials in the eyes of the government in respect of things like conservation, heritage protection and community based values as well as others.

**Senator ALLISON**—Which of the organisations in the consortia has heritage expertise?

**Mr Pezzullo**—The Point Nepean community group was named by the parliamentary secretary as being one half of the preferred tendering entity on 18 October in a press release. She named the various groups that make up the principals. As I recall it, one of them is a museum. As the minister said earlier, another one is an Indigenous elders group in that local area. In terms of segmenting particular strengths against particular evaluation criteria points, I do not think it would be appropriate, given the tender has not yet closed and we are in a negotiation process, to go to a level of detail beyond what the parliamentary secretary has said at a very general level about the merit of the bid.

**Senator ALLISON**—You were suggesting to Senator Evans that you have done that kind of check on the proponents, if you like, as opposed to the proposal itself.

**Mr Pezzullo**—I was speaking generically about the work of the tender evaluation committee in looking at all of the bids against the evaluation criteria that are agreed as part of the tender evaluation plan that I described earlier. There is nothing particular about any subentity within any of the bidding parties—they are all looked at, otherwise you cannot do a comprehensive evaluation across all of the bids matched against all of the criteria.

**Senator ALLISON**—Were you surprised that the National Trust was not part of the endorsement group, if you like?

**Mr Pezzullo**—I would not care to comment on that. The bid is, if you like, self-forming. It is a group of organisations who have come together. I am not competent to sit here and say, 'Maybe that group should have been on it, or that group should have been on it,' or 'Gee, I was surprised that one wasn't on it.'

**Senator ALLISON**—In fact, there were 400 community groups around Victoria who said the land should be handed over to public ownership.

**Mr Pezzullo**—I have no doubt that that is accurate but, I am sorry, I do not understand what I am being asked.

**Senator Hill**—I think more community groups will become involved in the conservation of the asset other than just those that were in the bid. I am sure that those that were in the bid will be inclusive. It will be a question as to whether other groups want to participate in the future conservation and care of the property.

**Senator ALLISON**—It probably depends on the amount of development, Minister, that your process permits.

**Senator Hill**—I can understand for some that would be a factor, but I hope that when they look at what is proposed they will think that it is reasonable and sensible.

**CHAIR**—Senator Evans, I understand you have some questions on the Kinnaird review and the capital budget.

**Senator CHRIS EVANS**—Yes, I have some questions on the Kinnaird review. As a starting point, what in the Kinnaird review has the government actually endorsed? I read the press release quite carefully, but the only thing that seemed to me to be clear was that the headhunt for a new chief executive would commence. I just want to be clear in my own mind what the government has endorsed. Has the government endorsed in detail all or only some of the recommendations of the Kinnaird review?

**Senator Hill**—It was most of the recommendations. I thought the press release was quite explicit and, if I might say, well drafted.

**Senator CHRIS EVANS**—You are entitled to your opinion, Minister; I just wanted to clarify it with you.

**Senator Hill**—Which recommendation in particular is unclear?

**Senator CHRIS EVANS**—I noticed the statement:

The key government decisions are attached. They broadly follow the review team's recommendations.

I just want to be clear in my own mind—and those recommendations seem to go then to the advisory board and the new CEO.

**Senator Hill**—We did not follow every detail, but we did accept the direction of the recommendations. Basically, the statement we released set out what we would now do in furtherance of the Kinnaird recommendations. We have not adopted all of Kinnaird's language, but the statement is about what we are doing.

**Senator CHRIS EVANS**—Perhaps I will go to the particulars. The management search for a new CEO has commenced, and I think I saw a release to that effect the other day.

**Mr Smith**—Correct.

**Senator CHRIS EVANS**—And that has been given to a private HR firm I gather?

**Mr Smith**—That is correct.

**Senator CHRIS EVANS**—What is the time frame for that, Mr Smith?

**Mr Smith**—Applications will close on 19 November. That is an extended time frame because the advertisement was extended overseas. We hope to have a report from the headhunter early in December.

**Senator CHRIS EVANS**—Have you drafted a duty statement for this position?

**Mr Smith**—We have set out the selection criteria for the position and the duties, yes.

**Senator CHRIS EVANS**—And are they publicly available?

**Mr Smith**—I believe they are in the pack that is available to applicants.

**Senator CHRIS EVANS**—Could you make that available to the committee please?

**Mr Smith**—I think we can.

**Senator CHRIS EVANS**—I did not think I should ring up and pretend to be applying for the job, although I hear the money is good!

**Mr Smith**—They will report to us in early December, but that is not to say that we will be able to make a decision immediately. I imagine they will have a range of applicants for us to look at.

**Senator CHRIS EVANS**—What is the process inside the department from there?

**Mr Smith**—There will be a selection committee. The composition of it is not yet finally determined, but it is a position under the Public Service Act and the selection committee will include the Chief of the Defence Force and me, amongst others.

**Senator CHRIS EVANS**—And when do you envisage being able to make a decision?

**Mr Smith**—It really depends on how clearly the applicants stand out. If there is an outstanding applicant, we might do it fairly quickly; if we have to make a difficult choice between two or three or more, it will take longer. In an ideal world, I would hope we could do it before Christmas.

**Senator CHRIS EVANS**—Has the salary package for the position been determined?

**Mr Smith**—Not finally, no, but I can say that it is not, as discussed in the press, \$1 million.

**Senator CHRIS EVANS**—What is the process for determining that? Does that go to the Remuneration Tribunal?

**Mr Smith**—It is not a Remuneration Tribunal issue, because, as a prescribed agency, it is not within the purview of the Remuneration Tribunal, but we take some guidance from the Remuneration Tribunal. We will see what the equivalent positions are. It will also have to do with the qualifications and skills of the applicant and what they are earning now and so on.

**Senator CHRIS EVANS**—Who will make that determination as to the package?

**Mr Smith**—I will, technically, but I will consult with government about it.

**Senator CHRIS EVANS**—What are the restrictions, therefore, on you in making that decision?

**Mr Smith**—I would want to have a salary which has some relativity with the very most senior Public Service positions but which also takes into account the qualifications, skills,

experience and so on of the applicant. I would want to build into it, you will understand, a substantial at-risk or performance component.

**Senator CHRIS EVANS**—I do not mean this to be personally directed in any way but do you feel constrained to make the salary package lower than the secretary of the department or the Chief of the Defence Force?

**Mr Smith**—No, I do not. I could contemplate paying more than that if the government were comfortable with it.

**Senator CHRIS EVANS**—It just seems to me that it raises those issues about the chain of command and the normal Public Service—

**Mr Smith**—It does, but we are in a market here and we have to get the best person we can find for the job within affordable figures. If that means we pay them a bit more than me or General Cosgrove—

**CHAIR**—In the same way as you are paid more than the minister, Mr Smith.

**Gen. Cosgrove**—Mr Chairman, you took the words out of my mouth.

**Senator Hill**—I am quite sure that the new DMR will be paid considerably more than the minister.

**CHAIR**—I was referring to your secretary, Minister.

**Senator CHRIS EVANS**—Let us put ministers to one side; that has always been a different issue. I take the point but in terms of this Public Service career structure normal arrangement of things, this sort of approach throws up a few different issues, doesn't it?

**Senator Hill**—This is not an uncommon challenge these days. It may not be common yet but quite often we are faced with this sort of challenge.

**Senator CHRIS EVANS**—At the end of the day, Mr Smith, it is your decision as to the package.

**Mr Smith**—That is correct. The present intention is that the applicant should be on a workplace agreement with me—an AWA included with me.

**Senator CHRIS EVANS**—Is it your intention to make a large factor of that performance related?

**Mr Smith**—Yes.

**Senator HOGG**—With respect to that: it is performance related in respect of what? What sort of criteria—

**Mr Smith**—I would imagine that in the first six months, probably the first year, the performance would be related very much to implementing Kinnaird and effecting the kind of culture change and business process improvements that Kinnaird was very much about. In the following years there would be an increasing component of project delivery and so on.

**Senator HOGG**—I understand that, but benchmarking from when? This was an issue that was raised in the inquiry conducted by the Senate reference committee, trying to get some idea, some feel, as to where DMO was coming from in its inception as the DMO and where it

might be going. It seems to me that, if you are going to be evaluating someone's performance in this area, it would be handy if we could be made aware of the benchmarks and the criteria.

**Mr Smith**—I think that is a sound proposition. I would be guided by two things. Firstly, the contents of the Kinnaird report, as you will know, is fairly clear about what we want to achieve there. Secondly, I would be guided also by the advisory board which will comprise several private sector representatives as well as a couple of public servants and therefore people who are experienced in setting those kind of benchmarks.

**Senator CHRIS EVANS**—When will that eight-member advisory board be established?

**Mr Smith**—That is under consideration now by Senator Hill and Senator Minchin.

**Senator CHRIS EVANS**—Is there no time frame agreed?

**Mr Smith**—No.

**Senator Hill**—Again, in the near future.

**Senator CHRIS EVANS**—Will the advisory board report to both the Minister for Defence and the Minister for Finance and Administration?

**Mr Smith**—That is correct. The Minister Assisting the Minister for Defence also has an important role here as he has been given the task by the Prime Minister of helping to implement the Kinnaird decisions.

**Senator CHRIS EVANS**—Have those administrative arrangements been published yet?

**Mr Smith**—I do not think that they have been published. I have not seen them.

**Senator CHRIS EVANS**—I have not been able to find them on your web site. Apart from the Prime Minister's press release, the role of the assistant defence minister seems to be yet undefined.

**Senator Hill**—If they have not been published they will be shortly because the Prime Minister has now settled the detail of the functions and responsibilities of the minister.

**Senator CHRIS EVANS**—So they will be publicly available shortly as well, will they?

**Senator Hill**—Yes.

**Senator CHRIS EVANS**—I will look forward to that. What is involved in achieving the establishment of the DMO as a prescribed agency under the Financial Management and Accountability Act and what is the time frame?

**Mr Smith**—What is involved is a very big question. If it were a business enterprise, this would be a major demerger. We are talking about a business with a \$16 billion cash budget and a \$49 billion asset register and we have to divide that cash budget and the asset register between the prescribed agency, DMO and the Department of Defence. Of course, we will get professional advice and help in dividing the accounts, establishing separate company codes and so on. I am reluctant to put a time on it because I will need that advice from the major accounting companies.

**Senator CHRIS EVANS**—Is it fair to say that it will not happen overnight though?

**Mr Smith**—It will not happen overnight. I believe that we can have a new look DMO with a new CEO in it and begin getting through the recommendations of Kinnaird, changing the culture and so on quite early in the new year, but as to when we can finally say these are two separate sets of accounts and the Auditor-General is satisfied with the split that has been made, I am reluctant to put a time on that. It is a very big task.

**Senator CHRIS EVANS**—Is it possible that it will not have occurred before the next financial year?

**Mr Smith**—That is possible. We believe that we can probably produce separate portfolio budget statements or a clearly identifiable DMO component of that at the end of the financial year.

**Senator CHRIS EVANS**—Just when I think I am starting to get a handle on you, Mr Smith, you have another perfect excuse for devolving—

**Mr Smith**—It is a very big job. I talked to Malcolm Kinnaird about it again yesterday. He has been very helpful in this. The point he made is that if this were a business enterprise, it is a very big venture we have launched upon. It will be a lot of work but it is worth doing. Once you have got DMO's income and resources separated from the Department of Defence you have got a quite different basis for conducting the operation into the future.

**Senator CHRIS EVANS**—So the appointment of the CEO will proceed separate from the split of the department per se?

**Mr Smith**—I believe so, yes. Of course, the sooner we can do that the better, but I do not expect that whoever we decide to employ is currently unemployed, so we want to make a decision and then give them time to get out of whatever they are doing and come over to us.

**Senator CHRIS EVANS**—What about the new capability group with Defence Headquarters—what is the proposal and time frame there?

**Mr Smith**—CDF and I have worked out a scheme of reorganisation for that. Subject to the minister agreeing some aspects of it, I would hope to do that from early in the new year.

**Senator CHRIS EVANS**—That will effectively take a role from the deputy CDF and create a new position. Will that be advertised as well?

**Mr Smith**—We could appoint the head of that group from within our existing ADF members or civilian staff, or we could advertise it. We have not finally resolved that. As you know, Mr Kinnaird recommended that it be either an ADF 3 star or a civilian band 3 deputy secretary equivalent, and that is a decision we are in the course of making. That group—the new capability development group, I think we will be calling it—will be made up of elements that now work for the VCDF, the Vice Chief, and for the Deputy Secretary, Strategic Policy, and possibly some formerly with CFO.

**Senator CHRIS EVANS**—Will the capability group arrangements be announced when they are approved by government?

**Mr Smith**—I am happy for that to be; I would imagine so, yes.

**Senator CHRIS EVANS**—The strengthening of the current two-pass approval system: what is involved with making those changes and what is the time frame for them?



**Mr Smith**—We will put those changes into place just as soon as they are agreed with the cabinet office. We have done a paper on it, which I will put to the secretaries of Prime Minister and Cabinet, Finance and Treasury probably in the next week or so, get their agreement to it, get the cabinet office agreement and implement it. There is one issue there, you will understand, about some projects that are part-way through the system. We have to make a judgment about whether they are in one pass or past it or not. Transition arrangements have to be agreed to.

**Senator CHRIS EVANS**—The establishment of these cost centres in Defence and the Department of Finance and Administration: what does that actually mean in practice for Defence's accounting?

**Mr Smith**—That goes to the issue of estimating the costs of capabilities and acquisitions, which you know we have had problems with—indeed, defence ministries around the world notoriously have problems with that. We can tell you the cost of something when we get tenders in, but in order to do our planning properly we have to be able to estimate costs five, even 10 years in advance. It has proven difficult. But there are some models elsewhere in the world where they have worked on this pretty rigorously with cost assessment groups, and we want to establish something like that. Just to clarify: they will not be centres that actually handle the money; they will be making estimates of the costs of proposed new capabilities with more rigour than we have done in the past.

**Senator CHRIS EVANS**—How would you characterise the role of the department of finance in these new arrangements in its relationship with Defence?

**Mr Smith**—From my point of view I would say that their role is a very supportive one. They have recognised the complexity of this business of acquisitions and cost estimates of procurement and are willing to play a part in trying to improve the process. We will have a cost assessment group. I think Finance will have probably a smaller group but they will, as it were, look over our shoulder and validate our work. I think that will be valuable to us.

**Senator CHRIS EVANS**—Is that the major change in the role they play in terms of Defence acquisitions? You described an attitude or a supportive role. I am interested in the formal role Finance will play in Defence acquisitions from now on. I am trying to understand the change of process.

**Mr Smith**—Firstly, I like and encourage the idea of Finance understanding all our figures and how we arrived at them and perhaps being an additional source of quality control for us. Secondly, Finance are and will continue to be active in the secretary's committee on national security, which examines proposals before they go to cabinet, and I think that with the new arrangements they are going to put in place they will be better placed to be active.

**Senator CHRIS EVANS**—What do you anticipate the impact of these changes to be on size and the employment levels inside DMO?

**Mr Smith**—I am reluctant to make a judgment on that; that is for the CEO to decide. We have some work in train which will enable the CEO when he or she takes office to immediately have a clear picture of staffing numbers, where people are and what they are doing. From there, under powers that I will delegate under the Public Service Act, it will be up to the CEO to decide how to manage the staff they have. But I do not expect the number to

come down to 500, as one of the media reports suggested. We are not moving to that sort of model.

**Senator CHRIS EVANS**—But the experience of a similar sort of model adopted overseas seems to indicate that that would lead to quite a significant reduction in the number of staff inside DMO. Is that a fair expectation?

**Mr Smith**—Not necessarily. We have some 240 or 250 projects running and we have those support operations working. They are all quite staff hungry if you are going to get through what you seek to achieve. Frankly, I would expect that the CEO would look to DMO overheads.

**Senator CHRIS EVANS**—How do you mean overheads?

**Mr Smith**—To the corporate functions in DMO. Of course the CEO might decide that, as a prescribed agency, he or she will need a continuing strong corporate centre.

**Senator CHRIS EVANS**—But as I understand it under the new arrangements your view will not be all that important, will it? I do not mean to be rude but I understand that the CEO will have a fair amount of autonomy.

**Mr Smith**—The CEO will; that is our intention. Under the Public Service Act I will still be responsible for Public Service employment in the DMO and for other aspects of the application of the act, but I will delegate a substantial part of those powers to the new CEO.

**Senator CHRIS EVANS**—So in effect, what level of autonomy will the new CEO of the DMO have and how much will still come across your desk or be subject to your approval as secretary of the department?

**Mr Smith**—I think that the head of DMO will have a high degree of autonomy in managing projects, project budgets and schedules; selecting appropriate staff; and making the support arrangements. Nevertheless, I would see the new CEO as a member of our Defence committee, as the present head of DMO is—at least for consideration of major acquisition issues. We will still have a central stake in that. I would expect the new CEO to consult me pretty closely about the major management and administrative decisions he or she makes and, while probably working directly to the minister on the major deliverables of the DMO, to nevertheless keep CDF and me pretty well informed.

**Senator CHRIS EVANS**—In terms of the relationship with the advisory board though, it talks about the board reporting directly to the ministers. Is that in addition to the CEO of DMO reporting to the minister? I am trying to understand the lines or chain of command.

**Mr Smith**—The CEO would report to the minister on projects, acquisitions and so on. The advisory board is intended to assist in the implementation of the Kinnaird reforms. The advisory board would not have a role in regard to particular projects, just a role in regard to the reform process and the changes that we want to drive through.

**Senator CHRIS EVANS**—Would it be likely therefore that the advisory board would be abolished after a period of time or is it an ongoing structure?

**Mr Smith**—I suppose in the long term it might be. I might say though that I certainly look forward to having it for whatever time I am in Defence because I think it will be comprised of

the sort of people who will understand the sort of business-like approach that we are trying to take better than perhaps I do. I will look forward to the support of that board for some time. It will not happen overnight. This will be a long process of culture change.

**Senator CHRIS EVANS**—You said earlier though that the board's role was largely in terms of implementing the Kinnaird reforms.

**Mr Smith**—Yes.

**Senator CHRIS EVANS**—I am trying to understand whether the board has a role that goes beyond that.

**Mr Smith**—I do not think so. It might come to have a lasting role in terms of advice to management, but not on project delivery.

**Senator Hill**—I would hope that the board will be useful to the CEO though in a whole range of structural changes, accounting demands and temporary business practices. Really, it is designed to bring a suite of advice that can be helpful and constructive.

**Mr Smith**—Just in case I was not clear about that I think it does have an ongoing role, not just in the implementation. I would see it continuing into the future and I think that was Mr Kinnaird's intention too.

**Senator CHRIS EVANS**—But that is as an advisory board to the head of the DMO rather than to you as secretary, is it not?

**Mr Smith**—Yes, although, of course, I am on the board, as is the CDF.

**Senator CHRIS EVANS**—Thank you.

**Senator HOGG**—I have a question on the DMO. The report of the Senate references committee stated:

The Committee recommends that the Senate, under Standing Order 164, order the production, upon its completion, of the report by Director of Trials (DTRIALS) of the Review of Test and Evaluation in Defence, and that the Senate refer the document to the Senate Foreign Affairs, Defence and Trade References Committee for examination and report.

That recommendation was adopted by the Senate and, of course, the Senate references committee is now awaiting the report by the Director of Trials. We are wondering if that has occurred at this stage.

**Senator Hill**—Excuse me for not remembering, but is that a report to which the government has responded?

**Senator HOGG**—Yes. I am led to believe so.

**Senator Hill**—What did the government say?

**Senator HOGG**—The recommendation was by the Senate and the report is being done by the Director of Trials. It is an order for the production of a document.

**Senator Hill**—I am told it is on the way.

**Senator HOGG**—That is very reassuring, Minister, but what does 'on the way' mean? The committee has been waiting for some time.

**Senator Hill**—Even though it is not yet complete it is already on the way.

**Senator HOGG**—When will it be completed?

**Senator Hill**—We have sent it to you, apparently.

**Rear Adm. Scarce**—It is under completion now. I will take the date for completion on notice and hopefully let you know before the close of business tonight.

**Senator Hill**—We have agreed to send it, and we will as soon as it is finished.

**Senator HOGG**—All right.

[6.06 p.m.]

**ACTING CHAIR (Senator Ferguson)**—We move on to outcome 1—Command of operations in defence of Australia and its interests.

**Senator CHRIS EVANS**—I want to ask some specific questions about the drug issues at both Amberley and Robertson that were reported in the press recently. I will start with Amberley, as Air Marshal Houston is at the table. If you want to give a status report or overview on the allegations involving drug use at Amberley it is probably easiest to take that first and then I can ask specific questions, or I can take you through specifics—whichever way you are happiest with.

**Air Marshal Houston**—Essentially, this all goes back to August 2002 when the Queensland police did a drug raid on a number of houses in the south Queensland area. They found two serving Airfield Defence Wing personnel and one former member involved in illegal drugs. Following that raid by the Queensland police the commander up there—Commander, Combat Support Group—essentially started to look at whether the problem was more widespread than what had happened on that particular raid. At that time, some junior members of the Airfield Defence Wing came forward and made allegations suggesting that there were some drug problems within the Airfield Defence Wing. The drug bust was on 29 August. The allegations were made on 4 September. I might add that those junior members came forward after the commander had gone out and said, ‘I need people to come forward and let me know if there are any problems.’

**Senator CHRIS EVANS**—Did he put out a memo or did he address the troops, or what?

**Air Marshal Houston**—I am not sure how he did it. He made it known that he wanted people to come forward, and these three young people came forward. I imagine he did it through the chain of command. I think that is how it was done. On 5 September one of our squadrons was out in the field in northern Queensland on exercise. The commander recalled that squadron from the field and then assembled all the members of the Airfield Defence Wing at the one location. On 9 September he stood up and confronted all of those members of the Airfield Defence Wing. He briefed them on the fact that drugs were unacceptable in the Air Force, we would not tolerate them and they were not appropriate in the military culture, particularly with the use of firearms and all the rest of it. So he gave a fairly strong briefing to them. He briefed them on DI(G) PERS 15-2, which is the ADF policy on drugs. He took them through that policy and made the point that any members out there who were using drugs could self-refer and would be handled in a particular way. At the end of all of this, the

individuals came out of the mass briefing and went through a process of individual interviews with a legal officer and a warrant officer discipline.

**Senator CHRIS EVANS**—These were the people who self-referred?

**Air Marshal Houston**—No; all 345 members of the wing went through this interview process. Out of that came a number of self-referrals. In the first instance it was seven. That was followed up by another mass briefing—I think it was on the following day—and after that another 15 young junior airmen came forward. Out of all of that, of the 345 personnel a total of 22 members came forward for self-referral and admitted that they might have been involved in the use of illegal drugs.

**Senator HOGG**—Did anyone refuse to go through the interview process?

**Air Marshal Houston**—No, they all went through it. Those people were then tested in the normal way—a urine analysis—and six members tested positive for drugs.

**Senator CHRIS EVANS**—This is of the 22?

**Air Marshal Houston**—That is of the 22.

**Senator CHRIS EVANS**—So you only urine tested the 22 who had self-referred?

**Air Marshal Houston**—Yes. Of those six, three tested positive for cannabis, two for amphetamines and one for steroids. After that an inquiry was convened. There were some allegations of drug use that needed to be investigated and there were also some allegations with regard to other disciplinary matters. All of those were investigated in this inquiry, which was conducted from September through to January this year.

**Senator CHRIS EVANS**—Who conducted the inquiry?

**Air Marshal Houston**—An investigating officer who was appointed by the commander.

**Senator CHRIS EVANS**—Is he an Air Force investigating officer?

**Air Marshal Houston**—He was an Air Force officer.

**Senator CHRIS EVANS**—Based at Amberley, or not?

**Air Marshal Houston**—I can probably come back to you on that. I think he was based at Amberley but I probably need to check that. Out of all of that came 14 warnings for the use of drugs. The way the system works is that those people who self-refer can be subject to further testing—random testing—under our policy.

**Senator CHRIS EVANS**—Don't you have the power to random test anyway?

**Air Marshal Houston**—No, not at this stage. We are taking steps to introduce random testing.

**Senator CHRIS EVANS**—I thought you already had that.

**Air Marshal Houston**—Up to now, the policy has constrained us to the point where we have not been able to do that. We are now taking steps to introduce random testing. I have put some directions out to introduce it in Air Force, and I think that is going to happen in the other two services as well.

**Senator CHRIS EVANS**—Sorry to interrupt your flow. You had 14 warnings issued as a result of the investigation. What are they warnings for—as to possible disciplinary action if there was further abuse?

**Air Marshal Houston**—In Air Force we have 29 members who were on lifetime life-of-service warnings. That means they can be tested at any time. They can be randomly tested because they are on these warnings.

**Senator CHRIS EVANS**—Sorry, I misunderstood. You have 29 prior to this incident who are on this lifetime—

**Air Marshal Houston**—Right now we have 29 people who are on Air Force Headquarters warnings.

**Senator CHRIS EVANS**—That includes the 14?

**Air Marshal Houston**—Some of those 14 are on what we call unit warnings, which is a 12-month warning.

**Senator CHRIS EVANS**—So you have graduated responses.

**Air Marshal Houston**—The policy enables us to go through a unit warning, an Air Force Headquarters warning or a charge with a view to discharge.

**Senator CHRIS EVANS**—So there were no charges as a result of this inquiry, but there were 14 warnings.

**Air Marshal Houston**—There were 14 warnings.

**Senator CHRIS EVANS**—Were they all headquarters or were they unit?

**Air Marshal Houston**—They were essentially all unit warnings—all of them.

**Senator CHRIS EVANS**—Which means effectively that they could be subject to a random drug test.

**Air Marshal Houston**—For 12 months.

**ACTING CHAIR**—Senator Evans, I understand Senator Collins has a few questions she wants to ask, and we will have to stop right at 6.30 because some people have meetings then. Do you want to conclude this bit and let Senator Collins ask her questions?

**Senator CHRIS EVANS**—I think we will be at it for a while.

**ACTING CHAIR**—Can Senator Collins ask her questions? She has come back for the third time, I think.

**Senator CHRIS EVANS**—Yes. To be continued.

**Air Marshal Houston**—I could conclude fairly quickly if you wish.

**Senator CHRIS EVANS**—I want to give you the opportunity to tell the whole story.

**Senator JACINTA COLLINS**—I indicated that I wanted to ask Admiral Gates some questions in relation to SIEVX.

**Gen. Cosgrove**—Mr Chairman, Admiral Gates is not here.

**Senator JACINTA COLLINS**—I understand that. Is there some explanation for why he was not able to respond to my request?

**ACTING CHAIR**—Let us wait for the minister to take a seat. You might need to repeat that.

**Senator JACINTA COLLINS**—I went back to my first point, which was this: in this round of estimates, I requested that Admiral Gates appear so that I could ask him some questions with respect to SIEVX. I was just advised that Admiral Gates is not present. I have sought an explanation for why that is the case.

**Senator Hill**—I thought that his seniors, such as Admiral Ritchie and Admiral Shalders, could better answer the question.

**Senator JACINTA COLLINS**—Unfortunately, nobody brought that to my attention. I could have clarified that these are specific questions for Admiral Gates with respect to the Gates review.

**Senator Hill**—I think you should ask the questions. We will provide the correct military officer to answer.

**Senator JACINTA COLLINS**—Okay. We will get to Admiral Gates fairly quickly, I suspect. Let me start by going back to my question on notice 1638, my question No. 3. Do you have that before you?

**Vice Adm. Shalders**—I do not have it in front of me, but I am familiar with it.

**Senator JACINTA COLLINS**—My question No. 3 asked, because of some previous confusion between the AFP and some answers we received, whether the Royal Australian Navy, when attempting to calculate where the SIEVX had foundered, also took into account the north Jakarta harbourmaster's report of the SIEVX survivor rescue coordinates dated 24 October 2001, and, if not, why not. The answer to that question was:

No. The Harbourmaster's report of 24 October 2001 did not exist on 22 October 2001.

My question subsequent to that, if it was not clear in the original question, which was directed fully at Defence, was whether Defence took into account those coordinates—in particular, in relation to the Gates review of intelligence with respect to SIEVX.

**Vice Adm. Shalders**—No, they did not.

**Senator JACINTA COLLINS**—They did not take it into account at all?

**Vice Adm. Shalders**—That report of those coordinates? No.

**Senator JACINTA COLLINS**—Why not?

**Vice Adm. Shalders**—At that stage the Federal Police were conducting that investigation. We were not invited or required to contribute to that analysis.

**Senator JACINTA COLLINS**—Let me take you to some of the wording in Admiral Gates's report. He says:

Some public comment has inaccurately suggested—

I stress the word 'inaccurately—

that it is possible to say with some precision where SIEV X foundered (eg media 'expert' analysis of figures reportedly provided by the Harbour Master at Sunda Kelapa port in north Jakarta) This is to ignore what is known ... In the absence of positional data from either SIEV 'X' itself or the fishing boats that rescued the survivors, Defence can only speculate as to where the vessel foundered.

Where is it demonstrated that there is an absence of positional data or anything other than the AFP report back to me that they can neither corroborate nor discount the harbourmaster's report of the coordinates?

**Vice Adm. Shalders**—That is the Defence position as well. We can neither corroborate nor discount those coordinates.

**Senator JACINTA COLLINS**—That is not what Admiral Gates says in this report, and this is what I wanted to question Admiral Gates about. Admiral Gates refers to inaccurate suggestions and an absence of positional data. We know that there is a report of positional data. What we do not have is an assessment of the veracity of that report.

**Vice Adm. Shalders**—I agree with that. We do not have a sense of the veracity of those coordinates.

**Senator JACINTA COLLINS**—That is not what this report of Admiral Gates says.

**Senator Hill**—You read us out the relevant part.

**Senator JACINTA COLLINS**—I did, a moment ago. I will do it again if you like.

**Senator Hill**—Yes. I want to put it in context.

**Senator JACINTA COLLINS**—It says:

Some public comment has inaccurately suggested that it is possible to say with some precision where SIEV X foundered (eg media 'expert' analysis of figures reportedly provided by the Harbour Master at Sunda Kelapa port in north Jakarta). This is to ignore what is known, namely that both the timing and location of its last landfall is unknown (the vessel is reported to have had a number of stops and delays); that its planned and actual course is unknown; that the impact of tides, currents and weather is unknown, and the impact of its seaworthiness on its speed is unknown.

I stress the next sentence:

In the absence of positional data from either SIEV 'X' itself or the fishing boats that rescued the survivors, Defence can only speculate as to where the vessel foundered.

My point here is that we do have positional data reported by the harbourmaster. What I have not seen from Defence or from the AFP is any assessment of the veracity of that data. It is obvious from this report that Admiral Gates sought to discount that data, but he has not sustained that case in any way.

**Vice Adm. Shalders**—I would put to you that that is one set of data. The veracity of that data really cannot be tested.

**Senator JACINTA COLLINS**—Why is that?

**Vice Adm. Shalders**—The best analysis of where we believe the vessel may have foundered is somewhere north of eight degrees north. The position that you have cited here is some 20 miles from that position.

**Senator JACINTA COLLINS**—Yes.



**Vice Adm. Shalders**—I honestly do not believe that anybody knows where that vessel foundered. At this stage I go back to Admiral Gates's statement that we can only really speculate.

**Senator JACINTA COLLINS**—I am not going back to the point of whether we can argue within 20 miles of exactly where the vessel went down. That is not my issue. My issue is that we had reported coordinates from a vessel that rescued survivors and it appears—whether it is the responsibility of the Indonesians, our responsibility or someone else's—that some two years later nobody has sought to deal with that report. In fact, this Gates report seems to discount its existence.

**Senator Hill**—Where did the harbourmaster's evidence come from?

**Senator JACINTA COLLINS**—It is an Indonesian document containing coordinates reported to the harbourmaster that, on my advice, was actually provided by the reporter to Defence.

**Senator Hill**—Provided by?

**Senator JACINTA COLLINS**—By the reporter, who also—

**Senator Hill**—What reporter?

**Senator JACINTA COLLINS**—Geoff Parish, I think.

**Senator Hill**—Do you have the harbourmaster's document?

**Senator JACINTA COLLINS**—Yes, he did. He had a copy of it.

**Senator Hill**—Do we have the harbourmaster's documents?

**Vice Adm. Shalders**—No. The only information we have which talks of those positions is an article by Tony Kevin in the *Canberra Times* of 17 July.

**Senator JACINTA COLLINS**—I have a copy of the document.

**Senator Hill**—Can you table that?

**Senator JACINTA COLLINS**—I do not have it with me right now, but I will so that we can deal with this on notice. I have been advised that Geoff Parish forwarded a copy of that document to Defence, and I think it was in the few months prior to the Gates review, but I have had no assessment from Defence about the veracity of that document. As I have said, from what I now know from answers to questions on notice to the AFP—and, as you have just said now, the Defence position is the same—there is nothing to corroborate or discount those coordinates but I still have nothing to sustain the discounting of those coordinates that is referred to in the Gates review.

**Senator Hill**—What is the document that the harbourmaster produced?

**Senator JACINTA COLLINS**—A document or a report. Again, I am not myself in a position to be able to assess its veracity because I have limited maritime experience and it requires translation as well.

**Senator Hill**—We do not think we have it. You have it. If you provide it to us and provide it to the committee, we will have a look at it and see whether we believe it adds anything that has not already been expressed.

**Senator JACINTA COLLINS**—At this point in time Defence is indicating that it never received a copy of it. Is that correct?

**Vice Adm. Shalders**—I am not aware of that document.

**Senator JACINTA COLLINS**—You might want to deal with that on notice too then.

**Vice Adm. Shalders**—I will take it on notice.

**Senator JACINTA COLLINS**—My advice is that a reporter—I think it was Geoff Parish but I will confirm the name of the reporter—forwarded a copy of that document from the harbourmaster to Defence prior to the Gates review, but it appears as if the Gates review discounts its existence, let alone its veracity.

**Vice Adm. Shalders**—I would make two points, if I may. The first point is that the Gates review preceded the Senate investigation into the ‘certain maritime incident’. That document was not produced during the proceedings of the certain maritime incident investigation, which, if it exists, surprises me—that it did not come out there. The second point I would make is the point that was made, I think, in the AFP response to the question on notice. Of course, the AFP were conducting the investigation. The AFP have stated that they are not privy to any information which either corroborates or discounts those coordinates. The Defence position remains that any position that we might derive is speculative in the absence of precise information.

**Senator JACINTA COLLINS**—As I said, I will provide you with a copy of the report and we might get some view on the veracity of that report, particularly given that it seems as if the Indonesian authorities cannot find this harbourmaster, on the basis of their responses.

**Senator Hill**—Can’t find him?

**Senator JACINTA COLLINS**—The AFP answer to my questions on notice to them in relation to that information provided by the harbourmaster is that they have spoken to another maritime official—

**Senator Hill**—Where did the report come from?

**Senator JACINTA COLLINS**—The copy of the report that we are aware of came from the reporter.

**Senator Hill**—Where did the reporter get the report?

**Senator JACINTA COLLINS**—He claims it was from the harbourmaster.

**Senator Hill**—And no-one can find the harbourmaster?

**Senator JACINTA COLLINS**—The INP claims not to be able to find the harbourmaster, yes.

**Senator Hill**—When do you say that a copy of this document was provided to Defence?

**Senator JACINTA COLLINS**—My recollection is that it was in the couple of months prior to Gates—in the month or so prior to when the Gates review occurred. By way of recollection, it was during the early stages of the CMI inquiry. The AFP Jakarta post had made contact with the harbour administrator, which is, according to the answer to the question on notice to them, a separate entity to the harbourmaster. The INP is still attempting to locate the

harbourmaster but has not yet located him. The harbourmaster who, it is reported, received the coordinates from the vessel that collected the survivors, has not been able to be located, according to this report. I have a document; I will pass it on to you and you can trace it back.

**Senator Hill**—If you give us the document, we will do our best to provide further information.

**ACTING CHAIR**—It is now 6.30, Senator Collins.

**Senator JACINTA COLLINS**—Yes. The rest of what I have I will put on notice.

**Proceedings suspended from 6.32 p.m. to 7.36 p.m.**

**CHAIR**—Mr Smith and General Cosgrove, are you happy to continue without the minister for the time being?

**Gen. Cosgrove**—Yes.

**CHAIR**—We are dealing with drugs. If there is any problem we can wait until the minister returns. There is one matter about the program which I should bring to your attention. I am advised by Senator Evans that after he and Senator Hogg complete their questions on drugs the questions will be on outcome 6—Intelligence for the defence of Australia and its interests, and that will take up the major part of the remainder of the evening. Until we finish that we are not quite sure how long the remaining outcomes will take. That is just to give everybody a bit of an idea about how the evening will progress. We will be finished, whatever, at 11 p.m. sharp and we will take a break at 9.30 or so for a cup of tea.

**Senator CHRIS EVANS**—Air Marshal Houston, we were talking about the Amberley investigation.

**Air Marshal Houston**—I have got a couple of things that I need to read into the record. You asked who conducted the investigation. It was Squadron Leader McGiver, from No. 23 Squadron, a reservist with a legal and ground defence background—so he was ideally suited to do that sort of investigation. There is another thing I would like to clarify. I think at the time we broke for dinner I introduced the concept that we were going to do random testing. I would just like to expand a little bit on that.

**Senator CHRIS EVANS**—I think the minister assisting made an announcement today, didn't he? I just caught the ABC news.

**Air Marshal Houston**—Has he? I did not see the news.

**Senator CHRIS EVANS**—I do not know whether he made an announcement or responded to press queries, but he was talking about a changed regime for drug testing and so on.

**Air Marshal Houston**—In Air Force. I think the other two services are going to be doing command directed, random and targeted urinalysis with effect from 30 November. The idea will be to try and do 10 per cent of the Air Force each year. We want to do this because we have a duty of care responsibility for our people. Clearly any form of drug use has major occupational health and safety consequences. In an operational environment it would be totally unacceptable to have any form of non-medical use of drugs. So that is the way we are going. We are very clear about it. We do not tolerate drugs in the Royal Australian Air Force

and we are going to take a hard stand on it. This new random testing will assist in giving a bit of substance to the zero tolerance policy that we have.

**Senator CHRIS EVANS**—This zero tolerance policy always intrigues me. You explained earlier what I thought was a fairly commendable policy which talked about self-identification and coming forward for assistance et cetera. Then there is the zero tolerance policy. What does zero tolerance mean as interpreted by the Air Force and what do we understand that means? I thought you had a much more constructive policy, which you just explained, which was to encourage those to self-identify and provide some assistance for them in resolving any issues they might have.

**Air Marshal Houston**—We do not tolerate drugs, but we treat each case on its merits. We find that, when people are tested, a lot of people have very low levels of the drug in their system. They might have been experimenting for the very first time. That is a completely different set of circumstances from somebody who has been on drugs for years and has had a major problem. What we tend to do is this: if you look at our statistics over the last two years, you will see that we have found a total of 39 people that have been using drugs.

**Senator CHRIS EVANS**—This is within Air Force.

**Air Marshal Houston**—This is in Air Force. Of those 39, we have taken action to discharge 10. The other 29 are all on some form of formal warning. You heard what happened at the Airfield Defence Wing. All of those people self-referred. The only way we could do it in accordance with the policy at the time was to encourage people to self-refer. Once they had self-referred, we took an appropriate approach, which was to put those that had offended on formal warnings. You will note that only six people tested positive for drugs, but we put 14 people on formal warning. I think the way we have been treating it has been a case of treating each case on its merits. We have been very harsh on officers and senior NCOs who offend. We have been perhaps a little easier on the younger people who might have been experimenting for the first time. For example, we had one kid who had too much to drink. He came in and he said, 'I think somebody put something in my drink. Here I am. I am self-referring because I think somebody might have put something in my drink.' You treat that case on its merits: the guy used it; this is the first possible time that he had been exposed to drugs. That is a completely different case from somebody who is peddling drugs or has been a continuous user of drugs for a number of years.

**Senator HOGG**—Just on those 29 that you gave formal warnings to, do you take steps to try to assist them with their problem if they have a problem as such?

**Air Marshal Houston**—Absolutely. The policy in all three services is to put an awful lot in. There is a real problem in our society with drugs. We recognise that. When we recruit people, we put a lot of effort into indoctrinating them about the evils of drugs, the dangers to one's health and the unacceptability of it in the Defence Force. There is a formal training program as part of our recruit training. That sort of training continues right through a person's career in terms of the training that they undergo at the front end of their career. It is a constant emphasis that we put into everything we do.

**Senator HOGG**—But my point is that their problem could be caused by a personal problem or a social problem. Are they addressed as part of the remedy?

**Air Marshal Houston**—Absolutely.

**Senator HOGG**—On the 10 per cent that you are going to target each year, are you going to target specific categories more than others? Are you going to target, say, pilots and air traffic controllers—I just pull those out of the air—over other groups within Defence or Air Force, or are you going to do it across the board?

**Air Marshal Houston**—We need to get into the safety critical areas. As I mentioned, we are doing this for a number of reasons, but, with the notion of somebody being under the influence of drugs and using a weapon or stepping into an aircraft, we are obviously going to get into those safety critical areas. That is where we will go. I do not want to get into the specifics of targeting this group or that group, because it is going to be completely random.

**Senator HOGG**—Does it go across all ranks?

**Air Marshal Houston**—Absolutely. I think it has to go across all ranks.

**Senator HOGG**—So you could be expecting to be tested as much as someone else?

**Air Marshal Houston**—Absolutely.

**Senator HOGG**—That is fair enough. That is good.

**Air Marshal Houston**—One of the things we probably need to do as a leadership group is perhaps undergo the testing ourselves at a fairly early stage in the process.

**Senator HOGG**—Thank you.

**Senator CHRIS EVANS**—You would probably be like most politicians and show up with blood thinners and anticholesterols and things—that are legal. I was not including some of the younger senators in my remarks there.

**Senator HOGG**—Thank you very much.

**Senator CHRIS EVANS**—I was including you. Air Marshal, you started off by talking about the drug raid on a couple of homes on 29 August. I want to take you back to that. They were not homes on Defence property? They were private homes?

**Air Marshal Houston**—They were private homes and the raid was conducted by the civil police.

**Senator CHRIS EVANS**—Had you had any warning that this was occurring or had there been any reports to the commander of the Air Support Group prior to this?

**Air Marshal Houston**—No, I do not believe so, but I will check that.

**Senator CHRIS EVANS**—The police raided three premises, arrested two current and one former Air Force personnel and charged them in relation to drugs?

**Air Marshal Houston**—They were charged. I will talk about the two who were in the Air Force. The ex-member was obviously a civilian and does not come under any of our care. The two members were the two members who appeared in the Ipswich magistrates court three or four weeks ago.

**Senator CHRIS EVANS**—When was the first time that Air Force was aware that they had been arrested and were to be charged.

**Air Marshal Houston**—I do not have that sort of detail, I am sorry.

**Senator CHRIS EVANS**—It obviously prompted some response. You talked about a 4 September accusation about three young people. Is that a related matter?

**Air Marshal Houston**—I understand that the issue probably started back in May 2002, when certain allegations were made.

**Senator CHRIS EVANS**—That is what I am trying to get to the bottom of. You say the arrests were nothing to do with any Air Force contact, to the best of your knowledge, but you had received allegations earlier about drug-taking on Amberley or that Air Force personnel employed at Amberley had been involved in a drug ring of some sort.

**Air Marshal Houston**—I think this process started with an Air Force member making a formal statement to the Queensland police and also the Australian Federal Police involving a number of allegations against specific Air Force members in the Airfield Defence Wing.

**Senator CHRIS EVANS**—And that was by a serving member?

**Air Marshal Houston**—That was by a serving member.

**Senator CHRIS EVANS**—Is this Aircraftman Moore?

**Air Marshal Houston**—That is right, AC Moore.

**Senator CHRIS EVANS**—Not Leading AC Moore?

**Air Marshal Houston**—No. He is AC Moore. There was a mistake made. A signal went out that referred to an LAC Moore, but he has not qualified for promotion and he has not been promoted. He is Aircraftman Moore.

**Senator CHRIS EVANS**—So AC Moore made his allegations in May?

**Air Marshal Houston**—Yes, he did.

**Senator CHRIS EVANS**—What was the nature of those allegations?

**Air Marshal Houston**—I do not have any of the detail of that, but the allegations were against some members of the Airfield Defence Wing and I believe were probably instrumental in the subsequent raids that were made, because AC Moore was the chief witness at the magistrate's hearing in Ipswich.

**Senator CHRIS EVANS**—But you had no contact from the police or the AFP before the raids in August?

**Air Marshal Houston**—No, we had no prior knowledge. We found out after the fact that a formal statement had been made to the Queensland police. Certainly my local commander, the air commodore, had no knowledge that this individual had made these allegations.

**Senator CHRIS EVANS**—So the allegations were followed up by the police; there was a raid; two of your serving personnel were arrested. What then resulted? What occurred inside Air Force as a result of that? Were they stood down?

**Air Marshal Houston**—These two individuals were in a civilian house; they committed a civilian offence. There were not just drugs issues but also an issue of stolen goods and firearms. They were charged. Obviously, the civil process went through and culminated in

what happened at Ipswich two or three weeks ago. As you know, one of those members has since left the Air Force and due process has taken place.

**Senator CHRIS EVANS**—I am just trying to ask you what you know about what Air Force did. Were they stood down as a result of being charged in the civil courts?

**Air Marshal Houston**—I do not have the detail of that. We obviously do not look very favourably on that sort of behaviour.

**Senator CHRIS EVANS**—Perhaps you could take that on notice for me. I am interested in what Air Force did in response to the arrest of two of its men. I would have thought that would have prompted some action from Air Force.

**Senator HOGG**—Is there a standard procedure that you adopt when that happens?

**Air Marshal Houston**—I will come back to you. Certainly we would have done something, but I am not across the details and the specifics of that.

**Senator CHRIS EVANS**—But they were charged with firearm offences in addition to drug offences, so there is a whole range of issues for Air Force, I would have thought.

**Air Marshal Houston**—Absolutely.

**Senator CHRIS EVANS**—So you take on notice what you actually did in response to that. You said one of those charged is still a member of Air Force.

**Air Marshal Houston**—Yes.

**Senator CHRIS EVANS**—And that the other resigned—or was dismissed?

**Air Marshal Houston**—The other has left.

**Senator CHRIS EVANS**—Voluntarily?

**Air Marshal Houston**—Again, I will come back. I will let you know how those circumstances developed.

**Senator CHRIS EVANS**—And the other one is still serving? Was he convicted on the charges?

**Air Marshal Houston**—I will come back to you on that. One member was convicted. With the other one, there was some sort of technicality. I am not across the detail of that. I will come back to you on that if you wish.

**Senator CHRIS EVANS**—If you could, please. In relation to 4 September, you refer to three young people and accusations. Is this a separate or related incident?

**Air Marshal Houston**—When the commander was informed about the drug raid that the Queensland police conducted and who was involved, he thought there was a need to ask people whether there was a problem within the broader wing. He went out and sought people to come forward and advise him if there were any problems of that nature in the wing. As a consequence of that, these three members came forward and provided a series of allegations that involved drugs and some other disciplinary matters.

**Senator CHRIS EVANS**—Did those three include Aircraftman Moore?

**Air Marshal Houston**—I believe so, yes.

**Senator CHRIS EVANS**—So he was one of the three who provided information, and that was the first that Air Force had been aware of the sorts of allegations that went to a drug ring and systemic abuse of drugs. Is that fair?

**Air Marshal Houston**—That is the advice I got.

**Senator CHRIS EVANS**—Obviously, the commander took that seriously because you say he even pulled people in from exercises or being in the field and got the whole base together, I gather.

**Air Marshal Houston**—We took it very, very seriously. He acted immediately. He consulted with Air Commodore Birrer and action was taken. Some of these people were on exercise. I think that 2AFDS was on exercise up at Rockhampton. They were brought back immediately. As I told you, all 345 members of the wing were effectively paraded by the commander and told that any form of drug use was totally unacceptable and would be dealt with.

**Senator CHRIS EVANS**—I accept that, but I am just trying to follow the sequence of events. He does this on 5 September. What was the nature of the accusations made by these three people to warrant such a strong response?

**Air Marshal Houston**—There were allegations of drug use within the wing. There were also allegations of excessive drinking, some allegations about driving and some other matters.

**Senator CHRIS EVANS**—How and by whom were these allegations investigated?

**Air Marshal Houston**—They were investigated by Squadron Leader McGiver. Each of the allegations was dealt with. Either it was dealt with under the DFDA or it was dealt with through admin procedure.

**Senator CHRIS EVANS**—What emerged from this inquiry other than the 14 warnings? These allegations go to more than occasional drug use or recreational drug use by a couple of young airmen. They went to allegations of an organised drug ring.

**Air Marshal Houston**—No, not at all. The outcome of the inquiry, the investigation, was that there was limited—I think these are the words used at the time—use of soft drugs. We investigated every single allegation and we only had six people who tested positive for drugs. We could not find any other evidence that suggested that there was a widespread problem. There were also a number of other issues that were dealt with under the DFDA.

**Senator CHRIS EVANS**—These were the allegations about excessive drinking and driving, and what have you?

**Air Marshal Houston**—The sorts of things were allegations of some stealing—stealing of batons and stealing of bags of cement—driving service vehicles without appropriate licences, forcing a member with a medical chit to do PT—things like that. Every single one of those allegations was investigated and dealt with.

**Senator CHRIS EVANS**—I gather no major disciplinary action beyond the warnings and some of those other minor defence admin charges were dealt with. There was nothing else arising of a serious nature?



**Air Marshal Houston**—No, and there was no evidence of any link with—you mentioned organised crime. There was no link with organised crime.

**Senator CHRIS EVANS**—I do not think I used the word ‘crime’. I said ‘organised drug ring’ as in supplying, rather than organised crime. As I understood it, the allegation was that there was a drug ring and a drug operator operating on the base. That is all I know from press reports.

**Air Marshal Houston**—I think that the original drug raid conducted by the Queensland police was focused on that sort of activity.

**Senator CHRIS EVANS**—Did the Queensland police provide you with any information that was helpful in dealing with the issue on base?

**Air Marshal Houston**—We worked closely with the Queensland police but they did not participate in the detail of this inquiry. Obviously we knew what they were doing, but they were not interested in doing any further investigation into what was happening.

**Senator CHRIS EVANS**—But the upshot of this is that you have Aircraftman Moore, who made the allegations, still on base and you have one of the airmen convicted as a result of investigations also on base. Is that correct?

**Air Marshal Houston**—Initially, yes. AC Moore was assaulted by the two members who were raided. That happened prior to the raid. It happened on private property—in his own home. He was assaulted by those two members. Again, the civil police investigated and handled that matter. In fact, if you remember, the magistrate also dealt with that particular assault, as well, in Ipswich.

**Senator CHRIS EVANS**—It seems to me that all these have ramifications for you in the management of the base and the management of the personnel. You have firearms and you have one person assaulting the other. One dobbed one in for activities involving drugs and firearms, and there is an assault. When I asked you earlier what action would be taken by Air Force, you did not seem to know the answer. I am a bit perplexed as to what you have done in relation to these men in responding to this whole incident.

**Air Marshal Houston**—This is a matter for the civil police. A charge of grievous bodily harm was tendered by the Queensland police against the two individuals who assaulted AC Moore. The Queensland police did the raid on the house occupied by these two individuals.

**Senator CHRIS EVANS**—But you have a zero tolerance policy. One minute you are telling me you deal with the matter very seriously and the next minute you seem to be telling me that you let a bloke who has got done for drugs, firearms and assault back on a base and you have not taken any action. I find them to be contrary messages, and I do not know which is right.

**Air Marshal Houston**—Those matters are matters for the civilian police.

**Senator CHRIS EVANS**—So you do not care that they have been convicted?

**Air Marshal Houston**—Both those members have been dealt with in a very appropriate way by the Director of Public Prosecutions in Queensland. In fact, he wrote to the *Courier-Mail* on 20 September about the matter. The fact of the matter is that we did everything we

could to look after AC Moore. You seem to be getting at the fact that one of these members was on the same base as AC Moore. AC Moore returned to work and almost immediately he expressed concerns about his safety. We responded immediately to that and we moved him off base to Brisbane. He still had concerns about his safety. In fact, he expressed concerns for his safety to the inspector-general here in Canberra. That came to my notice so we moved him again. We moved him down to Richmond, then we moved him to Glenbrook and then we moved him into Sydney. We kept moving him when he felt unsafe. We have moved him again—and I prefer not to mention where he is at the moment—but we are very concerned for his welfare. We have a case officer who is supporting him and we are concerned for his welfare.

I will get back to the point that I made earlier on: if somebody has a major drug problem, somebody is peddling drugs, somebody is using illegal firearms or is stealing, that is a matter for the civil police. We work very closely in those circumstances to refer those matters to the civil police.

**Senator CHRIS EVANS**—There is a step beyond that, though, isn't there? If someone is convicted in a civil court of an offence but that does not result in them being jailed for a period that would make them ineligible to serve, what is Air Force's reaction? I am conscious of what Senator Johnston said earlier about double jeopardy, so I am forewarned; but I am also conscious of what you told me was your zero tolerance policy, so I am just trying to tease this out. Are you saying to me you did nothing in relation to the aircraftsman who was convicted in terms of a response by Air Force and that you just let him continue as normal?

**Air Marshal Houston**—He had been charged by the civil authorities.

**Senator CHRIS EVANS**—I accept that. I would just like you to answer the question about what Air Force did. I assume it is nothing because you are not telling me anything, but I just want that on the record. Did you take any disciplinary action or punitive action against that Air Force member?

**Air Marshal Houston**—I am not across the precise detail. As I said earlier on—

**Senator CHRIS EVANS**—But you would know if you had, wouldn't you?

**Air Marshal Houston**—I will come back to you on that. I will take the question on notice.

**Senator CHRIS EVANS**—I would appreciate that. I am not necessarily making a judgment. I think it is a question you would have expected and I am surprised you do not know the answer to it. You said you are concerned about one person's safety. The person he is concerned about has been let back onto base, it seems, and I am just asking you what action you took with him. It seems to me the guy that has done the right thing, has dobed in and has gone to the police, is getting shunted around for his own safety. I am just interested in the person who was found guilty of the charges—what has happened to him?

**Air Marshal Houston**—One member has been discharged, and the circumstances are clearly related to this. The other member has been dealt with by the civil police. With regard to the whole process, I will come back to you on that. But the fact of the matter is that, if the civil police are dealing with something, we leave it to the civil police. I do not have the precise detail and I will let you know about that.

**Senator CHRIS EVANS**—I would appreciate that. From what I read, Aircraftsman Moore has made some allegations about concerns about the plea bargaining that went on and the leniency, in his view, of the result of the court proceedings arising from the charges laid. Has Air Force had any contact with the civil authorities in relation to those matters?

**Air Marshal Houston**—No, but I note that there was a letter in the *Courier-Mail* from the Queensland Director of Public Prosecutions that said words to the effect that the changes to the charges came about as a result of changes in testimony by an AC Moore. I believe we can obtain a copy of that letter for you.

**Senator CHRIS EVANS**—I have not seen that; I will look that up in the back issues of the *Courier*. I am just interested in what Air Force knew or did. Was there any discussion, negotiation or approach to Air Force about those charges or about the handling of those charges?

**Air Marshal Houston**—I think it is important that we put on the record the fact that there is a complete separation of powers here. We work in cooperation with the police, but when it comes to legal process the two processes are completely separate.

**Senator CHRIS EVANS**—I was giving you the opportunity to put that on the record.

**Air Marshal Houston**—The normal way of dealing with these things is that if somebody is charged by the police we do not go in and do things in parallel; we wait for that civil process to run its full course, and then we would normally take whatever admin action is required at the end of that process. We cannot short-circuit that process because we are great upholders of the laws of natural justice.

**Senator CHRIS EVANS**—I do not have any difficulty with that, as I say. I am a bit surprised though that Air Force would not take a view about some of these issues. I do not know the detail of it, but illegal firearms et cetera obviously all throw up issues for you as well. I am not suggesting that someone should go double jeopardy and be tried on the same charges twice. Anyway, you have taken it on notice. I am interested to know what Air Force did in relation to these serving personnel as a result of these civil court proceedings and what the response was.

As I understood it, you already have the power to do urine tests for both alcohol and illegal drugs. You said to me earlier that you did not and, Minister, there was your announcement today—I think there was some coverage in the *Australian* this morning. Are you saying that there needs to be a change in procedures and regulations for this to occur?

**Air Marshal Houston**—I think I would invite a legal expert to come forward on this and perhaps—

**Senator CHRIS EVANS**—I have got a couple of questions that really go across the three services on those issues—

**Air Marshal Houston**—We tend to apply the policy as guided by our lawyers.

**Senator CHRIS EVANS**—It is only because you are at the table. It was more a question for the whole of the ADF than for the Air force in particular.

**Air Cdre Harvey**—Regarding the current arrangements in relation to the legal basis for testing and whether it exists or not, we need to distinguish, first of all, between testing which is possible under the Defence Force Discipline Act, which is essentially for probable cause with a view to taking disciplinary action and testing outside the discipline arena. There is legislation in force already—part 8A, I believe it is, of the Defence Act—which provides for random testing. However, to give implementation to this it does require regulations to be passed, and we are in the process of implementing and drafting those regulations. In fact I understand the policy decisions in relation to how that will take place are just about finalised, but there will be a lead time of about eight to nine months before that will actually come into effect.

**Senator CHRIS EVANS**—So I was right. The act does give you the power now.

**Air Cdre Harvey**—The act gives you the power but the regulations which lay down the procedures and the mechanisms and how it is going to be happening in terms of authorising it and so forth does not exist. So there is a basis there—

**Senator CHRIS EVANS**—Why doesn't that exist?

**Air Cdre Harvey**—It just takes time to pass the regulations and to decide some of the policy issues related to them. We are in the process of fast-tracking that and, as I said—

**Senator CHRIS EVANS**—Sorry, was that in work before these instances arose though? I thought the government made an announcement about this a while back. My memory may be playing tricks on me but I thought we had announced this before.

**Gen. Cosgrove**—Targeted drug testing. Random drug testing is rather more difficult. I think the earlier announcement was to do with targeted drug testing. We are involved in targeted drug testing now and have been for a while.

**Senator CHRIS EVANS**—But that is only under the terms of the disciplinary procedures.

**Gen. Cosgrove**—Yes. Obviously you have got to have probable cause.

**Air Cdre Harvey**—The other existing basis of course is that if we suspect drug use which falls within civilian jurisdiction, as has been mentioned by the Chief of Air Force, it is an option to call in civilian police and they then would rely upon their statutory powers to conduct searches and obviously prosecute matters under civilian legislation. So, getting back to the regime at the moment, the regulations will take approximately nine months to implement. What the minister's announcement today relates to, I believe, is an interim testing regime, bearing in mind that it will take nine months to introduce the mature system.

**Senator CHRIS EVANS**—Why a nine-month pregnancy?

**Air Cdre Harvey**—I am afraid it is something that Defence does not have a lot of control over. Once we decide the policy it is pretty much outside of Defence to get the regulations drafted. It is a case of competing with other departments and priorities and so forth. So it is a case of how long it takes parliamentary draftspeople to respond, and appropriate other approvals that are required.

**Senator CHRIS EVANS**—That is if a testy Senate doesn't knock over your regulations then. So the nine months is an estimation, rather than some fixed time frame—that is your best guess of how long it is going to take, is it?

**Air Cdre Harvey**—Absolutely. I would not want to suggest it is going to go like clockwork in nine months but I think, given the commitment of the government, that will happen within the nine-month period.

**Senator CHRIS EVANS**—So a policy decision has been taken to draft the regulations. When was that taken?

**Air Cdre Harvey**—I am not quite sure about that. That would have been within the Defence personnel executive.

**Senator CHRIS EVANS**—Will you take that on notice for me, please?

**Air Cdre Harvey**—Certainly.

**Senator CHRIS EVANS**—How are the interim testing arrangements to be authorised?

**Air Cdre Harvey**—The interim testing arrangements will accrue from the powers of the CDF and the chiefs under section 9A of the Defence Act, which is their command administrative powers. It will basically be a more refined or narrowed testing regime. Random testing will be conducted where it has a direct and relevant purpose related to ensuring an effective and safe workplace, which is necessary to ensure operational effectiveness. So it is tied pretty much to the power of command of the service chiefs.

**Senator CHRIS EVANS**—So that is the sort of legal basis that you think would allow you to do what, effectively, is random testing.

**Air Cdre Harvey**—That is right. I do emphasise that this is an interim arrangement to deal with a nine-month period. It is not designed to circumvent the normal processes which have been agreed, which will be effected through the regulations. So it is relying upon the power under the Defence Act, rather than part 8A of the Defence Act, which the regulations will be passed under.

**Senator CHRIS EVANS**—But this interim arrangement, you think, will give you more scope to conduct tests than the current arrangements.

**Air Cdre Harvey**—Yes. Certainly it is the preferred position to have legislative backing behind random testing to make it more watertight, I guess, if you want to call it that. This will happen in due course.

**Senator CHRIS EVANS**—I wanted someone to answer questions about the Robertson based drug raids. Is that Lieutenant General Leahy?

**Air Cdre Harvey**—Yes.

**Senator HOGG**—I have a question that goes across all three services and I do not know if these people will be the right people. It goes to something that is in the annual report. Page 21 shows a table about 'high priority people initiatives'. The interesting thing is that it shows that there is an ADF alcohol management program on which, in 2001-02, \$48,000 was spent and, in 2002-03, \$313,000 was spent. In 2003-04 there is an allocation of \$1.78 million. That seems to be a dramatic escalation. Whilst it is not an illegal drug we are talking about, it is a

fairly substantial increase. Does a similar sort of program apply to illegal drugs in the ADF and, if so, what is the allocation for that program?

**Air Cdre Austin**—The ADF, under the auspices of the mental health strategy, has developed a comprehensive drug and alcohol program. The program targets both alcohol and drugs and, like all such preventative programs, it is mainly focused on providing education to ADF members to make them aware of the legal situation and the risks associated with the abuse of alcohol or the use of drugs.

**Senator HOGG**—When you say ‘drugs’, are you talking about hard and soft drugs?

**Air Cdre Austin**—The preventative strategies are aimed at all non-medical drugs, yes.

**Senator HOGG**—So why such an escalation from \$48,000 in 2001-02 to \$313,000 in 2002-03 to an allocation this year of \$1.78 million? That seems to indicate that there is a substantial problem across the ADF.

**Gen. Cosgrove**—You might see it as a recognition that we need to do more. It is a determination that we would spend money. The air commodore will describe some of the modalities in the spending of money to help fix our problem. You say that it has suddenly accelerated in proportion to the outlay. One might observe that the outlay in previous years was modest.

**Senator HOGG**—Yes, that is what I am asking.

**Gen. Cosgrove**—We are making it substantial to do better against a problem that is obviously one that we are pretty serious about.

**Senator HOGG**—I note that the mental health strategy has accelerated in expenditure as well. I am not being critical of this. It just seems to me, in view of what we spent a fair bit of time on this evening with Air Force—and Senator Evans is going to go into Robertson shortly—that there is a problem there which needs to be addressed.

**Gen. Cosgrove**—Mr Veitch has got some observations on that, too.

**Mr Veitch**—I can add a little better information to help explain the increase in expenditure. This program was part of a number of initiatives that were funded as part of the dedicated \$100 million that was allocated for high-priority personnel initiatives as part of the government’s last election commitments. The increase in expenditure, rather than reflecting a higher take-up rate, reflects a phased introduction of that program. It took some time to actually work the program up and get it rolled out and fully operational. So it is more a reflection of the timing of the project implementation than anything to do with frequency.

**Senator HOGG**—That is helpful. So I could reasonably assume that if we had the out-year figures for 2004-05 and 2005-06—and I am not holding you to this—I would expect to see figures similar to that of the allocation in 2003-04.

**Mr Veitch**—Yes. And that sort of information will be available in future annual reports.

**Senator HOGG**—I thank you for that. Having got that information, it indicates that there is an accelerated attention to the problem within Defence.

**Air Cdre Austin**—Certainly. The issue of management, in particular of alcohol, in Defence has been rather sporadic. The Royal Australian Air Force has had a facility called

AREP, the Alcohol Rehabilitation and Education Program, at 3 RAAF hospital since 1975. It is an in-patient based facility providing what is known as tertiary level care—in other words, for people who are seriously affected by alcohol. The Navy has had an excellent primary intervention program for people who are detected in the early phase. But the system across the ADF has been poorly coordinated. The goal of the ADF's alcohol and drug program is to make sure that all three services have access to high-quality intervention at primary, secondary and tertiary level.

This has involved the increased awareness and education at all levels, so we have drug and alcohol specialists now attending all recruit training units to provide education to our recruits. They also provide education and training at officer training facilities, at commanding officer courses and those sorts of opportunities. We have produced a wide range of educational material working in conjunction with the Department of Veterans' Affairs and with our own Australian centre for post-traumatic mental health, our specialist advisers. We are providing ongoing education programs to units around the ADF to make them aware, firstly, of the dangers prevented by strategies for the safe and reasonable use of alcohol and, secondly, of what counselling services and intervention services are available to them.

As part of the strategy we have appointed a national coordinator working within my department, the Directorate of Mental Health. We had originally proposed to appoint some 12 regional specialist counsellors in the drug and alcohol area. However, following several reviews of the program, we are in the process of negotiating a memorandum of understanding with each of the state civilian drug and alcohol services so that our ADF care providers can access people who are currently in the area. We feel that that is a very efficient way to get access to a very high-quality service for our men and women. It is fair to say that there has been a very significant escalation in the importance and the amount of resources we are putting into this area.

**Senator HOGG**—Does the program extend to those who want to quit smoking as well?

**Air Cdre Austin**—No. Cigarette smoking is actually handled in a different way, although it is a similar strategy in that our main focus is obviously on prevention, using education and behavioural modification interventions. But it is not actually done by the same people, no.

**Senator HOGG**—It is not covered by the programs as outlined in table 1.3 that I quoted from?

**Air Cdre Austin**—I do not have access to that.

**Senator HOGG**—It is the ADF alcohol management program, ADF mental health strategy program.

**Air Cdre Austin**—Tobacco is included in our total strategy of addictive behaviours but it has actually been targeted more through our directive of preventive health as part of their cardiovascular risk and lifestyle improvement program. It is a multidisciplinary approach to tobacco.

**Senator HOGG**—It seems to me that if the ADF alcohol management program was renamed alcohol and drug management it would be a little more descriptive of what you do.

**Air Cdre Austin**—In all our literature the program is referred to as the alcohol and drug—

**Senator HOGG**—Except in the annual report. Okay, I accept that.

**Senator PAYNE**—In relation to those drug and alcohol issues that you were discussing with Senator Hogg, how do you assess the depth of the implementation of the policies across the ADF and how do you evaluate their effectiveness? What sorts of audit processes do you have in place?

**Air Cdre Austin**—An excellent question. In order to assess the effectiveness of any intervention program you have to develop a baseline to determine what your usage levels are. In the case of alcohol, that data is being captured as part of the annual health assessment and the comprehensive preventive health examination. The annual health assessment is done on an annual basis; the comprehensive is done on a five-yearly basis. As part of the work-up for that, people are required to complete an audit program, which is a means of detecting alcohol abuse but which also asks for an indication of their alcohol usage. It is hoped that we will be able to monitor the success of the program by changes in the audit scores and in the self-reported use of alcohol. A cofactor in demonstrating the success of the program will be a decrease in disciplinary activities that arise as a consequence of alcohol abuse, and we would also like to see decreases in accidents and injuries that may occur as a consequence of alcohol. There is a formal monitoring program that will be in place.

**Senator PAYNE**—In relation to the broader mental health strategy itself, how do you propose, or what processes do you already have in place, to evaluate its effectiveness?

**Air Cdre Austin**—The issue there is getting a baseline for the population. At this stage we are not doing a comprehensive mental health assessment of people at recruitment. They undergo various psychological tests but most of those tests are focused on aptitude for particular craft groups or aptitude for service in the Defence Force. It is a goal of the mental health team to develop comprehensive recruitment profiling which then can form the baseline for further assessments. People do undergo psychological assessment at various times in their careers. Clearly, operational deployment is such a time when they are screened during the deployment and following return, but they are also screened at times when they self-present for problems or during phases of their career such as going for commissioning or recategorisation or retraining into other areas. It is hoped that we will be able to develop a longitudinal mental health map of these individuals. Again, that is very important for us in developing appropriate intervention strategies to improve the wellbeing of our people.

**Senator PAYNE**—What can be even more important is arming your senior officers with the capacity to identify individuals who may have serious mental health problems that otherwise go unrecognised. In your eight key initiatives of the ADF mental health strategy you talk in one of the programs about improved literacy. I read your commander fact sheet and your commander guide in relation to fatigue management during operations and so on. In the question I asked you about the evaluation of the effectiveness of the strategy, I would include how you are evaluating the effectiveness of trying to improve literacy, and the capacity of your senior officers and commanders to identify the sorts of issues you point out in those initiatives.

**Air Cdre Austin**—I cannot give you the exact KPI that will be used to reflect the success of that. I can certainly take that on notice and report back to you.



**Senator PAYNE**—Thank you.

**Air Cdre Austin**—My understanding is that we have performance measures for all of the goals we have listed in our mental health strategy. Some of those are in place, but others are yet to be developed. The literacy program for leaders has taken on a very high profile. That is in place as we speak. There has been a significant number of roadshows from my mental health people going around talking to commanders in the field and also attending training courses such as commanding officer courses and senior officer development courses—those sorts of things—because basically the mental health strategy is a leadership issue. Leaders are there to look after and monitor the wellbeing of their troops. What we aim to do is give them the tools to recognise the problems earlier than is currently the case and to make them aware of what resources are available to them to help them execute that mission.

**Senator PAYNE**—When the ADF mental health support service was launched two weeks ago by the minister assisting, I think it said in the press release that the support line would be a confidential service that would help ADF members to access important services. Is it operated by people involved with Defence or is there a separation between that operation and the ADF itself, and is there any report-back, for want of a better phrase, that would alert senior officers in Defence to individuals under their command who may be suffering very significant problems?

**Air Cdre Austin**—The 24-hour all hours support line launched at the end of October is essentially an acute assessment service but most importantly a triage service. We already have in Defence a plethora of people whose role it is to provide support in the broadest sense of mental health issues. We have on-call social workers, psychologists, chaplains and medical personnel. They have been on-call forever. The problem has been getting people to access the appropriate service in a timely manner. The philosophy behind the all hours support line was to provide people with a single point of contact where they could speak to a trained health-care professional who would be able to make an assessment of the severity of the problem in real time and identify the appropriate referral person for follow-up. So the intent of the line is not to provide ongoing counselling or enduring support but simply to provide an acute intervention and then to triage to the appropriate person. Once that referral has been made, normal service procedures in terms of notification would take over from that point.

Having said that, in order to make sure that the line achieves its goal, we do offer the opportunity for people to contact the line anonymously and, if they wish to do so, to in fact maintain anonymity right through that triaging process. Clearly we would encourage them to make their identity known so that there is going to be the scope for follow-up. We would also encourage them, when they make the referral to the ADF provider, to engage leadership—their management—because, at the end of the day, that will be a pivotal part of the resolution of the problem.

**Senator PAYNE**—How will you promote the line through the ADF and how will you evaluate its effectiveness?

**Air Cdre Austin**—There will be very wide media coverage of the line through the service newspapers and DEFGRAM. Several organisations such as the Defence Community Organisation have agreed to include promotional material in their regular mail-outs to service

men and women and their families and it will include such things as fridge magnets, which will have the 1800 number on them. I should not have mentioned fridge magnets!

**Senator PAYNE**—I am not saying a word. I would not have gone there myself.

**Senator CHRIS EVANS**—There is not a problem in the world that cannot be fixed by a fridge magnet!

**Gen. Cosgrove**—We will send you one, Senator!

**Senator PAYNE**—On this very serious matter, though, Air Commodore.

**Air Cdre Austin**—Seriously, I am quite happy that service men and women and their families—and I want to make it clear here that the line is available to service families as well and not just serving members—will have free access to the number. I think there will be no problems there.

In terms of the measurement of success, the company that we have engaged to do this has been doing this type of work for many years. The two principals of the company are in fact practising psychiatrists here New South Wales. The KPIs basically will be looking at the numbers of calls and how many of those calls actually result in a referral to an appropriate agency.

**Senator PAYNE**—Has the company that you have engaged worked with the defence forces before? There are significant cultural differences, I would have thought, from any other organisations they may have encountered.

**Air Cdre Austin**—Senator, that is an excellent point and something we were very mindful of. No, the company has not specifically worked with Defence people and, as a consequence of that, we have made sure that there will be robust training for the counsellors who will be dealing with ADF members so that they understand the command system. We were very aware that, if service men and women contact a line that does not understand the contextual background of being an ADF member, the credibility would be low. That is being addressed.

**Senator PAYNE**—I look forward to seeing the results of the evaluations. Thank you.

**CHAIR**—Are you able to identify the company that you have formed a relationship with?

**Senator PAYNE**—It is in the press release.

**Air Cdre Austin**—I think it is McKessons Asia-Pacific based in North Sydney.

**Senator CHRIS EVANS**—General Leahy was going to tell me all about Robertson. I read the press release which described a raid by more than 50 investigators, with 100 troops being questioned. I saw the press release from the Department of Defence on 13 October which talked about urine testing of, I think, 100 or so soldiers. I have not seen any follow-up on that. I do not know whether I missed it. I was trying to get an update on the Robertson incident.

**Lt Gen. Leahy**—You have not heard anything because we have only just received it ourselves. We have initial indications of 97 soldiers who were subject to urinalysis. It would appear that in the order of 47 have shown evidence of drug use.

**Senator CHRIS EVANS**—So 97 were tested and 47—

**Lt Gen. Leahy**—Forty-seven are showing some preliminary indications of drug use. We expect that a more extensive analysis will be provided either later this week or next week.

**Senator CHRIS EVANS**—What does that involve? Does that further analysis mean blood testing or something?

**Lt Gen. Leahy**—No, it will be a greater analysis of urine.

**Senator CHRIS EVANS**—Is there any way of identifying what those 47 have tested positive to?

**Lt Gen. Leahy**—One or more of the drugs cannabis, benzodiazepine, amphetamine or opiate have been evident.

**Senator CHRIS EVANS**—Can you take me back to how this raid occurred? Was it done by the civil police?

**Lt Gen. Leahy**—It was initiated when the civil police conducting the civil investigations happened on a soldier who gave them evidence and information relating to drug use at Robertson Barracks. We then had a combined civil and military police investigation over some period of time. They gathered the appropriate information and the raid was conducted.

**Senator CHRIS EVANS**—So it came originally from a soldier providing information to the civil police?

**Lt Gen. Leahy**—That is correct.

**Senator CHRIS EVANS**—Then they contacted Army about a joint investigation?

**Lt Gen. Leahy**—That is correct.

**Senator CHRIS EVANS**—So it is not like the Air Force, which was isolated from the process—they contacted you in the early stages. Who did they involve from Army?

**Lt Gen. Leahy**—The military police were involved all the way through, along with the Northern Territory Police.

**Gen. Cosgrove**—Along the chain of command.

**Lt Gen. Leahy**—The chain of command was involved, yes. We were fully aware of what was going on.

**Senator CHRIS EVANS**—So when the so-called raid occurred, it was a planned activity with the knowledge of the chain of command?

**Lt Gen. Leahy**—Very much so, yes. The brigade commander was along with it all the way.

**Senator CHRIS EVANS**—How were the 97 identified for drug testing? Was it a particular unit or were they people who were named?

**Lt Gen. Leahy**—It was spread across the brigade—soldiers from a number of units. I cannot say that it was isolated to any particular area.

**Senator CHRIS EVANS**—Were they chosen because they had been identified?

**Lt Gen. Leahy**—There was evidence through investigations or implication that they had been involved in the illicit use of drugs.

**Senator CHRIS EVANS**—That is the 97 named persons.

**Lt Gen. Leahy**—There was information on each one of them indicating that they should be targeted.

**Senator CHRIS EVANS**—So it was not just a random 97?

**Lt Gen. Leahy**—This was targeted information and intelligence that both the Northern Territory Police and the military police used.

**Senator CHRIS EVANS**—So you organised for 97 selected persons to be tested and interviewed?

**Lt Gen. Leahy**—They were assembled first and asked if they had any admissions or anything to say. Some made admissions, and they were tested.

**Senator CHRIS EVANS**—Have they been interviewed as well?

**Lt Gen. Leahy**—I would think so. I do not know the exact details but, yes, they would have been interviewed.

**Senator CHRIS EVANS**—Could you take that on notice for me? I just want to understand.

**Lt Gen. Leahy**—Yes.

**Senator CHRIS EVANS**—Again, this would have been a joint operation between military police and the Northern Territory Police?

**Lt Gen. Leahy**—That is correct.

**Senator CHRIS EVANS**—So 97 were identified. How many actually came forward and admitted drug use?

**Lt Gen. Leahy**—During the interviews, 11 soldiers admitted drug use.

**Senator CHRIS EVANS**—After the testing of all 97, you got 47 with some sort of positive register?

**Lt Gen. Leahy**—Yes, to be confirmed with further analysis.

**Senator CHRIS EVANS**—Will the further analysis change the results, or will it just give you a tighter hold on the identification of the drug? I just want to understand the process.

**Lt Gen. Leahy**—I am not an expert on these things, but I expect it might provide a firmer analysis. Some of them might be contra-indications or problems with the analysis.

**Senator CHRIS EVANS**—Were these findings across ranks, or were they confined to certain ranks?

**Lt Gen. Leahy**—I will have to take that on notice; I do not know.

**Senator CHRIS EVANS**—What is your response to this? I guess I was a bit surprised by the large numbers.

**Lt Gen. Leahy**—I am disappointed. I think there should be no surprise out there that we have a zero tolerance policy—that is, we do not accept illicit drug use. I am disappointed that soldiers would put themselves and their own health in jeopardy, but, more from an

occupational health and safety issue, would put the lives of their mates in jeopardy. In fact, we are now seeing that soldiers are coming forward and saying, 'I don't like people driving me around at night who could be doing this. I don't like people who use weapons and who might be doing this. I don't like people who could put my life in jeopardy doing this.' We are seeing something of a groundswell. I see that as a very positive sign of support for the policies that we have adopted.

**Senator CHRIS EVANS**—Certainly, my own experience in the fire brigade in Western Australia was that the question of drinking on the job only changed when the young firefighters decided to change the culture. All the expressions of good intent from management and leadership did not work. Until it is actually led on the job by people, it does not change. What sort of response is Army going to make? It seems to me that Defence employs a lot of young people. Young people experiment with drugs. There is going to be a cohort of young people in Defence who take drugs. I do not overreact to that; I think that is a reality of modern life—which is not to condone it. Clearly, those sorts of numbers are indicative of a much wider problem at Robertson.

**Lt Gen. Leahy**—I think I should put it into context. This has been an extensive investigation by a large number of military police and, I suspect, a quite extensive investigation by the Northern Territory Police. The context is that the 1st Brigade consists of about 3,000 soldiers. So we are talking about 47 out of 3,000 after a pretty good trawl around the place to see what we have. While the numbers are disappointing—in fact, any number is disappointing—I do not see this as a clear indication of a widespread problem. I think, as you have stated, we need to be conscious that this is a problem in our broader society. I understand a lot of these things are party drugs, and the soldiers go out and party of a weekend. We are conscious of it, but I am heartened by the support we are getting from our soldiers to say this has to stop.

**Senator HOGG**—Roughly over what period of time did the investigation take place?

**Lt Gen. Leahy**—Probably three or four months.

**Senator CHRIS EVANS**—What about the suggestion that a drug ring is operating? What have you been able to ascertain? You obviously have a large number of positive returns, but what do we know about drug supply and drug usage on the base?

**Lt Gen. Leahy**—I have no positive information that I can state categorically. But I know that our police and the Northern Territory Police were looking at drug sales. Clearly, people are supplying. We need to wait. As you said, this occurred on 13 October, so we now need to see that analysis and further investigation of what actually occurred. I expect we will see some of those issues start to come out over the next few months.

**Senator CHRIS EVANS**—And they will come out by charges being laid, do you think, by civilian police?

**Lt Gen. Leahy**—I think there would be a combination, because the issue here is that there are differences in jurisdiction. Defence is able to deal with cannabis up to 25 grams; civil police deal with amounts above 40 grams—it varies by state. So we will deal with those things that we can; civil police will deal with those things that they can. At some time in the future we will be able to put it all together and see the full results.

**Senator CHRIS EVANS**—Your ability to prosecute, say, for cannabis would depend on the state law applying at the base?

**Lt Gen. Leahy**—No, cannabis is an offence under the Defence Force Discipline Act.

**Senator CHRIS EVANS**—So even if there is a two-plant limit, or whatever the South Australian legislation is, it is still an offence—

**Lt Gen. Leahy**—It is a military offence and we can deal with it up to 25 grams.

**Senator CHRIS EVANS**—If it is over 25 grams, you have to refer it to the civilian authorities?

**Lt Gen. Leahy**—It would depend on what the civilian authorities would do with it, yes.

**Senator HOGG**—Has this prompted any action at any other bases on Army's part?

**Lt Gen. Leahy**—Nothing explicit, but it has prompted a further effort on Army's behalf to remind our soldiers. The *Army* newspaper coming out this week deals with the dangers of drugs. We are on the front foot in saying, 'We just remind you that there is zero tolerance.' We have reminded people that of the 39 cases that were dealt with for notice to show cause for termination in the last financial year, 29 soldiers were discharged and 10 remain on permanent warnings.

**Senator CHRIS EVANS**—So you had 39 identified instances in the last financial year?

**Lt Gen. Leahy**—And we discharged 29.

**Gen. Cosgrove**—It has certainly prompted the chiefs to come together to review our devices to detect and enforce a zero tolerance policy. We have got, and have had, targeted urinalysis for drugs, but we have been waiting, and will not wait longer, for a random urinalysis device or tool. We are looking to do that in a coordinated way so that we have uniform policy across the services. One can say that with targeted urinalysis you need other indicators first. That would be obvious and normal. Random urinalysis can descend when it descends, in a random way, and every person in uniform will know that, from the CDF down to the newest recruit, a random urinalysis for drugs policy is in place and in practice.

**Senator HOGG**—On the question of testing, if you are going to do more random testing, what is that doing in terms of the facilities that you need to do the testing and in terms of the costs associated with that testing? How are you addressing those costs?

**Gen. Cosgrove**—We are scoping what we need. We will take that as a high priority personnel issue, and we will buy in for ourselves, either in manpower or in materiel terms, the wherewithal to do it. It is very important.

**Senator HOGG**—What sort of costs are associated with the program?

**Gen. Cosgrove**—I think we only have the very broadest indication—Army being the biggest.

**Lt Gen. Leahy**—For no more than 10 per cent of Army, it is in the order of \$400,000 to be funded by Army headquarters.

**Gen. Cosgrove**—I am told we estimate \$3 million overall—no more.

**Senator HOGG**—Will that have to be found out of other programs?

**Gen. Cosgrove**—We have, of course, the personnel initiatives money. We have not got down to the point yet of saying, ‘Would that be an initiative or will we find it out of other money?’ Suffice it to say it is very high priority to us and not something that we will then set aside because \$3 million is a lot of money.

**Senator HOGG**—Can you identify this for us for the next additional estimates and give us some advice then as to just how it is being funded? I think that would help us out.

**Gen. Cosgrove**—Yes.

**Senator CHRIS EVANS**—General Leahy, how many military bases have had raids or drug investigations this year?

**Lt Gen. Leahy**—This year, three of consequence; and there are probably individual actions going on and I do not have details of them. In May this year in Woodside: again, information was received from an informant identifying the use of drugs by people at Woodside.

**Senator CHRIS EVANS**—Where is Woodside?

**Lt Gen. Leahy**—South Australia. South Australian police and the military police were involved and eight soldiers were reported by the military police for discipline administrative action and two were charged with civilian drug offences. In June this year in Townsville: again, information provided to the military police and Queensland police by informants identified 39 individuals using cannabis and narcotics. Twenty-two soldiers were reported by the military police for discipline administrative action, and Queensland police charged a further three with various drug possession offences. They are the major drug incidents that we have had this year.

**Senator HOGG**—Is there an ADF hotline that people could ring if they wanted to raise the issue of drugs?

**Lt Gen. Leahy**—There is not explicitly a drug hotline, but there are a number of hotlines that people could use. There is the Army Fair Go Hotline. There is the Defence Whistleblower Scheme. I think there are a number of places that people could ring.

**Senator HOGG**—So no-one uses that facility specifically in respect of drugs?

**Lt Gen. Leahy**—I would have to check the details particularly of the Army Fair Go Hotline, and I will take that on notice, but I am not aware of it being used frequently. I am advised the Fair Go Hotline has been used. I will get you some figures.

**Senator CHRIS EVANS**—On the Woodside and Townsville figures you gave me, have you got details of what administrative action was taken? Was anyone discharged?

**Lt Gen. Leahy**—No. As yet, it is probably too soon—for both of those we are talking about May and June. The administrative action takes a while. What I could say, though, is that anyone in Army who is found guilty of an offence, either civil or military, in relation to drugs is automatically given a notice to show cause why their service should not be terminated. I would expect that that would proceed. They are given natural justice, the ability to make a reply. As I indicated last year, our record would show that we have kept about 20 per cent; the others have been discharged.

**Senator CHRIS EVANS**—That is of people who have been convicted or found—

**Lt Gen. Leahy**—Yes.

**Senator CHRIS EVANS**—I am just trying to get the distinction between those found guilty of a civil charge versus what you might have determined as an internal Army—

**Lt Gen. Leahy**—There is no difference as far as we are concerned: if it is a civil charge or an internal Army charge, there is an automatic termination notice issued. For the people that we would keep, in that 10 out of 39, there are some factors. They include: the age and rank of the offender at present and at the time of involvement, because some of these people tend to be young and they are experimenters so we would have a look at that; the likelihood of repetition; whether it was voluntary admission or use coupled with the intention to cease using the drug; any disciplinary records; civil and service convictions; character and work performance. I am aware of some soldiers who have just got caught up in this. I have been involved in some instances where good soldiers have made mistakes, we have kept them and they have turned out to be even better soldiers. But the normal course of action is discharge.

**Senator CHRIS EVANS**—Are you aware of any drug activity or concerns about drug abuse at Holsworthy?

**Lt Gen. Leahy**—No.

**Senator CHRIS EVANS**—Was the recent death of Private Lindsay related to a drug incident?

**Lt Gen. Leahy**—Yes.

**Senator CHRIS EVANS**—Is that being investigated internally or by the coroner?

**Lt Gen. Leahy**—I would have to take that on notice. There would certainly be an investigation done by the military. I think whether the coroner would be involved would be up to him. I am told that we have done an internal investigation but the matter does rest with the coroner and that is why we have not made any comment today.

**Senator CHRIS EVANS**—Who was the internal investigation conducted by?

**Lt Gen. Leahy**—It would be done by the unit. If you require a name I will get that for you.

**Senator CHRIS EVANS**—I am just trying to get the level, basically, and the scope of it. I do not want to use the wrong term but this is a quick internal unit level investigation—is that a fair description?

**Lt Gen. Leahy**—In the event of unexpected death we have mandated that there would be an extensive investigation done. The military police were in attendance. There would now be an investigation by a senior officer to try to determine the facts. The formation commander, that is, brigade chief—

**Senator CHRIS EVANS**—Are you saying that you have done one internal investigation and now a more senior one is occurring?

**Lt Gen. Leahy**—We have had a quick look at it and made a quick assessment. Now under the terms of reference the formation commander would appoint someone under the Defence inquiries to determine what went on.



**Senator CHRIS EVANS**—So that will commence and your understanding is that the coroner may be conducting an inquiry as well?

**Lt Gen. Leahy**—It is a matter for the coroner. In some cases they accept the investigations that we do; in others they may determine to do it themselves.

**Senator CHRIS EVANS**—I understand that. Do you have any information as to whether the coroner is inquiring into Private Lindsay's death?

**Lt Gen. Leahy**—I do not know. I will try and find out and let you know.

**Senator CHRIS EVANS**—If you can take that on notice for me, that would be good.

**Lt Gen. Leahy**—Yes.

**Senator CHRIS EVANS**—I want to ask a broader question of you, General Leahy, or of General Cosgrove. It goes to whether you have concerns that there are active drug rings operating at defence bases, whether these recent incidents have heightened concern about drug operations and drugs being made available to ADF members, and whether there is a response at a macro level to that issue on top of these individual investigations.

**Gen. Cosgrove**—I could not say I was absent of concern. Plainly if you have a lot of young people using drugs you have to suspect that they are associated in some way or that they have access to drugs in the wider community—they may be being targeted or having drugs pushed towards them as a relatively affluent group of younger people, mostly men. So you worry about that aspect. What it drives us to do is ensure that we play our part in what is, after all, a community issue. We would seek to ensure that commanders are sensitised to this as a potential issue on other bases, that we have means to detect it by either targeted or random detection, and that we react to indicators. For example, if under a random regime you got some indications, you would seek to have a targeted approach against this unusual revelation. I think that is the part that we play. You have heard of the preventative and almost therapeutic approach that we can also take in some cases. These are our responses. They are the appropriate ones.

**Senator CHRIS EVANS**—But you have made it clear tonight that this is an issue that you have been dealing with for some time. It seems to me you have had a couple of quite high-profile and larger instances of involvement. You have now decided to implement random tests. Are you working with the authorities about how you deal with drug access issues? There are the allegations, obviously, by AC Moore about drug rings operating et cetera. Clearly the Robertson matter indicates there is a fairly systemic issue there, at least amongst a subset of the soldiers serving at that base.

**Gen. Cosgrove**—It is hard to characterise this as being something which will affect all bases. You would say there are some classic opportunities for people who push drugs, but whether it is to a point where it is systemic is not a call I would be prepared to make now. A better way to do it is for all commanders at bases—not just in the Army but at all bases where young people with ordinary lifestyles and a bit of disposable cash congregate—to understand that they should be aware that there is a potential for people to work the base. Whether they are misguided service men or women or outsiders who see it as an opportunity is something

that should be set aside for the moment. It should just be said that it is a modern phenomenon that we really want our area and base commanders to be aware of.

The immediate recourse then is to have liaison with the state police service, and with the Federal Police where appropriate, to ensure that we can work with real experts in detection, because while we can do all the deterrent and to some degree preventative work within our own service population, the real nub of this is to find the suppliers. Where they are service men or women, fine, they will be dealt with, but where they are from the wider community, it obviously goes back to where wholesale drugs are provided. So I think it is a question of sensitising subordinate commanders—our quite senior people who are the senior officers in these base areas, but still subordinate to the sort of folk you have here. We have to do this in a multifaceted way, not simply through the institution of testing regimes.

**Senator CHRIS EVANS**—My staff have uncovered where I got this assumption from that you already had a random drug testing program. It was a release by Danna Vale, the then Minister Assisting the Minister for Defence, back in September 2002, which was in response to the Darwin incident and the death of Seaman Gurr. In that press release Minister Vale said:

Subsequently the Chief of the Defence Force, General Peter Cosgrove, has proposed a post-critical incident and random drug and alcohol testing program for all Australian Defence Force members.

Do I take it that nothing has happened on that front?

**Gen. Cosgrove**—Absolutely not, Senator. We immediately moved to create our policy inputs to a change of regulations and submitted it for what you might call the more routine fielding of the regulations that would enable a policy. We immediately went to a targeted policy; that was easy. The random policy referred to by the minister assisting was to be the subject of regulations. As I say, we are unhappy that we will not have that facility available to us whilst waiting for appropriate processing of regulations, so we have moved to an expedient or interim system.

**Senator CHRIS EVANS**—What happened between September 2002 and—

**Gen. Cosgrove**—We had targeted analysis available to us.

**Senator CHRIS EVANS**—But the minister announced that, as a result of your initiative, you were going to be doing random tests.

**Gen. Cosgrove**—Yes. Did she put a date on that? I do not know.

**Senator CHRIS EVANS**—No, I only have the date of the press release.

**Gen. Cosgrove**—So she referred to an intention to do this?

**Senator CHRIS EVANS**—She said:

Subsequently the Chief of the Defence Force, General Peter Cosgrove, has proposed a post-critical incident and random drug and alcohol testing program for all Australian Defence Force members. I have asked the CDF to further develop this proposal as a high priority and bring it forward for policy advice for the Government's consideration.

I am happy to give you a copy of the press release.

**Gen. Cosgrove**—You do not need to, Senator. It is entirely consistent with what I just told you.

**Senator CHRIS EVANS**—Yes. I guess what I am trying to find out is why nothing has happened for a year.

**Gen. Cosgrove**—At the time we made a decision to develop random drug testing after the introduction of random alcohol testing. That was a sequencing issue, but I think the answer I gave you still stands.

**Senator CHRIS EVANS**—I am not sure what that means, General Cosgrove.

**Gen. Cosgrove**—You might recall at the time, Senator, that the issue of the day was the misuse of alcohol involved in the death of a serviceman and, unsurprisingly, alcohol testing was to be the priority for the random testing of substance abuse.

**Senator CHRIS EVANS**—Has that occurred?

**Gen. Cosgrove**—It is caught up in the same process.

**Senator CHRIS EVANS**—So that has not happened either?

**Gen. Cosgrove**—No.

**Senator CHRIS EVANS**—When will random alcohol testing be achieved?

**Gen. Cosgrove**—We will do it under the same occupational health and safety standards as we now propose for the interim arrangements for drugs.

**Senator CHRIS EVANS**—I see. You will use the same source of power as was described earlier for an interim period until regulations are drafted—is that a fair summary?

**Gen. Cosgrove**—That is correct.

**Senator CHRIS EVANS**—Perhaps at this stage I might invite Admiral Ritchie—he has been getting it too easy—to talk about the Navy. I wanted to follow up Seaman Gurr anyway. Don't disappear, General Leahy; you might get another run. Admiral Ritchie, are you able to give me the sort of statistical analysis of illegal drug issues inside Navy that the other two services have been able to provide?

**Vice Adm. Ritchie**—Yes, I am. In the period since May 2002, there have been 60 instances of illicit drug use in the Navy. Of that 60, 53 per cent have been administratively discharged from the Navy. Of those that were retained, about 50 per cent have been put on a random program of testing. Seven per cent have tested positive at some time during that period—

**Senator CHRIS EVANS**—How many?

**Vice Adm. Ritchie**—Seven per cent of the half of the 47 per cent.

**Senator CHRIS EVANS**—Two.

**Vice Adm. Ritchie**—A small figure.

**Senator CHRIS EVANS**—You are talking about a couple of people, basically.

**Vice Adm. Ritchie**—Yes. Sixty people overall, 53 per cent thrown out—

**Senator CHRIS EVANS**—To mix percentages and numbers there is a bit confusing. You discharged 31 people—is that right?

**Vice Adm. Ritchie**—Whatever that is.

**Senator CHRIS EVANS**—And of the 29 left—

**Vice Adm. Ritchie**—Fifty per cent of those were put on a random testing program and a small percentage of those reoffended and were subsequently discharged. In terms of raids and things, we do not have any ones that have reached the reputation of those two you have discussed, but we do have an ongoing program of collaboration with the state police. There have been five incidents of cooperation with the police in Victoria, mostly centred around HMAS *Cerberus*. *Cerberus* in fact accounts for nearly 50 per cent of all our drug offences. It is our recruit training establishment and there are people coming in off the street. That is in the period 2002-03.

There have been three instances of cooperation in Stirling, over in the west, in the year 2003. In New South Wales, there have been three operations in the last 18 months or so in conjunction with the civil police. Since the end of 2001, there have been 12 instances, and more are planned, where we have run operations in conjunction with Australian Customs. That is normally to do with ships returning from overseas. We take the Customs service dogs into the ships and there is an active search, if you like, for drugs.

**Senator CHRIS EVANS**—Is that driven by tip-offs?

**Vice Adm. Ritchie**—Sometimes by tip-offs and sometimes just by the fact that it is a good thing to do every now and again when ships come back from overseas. All those actions and internal actions by the Naval Investigative Service have resulted in the discovery of those 60 offences.

**Senator CHRIS EVANS**—Have they largely been pursued under internal discipline or have some of them been pursued in criminal courts?

**Vice Adm. Ritchie**—Some of them have been pursued outside. All of them have resulted in, as the Chief of Army said, an issue of a notice to show cause as to why we should retain them and they resulted in those figures of 53 per cent.

**Senator CHRIS EVANS**—So you have an automatic show cause rule?

**Vice Adm. Ritchie**—Yes.

**Senator CHRIS EVANS**—Are the reasons for you not discharging similar to the Army's in terms of looking at the age and circumstances?

**Vice Adm. Ritchie**—They are the same sorts of things that have been referred to by the Chief of Air Force and the Chief of Army.

**Senator CHRIS EVANS**—What sort of regime you are running in terms of testing for alcohol?

**Vice Adm. Ritchie**—As a result of the discussion that you have just had about the announcement of last year, the preparation for doing that is now virtually complete. All the equipment has been procured. We are in the last phases of training the people who are going to do this and, in the Navy, random alcohol testing will start in January next year.

**Senator CHRIS EVANS**—At this stage there has been no random testing?

**Vice Adm. Ritchie**—We had some of this equipment before this announcement was made and there has been, throughout the Navy, use of it on occasion, but it has not been use that has

been regulated in the way in which we would like it to be regulated and the way in which the defence instruction—

**Senator CHRIS EVANS**—Have you done targeted testing using that equipment?

**Vice Adm. Ritchie**—For alcohol?

**Senator CHRIS EVANS**—Yes.

**Vice Adm. Ritchie**—No, it is random. You might understand that the law that we currently have does not allow you to take disciplinary action as a result of breath testing. So it has been done as a sort of safety in the workplace thing to turn people towards rehabilitation if they are found to be a problem and in the extreme, I suppose, to take administrative action and move them on from the Defence Force if that rehabilitation does not work—that is with respect to alcohol.

**Senator CHRIS EVANS**—Can you tell me where we are at in relation to the Leading Seaman Gurr issues. I think the last time we spoke there were a whole range of administrative actions pending et cetera.

**Vice Adm. Ritchie**—Are you talking about the personnel in particular?

**Senator CHRIS EVANS**—The fallout, if you like, from the board of inquiry.

**Vice Adm. Ritchie**—There are two separate issues. One is action taken against people. Six members of HMAS *Darwin* ships company were issued with censures by the Maritime Commander. Censure action against one further member is pending. The appropriateness of legal action against one member is being considered by the Director of Military Prosecutions and one member has been written to by the maritime commander with an expression of his displeasure for his activities.

**Senator CHRIS EVANS**—How does that compare with a censure?

**Vice Adm. Ritchie**—It is less.

**Senator CHRIS EVANS**—What does the censure mean in Navy disciplinary terms?

**Vice Adm. Ritchie**—It means that the person is given notice to show cause as to why they should not be censured. They respond and then a decision is made by the appropriate authority as to whether or not that censure will be put into effect. It is then placed on the person's record.

**Senator CHRIS EVANS**—What is the censure—a letter from the commanding officer?

**Vice Adm. Ritchie**—In this case, a letter from the Maritime Commander.

**Senator CHRIS EVANS**—So it is a letter that says, 'You've done wrong and this is on your record'?

**Vice Adm. Ritchie**—Yes. It is an administrative action as opposed to a legally punitive action. As you might understand, in this particular case all of the evidence that passed before the board of inquiry is inadmissible in legal proceedings. That is the law of the land with respect to boards of inquiry. If you are to take legal action against anybody under the DFDA, it is then necessary to reacquire that information. That proved to be quite difficult.

**Senator CHRIS EVANS**—They are not as talkative the second time around?

**Vice Adm. Ritchie**—Are you talking about double jeopardy again?

**Senator CHRIS EVANS**—No, it is not double jeopardy, is it? They are not in any jeopardy at the board of inquiry. The evidence they give cannot be used against them.

**Vice Adm. Ritchie**—The evidence they give at the board of inquiry cannot be used in disciplinary proceedings.

**Senator CHRIS EVANS**—So all the findings of inappropriate behaviour based on evidence given cannot be used; you have to go back and start again?

**Vice Adm. Ritchie**—They cannot be used to institute legal proceedings, no. You have to go back and start again. Clearly, once you do that it is a lot more difficult to get people to give evidence which might incriminate other people who are with them.

**Senator CHRIS EVANS**—So, despite all the evidence of the board of inquiry about the abuse of alcohol, the sum total of outcomes at this stage is six censures, one pending and one consideration of legal action before the DPP?

**Vice Adm. Ritchie**—Yes. There will not be any more than that.

**Senator CHRIS EVANS**—And there are no other inquiries or disciplinary actions pending as a result of that matter?

**Vice Adm. Ritchie**—None other than those I have just mentioned.

**Senator CHRIS EVANS**—No others relating to Seaman Gurr's death?

**Vice Adm. Ritchie**—No, there are no other personnel actions relating to that. With respect to the rest of the board of inquiry and the recommendations that were made, only 17 of the 71 recommendations are yet to be determined. Four relate to aspects of legal procedure. They await advice from the Attorney-General's Department before proceeding. Seven involve policy development and acquisitions of equipment for testing and detection of alcohol and drugs. That is all tied up with the issues that we have been talking about in the last hour. Six involve longer-term equipment upgrades and design changes to ships. They are all being pursued, but they are longer term in terms of completion.

**Senator CHRIS EVANS**—Thank you.

**Proceedings suspended from 9.19 p.m. to 9.36 p.m.**

**CHAIR**—We will move to output 6.1, Intelligence for the defence of Australia and its interests. We particularly welcome Mr Frank Lewincamp, the Acting Deputy Secretary, Intelligence and Security. Before we proceed to question him, General Cosgrove, I believe you have a comment or an explanation you wish to make.

**Gen. Cosgrove**—Thank you, yes. In one of my last replies before the break, I misled senators with a reply on our alcohol testing policy. In the consideration of the delays and intricacies involved in a drug testing policy, I wrongly said that we had not moved ahead on our alcohol testing policy. We have. We released the policy in September 2003, and testing is available to commence in early 2004. The testing program will include random and targeted testing, will be administered by the single services, will concentrate on areas defined as safety critical areas and will have an emphasis on helping and retaining personnel.

**CHAIR**—Thank you. Senator Evans.

**Senator CHRIS EVANS**—I will start by asking a couple of questions about this person Brigitte who was deported to French authorities. I want to follow up this released information on the defence connection. Can you confirm that he married a former defence member while in Australia? Is that correct?

**Mr Lewincamp**—That is correct.

**Senator CHRIS EVANS**—I am not seeking the name, but when did this person leave the defence forces?

**Mr Lewincamp**—Well—

**Senator CHRIS EVANS**—Don't tell me you have fallen at the first hurdle.

**Mr Lewincamp**—I am sorry, it is not my field.

**Senator HOGG**—I thought Intelligence and Security would know everything.

**Senator CHRIS EVANS**—Sorry, I assumed these questions would be directed to you. If you are not the appropriate person—

**Senator Hill**—Speaking generally, we have been reluctant to answer questions in relation to her because she is not in the Defence Force and she is not a suspect, as I understand it. Therefore, her personal matters are her business and we do not really see it as our business to be canvassing them in public. I think that that is still quite a sound position to hold. If Senator Evans has a series of questions about Brigitte's wife, I do not think it is appropriate to be asking me those here tonight.

**Senator CHRIS EVANS**—I do not know on what basis you say that. I am not seeking to identify the individual. The government has, on the record, provided the information that he married a former member of the ADF. It seems to me that the Defence estimates hearing is the appropriate place to ask questions about that person. I am not seeking to identify that person, but, given that the government has made it very clear that this is one of the most serious security concerns they hold about potential terrorist activity in Australia, it seems to me that it is a question of strong public and parliamentary interest. I am particularly interested in any connections that may have been developed with a member or former member of the ADF and what security issues might arise from that. I am not seeking to identify the person. It seems to me to be a legitimate question to ask.

**Senator Hill**—You are identifying the person because you are identifying her as Brigitte's wife.

**Senator CHRIS EVANS**—No, you did that.

**Senator Hill**—It is not our normal practice to disclose service records of former service personnel. In relation to this particular person, I do not see a linkage with the Brigitte concerns, because the advice of ASIO, as I understand it, and the Australian Federal Police, is that they do not regard her as in any way implicated in the business of Brigitte.

**Senator CHRIS EVANS**—The fact that you do not see a linkage may be of interest to us, but I do not see why that would be the definitive view. I am asking a legitimate question of you and the department at Senate estimates about someone who—

**Senator Hill**—You can ask whatever questions you like, but I will decide whether I am going to answer them. My concern is that you are asking about the records of a former service person and it is not our practice to provide such information publicly because we regard it as personal.

**Senator CHRIS EVANS**—With all due respect, you provide it for all sorts of people where there is a public interest involved. We just discussed Seaman Gurr. We have discussed a whole range of people—whoever is involved in national security or wider public issues.

**Senator Hill**—If you could establish a public interest, I hear that argument, but the—

**Senator CHRIS EVANS**—The public interest is what connection they have with a serving or former member of the ADF while in this country.

**Senator Hill**—Whilst ASIO and the AFP tell us she is not a suspect—they do not see her as in any way implicated in the business of Brigitte—it seems to me that her service record is a personal matter.

**Senator CHRIS EVANS**—That is right. I have not asked you for her service record.

**Senator Hill**—You are asking when she left.

**Senator CHRIS EVANS**—I am not asking you to identify her. What I want to know is when she left the service, whether she is still in the Army Reserve and what her rank and security clearances were. That seems to me to go to the question of what security risk was posed by this person in terms of his connection with her. The other agencies have answered a whole range of questions on the public record, and ministers have put out on the public record a whole range of pieces of information relating to this matter.

**Senator Hill**—Relating to Brigitte's wife?

**Senator CHRIS EVANS**—No, relating to the alleged terrorist involvement.

**Senator Hill**—You ask questions about Brigitte—

**Senator CHRIS EVANS**—Who he was involved with and what his connections to Defence were seem to me to be pretty relevant issues.

**Senator Hill**—It would be the easiest thing in the world to toss bits of personal information on the public record. When we have been specifically told by ASIO and the AFP that she is not a suspect and has not been implicated in the business of this man, then—

**Senator CHRIS EVANS**—So you would tell me if she were a suspect?

**Senator Hill**—Well—

**Senator CHRIS EVANS**—No, you would say, 'She is under active investigation and I won't tell you.'

**Senator Hill**—Then you establish a public interest. If you can establish a public interest between her period of defence service and the matters of public concern, then that would be a different case.

**Senator CHRIS EVANS**—What I am trying to do is establish whether there ought to be any public concern about her connections with Defence.



**Senator Hill**—If you do not believe what I say, you should go and talk to ASIO and to the AFP.

**Senator CHRIS EVANS**—They would say, ‘Refer that question to Defence, because you are asking a question about a serving or former member of the Defence Force.’

**Senator Hill**—They have said to me that they do not believe questions should be answered in relation to her because they do not regard her as a suspect. That is simply good practice. The next issue is what is the practice within Defence. I have always understood that personnel records are kept confidential unless there is a major issue of public interest. So if she is not implicated I cannot see the area of public interest. Mr Lewincamp, you can say something, seeing as he suspects me of all sorts of mischief.

**Senator CHRIS EVANS**—I suspect you are being uncooperative, Minister. I do not put it any higher than that.

**Mr Lewincamp**—Senator, we do not want to go into too much detail because it is an ongoing ASIO-AFP investigation. But the point that you are making about her previous connections to the Defence Force, both as a member of the regular force and the reserve force, and her access to information there is precisely one of the points that ASIO are looking at in their interviews with her. They have satisfied themselves thus far that she is not implicated at all in Brigitte’s activities.

**Senator CHRIS EVANS**—Yes. There is a question about whether they have made a judgment about whether she is implicated. I was purely after the factual information. I think you have now confirmed that she is no longer a member of the ADF.

**Mr Lewincamp**—That is true.

**Senator CHRIS EVANS**—I have seen this on the public record. I do not know how much is released by government and how much was obtained by other means.

**Senator Hill**—If she is giving public interviews, then she ought to be asked the questions. If she wants to disclose her service record, so be it.

**Senator CHRIS EVANS**—I am not sure that an answer to a legitimate question at estimates is to go and interview the person involved, Minister. It seems to me that it is legitimate for me to ask: is she still a member of the Army Reserve or the ADP Reserves?

**Mr Lewincamp**—Senator, the answer is no.

**Senator CHRIS EVANS**—So she is not a current reservist.

**Mr Lewincamp**—No.

**Senator CHRIS EVANS**—I think, from your answer previously, Mr Lewincamp, she was obviously a former full-time serving member of the ADF.

**Mr Lewincamp**—Yes, she was.

**Senator CHRIS EVANS**—The other questions I had go to when she left the ADF and whether that was before or after her involvement with Brigitte.

**Mr Lewincamp**—It was before her marriage to Brigitte.

**Senator CHRIS EVANS**—I suppose the key questions I have are: what was her level in that did she have a senior rank or a junior rank, and what sort of intelligence security clearance or level of responsibility did she have?

**Gen. Cosgrove**—I was sitting here thinking of what we would say about any other person in any other inquiry of this nature—forget the nature of this one. It just seems to me that somebody who we have been exhorted to leave alone we are now starting to narrow down with rank and all the rest. I do object to this, Mr Chairman.

**CHAIR**—Thank you, General Cosgrove. Senator Evans is entitled to ask the questions, but the position has been made very clear by the government. I think that, Senator Evans, if you wish to continue your questions it might be an idea to put them on notice and the government can decide whether they can answer them or not.

**Senator CHRIS EVANS**—Quite frankly, Mr Chairman, I do not think that is a good piece of advice. If the minister is not going to answer them, then there is no point my putting them on notice, is there?

**CHAIR**—I think it is pretty clear that he is not going to answer them.

**Senator CHRIS EVANS**—I am certainly not satisfied with the response on that. It seems to me that that is a device that suits him on this occasion and when it does not suit him—

**Senator Hill**—It does not suit me in any way at all. I get lectures from Senator Evans on civil liberties and all these things, and then they come in and disregard all that and throw it aside.

**Senator CHRIS EVANS**—No, you get lectures from Senator Johnston on those things, Minister—I have deferred to him. It seems to me not unreasonable to try and assess what the level of contact inside ADF was.

**Senator Hill**—If we were dropping in this woman's background we would be condemned by the Labor Party for unfairly intruding in her personal affairs.

**Senator CHRIS EVANS**—That is not right.

**Senator Hill**—It is right.

**Senator CHRIS EVANS**—If she was on an island you would have excluded her from Australia. It seems to me the level of response does not necessarily meet threat. This woman is now a public figure. I will rephrase that: she is a figure of public interest.

**Senator Hill**—This is the whole point—she is not. ASIO have decided she is not.

**Senator CHRIS EVANS**—If ASIO had decided she was then we would not be able to discuss her because it would be the subject of an investigation. She is not the subject of an investigation but we cannot discuss it either.

**Senator Hill**—There may be an argument that it would prejudice an investigation, but that is not the argument I am putting tonight.

**Senator CHRIS EVANS**—No, and that is why I am not clear what your argument is other than that you do not want to tell us. Are you claiming there is some security risk?

**Senator Hill**—No. I am arguing that, as a matter of personal privacy, we do not disclose service records of individuals.

**Senator CHRIS EVANS**—I am not asking for the service record. I would like some indication of whether or not she was an officer and whether or not she had a security clearance at any senior level, to give me a feel for whether or not she was holding any sort of senior position in the ADF.

**Senator Hill**—As I said, there have been some discussions on this issue, but out of those discussions it was put to me—and I think the argument is quite persuasive—that as she is not a suspect it would be improper to subject her to more intrusive personal scrutiny than we would in relation to another individual. In other words, her service record is not of public interest in this matter because she is not regarded as a suspect.

**Senator CHRIS EVANS**—I am not asking for her service record. You keep saying that. I have asked you what rank she was discharged at.

**Senator Hill**—There you go—that is all part of it.

**Senator CHRIS EVANS**—Short of her being a full general, I would have thought it would be pretty hard to identify the individual given the number of colonels, majors and other ranks we hold.

**Senator Hill**—I will take the questions on notice and I will take some further advice. But that was a position that was put to me and I thought that, on balance, it was the fair position in relation to this woman.

**Senator CHRIS EVANS**—Minister, I would like you to give consideration to the question of rank and security clearance and whether or not she was involved in any sensitive intelligence or other higher security type section. Those are the sorts of things I want to get a sense of. I would appreciate it if you would give consideration to that.

**Senator Hill**—Okay.

**Senator CHRIS EVANS**—I have a couple of questions on the DIO press statement of 11 July on the document relating to Iraq's WMD capabilities where Defence confirmed it received a copy of that US intelligence document. When did DIO receive that document?

**Mr Lewincamp**—We received the document in January.

**Senator CHRIS EVANS**—January 2003?

**Mr Lewincamp**—That is right.

**Senator CHRIS EVANS**—That was part of a normal distribution?

**Mr Lewincamp**—Yes, it was.

**Senator CHRIS EVANS**—When was DIO made aware of the US doubts about the Iraq-Niger uranium claim?

**Mr Lewincamp**—We had been aware for some time of a difference of views about the Iraqi acquisition of uranium from Africa. The particular point about Niger is that the national intelligence estimates, to which you referred and which were received in January, contained a

majority US agency view that this information was credible and a dissenting view from one agency that they did not accept the information.

**Senator CHRIS EVANS**—Had you or any of the Australian agencies made an independent judgment about these issues?

**Mr Lewincamp**—We noted the competing views about the attempted acquisition of uranium from Africa. We had noted a multiple number of sources alleging such attempted acquisition far beyond just the single source from Niger. We made the broad judgment that Iraq had at some time been attempting to procure uranium, but we also made a judgment that those attempts had been unsuccessful.

**Senator HOGG**—Did you take action to try to verify which view might be the correct view?

**Mr Lewincamp**—No.

**Senator HOGG**—Or did you just form a judgment that there were two competing views?

**Mr Lewincamp**—It is exceedingly difficult for us to verify the different claims that were coming forward. It is not possible for us to make independent assessments or validation of those particular claims.

**Senator HOGG**—Even though you said, I think, in your statement that there were a number of sources which were giving similar information on both sides of the argument. Is that correct?

**Mr Lewincamp**—We were receiving information from a number of allied agencies. We did not have access to their direct sources.

**Senator CHRIS EVANS**—But you concede that in January you were aware of the difference of view. The press release talks about the dissenting view being buried deep within the document in an annexe, but I thought your earlier statement to me was that you were aware that there was a dissenting view about this.

**Mr Lewincamp**—A competing view. We were aware of competing views, yes.

**Senator CHRIS EVANS**—So the fact that it was in an annexe does not suggest that you were not aware of it or had not read the annexe—it was a summing up in which DIO was aware of competing views on the matter? Was January the first time you became aware of that or was that a debate that had been around for a while before that document?

**Mr Lewincamp**—I hesitate because I really cannot remember at what point I became aware of it. I will need to take that on notice.

**Senator CHRIS EVANS**—Perhaps you can do that for me. Certainly, at the very least from January onwards, that would be the latest when it could be said that you were aware that there was a competing view?

**Mr Lewincamp**—That seems to be the case.

**Senator HOGG**—Was the competing view repeated after that January date on any occasion?

**Mr Lewincamp**—You will probably recall—I am working from memory too—that the head of the IAEA, Dr El Baradei, made statements in, I think, March claiming that the information related to Niger was from forged documents. There was a debate going on during February and March of this year about the nature of the intelligence related to procurement of uranium from Africa.

**Senator HOGG**—In those circumstances, what do you base your judgment on? Is it the reliability of the source you believe the information comes from or do you have some other means of checking out the validity? I understand your response to me earlier.

**Mr Lewincamp**—We rely in the first instance on the judgment made by the allied agencies that provide the intelligence. The intelligence usually comes with an assessment of the credibility of the source. We checked with a particular allied agency in this case who expressed to us their confidence in the information that they had received—that is, they were confident in their judgment that Iraq had been engaged in attempts to acquire uranium from Africa. So we had that type of information, but we also, as I said, had other information and our own judgment that those attempts had not been successful.

**Senator HOGG**—Putting this issue to one side for the moment, how often would you get information such as that which you rely on in the first instance and subsequently find is not as valid as you thought it would have been?

**Mr Lewincamp**—That is a normal part of the intelligence analytical game.

**Senator HOGG**—I accept that but, for the benefit of someone like me who is not as close to it as you, how frequently would that occur?

**Mr Lewincamp**—Usually we are slow to rush to judgment on the quality of the intelligence. We look for verification, and it can be over a period of time. Initially a snippet of information comes in that is suggestive of something and over a period of another two or three days you will find additional information that indicates that the early information was false. As a good example, you might remember that there were a lot of early claims during the Iraq war about the finding of chemical weapons. A lot of those claims turned out to be false alarms. So we are very cautious in the judgments we make, and particularly in rushing to judgment too quickly about these things.

**Senator CHRIS EVANS**—Given that context, we are now aware of this INR—Bureau of Intelligence and Research—State Department memo to Secretary of State Powell in late February 2002 specifically disputing the Niger claim. When would you have become aware of that INR conclusion?

**Mr Lewincamp**—I am not sure which INR document you are referring to.

**Senator CHRIS EVANS**—They sent a memo to Secretary of State Powell on 28 February specifically disputing the Niger claim.

**Mr Lewincamp**—Was that in 2003?

**Senator CHRIS EVANS**—My date is 28 February 2002.

**Mr Lewincamp**—I am not aware of that document.

**Senator CHRIS EVANS**—It was a memo to Secretary of State Powell, so I would not assume that you were necessarily on the distribution list.

**Mr Lewincamp**—We may not have—

**Senator HOGG**—You are not on the mailing the list.

**Senator CHRIS EVANS**—I am just trying to ascertain whether the DIO came into possession of that document.

**Mr Lewincamp**—I will check that for you, but my immediate reaction is that we did not see that document—certainly not in February 2002.

**Senator CHRIS EVANS**—I wonder whether that was a typographical error. Would 2003 make more sense?

**Mr Lewincamp**—It is a bit late in the development of the argument to make more sense.

**Senator CHRIS EVANS**—If 2002 is a typographical error I will notify you. Otherwise, could you answer on the basis of that information.

**Mr Lewincamp**—I will certainly do that.

**Senator CHRIS EVANS**—I understand that there was an October 2002 US national intelligence estimate on Iraqi WMD that contained State Department doubts about Iraq-Niger uranium claims. When would you have seen that sort of information?

**Mr Lewincamp**—That is the document we referred to earlier that we received in January 2003.

**Senator CHRIS EVANS**—What is your sense of the development of growing doubts about that and of DIO's assessment of the Niger claims? Could you take me through the process, from your perspective, of how the doubts were raised and how the debate moved to firmer conclusions?

**Mr Lewincamp**—I can do that with the proviso that my recollection of the exact time at which that occurred is vague. I will need to get back to you on that.

**Senator CHRIS EVANS**—I am more interested in the process.

**Mr Lewincamp**—As I indicated earlier, a number of sources indicated that Iraq was attempting to acquire uranium from Africa—and not just from Niger. There were numerous sources in relation to other countries and more than one source in relation to Niger. Then we had the view put to us in this national intelligence estimate from one agency in the US system that there were doubts about one of the particular pieces of intelligence in relation to Niger. Then the IAEA's El Baradei came out with the statement that the particular piece of intelligence relating to the acquisition of uranium from Niger was based on forged documents and was not valid. That did not detract from some of the other intelligence which related to that acquisition. As I said earlier, my checking with other agencies indicated that they stood by their assessments that those attempts had been made.

**Senator CHRIS EVANS**—When did the other pillars start to fall away?

**Mr Lewincamp**—The other pillars have not fallen away.

**Senator CHRIS EVANS**—Have you changed your assessment in DIO?

**Mr Lewincamp**—No. I said before that we were satisfied that attempts had been made by Iraq to acquire uranium from Africa but that those attempts had been unsuccessful. We did not change that judgment. What fell away was one particular piece of intelligence in relation to Niger.

**Senator CHRIS EVANS**—Did any of the other legs to that argument firm up?

**Mr Lewincamp**—As I said, we were reliant on information from other agencies but the broad judgment we made was that, since it was not successful, it was not particularly important to chase up.

**Senator CHRIS EVANS**—I probably misunderstood you. I thought you were talking about a time-specific period earlier when you said, ‘We formed the judgment then.’ You are telling me now that you have never actually changed that judgment.

**Mr Lewincamp**—No.

**Senator CHRIS EVANS**—Since January 2003 you have not changed your basic assessment about Iraqi attempts to seek uranium in Africa?

**Mr Lewincamp**—I do not want to give you the impression that this is a big issue. For us it was a very trivial issue because we made the judgment that the attempts were unsuccessful and therefore it figured hardly at all in our assessment. It has only been blown out of proportion because of the claims that this was a false piece of intelligence in relation to Niger. But it was inconsequential from our point of view.

**Senator HOGG**—You used the words before ‘it was not on your priority list’.

**Mr Lewincamp**—This was not an important issue for us.

**Senator CHRIS EVANS**—I accept that that was your judgment but I think you also will accept that there is some public interest now in those sorts of judgments.

**Mr Lewincamp**—Yes.

**Senator CHRIS EVANS**—I am interested in also testing what your revised judgment is. It seems to me that you are saying not only that has not changed but also that you have not given it much active consideration. So I should not take too much from the fact that it has not changed?

**Mr Lewincamp**—That is right. Since we judged the attempts unsuccessful, it was not worth pursuing the extent to which the attempts had really been made.

**Senator CHRIS EVANS**—What about this trip by former US ambassador Joseph Wilson to Niger? When did you get information regarding that?

**Mr Lewincamp**—This year when it appeared in the press. We were unaware of it.

**Senator CHRIS EVANS**—You are operating like the ONA now, are you?

**Senator HOGG**—So you were watching CNN?

**Mr Lewincamp**—We did not cite it.

**Senator HOGG**—I am being serious. You would have picked it up off CNN or one of those?

**Mr Lewincamp**—In this particular instance we were not aware of that trip by Ambassador Wilson.

**Senator CHRIS EVANS**—What did you conclude about his assessment?

**Mr Lewincamp**—Again, it was not important to us.

**Senator HOGG**—Why wasn't it important?

**Mr Lewincamp**—Because in making a broader assessment of what Iraq was doing in terms of its weapons of mass destruction programs, a failed attempt to acquire uranium in Africa was inconsequential. That is why it was not important to us.

**Senator HOGG**—It did not lead you to think where other attempts might have been made.

**Mr Lewincamp**—No, because in any program that Iraq was considering, the acquisition of uranium was not a major issue. They have uranium.

**Senator CHRIS EVANS**—I want to ask you about the pre-war claims of stockpiles of chemical and biological weapons? In reference to the UK Joint Intelligence Committee in 2000 about biological and chemical agents, would you have received that UK Joint Intelligence Committee report?

**Senator Hill**—Can I explore the ground a bit. It is not the normal practice of DIO to confirm or otherwise its communications with other agencies. That is the first point. So we would not normally answer questions such as this: 'Did you get documents or specific assessments from another agency?' I cannot immediately see why we should in this instance; firstly, because there were statements made in the parliament on this issue, so there is no reason to go back to the agency and ask them to adopt a different attitude in relation to their interagency communications; and, secondly, because these issues are already being addressed in another committee more appropriate to this task, where DIO does not have to be so concerned about action that might cause concern to other agencies, either internationally or domestically. So if this is the start of a series of questions about 'What did the Brits tell you? What did the Americans tell you? Who did you share that with?' and so forth, then I think these are inappropriate questions for this committee.

**Senator CHRIS EVANS**—Minister, I think the emphasis of my question goes more to DIO assessments and whether they shared assessments. So it really goes to DIO assessment. I referred to these particular reports because they are now on the public record in one form or another as a result of parliamentary inquiries or statements by Prime Minister Howard, Prime Minister Blair or President Bush.

**Senator Hill**—The attitude I took in the PM&C estimates in relation to ONA was that questions that go to ONA processes might be legitimate, because we pay to maintain these agencies; questions that go to specific intelligence I think are inappropriate.

**Senator CHRIS EVANS**—As I say, the emphasis of my questions is really on the DIO assessment, so we might be able to overcome some of those difficulties. As I say, the documents or reports are largely things that have been well canvassed on the public record as a result of other things.



**Senator Hill**—That is true, but DIO have never publicly confirmed—I think others might have done it for DIO—that they received specific documents, and you are now asking them to do so here. That would be to break new ground and I think would be unwise.

**Senator CHRIS EVANS**—I think we can work around that, Minister. I make the point that this committee's processes are public. With respect to the intelligence committee, its strength is that it allows the agencies to be more forthright because the hearings are private and held in camera, but its weakness is that that information is never made more widely available in terms of the public debate.

**CHAIR**—The conclusions will be.

**Senator CHRIS EVANS**—Yes, but it is obviously for the members of that committee to work their way through some of these issues. I am just saying that that is the difference between the two processes.

**CHAIR**—I know exactly what you are saying but I think that in the circumstances it is almost impossible, if that is the line of questions, for Mr Lewincamp to answer.

**Senator CHRIS EVANS**—I do not think it will be. I understand the minister's reservations. I think we can move around those. This goes to the question of DIO assessments. If you like I will rephrase the question. I am using the documents as a point of reference for the information so Mr Lewincamp knows where I am at. The date on which they received it or whether they received it goes to what was DIO's view of the biological and chemical capacity of the Iraqi regime, and when that assessment changed, if at all. What was your view in 2000-01 about that capacity?

**Mr Lewincamp**—Senator, you may recall that we addressed this in part at the June hearing. Our assessment in the lead-up to the war in Iraq in March 2003 was reasonably consistent. It had several key elements. One was that Iraq had actually produced and weaponised quantities of chemical and biological weapons in the past and that they did retain some stock of such weapons from the 1990-91 Gulf War but that the then current—that is, 2002-03—state of those weapons was unknown, and they were likely to be fragile or degraded and in a relatively poor state. We also said that Iraq retained a latent capability represented in things such as available technology, skilled personnel, industrial production facilities, dual use equipment and stocks of precursor materials—chemicals and agents—that could be used for chemical and biological warfare production. We made the judgment that that capability was able to be activated at short notice and that Iraq had the capability to produce chemical and biological weapons within a relatively short period—that is, a matter of weeks.

But we also made the judgment that we had no evidence that Iraq had done so. We said that the amount of material that had actually been produced and weaponised was unknown, that a definitive judgment on the extent of the existence of weapons was very difficult. We had judged that any stockpiles or actual weapons would be limited in number. We made a number of other judgments about the complication for the intelligence task due to the very extensive Iraqi denial, deception, concealment and failure to cooperate with United Nations inspections. I think that represents the broad judgments we made in the lead-up to the war.

**Senator CHRIS EVANS**—Did they alter much over the 2000-01, 2001-02 period? Was there any significant change in DIO assessment over those two or three years?

**Mr Lewincamp**—No, there was not.

**Senator CHRIS EVANS**—It was a fairly consistent view and there were no sorts of seminal events that changed the assessment at all?

**Mr Lewincamp**—Not in any significant way. They were fairly consistent judgments over that period.

**Senator CHRIS EVANS**—How would you describe the confidence with which you made those assessments? Were they based on a large amount of information that made you very confident, given that the inspectors had been in there for years and that whatever was occurring would have been underground, as it were? Can you give me some sort of feel for what you thought the value of the assessment was?

**Mr Lewincamp**—As I said, we were very cautious and conservative in the judgments we made. We did admit in the major products produced during that period that there were significant gaps in the intelligence that we had on Iraq. In some cases, the intelligence was uncertain. I would have to say that there were numerous pieces of intelligence during that period, numbering in the hundreds—all highly suggestive and inferential about aspects of weapons of mass destruction programs. It was a very significant task to try and sift through that and make considered judgments. Yet we were quite cautious in saying what we knew and what we did not know about those programs.

**Senator CHRIS EVANS**—Did your judgments vary markedly from the UK or US assessments?

**Senator Hill**—That is asking Mr Lewincamp to comment on the assessments of the agencies of other countries. I do not think that is appropriate.

**Senator CHRIS EVANS**—We started off on that debate. These are issues you and the Prime Minister have canvassed in the parliament.

**Senator Hill**—What I say in the parliament is different. I can say what I like. But there are relationships between these agencies internationally that are a national asset in themselves. They are partly built on the understanding that they will not go out and publicly canvass each others' assessments. Otherwise I suspect the information would dry up very quickly.

**Senator CHRIS EVANS**—I am generally fairly sensitive to that, but these are assessments that have been tested in the public arena in Australia, America and Britain. It is not as if we are talking about secret squirrel stuff that is not out there. This has been a question of public debate.

**Senator Hill**—That is true, but this is different because you are asking the director of our Defence Intelligence Organisation to express his view on the assessments of agencies of allied countries. I do not think that is appropriate.

**Senator CHRIS EVANS**—I am not actually looking for his assessment; I am really trying to ascertain whether the view of the DIO was consistent with other agencies. I am not actually looking for them to give a critique of their intelligence, but I am interested to see whether

there was consistency or agreement among the intelligence community of allies about the assessments he has just described.

**Senator Hill**—I do not think that that is appropriate.

**CHAIR**—The trouble with this is that this is the very nature of the secret intelligence committee's inquiry. The comparisons of views within our own agencies and in comparison to foreign agencies are sensitive questions. For clear international undertakings, we cannot disclose those sources of information. That is the very nature of the inquiry that we are having—and we are having it substantially in camera. That is why this other inquiry was set up. I understand entirely the theme of your questions but, with respect to your view that it is in the public arena, you can make up your own mind about it. In the meantime, the secret intelligence committee has to pursue its work in private for the very reasons that the minister has pointed out.

**Senator CHRIS EVANS**—That is true to a certain extent but, when it is information which leads to a decision to wage war, there is a wider interest and some need for accountability.

**Senator Hill**—That is the specific issue that is being addressed by another committee that has the capability to protect the information.

**Senator CHRIS EVANS**—That is right. That is why, in seeking this information here, I am looking to basically concentrate on the DIO assessments. The public accountability for DIO is here. This is where they are accountable for their performance.

**Senator Hill**—And that is fine. Mr Lewincamp was quite generous on the last occasion in putting to you the views of his agency and he has repeated those views tonight, but I think that is different from starting to talk about how they may differ from the views of other agencies. You cannot do that without implicitly or explicitly stating what the views of the other agencies were.

**Senator CHRIS EVANS**—That is why I have sought to rephrase the question. I do not accept Senator Ferguson's or the chair's interpretation. One of the reasons why we agreed to the intelligence committee inquiry, despite the objections of some of the minors, was to protect that relationship, but that was not to say that we would ignore the other accountability measures. I am just making it clear that I do not accept any suggestion that we are not entitled to pursue legitimate questioning of DIO because of that other inquiry. I lay that firmly on the record.

**CHAIR**—You can put it firmly on the record, Senator. I would do exactly the same if I were in your position, but I can understand why the government is not answering the questions. It is impossible for them to do so because of the internal relationship between our agencies and certainly because of our international obligations and undertakings to foreign agencies. As the minister says, the information would dry up, and you would expect it to.

**Senator CHRIS EVANS**—We will see. What is the DIO's view on this question of a possibility that Iraq destroyed some chemical and biological weapons capability between February and May 2003?

**Mr Lewincamp**—There is a range of intelligence information that Iraq was engaged in the destruction of its capabilities. That information was available during the conflict itself, and also since the end of the conflict. The Iraq survey group has found evidence of deliberate and systematic destruction of materials and documents related to Iraqi weapons.

**Senator CHRIS EVANS**—When you say that that may have occurred, is it DIO's view that that had been going on for some time or that the focus was in that February to May 2003 period?

**Mr Lewincamp**—We have not yet made a definitive judgment on that issue. One of the difficulties is that we did have information last year that, in order to avoid the UN inspection regime, Iraq was breaking down different weapons systems into their constituent parts and locating them in different areas. If there is a process like that going on, it is only a short step from that towards destruction, so it is very hard for us to make a definitive judgment now at what point any decision to destroy weapons might have been taken.

**Senator CHRIS EVANS**—When did you first start to form the view that they might be destroying part of their chemical and biological weapons capacity?

**Mr Lewincamp**—It would have been, I think, around March this year. Certainly, we had not formed such a definitive view prior to the war.

**Senator CHRIS EVANS**—Had you been in receipt of intelligence that suggested that prior to then, though?

**Mr Lewincamp**—We were in receipt of conflicting intelligence, as I indicated to you before—a huge volume of intelligence coming in, all suggestive of quite different things. For example, we also had intelligence which talked about the deployment of chemical and biological weapons to different units around the country, yet on the other hand we had pieces of intelligence which talked about them being buried. So there was a very confused picture coming through.

**Senator HOGG**—Is disinformation part of the problem that you are confronted with in making your assessments?

**Mr Lewincamp**—In part, yes. Clearly, in the lead-up to the war there were numerous interested parties, including a lot of groups within Iraq, who were providing information and it was a difficult process to sift through that to determine its validity.

**Senator HOGG**—Is there any way you can determine what is disinformation as opposed to something that is valid intelligence that can be used?

**Mr Lewincamp**—Sometimes the disinformation is very obvious and can be clearly identified as such very quickly. At other times, as I said, it requires cross-checking against other pieces of information before you can make a firm judgment. I would not pretend here that we have detected every piece of disinformation we have received.

**Senator HOGG**—I was just trying to work through your process more.

**Senator CHRIS EVANS**—What was DIO's assessment prior to the war in Iraq of the threat of Iraq passing chemical and biological weapons to terrorist organisations?

**Mr Lewincamp**—We assessed that the probability of that was low.

**Senator CHRIS EVANS**—And that was a formal assessment of the DIO and the other Australian intelligence agencies?

**Mr Lewincamp**—It is not my job to comment on other agencies.

**Senator CHRIS EVANS**—I understand. I am not trying to put words in your mouth. I know you have a cooperative effort in many ways. I am happy to confine the question to DIO. That was a formal assessment, I take it—a DIO view?

**Mr Lewincamp**—It was contained in our reporting, yes.

**Senator CHRIS EVANS**—Would that have been a consistent position of DIO over a period of time?

**Mr Lewincamp**—I am not aware of any contrary judgments we made at any time.

**Senator CHRIS EVANS**—Has that assessment of the threat of WMD being passed to terrorist organisations altered since the Iraq war?

**Mr Lewincamp**—No, it has not. Clearly, there is not a regime in Iraq after the war—

**Senator Hill**—Do you mean as a result of the investigations? Have investigations led the director to change his opinion on any of these things? I do not think you can ask what the current position is because, as has just been said, the regime is no longer there. The question is only valid, I think, in terms of saying, ‘Now with the benefit of hindsight do you want to change your mind?’

**Senator CHRIS EVANS**—I suppose that is like saying the war is over in Iraq. It seems to me that with regard to the question about WMD you and the government keep arguing that it is still an open question and it is too early to find conclusions. We see it as a concerted campaign, effectively, of terrorist organisation activity inside the country directed at coalition forces. I suppose the possession of WMD and the use of those is still a live question. So I am interested in a current assessment. The regime may have fallen but—

**Senator Hill**—I do not think it is for the director to come here and give current intelligence assessments. He does not report to this committee on current intelligence assessments. He has reported tonight on some historical facts in relation to the joint committee that has been specifically charged to look at these matters. He has also reported to that committee on how much of this he communicated to government and in what form and, to the extent that he is able, what the contribution of other agencies to him was in developing his views. So I do not think that it can really be taken much further than he has done.

**Senator CHRIS EVANS**—It was not a major issue, Minister. I was just interested in any changed assessment. As I say, it is not a huge point, but it seemed to me that while you maintained that there was still an open finding in terms of the WMD capacity held by the former Iraqi regime it was still an open question as to what might have happened to it—

**Senator Hill**—That is right.

**Senator CHRIS EVANS**—if it existed.

**Senator Hill**—That is right. Well, we know it existed.

**Senator CHRIS EVANS**—We are not quite sure what existed, though.

**Senator Hill**—We know chemical weapons existed. That is not in dispute.

**Senator CHRIS EVANS**—As I understood it, you told me to wait until the Iraq survey group reported.

**Senator Hill**—The issue is: when were they in existence?

**Senator CHRIS EVANS**—As I understood your position, you were waiting for the final report of the Iraq survey group before you made a definitive conclusion. Taking on board your advice, I had done the same.

**Senator Hill**—That is correct in relation to the situation at the time of the Iraq war.

**Senator CHRIS EVANS**—Turning to the Iraq survey group, Mr Lewincamp, can you advise the role currently occupied by Brigadier General Stephen Meekin?

**Mr Lewincamp**—Yes, I can. General Meekin—

**Gen. Cosgrove**—I will just offer that he should be referred to by his Australian rank. That was in a United States report where he was referred to, by their convention, as a brigadier general. He is a brigadier.

**Senator CHRIS EVANS**—I understand and accept the correction.

**Senator Hill**—I think you have been slapped around!

**Senator CHRIS EVANS**—The American culture can infect us all if we are not careful, General Cosgrove. I accept the admonishment. Does that make him more of a general than a general?

**Gen. Cosgrove**—Generally not.

**Mr Lewincamp**—Brigadier Meekin was the senior representative and leader of the Australian contribution to the Iraq survey group. As the senior Australian present, he was given the leadership of the Joint Captured Materiel Exploitation Centre, which is one of the key subordinate bodies within the Iraq survey group. The Iraq survey group, as you will recall, was headed by Major General Keith Dayton, from the United States. He had a UK brigadier as his deputy chief of staff position, and Brigadier Meekin was the commander of the JCMEC.

**Senator CHRIS EVANS**—What actually does the JCMEC do?

**Mr Lewincamp**—You will recall that the survey group originally had three key tasks. One was to locate, identify and account for Iraq's WMD programs. The second was to collect, identify and assess all Iraqi materiel and weapons of any value. The third was to exploit information related to war crimes, crimes against humanity and issues of that sort. Brigadier Meekin's task was the second of those—that is, to locate, identify and make safe all of the Iraq materiel—so he was principally involved in the conventional weapons, and his principal job over the last six months has been to secure all of that equipment that has been scattered around Iraq.

**Senator CHRIS EVANS**—In terms of the chain of command, does he have a broader role in that Iraq survey group as well as what he is directly responsible for?

**Mr Lewincamp**—He is part of General Dayton's command team, but his particular role is to command the JCMEC.

**Senator CHRIS EVANS**—As the senior Australian officer, what is envisaged there—what is his responsibility in that regard? Does he have line command for all the Australians, or are they distributed among the various sections under other commands?

**Mr Lewincamp**—I would put it more in the line of a watching brief on the other Australians because they are scattered in different parts of the Iraq survey group. Some of the military members were part of the site exploitation teams that went around the countryside visiting particular sites to conduct surveys, to repatriate materiel—that type of thing. Some of the civilian analysts were in the analytical team. So they were operating within chains of command independent of Brigadier Meekin. He had a sort of oversight responsibility for the Australians, but most of them were operating in different command chains.

**Senator CHRIS EVANS**—Is he responsible for reporting to the Australian government on behalf of the activities of the whole Iraqi survey group?

**Mr Lewincamp**—No, he is not.

**Senator CHRIS EVANS**—So where do you get those reports from?

**Mr Lewincamp**—We received the report of David Kay, who was the US representative who took over the particular issue of Iraq WMD. We also receive informal reports from Brigadier Meekin about the progress of the group.

**Senator CHRIS EVANS**—But your direct reporting was from the Kay report?

**Mr Lewincamp**—Yes.

**Senator CHRIS EVANS**—I know the report he presented, but was that a more regular thing? The one report comes to mind but, in terms of Australian feedback on the Iraq survey group and its work, where does our information come from?

**Mr Lewincamp**—From Brigadier Meekin. It is an informal process. I do not want to complicate the picture, but there is another formal—

**Senator CHRIS EVANS**—That is what I would have thought. I would have thought that he was our chief bloke on the team, so he would have been providing advice as to what is happening.

**Mr Lewincamp**—He did report to us informally, but there was also a reporting line through Air Commodore Graham Bentley, who was the lead Australian in Iraq outside the survey group. So there are two reporting lines that came back from the survey group.

**Senator CHRIS EVANS**—On these aluminium tubes, did DIO ever make an assessment of those tubes?

**Mr Lewincamp**—Yes, we did.

**Senator Hill**—Which aluminium tubes?

**Senator CHRIS EVANS**—How many sets of aluminium tubes are there?

**Senator Hill**—Many.

**Senator CHRIS EVANS**—Well, the ones we have been debating in the last few weeks in the parliament.

**Senator Hill**—I do not know that we have all been debating the same tubes, actually.

**Senator CHRIS EVANS**—That may be the case. I am happy for you to provide a list of the tubes you think we have been debating, Senator Hill, if you think that will help the committee. It was the shipment from China, I think.

**Mr Lewincamp**—The broad assessment that DIO made was that the tubes had a range of possible uses. The Iraq survey group has discovered that they were definitely used in conventional weaponry, in particular, in rockets, but the DIO assessment was that they could also be used in a nuclear centrifuge program. The Iraq survey group has so far not found any evidence of such use, but acknowledges the potential for such use.

**Senator CHRIS EVANS**—When did DIO come to that view? When was that view formed?

**Mr Lewincamp**—Again, it has been our consistent view in the lead-up to the conflict and since that these particular tubes have a variety of possible uses.

**Senator CHRIS EVANS**—And you have not changed that view?

**Mr Lewincamp**—No.

**Senator CHRIS EVANS**—That this has not been my area of expertise has been obvious, but was it a DIO officer who dealt with those who were acting as agents for the on-sale of the tubes?

**Senator Hill**—No.

**Mr Lewincamp**—No.

**Senator CHRIS EVANS**—He was an officer from another agency?

**Senator Hill**—We have another section within the department that deals with exports that require permits or materials that have some link with an Australian that might cause us to consider whether various actions should be taken. Certainly the department was involved in addressing the issue. Mr Lewincamp thinks that the individual who actually spoke to this person may have been an individual from another agency. I can check on that.

**Senator CHRIS EVANS**—My recollection from a press report I saw is that they said ‘a Defence official’, but that could cover a multitude of sins. I assumed it was DIO, but it is not a DIO officer.

**Senator Hill**—That is my recollection too.

**Mr Lewincamp**—Mine too. The *Four Corners* program definitely said ‘a Defence official’, but I am unaware of such an official, and it certainly was not one of my staff.

**Senator CHRIS EVANS**—Are we aware of whether it was a Defence official?

**Senator Hill**—No, I need to go back—

**Senator CHRIS EVANS**—Perhaps you could take it on notice as to who was involved and from which section. There is also a section inside Foreign Affairs—



**Senator Hill**—I can take it on notice and tell you whether he was contacted by a Defence official.

**Mr Lewincamp**—With regard to Brigadier Meekin and the *Washington Post* article, which allegedly cited Brigadier Meekin making the judgments he did, and information that was repeated in the *Sydney Morning Herald* and the *Age*, I put it on record that the original article was quite misleading and incorrect. Brigadier Meekin was quoted inaccurately and out of context. The *Washington Post* has now printed his reply and that of David Kay. It has sought to set the record straight. Thus far both the *Age* and the *Sydney Morning Herald* have declined to print Brigadier Meekin's response to their articles.

**Senator CHRIS EVANS**—It might be useful if you were to table Brigadier Meekin's—

**Senator Hill**—We should put it in the *Hansard* because we know that *Hansard* is widely read!

**Mr Lewincamp**—I would be delighted to table it.

**Senator HOGG**—You would be surprised.

**Senator CHRIS EVANS**—It always amazes me when I go back to my office and find the phone calls that have come in from people listening to estimates, Senator Hill. If there is concern that Brigadier Meekin may not have been correctly reported, it would seem to me that it is appropriate for the letter to be tabled.

**Mr Lewincamp**—I can say that it was more than a concern that he was. He was not accurately reported; he was quite mischievously reported. He commented entirely about Iraq's conventional weapons program, and the *Washington Post* journalist concerned attributed all of those comments to Iraq's nuclear program.

**Senator CHRIS EVANS**—It just seems to me that it is appropriate given the debate about that. If Mr Lewincamp wants to table it, we will put it with our proceedings.

**CHAIR**—Are you offering to table them?

**Mr Lewincamp**—I am, yes.

**CHAIR**—The committee will receive them.

**Senator HOGG**—On that issue, have you approached the editors of the paper?

**Mr Lewincamp**—I wrote a letter to the editor covering Brigadier Meekin's response. Thus far we have not had any satisfaction.

**Senator HOGG**—When did you write?

**Mr Lewincamp**—A week ago. To my recollection it was Thursday last week.

**CHAIR**—Perhaps they may read the *Hansard* of these proceedings. It might prompt them to respond or act.

**Mr Lewincamp**—Perhaps.

**Senator CHRIS EVANS**—We can only do what is within our power and, if Brigadier Meekin has been misreported and the department wants to correct the record, it is appropriate that they do so, at least on the *Hansard*.

**Mr Lewincamp**—Thank you, Senator.

**Senator CHRIS EVANS**—We will make some small contribution to that. That is all I have in that section. I want to talk to Major General Haddad about how he is going on his contract and to Lieutenant General Leahy about the SAS. It would not be the same if I did not have the three-yearly update on whether the DIDS contract has been signed.

**CHAIR**—I thought you asked that in the Senate about six months ago.

**Senator CHRIS EVANS**—I have asked Major General Haddad on a number of occasions.

**CHAIR**—No, you asked the minister.

**Senator CHRIS EVANS**—Yes, and he said, ‘It is just about to be.’ So what is the answer gentlemen?

**Major Gen. Haddad**—The answer, Senator, is that it is just about to be.

**Senator CHRIS EVANS**—Major General Haddad, when is your expected retirement date? I am going to make a special plea that you are not allowed to go until—

**Major Gen. Haddad**—We expect to sign the contract this month, in about two to three weeks time.

**Senator HOGG**—That is with a pen?

**Major Gen. Haddad**—We will sign it with a pen.

**Senator CHRIS EVANS**—With which firm?

**Major Gen. Haddad**—With TenixToll.

**Senator CHRIS EVANS**—All right, we will see you in February.

**Senator HOGG**—What has caused the great delay?

**Major Gen. Haddad**—This is a very complicated contract.

**Senator CHRIS EVANS**—You do not have long enough for that question, Senator Hogg.

**Senator HOGG**—Give us the two-minute version.

**Major Gen. Haddad**—On what has caused the delay? As you are well aware, it is a complex activity and therefore a very difficult contract to negotiate. There are a lot of issues to resolve, which we have been doing progressively over the last two to three months. We have been successful so far. There are about two or three issues yet to finalise, which I expect to do in the next week, and we will be able to sign the contract.

**Senator HOGG**—I thought that is where you were the last time we asked you this question.

**Major Gen. Haddad**—No, Senator, the last time we had not made our announcement.

**CHAIR**—The most important reason is that it is a very large amount of money too.

**Senator CHRIS EVANS**—All I know is that the longer it takes the more we save—isn’t that right, John?

**Senator HOGG**—Yes.

**CHAIR**—Thank you, Major General Haddad.

**Senator CHRIS EVANS**—We will see you in February.

**CHAIR**—You have earned your money today, Major General Haddad.

**Senator CHRIS EVANS**—Lieutenant General Leahy, I know you have this new recruitment proposal for the SAS. I do not want to go into that now as I have seen a number of press releases about the responses et cetera, but I did want to ask about special forces and retention and particularly establishment. We have discussed IRR and the problems about getting them up to establishment. I just want to get a sense with the special forces how we are going in terms of operating. It has been put to me that we are operating well below establishment in some of these units, and I just wanted to get a sense from you as to whether that was right or not.

**Lt Gen. Leahy**—We have previously discussed the Incident Response Regiment and we have given you some figures there. I would say that we are on the glide path to achieving the numbers that we have predicted, and I am confident that we will do that. In relation to the other two units in Special Operations Command, SASR and 4RAR Commando, I am not aware of any concerns that would say that we are under establishment. In fact, I spoke last Friday evening with the CO of SASR and asked him about his retention, morale issues, the unit and so on, and he was most positive about what he was seeing. I have certainly not been given any indications through any of the health indicators that we look at in the units that there are issues that I would be concerned about.

**Senator CHRIS EVANS**—I will put the specific questions about that on notice. But it has been raised with me that retention is becoming a bit of an issue in that we are retaining members for less time—retention time is trending down. Have you been made aware of that?

**Lt Gen. Leahy**—No, I have not, Senator. As I said, I spoke to the CO of SASR and he was comfortable with that. I asked him those specific sorts of questions because I have heard similar rumours, mostly in the press, and I am not seeing those indicators inside Army. But I will double-check.

**Senator CHRIS EVANS**—Mine was not a press source, but it has been raised with me. I will put some questions directly on notice about the establishment numbers and also about the direct recruitment program.

**Lt Gen. Leahy**—And we will gladly take them.

**Senator CHRIS EVANS**—Do you do exit surveys out of the special forces?

**Lt Gen. Leahy**—We do exit surveys on all soldiers who leave the Army. They are asked to make comments on why they left the Army and any other issues that might be pertinent.

**Senator CHRIS EVANS**—Do you produce separate results for the special forces?

**Lt Gen. Leahy**—They would be available. I have not seen them in a separate sense because we have not determined that there is a specific problem for the special forces.

**Senator CHRIS EVANS**—I was just trying to ascertain whether you had analysed those separately from the general forces.

**Lt Gen. Leahy**—I have not done it because, as I say, the questions that I have asked of the command of SASR and Special Operations Command have not raised any particular problems that we would be wary of.

**Senator CHRIS EVANS**—I will put a series of questions that go to those issues on notice and we can get the answers to those. I just want to follow up this question that I asked the minister in parliament the other day about the superannuation and allowances issue and whether or not we are any closer to some sort of time frame for that. There has been a lot of inquiry about that and it is probably generating more correspondence and contact to my office than any other issue. I do not know whether the minister had the full brief in front of him the other day when I asked the question the other day. He gave me the ‘in the fullness of time’ and ‘consideration before government’ response. I was wondering whether he has any more detail on how the government was likely to progress this issue of making some of these allowances part of salary for superannuation purposes.

**Senator Hill**—The brief that I am expecting has either just arrived or is in the post, I think. I think I said to Senator Evans in the Senate that this is part of the bigger picture but that I did not think it was correct to be making decisions piece by piece and I would want to put the bigger picture to government for consideration as quickly as possible.

**Senator CHRIS EVANS**—By ‘bigger picture’ do you mean the treatment of allowances is a bigger picture, Minister, or the superannuation question? What is the bigger picture that it is wrapped up in?

**Senator Hill**—I see it as part and parcel of the whole Nunn review and the second parallel—

**Mr Smith**—Remuneration reform project.

**Senator Hill**—There have been a number of processes that have been looking at a range of different but related issues, and I think the correct way of handling it is to bring them all together so that government can see what I described as the ‘big picture’, and we are close to being able to do that.

**Senator CHRIS EVANS**—A lot of those things seem to have stalled, haven’t they—the Nunn review and others?

**Senator Hill**—Actually, parts of it have already been implemented but it would be a good tidying up exercise to bring it all together, and that is what we are seeking to do.

**Senator CHRIS EVANS**—So we are not likely to get any movement on the superannuation of allowances issue until those broader Nunn review remuneration reform issues are dealt with?

**Senator Hill**—I am not saying that each and every issue has to be dealt with at this time, but there are a number of related issues that I think need to be looked at contemporaneously. I will endeavour to have that considered by government over the next month or so. I would very much like to have it resolved by Christmas and I am sure that all service personnel would like to have it resolved as well.

**Senator CHRIS EVANS**—That implies that it does not necessarily need to wait for a budget related decision. I know that there are budget implications—

**Senator Hill**—It is a hard question for me to answer because usually in relation to issues such as this the reaction of government is: raise it in the context of the budget. This is a little different because it has been part of these two ongoing review processes, one of which reported to government some time ago.

**Senator CHRIS EVANS**—All right. I will leave it at that.

**CHAIR**—Thank you, General Cosgrove, Mr Smith and all your colleagues. It has been a big day and the committee appreciates your work level at this time. You have clearly risen to every task the government has set you and you are to be congratulated for it. So thank you for the day and we look forward to seeing you again in February.

**Committee adjourned at 11.00 p.m.**