



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates)

MONDAY, 23 MAY 2005

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SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

Monday, 23 May 2005

Members: Senator Payne (*Chair*), Senator Bolkus (*Deputy Chair*), Senators Greig, Kirk,, Mason and Scullion

Senators in attendance: Senator Payne (*Chair*), Senators Allison, Carr, Kirk, Ludwig and Scullion

Committee met at 9.02 am

ATTORNEY-GENERAL'S PORTFOLIO

In Attendance

Senator Ellison, Minister for Justice and Customs

Attorney-General's Department

Management and Accountability

Mr Robert Cornall, Secretary

Mr Miles Jordana, Deputy Secretary Criminal Justice and Security

Mr Ian Govey, Deputy Secretary Civil Justice and Legal Services

Mr Richard Oliver, General Manager, Corporate Services

Mr Graham Fry, General Manager, Information and Knowledge Services

Ms Sue-Ellen Bickford, Chief Finance Officer

Mr Trevor Kennedy, Assistant Secretary, Financial Management Branch

Outcome 1 – An equitable and accessible system of federal civil justice

Output 1.1

Ms Kathy Leigh, First Assistant Secretary, Civil Justice Division

Ms Amanda Davies, Assistant Secretary Administrative Law & Civil Procedures Branch

Ms Sandra Power, Assistant Secretary Civil Jurisdiction and Federal Courts Branch

Ms Sue Pidgeon, Assistant Secretary, Family Pathways Branch

Mr Kym Duggan, Assistant Secretary, Family Law Branch

Mr Peter Arnaudo, Principal Legal Officer, Administrative Law and Civil Procedures Branch

Output 1.2

Mr Iain Anderson, First Assistant Secretary, Legal Services and Native Title Division

Mr Karl Alderson, Assistant Secretary, Office of Legal Services Coordination

Mr Jim Faulkner, Assistant Secretary, Constitutional Policy Unit

Output 1.3

Ms Philippa Lynch, First Assistant Secretary, Information law and Human Rights Division

Ms Helen Daniels, Assistant Secretary, Copyright Law Branch

Mr Matt Minogue, Assistant Secretary, Human Rights Branch

Output 1.4

Ms Renee Leon, First Assistant Secretary, Office of International Law
Mr Bill Campbell QC, General Counsel (International Law)

Output 1.5

Mr James Graham, First Assistant Secretary, Office of Legislative Drafting and Publishing

Output 1.6

Mr Iain Anderson, First Assistant Secretary, Legal Services and Native Title Division
Ms Katherine Jones, Assistant Secretary, Native Title Unit
Ms Tamsyn Harvey, Acting Assistant Secretary, Native Title Unit

Output 1.7

Dr James Pople, Acting First Assistant Secretary, Indigenous Justice and Legal Assistance Division
Mr John Boersig, Assistant Secretary, Indigenous Law and Justice Branch
Mr Paul Griffiths, Assistant Secretary, Legal Assistance Branch

Outcome 2 – Coordinated federal criminal justice, security and emergency management activity, for a safer Australia**Output 2.1**

Ms Joanne Blackburn, First Assistant Secretary, Criminal Justice Division
Mr Geoff Gray, Acting Assistant Secretary, Criminal Law Branch
Mr Chris Dennis, Acting Director, Firearms Unit
Dr Dianne Heriot, Assistant Secretary, Community Safety and Justice Branch
Ms Katherine Hawkins, Acting Assistant Secretary, International Crime Branch
Ms Robyn Frost, Principal Legal Officer, International Crime Branch
Mr Andrew Walter, Principal Legal Officer, International Crime Branch

Output 2.2

Mr Keith Holland, First Assistant Secretary, Information and Security Law Division
Ms Maggie Jackson, Special Adviser
Mr Mike Rothery, Acting Assistant Secretary, Critical Infrastructure Protection Branch
Mr Geoff McDonald, Assistant Secretary, Security Law and Justice Branch
Ms Catherine Smith, Principal Legal Officer, Security Law and Justice Branch

Output 2.3

Mr David Templeman, Director General, Emergency Management Australia

Output 2.4

Mr Ed Tyrie, Executive Director
Mr Paul de Graaff, Assistant Secretary, Counter-Terrorism Branch
Ms Leonie Mack, Assistant Secretary, Security Programs Branch
Ms Belinda Moss, Assistant Secretary, Information Coordination Branch
Ms Kelly Williams, Assistant Secretary, Policy and Services Branch
Ms Susie vanden Heuvel, Director, Public Affairs

Output 2.5

Ms Leonie Mack, Assistant Secretary, Security Programs Branch

Administrative Appeals Tribunal

Mr Doug Humphreys, Registrar
Ms Sian Leathem, Assistant Registrar
Mr Steve Wise, Finance Manager

Australian Crime Commission

Mr Alastair Milroy, Chief Executive Officer
Mr Andrew Phelan, Director Corporate Services
Mr Kevin Kitson, Director Intelligence

Australian Customs Service

Mr Lionel Woodward, Chief Executive Officer
Mr John Drury, Deputy Chief Executive Officer
Mr John Jeffery, Deputy Chief Executive Officer
Mr Jon Brocklehurst, Chief Financial Officer
Mr Murray Harrison, Chief Information Officer
Rear Admiral Russ Crane, Director-General Coastwatch
Ms Marion Grant, National Director Border Compliance and Enforcement
Mr Phil Burns, National Director Cargo and Trade
Ms Gail Batman, National Director Border Intelligence and Passengers
Ms Sue Pitman, National Manager Trade Measures

Australian Federal Police

Mr Mick Keelty, Commissioner
Mr John Lawler, Deputy Commissioner
Ms Audrey Fagan, Chief of Staff
Mr Trevor Van Dam, Chief Operating Officer

Australian Government Solicitor

Ms Rayne de Gruchy, Chief Executive Officer
Mr David Riggs, Chief Financial Officer.

Australian Institute of Criminology and Criminology Research Council

Dr Toni Makkai, Director

Australian Law Reform Commission

Professor David Weisbrot, President
Mr Alan Kirkland, Executive Director

Australian Security Intelligence Organisation

Mr Dennis Richardson, Director-General

Australian Transaction Reports and Analysis Centre (AUSTRAC)

Mr Neil Jensen PSM, Director
Mr Alf Mazzitelli, Chief Finance Officer

Commonwealth Director of Public Prosecutions

Mr Damian Bugg AM QC, Director of Public Prosecutions
Mr John Thornton, Acting First Deputy Director
Mr Ian Bermingham, Acting Deputy Director Legal & Practice Management
Mr Graeme Davidson, Acting Deputy Director Commercial & International
Ms Stela Walker, Deputy Director Corporate Management

CrimTrac

Mr John Mobbs, Chief Executive Officer
Ms Nicole McLay, Chief Financial Officer

Family Court of Australia

Mr Richard Foster, Chief Executive Officer;
Ms Jennifer Cooke, Executive Director Client Services;
Mr Bruce Hunter, Executive Director Corporate; and
Ms Dianne Gibson, Principal Mediator.

Federal Court of Australia

Mr Warwick Soden, Registrar and Chief Executive Officer
Mr Philip Kellow, Deputy Registrar
Mr David Llewelyn, Acting Chief Finance Officer

Federal Magistrates Court

Mr John Mathieson, Chief Executive Officer
Mr Brian Scammell, Chief Finance Officer

Federal Police Disciplinary Tribunal

Ms Jennifer Hedge, Registrar

High Court of Australia

Mr Christopher Doogan, Chief Executive and Principal Registrar
Ms Carolyn Rogers, Senior Registrar
Mr Lex Howard, Marshal

Human Rights and Equal Opportunity Commission

The Hon John von Doussa, President
Ms Pru Goward, Sex Discrimination Commissioner
Mr Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner
Dr Sev Ozdowski, Human Rights Commissioner
Ms Diana Temby, Executive Director
Ms Rocky Clifford, Director Complaint Handling
Ms Sally Moyle, Director Sex Discrimination Unit
Mr Craig Lenehan, Deputy Director, Legal Services

Insolvency and Trustee Service Australia

Mr Terry Gallagher, Chief Executive and Inspector-General in Bankruptcy
Mr Peter Lowe, Executive Director
Mr David Bergman, Adviser, Policy and Legislation

National Native Title Tribunal

Mr Christopher Doepel, Registrar
Mr Hugh Chevis, Director Service Delivery
Mr Erwin Winkler, Chief Financial Officer

Office of Film and Literature Classification

Mr Des Clark, Director
Mr Paul Hunt, Deputy Director
Mr John Robinson, Business Manager

Office of Parliamentary Counsel

Mr Peter Quiggin, First Parliamentary Counsel

Ms Glenyce Francis, General Manager

Office of the Privacy Commissioner

Ms Karen Curtis, Privacy Commissioner

Mr Timothy Pilgrim, Deputy Privacy Commissioner

Mr David Richards, Finance Manager (Human Rights and Equal Opportunity Commission)

CHAIR—Good morning, ladies and gentlemen. I declare open this public meeting of the Senate Legal and Constitutional Legislation Committee. The committee will today commence its examination of the Attorney-General's portfolio, proceeding according to the order on the circulated agenda. The committee will begin with general questions to the executive of the department. Today's hearing will be suspended for a lunch break from 1pm to 2 pm and a dinner break from 6.30 pm to 7.30 pm. These breaks will be taken as close to the scheduled times as possible. The committee has authorised the recording and rebroadcasting of its proceedings in accordance with the rules contained in the order of the Senate dated 31 August 1999. The committee has agreed to the date of 15 July 2005 for receipt of answers to questions taken on notice and additional information.

I welcome Senator the Hon. Chris Ellison, Minister for Justice and Customs and Minister representing the Attorney-General; Mr Robert Cornall, Secretary of the Attorney-General's Department; and officers of the department and associated agencies. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. I also draw to the attention of witnesses the resolutions agreed to by the Senate on 25 February 1988, 'Procedures to be observed by Senate committees for the protection of witnesses', and in particular to resolution 110, which states in part:

Where a witness objects to answering any question put to the witness on any ground, including the ground that the question is not relevant or that the answer may incriminate the witness, the witness shall be invited to state the ground upon which objection to answering the question is taken.

I also draw witnesses' attention to resolution 116, which states:

An officer of a department of the Commonwealth or of a State shall not be asked to give opinions on matters of policy, and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a Minister.

Evidence given to the committee is protected by parliamentary privilege. I also remind you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. For the record, I note that apparently there are nine outstanding responses to questions on notice from the additional estimates round of February 2005. Mr Cornall, I want to thank the department very much for their efforts in providing answers to a large number of other questions. Minister, I invite either you or Mr Cornall to make an opening statement.

Senator Ellison—I have no opening statement. In relation to questions on notice, I think you said there were nine outstanding.

CHAIR—I believe so. That is my advice.

Senator Ellison—I thought there were eight. I think I can solve six of those. Answers to questions Nos 58, 121, 122, 234, 246 and 268 can now be tabled. I will get clean copies before we table them. They will be tabled this morning.

CHAIR—Thank you, Minister.

Senator Ellison—Apart from those six I have just mentioned, I thought there were only two outstanding. Perhaps the secretary can assist us there.

Mr Cornall—I thought it was two, but it might be three questions outstanding. They are in the process of clearance at the present time.

CHAIR—Thank you. We will not quibble over that one. We will be grateful for those answers when they arrive. As I said, we will begin with general questions, starting with Senate Ludwig.

Senator Ellison—I am looking at the additional funding across both outcome 1 and outcome 2. There was additional funding of \$23.7 million over four years for what is described as workload increases in national security and for enhanced resource and financial management. I am looking at budget paper 2, page 99. It describes it as additional funding of \$33.7 million, offset by \$10 million in savings, which then brings us to the \$33.7 million, I assume. How is that broken down by outputs? Will that be put to each program or earmarked for particular outputs? How will it be delivered?

Mr Cornall—This is the result of the Early review of the department's finances. You will recall that in the current financial year we received an additional \$7.4 million as a result of our submission to the ERC that the department had had an increase in workload as a result of national security and other pressures over recent years. That was granted to us on a one-year basis subject to having a financial health review undertaken by the Department of Finance. It was undertaken by Mr Len Early. As a result of that, there were a number of matters taken into account. We received additional funding for various areas of workload where we were able to demonstrate an increase. But, as is always the case with the Department of Finance, we were required to make contributions offsetting some of those additional costs. I do not have all of those details at my fingertips but, with your permission, Senator, we will get those details for you during the course of the morning. But they are specific items with specific amounts attached where savings could be made.

Senator LUDWIG—All right. We might come back to that depending on where those specific items of funding are. Will you also be able to identify where the \$10 million in savings is from?

Mr Cornall—That is what I am saying. Mr Govey has just reminded me that we did have negotiations about specific items. Ultimately, Finance came to the view that there were a certain amount of savings that the department had to contribute, and whether we were able to contribute the items which were suggested by Mr Early or other items agreed between the department and the ministers was a matter for us. But we can bring you up to date with more detail later in the morning.

Senator LUDWIG—Or at least where we are at. As to the need for the \$23.7 for workload increases, will that be able to identify where those workload increases are? Can you give us a summary now of that?

Mr Cornall—Again, it comes out of the detailed considerations by Mr Early, and I do not have all of the details of that at my fingertips. But the fact of the matter is that, over the last few years, the department's workload has increased substantially. I think most people would acknowledge that. As a result of that, the department was not able to operate within its existing financial allocation. That was the pressure that put us into a deficit situation, which led to the review of our base-level allocation for the future.

Senator LUDWIG—Was a review done recently?

Mr Cornall—Yes. It was done by Mr Len Early—as the consultant nominated by the Department of Finance and Administration—in consultation with the department.

Senator LUDWIG—Do I have to ask the department of finance for that or is the review public?

Mr Cornall—No, we can provide you with the details of that.

Senator LUDWIG—That would be helpful—thank you. Does that cut across just A-Gs or does it include other departments as well?

Mr Cornall—No, it is just the department.

Senator LUDWIG—Was that commissioned by the Department of Finance and Administration or by the Attorney-General's Department?

Mr Cornall—The consultant was appointed by the Department of Finance and Administration and the decision to have the financial review was a consequence of last year's expenditure review committee considerations of the department's budget submission.

Senator LUDWIG—Why was that? Was a reason given as to why the Department of Finance and Administration wanted a review?

Mr Cornall—It is the process they have taken in other reviews of this type.

Senator LUDWIG—Of what type?

Mr Cornall—Financial reviews of departments or agencies that are finding their base funding allocation inadequate for the demands presently placed upon them.

Senator LUDWIG—Has this come about because \$6 million a year has been added to your base funding since about 2001? If you go back and have a look, it seems that you have been seeking additional resources of around \$6 million per year since about 2001, if you average it out. Has that contributed to the requirement for a review by the Department of Finance and Administration?

Mr Cornall—I think we are talking about slightly different issues. The department, in its funding allocation, has what you might call base funding for its base work activities, and that was set some time ago. It gets increased marginally each year and then the marginal increase is offset by the productivity dividend. In respect of specific functions, we are often given additional funding for those specific purposes. So when you look at our total funding situation

it is a little bit hard to identify what has been an increase and what has been a specific funding purpose. For example, we have got specific funding for some security functions, for diplomatic guarding, for the national security hotline and so on. It actually takes quite a bit of sorting out to work out where those increases are.

Senator LUDWIG—Let me say yes to that.

Mr Cornall—But the point was that, for our base funding, our funding had not gone up significantly but our workload had gone up significantly and we were starting to operate in a deficit situation because of those increased workloads. That has now been recognised and the funding has been lifted to match the agreed level of workload.

Senator LUDWIG—So that \$6 million which has been provided since 2001 and which continues for the next four years is separate again, is it?

Mr Cornall—I am not quite sure where you are getting that figure of \$6 million from.

Senator LUDWIG—You need my spreadsheet to do it—but I do not think I am going to provide you with that.

CHAIR—That makes it difficult for us, Senator.

Senator LUDWIG—We will move on then. When you go back and unpack some of your base figures it looks like there has been an increase of about \$6 million on average since about 2001.

Mr Cornall—That may well be the case, but you would then need to look at specific budget initiatives to determine how much of that was related to specific purposes for which we got specific funding.

Senator LUDWIG—Yes. In terms of the staffing levels, there seems to have been a significant increase between the 2004-05 budget, where I think the level was 378.1, and the 2005-06 budget, where it is now 478.4. Then the PBS actual for 2004-05 is 434.4. It appears that staffing levels have increased substantially over the 12 months. Why is that?

Mr Cornall—Once again, you would need to look at specific functions. I do have a chart which sets out the changes in staffing between the current year and next year and explains where the additional staff who are being taken into the department as a result of this year's budget initiatives will be allocated, if that would be of any assistance to you.

Senator LUDWIG—Yes, that would be helpful. Where the staff have increased, they can be both for specific programs and for the department in terms of administration. Does it show the breakdown for the different output areas as well?

Mr Cornall—It is done by outcome 1 and by outcome 2, but it assumes that there is within that the support staff in corporate services, and information and knowledge services. It shows you where the staff allocations will be in the coming year. Perhaps if I was to hand a copy up to you, Senator, it would make it easier.

Senator LUDWIG—That would be helpful. The additional funding I was talking about was in part 2 with expenses in the Attorney-General's Department, additional funding, which is the \$23.7 million over four years.

Mr Cornall—I think that is looking forward, though, isn't it, Senator?

Senator LUDWIG—It is. But if you go back, it has also been provided.

Mr Cornall—We got that funding this year on a one-year basis, subject to the financial health review. That financial health review confirmed that level of funding for the next four years.

Senator LUDWIG—And that is what you are going to provide a copy of—the financial health review?

Mr Cornall—The financial health details. Mr Govey is reminding me that it was a document that went to the ERC for ERC purposes. I think I said that I can give you some breakdown of how the financial implications of it will work out for the department, and I can do that.

Senator LUDWIG—So the review itself in total is not available—is that right?

Mr Cornall—It was a document done for the expenditure review committee for budget purposes.

Senator LUDWIG—But you can provide some of the material out of it?

Mr Cornall—Yes, I can provide you with the outcomes of it.

Senator LUDWIG—Did you attend the LAWASIA downunder conference?

Mr Cornall—Yes, I did. When I say I did, I went on the Sunday because we had the Standing Committee of Attorneys-General meeting on the Monday and the Tuesday in the same venue at the same time. Then I attended the conference on the Wednesday and the Thursday morning. The Thursday morning is the traditional address by the Chief Justice, the Attorney-General and the head of the Law Council.

Senator LUDWIG—How many officers of the department went?

Mr Cornall—There were the normal officers of the department who attended the SCAG meetings. In terms of how many stayed for the conference after the SCAG meeting concluded, I would have to check.

Senator LUDWIG—Could you detail what the department paid in terms of conference attendance and how many officers were paid for, for what duration and what programs they attended?

Mr Cornall—Yes, we can take that on notice. The department does sponsor this conference—the Australian Legal Convention—not so much LAWASIA downunder but the Australian Legal Convention, which is a convention held every two years. We were a sponsor of the convention. Part of the sponsorship did involve us having registrations for members of staff to attend appropriate sessions, but we can certainly provide you with those details.

Senator LUDWIG—Were you a sponsor of the LAWASIA downunder conference? I do not recall seeing you as a listed sponsor on the program.

Mr Cornall—I will have to check whether we made any contribution to that. We certainly made a contribution to the Australian Legal Convention. I just cannot recall without checking whether we made any contribution to LAWASIA downunder.

Senator LUDWIG—You can perhaps tell us then how much of a contribution was made to the first one you mentioned.

Mr Cornall—I think it was \$25,000. If that is incorrect, I will correct the record.

CHAIR—Thank you.

Senator LUDWIG—Chair, I am not sure whether my next questions are in the general area or another area. They refer to a number of press reports about privacy and the ANAO report about freedom of information reporting. Is that better dealt with in general or in a specific output?

Mr Cornall—I think it would be better dealt with in outcome 1.

Senator LUDWIG—All right. I am happy to go to outcome 1 then.

[9.19 am]

CHAIR—Okay. Thanks very much, Mr Cornall. We move to outcome 1: An equitable and accessible system of federal civil justice, starting with output 1.1.

Senator LUDWIG—Is it easier to start with privacy or family law?

Ms Leigh—Family law is in output 1.1 but privacy is in output 1.3.

Senator LUDWIG—Let us start with family then. The family relationship centres have been announced as a budget initiative. As I understand it, \$192.19 million of the \$199.1 million will be coming from the Attorney-General's budget; the remainder is from Family and Community Services. Is there a division of how that responsibility will be handled and the way the program will then interact between A-G's and Family and Community Services? What is the way that is going to be dealt with?

Ms Leigh—It will be very similar to the way we currently handle family relationships services. Very broadly speaking, the Attorney-General's department has responsibility for services relating to post separation and FaCS has responsibility for relationships services for intact relationships.

Senator LUDWIG—How is it intended to organise the division of responsibility? You broadly said this is how it is going to work, but I envisage the family relationship centre is going to deal with that work in a more holistic way.

Ms Pidgeon—The Attorney-General's Department are responsible for policy and funding of the family relationship centres. The Department of Family and Community Services will be administering the contracts and the doing the day-to-day administration of the program once the centres are established. We work very closely with the Department of Family and Community Services on the whole family relationships services program. The way it works is that both the departments fund a number of services. We have policy and funding responsibility but the Department of Family and Community Services does the day-to-day contract management and administration for the program, and that is the way it will work here. This department will have the major responsibility for establishing those centres. We will work jointly with FaCS on tender processes and, ultimately, FaCS will be looking after the contracts, data collection, monitoring and those sorts of things.

Senator LUDWIG—There is around \$3.5 million each year in departmental costs associated with the program. The remainder obviously is administered costs. The departmental costs—will FaCS take any of that or will that be from AG's?

Ms Pidgeon—FaCS does have an amount of departmental costs for resources for this program.

Senator LUDWIG—Do you know what that is?

Ms Pidgeon—No. I am afraid that would have to be a FaCS question.

Senator LUDWIG—What is yours?

Ms Pidgeon—In terms of departmental?

Senator LUDWIG—Yes—

Ms Pidgeon—This year—

Senator LUDWIG—departmental costs and the breakdown for this year and the out years.

Ms Pidgeon—This year the total amount for the department—and this includes staffing, travel, things like tender processes and a community education program—is \$6,731, 254. To round it, that is \$6.73 million. Of that, \$1.23 million is for a community education program and the rest is broken into travel, staff, IT and all the support that we need. Do you want me to go through the out years for that as well?

Senator LUDWIG—Yes please.

Ms Pidgeon—In 2006-07 it is \$5.768 million, in 2007-08 it is \$4.81 million and then in 2008-09 it is \$7.8 million. That is only estimates, subject to the usual annual—

Senator LUDWIG—I forget the term. You can draw that forward if you have not spent it in one year and spend it in the next.

Ms Pidgeon—This is assuming what the indexation will be in future years. It is always only an estimate.

Senator LUDWIG—In terms of FaCS's role, I will have to ask them, will I? I should eliminate at least what questions I can ask you at this point and they will come up, I think next week.

CHAIR—Yes, they are, in the community affairs committee.

Senator LUDWIG—Have you sorted out, first of all, the cost breakdown between which will be Attorney-General's responsibility and which will be the responsibility of Family and Community Services—in other words, the division of responsibility. You will provide the funding but there will be some money for day-to-day operations for FaCS.

Ms Pidgeon—That is right. I should explain that our funding responsibility is for the family relationship centres plus the expansion of contact orders program services, children's contact services and expansion of primary dispute resolution services like mediation. FaCS has its own responsibility for a number of other early intervention service which they will have the full funding and policy responsibility for. So our responsibility is, as Ms Leigh explained, generally speaking for the separated families. In the same package that was announced, the same budget measure, FaCS does have the primary responsibility for policy

and funding for these other services. That includes things like Men's Line and other early intervention services.

Senator LUDWIG—So who will do the tendering process if there is going to be one? How will the funding money be allocated—per centre?

Ms Pidgeon—We do it jointly with FaCS but the department that has the funding responsibility takes the lead. In our case we will be the lead agency in the tender process for the funding relationship centres, contact orders program, children's contact services and any new services such as mediation that come out of the package. They will be the lead agency for the tender process for the early intervention services.

Senator LUDWIG—Has it been decided yet how that money will be distributed in terms of how many centres or what the tender process is going to be? What information can you give me about that to date?

Ms Pidgeon—The government have previously announced there will be 65 family relationship centres and in the budget they also announced are going to be 30 new children's contact services and 15 new contact orders program services. That is the number.

Senator LUDWIG—That gives us the parameters to work within.

Ms Pidgeon—Details about tenders and so on are still being developed and we are consulting the service providers and so on on a whole range of issues related to that.

Senator LUDWIG—Have there been any specific directions about how that process is going to work—in other words, the distribution of the funds to the centres and how many centres in the first year, second year or third year? Has that been worked out yet?

Ms Pidgeon—The discussion paper that the government issued last year did refer to 15 being established—

Senator LUDWIG—Yes, I recall that. I was wondering if since that time there has been any firmer view by government now that the announcement has been made.

Ms Pidgeon—I think the government has not changed or announced anything other than that. That was envisaged as the number that would be up and running after the first year. We are talking about the middle of 2006. There has not been any other announcement in relation to numbers.

Senator LUDWIG—Has the role of the family relationship centre been settled yet?

Ms Pidgeon—The role was very much as described in the discussion paper that was issued last year. There will be finetuning as we develop the exact model or models of centres, and that is one of things that will take much of this year. One of the reasons that we will not have centres up and running until next year is that there is quite a lot of development work to make sure that this is the best possible service.

Senator LUDWIG—Has any work being done on how the money will actually be applied? In total there is \$199.1 million. Obviously, not all that will go to the family relationship centres. Is there any methodology to determine how much the centres will receive out of that total and how much each centre, both urban and regional, will receive?

Ms Pidgeon—You mentioned the \$188 million.

Senator LUDWIG—There is \$199.1 million, which I guess is the total.

Ms Pidgeon—Yes. It was a separate measure, so it has been described separately in the budget releases. The rural Indigenous outreach service will be with the family relationship centres, so they have been combined for that total. That will be spent on the centres—setting them up, training and all things that you need to support the centres. It also includes a national advice line and a web site. Most of that funding will be to the Attorney-General's Department.

Senator LUDWIG—But there is no breakdown as yet as to how much will be set aside for the helpline, say. We now know it is between \$188 million and \$199.1 million. We know that the program for Indigenous persons will be in there—

Ms Pidgeon—Yes.

Senator LUDWIG—but is there any further breakdown as to how many centres will be open by year 2 or year 3?

Ms Pidgeon—I think the government will be announcing that in due course. Obviously, we had a notional breakdown for costing purposes, but the centres will vary from place to place. Obviously, places with larger populations will have larger centres. So the actual details of how much centres will get and how much will be used for the national advice line will need to be finetuned as we develop the model.

Senator LUDWIG—Has there been any determination of what methodology will be utilised in distributing the money—whether it will be by tender, whether you intend to set up new centres or whether you intend to tender out a lot of money for delivery of the service?

Ms Pidgeon—The government has foreshadowed in its discussion paper that it would be looking at tendering. The details of that are still being developed, but that is certainly the intention. We would do that jointly with FaCS.

Senator LUDWIG—Have they made any decision since then about whether it will be on an annual, biennial or triennial basis?

Ms Pidgeon—In terms of the actual funding for each centre?

Senator LUDWIG—Yes.

Ms Pidgeon—The current services under the Family Relationships Services Program has ongoing or at least lapsing funding for several years. But up until now the actual agreements that they sign have only been annual. That is about to change—they are about to have three-year agreements—but the government is still considering how it will operate the new funding and whether that will be annual, three-yearly or four-yearly agreements or whatever. That is still being decided.

Senator LUDWIG—And you have no guidelines at the moment? Perhaps we can shorten the process a little bit. Since the discussion paper and the announcement—I know it has been a relatively short amount of time, but the department may have already worked on some of it—have the department developed any guidelines about how they are going to process the centres or envisaged how the work is going to be dealt with by the centres?

Ms Pidgeon—Are you talking about how they will operate on the ground?

Senator LUDWIG—Yes.

Ms Pidgeon—That is being developed. A very important part of the next six to eight months work is to get that right.

Senator LUDWIG—Are there guidelines as to how that will proceed at the moment?

Ms Pidgeon—No, because that is what is being developed.

Senator LUDWIG—When is it due to be finalised?

Ms Pidgeon—In time for the tender process. It has to be in time to have these up and running by the middle of 2006. We do not have a set deadline.

Senator LUDWIG—Do you have any working dates yet?

Ms Pidgeon—Not in those terms, because we are waiting to get the staff we get in this package. We do not yet have all the new staff that you mentioned. We need to get some more people on the ground to start working on this sort of detail.

Senator LUDWIG—Has any decision been made or provided by government about where these centres will be located?

Ms Pidgeon—No. The government is considering that and will be making announcements.

Senator LUDWIG—In due course.

Ms Pidgeon—Yes. The government will decide when to announce that.

Senator LUDWIG—Minister, has any decision been made by government about where the family relationship centres will be located first?

Senator Ellison—I am not aware of any decision as to where they will be located. The Attorney-General has been dealing with that. We can take that on notice to see if there is any information we can give you, but I am not aware of any decision having been made. The officials advise me that there has been no decision. There were 65, if I remember correctly. We will take it on notice and if any decision has been made we can advise the committee.

Senator LUDWIG—Thank you. Has any work been done on the process for deciding what the locations will be?

Ms Pidgeon—We provided advice to the Attorney-General and the Attorney-General is considering it.

Senator LUDWIG—Can you tell us what that is?

Ms Pidgeon—There was a lot of advice.

Senator Ellison—That was a nice try.

CHAIR—It was a very good try, actually, it being quite early—it is only 9.36. Well done.

Ms Pidgeon—There is a lot of detail that he is making a decision on.

Senator LUDWIG—You never know your luck in the big city. Has any work been done on the feedback from the centres on the quality of the work that is being done or has there been any check on whether the money has been well spent? In other words, has any work been done on the methodology in terms of finalising the feedback? I guess that is one way of putting it.

Ms Pidgeon—Are you talking about reviewing how they are going?

Senator LUDWIG—Quality assurance is another way of putting it.

Ms Pidgeon—There will be two ways. One will be the regular monitoring that will be done through the FaCS system which they currently have for the rest of their program. Data are provided on a regular basis and so on. But we will also obviously be doing reviews and evaluation over time.

Senator LUDWIG—I know these questions are early in the process, but I guess we will come back to it at the next estimates and, I suspect, the estimates after that. I was just trying to establish where we are at the moment. Forgive me if it seems a bit tedious. It is still early days in the work that you have done on the quality assurance, if I can call it that, and that is yet to be finalised. Is that a correct summation?

Ms Pidgeon—That is absolutely right.

Senator LUDWIG—Has the intention for the programs not to be administered by the Commonwealth changed? The centres will not be directly administered by the Commonwealth. That seems to be the suggestion in the discussion paper. Is that still the case?

Ms Pidgeon—They will not be Commonwealth centres; they will be run by non-government organisations.

Senator LUDWIG—Has a decision been made on that yet?

Ms Pidgeon—On who should run them?

Senator LUDWIG—No, that they will not be run by the Commonwealth. That was in the discussion paper.

Ms Pidgeon—That is right. The government has not indicated any change of mind on that.

Senator LUDWIG—Has any work been done on the qualification requirements of the staff in the centres such as mediators and the like?

Ms Pidgeon—Quite a lot of work is being done on ensuring the qualifications are appropriate, not just for the family relationship centres but also for dispute resolution generally. We have in fact commissioned the Community Services and Health Industry Skills Council to undertake development of competency based standards for professionals in these organisations and other family relationship service organisations in terms of things like counselling, mediation and children's contact services.

Senator LUDWIG—Has the process been determined as to how you will work out the locations?

Ms Pidgeon—We provided advice to the Attorney-General and the Attorney-General will—

Senator LUDWIG—No, we went there and we did not get very far. In terms of a process, methodology or a way of determining it, have you provided it in these terms: there will be methodology A, B and C, as is the usual case, and the minister can choose A, B or C? I do not expect you to answer all of that.

Ms Pidgeon—With FaCS, because FaCS and our department work in partnership regarding this program, we have provided a lot of information about various factors that the government can take into account—

Senator LUDWIG—In determining locations?

Ms Pidgeon—In determining locations.

Senator LUDWIG—Will the hotline be run by Family and Community Services?

Ms Pidgeon—No. That will be run by this department, as we currently run the family law hotline.

Senator LUDWIG—Will that be run as a call centre, a referral centre or a hotline that takes information and then provides answers by way of advice?

Ms Pidgeon—You will be aware that the family law hotline at the moment is a call centre that then gives information and referral. It will build on that. In fact, that will be subsumed by the new advice line. The advice line will be initially a call centre for information and referral but it will also have the capacity to provide advice beyond the current family law hotline.

Senator LUDWIG—Will it be renamed? There is currently a hotline and you say the new program will overtake that. Will it be rebadged or renamed?

Ms Pidgeon—It will be both. I am referring to it at the moment as the national advice line but we will have a more formal name for it and badging in due course.

Senator LUDWIG—And that will be released by the minister in due course, I suspect.

Ms Pidgeon—Yes.

Senator LUDWIG—If we call it the national advice line, that will subsume the hotline?

Ms Pidgeon—The family law hotline, yes.

Senator LUDWIG—Any others?

Ms Pidgeon—No.

Senator LUDWIG—What about the men's advice line? Will that stay separate?

Ms Pidgeon—That is a FaCS line and that will stay separate. That has a particular role.

Senator LUDWIG—Will the funding for the national advice line be billed on the current funding for the hotline?

Ms Pidgeon—Yes.

Senator LUDWIG—Do you have those figures?

Ms Pidgeon—The current funding for the hotline is \$1.3 million per annum. The new funding will depend on the work we are going to do over the next year to establish it, in terms of it being part of the whole family relationships centre package. So the exact amount that it will end up costing—

Senator LUDWIG—We can come back to that.

Ms Pidgeon—It is a part of the whole package that will need a lot more development.

Senator LUDWIG—Has any work been done on the centres in determining what sort of direction they can take in terms of counselling, mediation, referrals and the like?

Ms Pidgeon—A lot of work will be done over the next year. We want the services to be of as high a quality as we can get, but we also want some national consistency, so we will be providing a lot of guidelines and parameters for those sorts of things.

Senator LUDWIG—Has any work been done on ensuring that the locations, the type of operation and the building surrounds will be safe for people to visit? I am referring to situations where couples might be in trouble.

Ms Pidgeon—The specific location in a region is a very important part of looking at where they are going to be established. Those issues will certainly be very important this year when we are looking at—

Senator LUDWIG—So there has been no work done on that yet; that is work that it is intended will be done?

Ms Pidgeon—There has been work in terms of listening to—

Senator LUDWIG—We can differentiate between that which is advice to the minister concerned and that which is departmental work?

Ms Pidgeon—The work that has been done so far is actually getting input from the community on those sorts of issues, as part of the consultation process on the discussion paper. Also, we are consulting service providers and other experts on a whole range of issues. It is one of the areas that we will have to get more advice on. We are already taking on board those sorts of issues.

Senator LUDWIG—There was consultation on the discussion paper, as I understand it?

Ms Pidgeon—Yes.

Senator LUDWIG—And there was feedback from the paper?

Ms Pidgeon—Yes.

Senator LUDWIG—Has any material been published on that feedback that was received on the discussion paper?

Ms Pidgeon—No, that was purely for the purpose of going back to government with the outcome of the consultations—that there was not going to be another report. We already had the House of Representatives committee report. I do not think people wanted to see another report; they wanted to see the announcement.

Senator LUDWIG—There is no other report?

Ms Pidgeon—No. There is only the advice we provided to cabinet.

Senator LUDWIG—Has the new consultative process now commenced?

Ms Pidgeon—We are consulting all the time, in a way, because we are in contact with stakeholders, organisations, groups and so on. We are having some scenario workshops this month and next month, where we are bringing in practitioners and other experts to look at issues in relation to the Family Relationship Centres. That is one part of the further consultation.

Senator LUDWIG—When will that occur?

Ms Pidgeon—The first one is this week and the next one is in the middle of June.

Senator LUDWIG—Are they by private invitation?

Ms Pidgeon—Yes, because we are looking for people with a particular range of expertise. It is only by private invitation.

Senator LUDWIG—Who is on the first one?

Ms Pidgeon—I can provide you with that information.

Senator LUDWIG—Is there a series that has been set out?

Ms Pidgeon—That is the series for this particular workshop. We will decide on any other similar sorts of exercises in the new financial year.

Senator LUDWIG—And you will give me details of the two workshops that are going to be run and when they will be. Will there be outcomes of those workshops?

Ms Pidgeon—At this stage, it is mainly for us to take on board different views. If a document does come out of it, we will be very happy to provide it to the committee, but I do not know if there will be one as such.

Senator LUDWIG—Thank you. In designing the model, how much was *Out of the maze* relied on?

Ms Pidgeon—I think a lot of the issues in *Out of the maze* were picked up by the committee, as it was one of the things that was referred to them, and a lot of the recommendations have built on the recommendations in *Out of the maze*. From that point of view, I think the government's package does respond a lot to the *Out of the maze* report—through that indirect route rather than directly.

Senator LUDWIG—It appears that there will be consequential changes to the Family Law Act, Ms Leigh—is that right?

Ms Leigh—That is right.

Senator LUDWIG—What work has been done on that to date?

Ms Leigh—As part of the budget announcements, the government put out a release outlining the nature of the amendments. We are still developing the final detail of those amendments, including detailed consultations with the courts.

Senator LUDWIG—When is that likely to be completed?

Ms Leigh—The government has announced that it will releasing an exposure draft in June.

Senator LUDWIG—Is that the one on the forward program?

Ms Leigh—I am not sure about the forward program, but the government has announced that there will be an exposure draft released in June and that it will, at the same time, refer this to the House of Representatives Standing Committee on Legal and Constitutional Affairs.

Senator LUDWIG—Not to the Senate committee. Is that to go back because of the subsequent report by the House committee?

Ms Leigh—That was simply the announcement by the government.

Senator LUDWIG—I was not looking for more work, Chair. I have a number of questions that surround the bill, Ms Leigh. Can you go into any of the detail of what will be contained in the bill, or am I better waiting for the exposure draft?

Ms Leigh—I could outline the general issues covered.

Senator LUDWIG—That would be helpful.

Ms Leigh—First of all, the legislation will require parents to attend dispute resolution before taking a parenting matter to court. The government has indicated that there will be some exceptions to that which would include child abuse or violence. Secondly, it will create a presumption of shared parental responsibility—again, except in cases involving child abuse or violence. The purpose of this is to encourage separated parents to consult and make important parenting decisions together. Also, it will require parents, advisors, mediators and the courts to consider substantial sharing of parenting time in appropriate cases. It will improve enforcement of the courts' parenting orders and also better recognise the interests of children in spending time with grandparents and other relatives. Those are the key aspects of the legislation.

Senator LUDWIG—The Family Relationships Services Program will receive an increase of \$137.1 million over four years, and that includes, as we have gone through, increasing children's contact services, the contact orders program and the dispute resolution programs—and a national education program was also spoken of this morning. In late July 2004, the Prime Minister announced immediate additional funding for the Family Relationships Services Program. How was this money allocated across the subprograms?

Ms Pidgeon—The 30 per cent was allocated across the board in terms of the Attorney-General's services that we fund. They all got a 30 per cent increase. I cannot speak for the FaCS' side of the program, but it was all administered by FaCS. They just worked out what 30 per cent of the actual service provision was; it was not based on the whole program, because there are other things in the program.

Senator LUDWIG—Do you have a summary of how much money was actually provided to each service?

Ms Pidgeon—No, that is the total amount broken down by service type for the year.

Senator LUDWIG—So each got 30 per cent?

Ms Pidgeon—Yes.

Senator LUDWIG—Of what base?

Ms Pidgeon—Of the funding base they were expecting to get in 2004-05, they then got 30 per cent on top of that.

Senator LUDWIG—In 2005 they got 30 per cent. Will that continue?

Ms Pidgeon—It will. As part of the budget, the government announced that the 30 per cent will be continued.

Ms Leigh—We could provide you with a handout on the breakdown for 2004-05, if that would be of assistance.

Senator LUDWIG—That would be helpful.

Ms Pidgeon—That would be of the total.

Ms Leigh—It includes the 30 per cent.

Senator LUDWIG—Can you tell me whether FaCS have contributed any additional funding?

Ms Pidgeon—FaCS provided 30 per cent to virtually all of their programs as well. I think there were some things which were not regarded as the same type of program—for example, drought assistance, which is a one-off anyway. I cannot really answer questions about that, but I understand that almost all of their services would have got 30 per cent as well.

Senator LUDWIG—I am trying not to ask you questions that obviously relate to FaCS, but I need to be able to work out which ones I have to ask FaCS. Can you give us any figures on the usage of those services from Attorney-General's?

Ms Pidgeon—In terms of how many people use them each year?

Senator LUDWIG—Yes.

Ms Pidgeon—We get that from FaCS because they keep that data for us. We could provide that on notice.

Senator LUDWIG—That would be helpful. Do you monitor the usage and whether it goes up or down? Is there a monitoring process between A-G's and FaCS?

Ms Pidgeon—Yes, FaCS does the regular monitoring. One of the things I can probably say here is that usage generally does not go down. The waiting lists might get smaller or longer. This is a high-demand program and that is obviously why the 30 per cent was seen as appropriate.

Senator LUDWIG—There was \$15 million and then it was split up, and effectively there was a 30 per cent increase to each of the programs? Is 'program' the right word, or should it be 'output'?

Ms Pidgeon—You can call them subprograms or service types. 'Service types' is the term I like to use.

Senator LUDWIG—Was there any rationale given at the time or subsequently for the additional \$15 million?

Ms Pidgeon—It was in recognition of the fact that these were high-demand services—and there were waiting lists in many cases—and that it would help them provide more services to more people.

Senator LUDWIG—Do you have a breakdown of those waiting lists?

Ms Pidgeon—They vary. There are more than 300 outlets across the country and they vary all the time, so, no, I do not have that sort of information.

Senator LUDWIG—Is there summarised data?

Ms Pidgeon—I can provide anecdotal data for some of them but I cannot provide summarised data as such. It would be a major exercise to go out to ask all of those community organisations for that sort of information. They can be quite lengthy in some cases.

Senator LUDWIG—We will abandon that, and I do not need the anecdotal evidence either.

Ms Pidgeon—That is good.

Senator LUDWIG—What I am trying to understand is why it would not just have been a budget initiative. Why was it announced in July 2004? You may not have been provided with that information, in which case I might be better directed to ask the minister.

CHAIR—I am not sure it is a question for Ms Pidgeon. Minister, can you answer that question?

Senator Ellison—I do not have any information on that. It is not in my area of responsibility as such. I will see what I can get from the Attorney-General and get back to the committee, maybe even in the course of these estimates if I can.

CHAIR—That would be helpful.

Senator Ellison—Failing that, I will get back to you in the normal course of questions taken on notice. I will try to see what I can get in the meantime.

Senator LUDWIG—Thank you. That would be helpful. By way of additional information, what I have asked is whether there was any unmet demand. That data does not seem to be available, with all due respect to Ms Pidgeon, so there must have been a trigger or some mechanism to justify providing \$15 million early and not during the usual budget process, as would have been expected given that it is a 30 per cent increase across service types, which is a significant increase in funding.

Ms Pidgeon—It might be helpful if I do indicate that the Prime Minister made a comment at the time—and it has been made since—that it was in recognition of the work that they were already doing and the need to make sure that they remained viable and could continue as a solid base, pending the decision being made on the full response to *Every picture tells a story*.

Senator LUDWIG—I understand that, but I suspect you have to have some figures before you in order to recognise that there is an unmet need or a quantifiable demand. I am asking you whether or not you have those figures.

Ms Pidgeon—We do not have the waiting list figures, but we do have a lot of information from the industry representative bodies, for example, which provided a lot of information to the government at that time about what they perceived as their needs, so there was quite a lot of input coming in from the community about the need for additional funding to ensure that services could remain viable.

Senator LUDWIG—Is that the anecdotal information that you were referring to earlier?

Ms Pidgeon—It was not what I was referring to—I was referring to when the service providers ring us up and tell us things—but there were submissions made by the industry representative bodies on these issues.

Senator LUDWIG—Can we establish in the first instance then whether the department has any quantifiable data or monitoring of the programs—I will call them service types—to demonstrate that there was an increasing demand for the service and a need for additional funding?

Ms Pidgeon—The detail on that would be held by FaCS, but we would be able to answer that question on notice.

Senator LUDWIG—If you could provide that, that would be helpful. Could you also include whether there was a point in time when that demand started to rise and whether it goes back a couple of years and how the data is being collected and presented. I imagine that it would have been done in a tabulated form and that there has been a growing demand on the service and somehow A-G's or FaCS have been informed of this over time. This has then necessitated—and these are my words—a one-off, out-of-budget \$15 million addition.

Ms Pidgeon—There is another factor which I should have recalled more quickly than this. There was a review of the Family Relationships Services Program, which was conducted by FaCS with our assistance in the second half of 2003 and the first half of 2004. That provided a clear indication that there needed to be more resources in the program. That was completed shortly before the Prime Minister's announcement. I think it was an important factor in terms of the evidence, as distinct from the submissions and anecdotes.

Senator LUDWIG—I take it that is the Urbis Keys Young report.

Ms Pidgeon—There were three components of that, which I can give you. The Urbis Keys Young report was part of it. There was a Colmar Brunton Social Research consultation which involved talking to clients. There were also regional workshops and a national workshop which brought together the service providers.

Senator LUDWIG—I apologise; this is not my area in FaCS. Have those three all been made public? I know the Young report has.

Ms Pidgeon—Yes. All three can be found on the FaCS web site and our web site. There is the Colmar Brunton report, the Urbis Keys Young report and a report of the regional and national forums. There is one report that covers the workshops.

Senator LUDWIG—And that is on the FaCS web site.

Ms Pidgeon—It is on our web site as well because, although it was commissioned by FaCS, we worked very closely with them on it, given that we share the program.

Senator LUDWIG—And that is in the family law section.

Ms Pidgeon—It is in the Family Pathways Branch.

Senator LUDWIG—Will you be able to provide how the \$137.1 million has been allocated to those subprograms or service types?

Ms Pidgeon—Yes, I have got that here.

CHAIR—Could you hand that up, please.

Ms Pidgeon—That is for the current financial year. It includes the 30 per cent.

Senator LUDWIG—Of those three reports that you mentioned, have you a breakdown of how much was spent on each report?

Ms Pidgeon—They were by FaCs. I do not have any information about that at all.

Senator LUDWIG—They were not jointly funded by you?

Ms Pidgeon—We provided some funding towards the review but we did not handle the accounts and invoices. We contributed, but we do not have the figures on what it all cost.

Senator LUDWIG—Do you have what you contributed?

Ms Pidgeon—I can provide that. I do not have it with me.

Senator LUDWIG—Is that for the three of them or just for the Young report?

Ms Pidgeon—I will have to see how we contributed. We may have just contributed an amount for the review as distinct from breaking it down into components.

Senator LUDWIG—That would be helpful. Could you also let us know if you contributed in-kind—in other words, if it was departmental work that was done in-house.

Mr Cornall—We did have some staff helping to organise the workshops, in particular, and so on. We would, of course, have been involved in the planning of the review and in meetings of reference groups and those sorts of things. We certainly had staff involved.

Senator LUDWIG—Rather than a breakdown of how much that actually cost—unless it is easily available—perhaps you could provide a summary of what was contributed. That would be helpful. If we need any more detail we can come back to you then. Regarding the Young report, was there a follow-up done in terms of how much that was going to be relied on or impact on the FRSP? In other words, what was the main driver? Was it the Young report or all three of them together?

Ms Pidgeon—Are we talking about the additional 30 per cent?

Senator LUDWIG—Yes.

Ms Pidgeon—It all came together plus there were submissions by the industry representative bodies. I think they are all factors. I could not say there was any particular driver.

Senator LUDWIG—How many industry submissions were received?

Ms Pidgeon—There are three industry representative bodies. They always put in budget submissions. I think we can assume there were three, but if that is incorrect I can correct that.

Senator LUDWIG—Are their submissions available or not?

Ms Pidgeon—I would imagine they are available. We can make them available, or otherwise I can advise the committee.

Senator LUDWIG—Could you let us know. If they are available then we would like to receive them. Did those three reports, if I can call them that in shorthand, contribute to the final design or model for the FRSP?

Ms Pidgeon—They will generally feed into it but not specifically. No, the new family relationships centres—I assume that is what you are referring to—

Senator LUDWIG—Yes.

Ms Pidgeon—will be informed by a whole range of things, including the work that we are doing now with experts and service providers. Certainly, the review will be one source of useful information.

Senator LUDWIG—The Young report, if I can refer to it that way, makes a number of points—and I will run through some of them—including that there is little community knowledge about the existence of these services; that there are significant barriers to access, including long waiting times; that there is difficulty getting appointments that fit with work schedules; that there is lack of child care and lack of services in regional areas; and that there is room to improve linkages between the funded services to improve the quality of referral information and advice. Are these issues now being addressed?

Ms Pidgeon—Yes, in a number of ways. One will be through the family relationships centres and the community education that goes with that. The family relationships centres will be a very important referral point with respect to the other services in the program and other services that exist whether or not they are in the program. There is also work being done, as with any program, on improving the program which will be picking up a number of these issues. I think the ongoing administration by both departments will continue to be informed by those findings.

Senator LUDWIG—It seems to be that when you look at the FRSP and the family relationships centres as two distinct types of programs there is a lot of either—these are my words—doubling up or overlap between them.

Ms Pidgeon—The family relationships centres will be part of the Family Relationships Services Program, so there will not be two programs. They will be within that program and they will, in fact, be very complementary. The family relationships centres will be the front door, as I think the Attorney called it recently, into the system and provide assistance to people to find what services they need as well as providing some services internally. The family relationships centres will not be taking over the role of the sorts of services that people require when they have got significant conflict, for example, or when they need some personal counselling and those sorts of things. They will be focusing on helping people find the services they need plus providing advice, information and help, and developing parenting plans. They will be providing dispute resolution but they will not be doing long-term dispute resolution where some families need many months of help. That is where they should be referred to those other services.

Senator LUDWIG—Who will then do the counselling and family relationships mediation subprograms?

Ms Pidgeon—They will still be needed. The family relationships centres are not intended to do counselling as such, so counselling will still need to be referred to the existing services. There will be some dispute resolution within the family relationships centres, but if you need more than can be provided in the centres or you are not in a location where there is a centre then you will still need the family mediation services.

Senator LUDWIG—So there will be mediation in the family centres and mediation as part of the FRSP?

Ms Pidgeon—That is right. Some people will not be close to a centre and so will go to another service. Also, with respect to people who need more than, say, three or so hours counselling, we will not be that strict within the centres but we will certainly not be expecting the centres to take on people who need 12 hours or 20 hours or who have significant conflict and need more intensive help. They will certainly still need to go to other services. There will be a referral point at the centres to make sure they get the help they need.

Senator LUDWIG—Will the national advice line be a referral centre which will be able to work out whether they should send them to an FRSP or to a family relationships centre, notwithstanding location?

Ms Pidgeon—Yes. They will also be able to help them with other services that are outside our program but might be provided in their area. So it will be a very important referral point.

Senator LUDWIG—Will the people operating the advice line be qualified?

Ms Pidgeon—The intention is to have call centre operators who can provide basic information and referral information, but when you start getting into advice, yes, there will be qualified dispute resolution practitioners or qualified counsellors.

Senator LUDWIG—Available on the advice line?

Ms Pidgeon—By phone, yes; that is the intention.

Senator LUDWIG—Twenty-four hours a day, seven days a week?

Ms Pidgeon—That sort of detail has not been worked out yet.

Senator LUDWIG—When will that be worked out? Is there a time line for that?

Ms Pidgeon—Over the next year. We expect that to be set up in the middle of 2006.

Senator LUDWIG—So it will come online at about the same time as the family relationships centres will come online?

Ms Pidgeon—Yes, roughly.

Senator LUDWIG—Roughly?

Ms Pidgeon—As with anything, the exact start-up date with respect to people opening their doors is something you cannot predict a year ahead, but it is expected to be—

Senator LUDWIG—I will probably hold you to this!

Ms Pidgeon—We expect it to be mid-2006.

Senator LUDWIG—I mentioned earlier the men's line. There is \$12.4 million in additional funding for the men's line. Why was this determined?

Ms Pidgeon—That comes under a FaCS program.

Senator LUDWIG—Has Attorney-General's contributed to that at all?

Ms Pidgeon—No, we do not have to contribute to that.

Senator LUDWIG—So you will not be able to provide any information on that?

Ms Pidgeon—That is right.

Senator LUDWIG—Do you ask for any feedback from them about that line?

Ms Pidgeon—No. It is not something—

Senator LUDWIG—You are not interested in it?

Ms Pidgeon—It is not that we are not interested; we know it is a very good service but it is not something we need to know. We do not need feedback on that.

Senator LUDWIG—With respect to the children's contact services, there are 30 children's contact services listed in Budget Paper No. 2, at page 94. Has a schedule been determined for the rolling out of those?

Ms Pidgeon—It is being done; it is to be finally settled by the Attorney. We are working on the basis that they will be rolled out over the next three years.

Senator LUDWIG—So there is no advice that you can provide to the committee about a schedule for the services?

Ms Pidgeon—That is correct.

Senator LUDWIG—That is currently advice to the Attorney-General?

Ms Pidgeon—He will make the decision. I do not think he has received advice yet on what that might be.

Senator LUDWIG—This is similar to the questions I asked previously: has it been decided where they will be located? Has it been decided whether there will be a change in how they operate? Have those issues been worked out yet?

Ms Pidgeon—Are you talking about children's contact services?

Senator LUDWIG—Yes.

Ms Pidgeon—There have not been any decisions made to change the way they are operating. If there is a change made there, it would only be as a result of further consideration of how the whole system might work.

Senator LUDWIG—With respect to the contact orders program, will I receive similar answers with respect to location, role and those matters? There are 15 scheduled to be rolled out.

Ms Pidgeon—Yes, they are all to be decided as yet.

Senator LUDWIG—I believe Senator Kirk has some questions on court security.

CHAIR—Have you finished asking questions on family law, Senator Ludwig?

Senator LUDWIG—You do not deal with disability discrimination, Ms Pidgeon?

Ms Pidgeon—No.

CHAIR—But on the question of family law—that is Ms Pidgeon's area, isn't it?

Ms Pidgeon—Yes.

Senator LUDWIG—That is fine.

CHAIR—We are now moving on to court security.

Senator KIRK—I notice that in last year's budget \$15.3 million was allocated over four years to fund security measures in the federal courts, the AAT and the Native Title Tribunal.

Last year it was said that these moneys were for the purpose of improving security but that the entire amount would be absorbed within the existing resources of the relevant agencies. I am wondering what has happened to that plan from last financial year.

Ms Leigh—That is correct. In the current budget papers the government has allocated \$9.9 million over four years for that purpose.

Senator KIRK—What happened to the \$15.3 million then that was allocated over four years? Has had been expended, or is this an additional \$9.9 million? That is what I am unclear about.

Ms Leigh—No, it is not an additional \$9.9 million; it is part of that original assessment. Some of it has been absorbed by the courts and some of it has been reassessed by the courts.

Senator KIRK—What is the nature of the security measures that have been put in place?

Ms Leigh—It is to provide weapons screening security—that is the \$9.9 million.

Senator KIRK—What occurred in the last financial year in terms of security? What sort of security has been installed and in which courts and tribunals?

Ms Leigh—That question would be better directed to the courts and tribunals.

CHAIR—Most of which we are seeing.

Senator KIRK—Indeed, we are. I am just wondering why it is that these allocations have been made. Is it considered that these bodies have higher security needs now than they had in the past? I guess I am asking what has prompted the allocation of money for the purposes of the security measures.

Ms Leigh—A review was conducted of the security needs of the courts and the assessments of their needs flowed from that.

Senator KIRK—I understand that the \$9.9 million in this financial year has been allocated to the Family Court of Australia, the Family Court of WA, the AAT and the High Court. Why were those particular courts and tribunals selected for the allocation of the \$9.9 million?

Ms Leigh—It was based, firstly, on an assessment of the needs of the various courts and tribunals and then on an assessment of the ability of the courts and tribunals to absorb the costs.

Senator KIRK—Why is it recognised that some institutions—for example, the Federal Magistrates Court and the Native Title Tribunal—are not in need of further security measures whereas others like the Federal Court and the Family Court are.

Ms Leigh—They were included in the review and indeed they will be benefiting from the security measures, but they absorbed their costs.

Senator KIRK—So tell me about the nature of the review that has taken place.

Ms Leigh—I should just add to my comment that the Federal Magistrates Court generally has its services provided by the Federal Court and the Family Court, so it benefits from the expenditure by those courts, and the direct costs attributable to the Federal Magistrates Court were relatively small.

Senator KIRK—Going back a step, could you tell us about the review process that you have been describing in your answers?

Ms Leigh—The review was commissioned by the government and it identified some concerns. That was then followed up by the government's decision to provide the funding.

Senator KIRK—When did the review take place?

Ms Leigh—I would need to take that on notice for the exact detail, but that would have been two years ago.

Senator KIRK—Right. And that is what prompted the allocation of \$15.3 million in last year's budget estimates?

Ms Leigh—That is correct.

Senator KIRK—I am still trying to get to the bottom of the nature of this review. Is there a consultant or someone from within the department who can perhaps explain the process for me?

Ms Leigh—It was conducted by a consultant.

Senator KIRK—Do you have any further details? Can we see a copy of the consultant's report?

Ms Leigh—I recall that that was previously requested, and the government indicated that it would have security concerns about releasing that report because it was about security vulnerabilities in the courts and tribunals.

Senator KIRK—What was the cost of the review?

Ms Leigh—I would like to take that on notice, please.

Senator KIRK—Okay. Thank you.

Senator LUDWIG—In relation to the security of individual courts, as I understand it you have indicated that the courts will be able to give us an update of what they are doing. Obviously, as agencies the courts will appear later and they can give us a rundown of the measures, but is there an overview by or a view from Attorney-General's as to what they are expected to do—a template they are expected to work to or a standard they are expected to meet in terms of court security? Or is it just, 'Spend money on court security'?

Ms Leigh—The costings are based on the actual measures to be taken.

Senator LUDWIG—And what measures are they?

Ms Leigh—As I indicated, weapons screening is the key measure.

Senator LUDWIG—You say 'the key measure'; what other measures are there?

Ms Leigh—I would like to provide any further detail on notice, but it would be simpler to direct that question to the courts because they would be able to give you that detail on the spot.

Senator LUDWIG—I know you said that, but my question is to the A-G's department about when it provides money for court security. You have the report. My next question was whether there was a template or design you expect the courts to meet, or a standard you would

expect the various courts to meet, for court security. My next question was whether there was a key area you wanted them to expend their money on and you indicated that was screening for weapons. Are there any others? In other words, to what standard do you expect them to screen?

Ms Leigh—The review identified the various measures that should be taken. The costings were based on implementation of those measures. Those costings were developed by the courts working out the detailed measures that would be taken, and they were settled by the usual process with the department of finance, so there was considerable scrutiny of the basis of those costings—that is, what money would be spent on what measures. I do not have any further details with me on that.

Senator LUDWIG—All right. So, from AG's perspective, you have agreed with all of the recommendations and those to be implemented that come from the report? That is the important issue.

Ms Leigh—The decision about the expenditure was based on the review. I cannot exactly recall all of the recommendations and therefore I cannot with certainty answer your question about adopting all them.

Senator LUDWIG—Forgive me; I may not be clear. Let us take it through. There is a report; it makes recommendations. Some of those are picked up by you in government, some of them are not. That is generally my understanding of what happens. You usually do not pick them all up. Sometimes you do. In this instance, what recommendations have you in A-G's decided to pick up out of that report and which have you decided to discard or not proceed with? If you have decided to pick up A, B or C, is there a standard or level to which you want them to go? There are various levels. Let us take screening for weapons as one area. You can spend a lot of money on an X-ray machine. You can spend an awful lot of money on a better X-ray machine. But it is about the standard or level that you wish each court's security to be at. Has there been any decision—and unfortunately there are multiple parts to this question—as to which recommendations will be picked up and which ones will not be?

Ms Leigh—As to both what would be picked up and the standard, it is implicit in the costings. The costings were worked out based on precise proposals as to what the money would be spent on.

Senator LUDWIG—Who worked out the costings?

Ms Leigh—The courts, and of course they were discussed with the department of finance.

Senator LUDWIG—But it is not an unlimited pot of money.

Ms Leigh—No, it is not an unlimited pot of money.

Senator LUDWIG—Who then determined how much money was going to be allocated? That drives it as well.

Ms Leigh—There were ongoing discussions between all of the courts and the department about what measures needed to be taken. Once that had progressed to a point where that could be settled, there were discussions with the department of finance in the usual course.

Senator LUDWIG—So, from the A-G's perspective, you do not care what standard is implemented at the courts?

Ms Leigh—I do not believe I said that at all.

Senator LUDWIG—No, that was my question.

Mr Cornall—What Ms Leigh is saying is that this has been the subject of a lot of discussion over a long period of time. One of the reasons that I suspect she does not recall all the immediate details of the review is that it was done a couple of years ago. We are certainly happy to answer your questions but she is simply not able to answer them specifically today. But in terms of—

Senator LUDWIG—Then take them on notice. I am not trying to be difficult. I will let you answer that in a second. It is not a difficult issue in the sense that, if you want to screen, you determine what you are going to screen for and what types of measures you might put in place. From an A-G's perspective you might then set some parameters about what you expect courts to do. Otherwise, if you then said, 'Go and do what you think,' it may not be the outcome that you want. I am just looking at the role the A-G's played in making sure that the outcomes were within reasonable parameters.

Mr Cornall—The courts are self-administered. They do have their own budget funding and they do have responsibility for their own administration. So the department is not prescribing conditions under which they should implement the security arrangements. We have been facilitating those arrangements. We have been participating in lots of discussions with them to achieve a satisfactory outcome, which I think we have now achieved. The courts themselves will be responsible for implementing their own security. Some courts already have the security of the type that the other courts wanted. For example, the Commonwealth law courts in Melbourne have screening as you enter the court. My understanding is that the sort of screening that the other courts would want would be similar to the screening that is presently being used in Melbourne. But, as to the exact level of screening and so on, we are simply not in a position to answer that without taking it on notice.

Senator LUDWIG—So the short answer is that the courts will determine their own security arrangements, within their budget.

Mr Cornall—Yes. They are determining their own arrangements. The arrangements that are contemplated by this funding have been negotiated with the courts with the assistance of the department and with the department of finance for the specific funding for the specific proposals they want to implement. They will be able to tell you what they are.

CHAIR—So we can ask the specific courts those specific questions. If you have further questions—

Senator LUDWIG—I did not mean that to get as complex as it was. It was just about whether there was a standard or whether there was a view from A-G's as to what you expected them to do. The simple answer would have been no, I suspect.

CHAIR—I think Mr Cornall has clarified that. Senator Ludwig, do you have anything further in that area.

Senator LUDWIG—No. What about disability discrimination?

CHAIR—That is 1.3.

Senator LUDWIG—That is the access to premises standard.

CHAIR—That has moved, but the officers are available at 1.3.

Senator LUDWIG—No, we can come back to that. Is the human rights and equal opportunity area in 1.1?

Ms Leigh—All human rights is now in 1.3.

Senator LUDWIG—And the National Pro Bono Resource Centre?

CHAIR—Is that still in 1.1?

Ms Leigh—No, that is in 1.7.

CHAIR—Is that because you have shifted legal assistance generally to 1.7?

Ms Leigh—That is correct.

CHAIR—That must have been a logical fit with native title.

Ms Leigh—Page 63 of the department's PBS has a helpful table.

CHAIR—The department has provided a helpful table. We are doing our best and the secretariat has tried very hard to educate us in the helpful table process. But we are such conservative old things we are resistant, aren't we, Senator Ludwig?

Senator LUDWIG—We are. It has been a few years.

CHAIR—Do not go there, Minister, whatever you were thinking.

Senator Ellison—I was going to say you are neither conservative nor old.

Senator LUDWIG—If I want to ask the department general questions in relation to the High Court, what is that in?

Ms Leigh—1.1.

Senator LUDWIG—I knew I would find one.

Senator KIRK—As I understand, Justice McHugh of the High Court will be retiring in November of this year. Is that correct?

Ms Leigh—That is correct, on 1 November.

Senator KIRK—I am interested to learn about the process that either exists or has been put in place in relation to the selection of this position or High Court positions generally.

Ms Leigh—There is a legislative requirement under the High Court of Australia Act that the Attorney consult with the attorneys of the states in relation to appointments to the High Court. That is a requirement that is specific to appointments to the High Court.

Senator KIRK—From what you are saying to me, legislatively there is only a requirement that the A-G's of the states be consulted.

Ms Leigh—That is correct.

Senator KIRK—Is there any other convention or process that is complied with, either by the minister or by the department in relation to selection of replacements for members of the High Court?

Ms Leigh—That is the only requirement. The Attorney has indicated that of course he undertakes extensive consultation in considering the proposal to put a candidate to cabinet, because it is a decision of the cabinet as to who will be recommended to the Governor-General for appointment. The Attorney has indicated that normally with judicial appointments he consults with the head of the court concerned and from time to time he also consults with legal professional bodies such as the Law Council, state bar associations or the Law Society. He may also have discussions with serving and former judges, and very often members of the legal profession will write to him recommending particular people for appointment. He considers all the names that come to him through these various sources.

Senator KIRK—The consultations that you just referred to are all obviously informal and not mandatory.

Ms Leigh—That is correct.

Senator KIRK—What role, if any, does the department play in this process? As you mentioned, the Attorney quite often engages in quite wide consultation with the head of the court, other courts and legal professional bodies. Does the department play any role in that—in the correspondence, the receipt of the correspondence or the passage of that correspondence on to the Attorney?

Ms Leigh—Are we specifically discussing High Court appointments at the moment?

Senator KIRK—Yes.

Ms Leigh—The department is there to assist the Attorney, so of course that entails preparing correspondence for the Attorney, conveying any information that comes to the department to the Attorney and assisting him with advice on the process of the appointments.

Senator KIRK—Does that apply in relation to the other federal courts?

Ms Leigh—Yes, certainly. The only reason I distinguished that was that we have in the past advertised for positions on the Federal Magistrates Court and indeed once on the Family Court. In relation to those appointments the department was involved in that process of advertising.

Senator KIRK—On that question, are there any moves to advertise more widely, say, in relation to the Federal Court? You mentioned the Family Court and the FMS.

Ms Leigh—No, the Attorney has not given any indications to that effect.

Senator KIRK—Is there any indication as to why a distinction is drawn between the Federal Court generally and the Family Court?

Ms Leigh—There has only been one occasion to date when the government has advertised a Family Court position. That was in relation to a position in Townsville. It was felt at the time that that might provide additional useful information to the government in selecting an appointee.

Senator KIRK—In what respect—because of the location involved?

Ms Leigh—I think it was thought at the time that if it were advertised across Australia people may be interested in being considered. Normally when the government decides to fill a position in a particular state or territory, obviously the bar association or law society of that state or territory will be prominent in putting forward views. On this occasion it was thought that advertising it across Australia might ensure that more information was available to the government.

Senator KIRK—So there has only ever been the one occasion when a Family Court position has been advertised?

Ms Leigh—That is correct.

Senator KIRK—When was that?

Ms Leigh—The appointment following that advertisement was made in November 2000.

Senator KIRK—So it has been four years or so since this has occurred. I take it there has not been any advertising done for subsequent appointments to the Family Court.

Ms Leigh—That is correct.

Senator KIRK—Are there any moves to perhaps in the future advertise Family Court judge positions?

Ms Leigh—The government has not made any statements about that issue.

Senator KIRK—I am just interested as to why there was the one position advertised and since then the same process has not been followed.

Ms Leigh—The government is confident that it has all the appropriate information available to it to select the best candidate.

Senator KIRK—Going back to the process for appointment of High Court judges, you mentioned the legislative requirement and then the informal guidelines, I suppose you could describe them as, that the Attorney follows in terms of his consultation. Was there any initiative or any thought about formalising those informal processes, whether it be by some kind of guidelines or perhaps even a requirement by legislation?

Ms Leigh—No, Senator. The government is happy that the current process works well.

Senator LUDWIG—Has the consultation with the states gone ahead yet in relation to any High Court appointments? If so, which ones and about which position?

Ms Leigh—There is only one High Court position that is becoming vacant.

Senator LUDWIG—So far as I know.

Ms Leigh—It is just that you asked me which position and I was not clear about your question.

Senator LUDWIG—I thought I would try plural instead of singular just in case.

Ms Leigh—I do not think I can really provide any more detail on that.

Senator LUDWIG—So you cannot say whether or not there has been any consultation with the states.

Ms Leigh—No, I do not think I can.

Senator LUDWIG—Should I ask the minister?

Senator Ellison—I am not aware of any consultation between the Attorney-General and the attorneys-general from the states. I can take that on notice, Madam Chair, and get back to the committee if there is anything further the Attorney can provide.

Senator LUDWIG—Thank you. Back to you, Ms Leigh. Table 2.2.1 says the National Pro Bono Resource Centre is in 1.1. Is that right? You took me to pages 28 and 29, which is a summary of expense measures disclosed in the 2005-06 budget and I think I mentioned the National Pro Bono Resource Centre. Unless I was mistaken, you indicated that it was 1.8 and then we settled on 1.7, but the table at page 28 says it is 1.1.

Mr Govey—I am told by Mr Kennedy that in fact that is just a mistake and it should be shown against 1.7.

CHAIR—Well tracked down, Senator Ludwig.

Senator LUDWIG—So it is really in 1.7.

Mr Govey—That is correct.

Senator LUDWIG—Next is the National Judicial College. In terms of the report, do we have any information about the number of participants that have taken up courses and programs? Is there a summary available? I have a number of questions that surround that issue.

Ms Leigh—I would need to take that on notice.

Senator LUDWIG—I am happy for these to be taken on notice. Do we have a breakdown of which courts are using the service and how many judges are utilising the service? Is that registrars as well or just judges?

Ms Leigh—Just judges, judicial officers.

Senator LUDWIG—Does that include administrative tribunals as well?

Ms Leigh—No, Senator.

Senator LUDWIG—Only those who are chapter 3.

Ms Leigh—That is correct.

Mr Cornall—And state judges.

Senator LUDWIG—Only those exercising federal jurisdiction, or does it that include all state judges?

Ms Leigh—No, it is a national body. It is funded jointly by the Commonwealth and those states and territories that are participating.

Senator LUDWIG—On the programs that they have set targets for, do you have any feedback or monitoring as to whether they have met the targets or programs delivery to judicial officers?

Ms Leigh—I can take that on notice for you.

Senator LUDWIG—Is there any additional funding that has been proposed? There does not seem to be any to date.

Mr Cornall—The Commonwealth has provided some additional funding and we can provide you with those details.

Senator LUDWIG—Was that initiative in the budget?

Mr Cornall—No.

Ms Leigh—It is a grant.

Senator LUDWIG—How much was that? Will you be able to provide that on notice?

Mr Cornall—We will provide it on notice. There was more than occasion when we had the opportunity to provide a little bit of extra funding, and we did so.

Senator LUDWIG—I might put some of those questions on notice. That might be an easier way of dealing with it. Is NADRAC under this area?

Ms Leigh—Yes.

Senator LUDWIG—This is a more difficult one. The web site does not have any dates listed on its publications and report list page, so it is hard to figure out when something was released. By way of suggestion, could you put a release date on there? Usually when a page is updated it says, 'last updated X date', but that does not necessarily explain which is the latest release date or which date it was released on, so sometimes it is difficult to work out where we are. It is a helpful suggestion, if you would not mind picking it up.

Ms Leigh—We will certainly take that on board.

Senator LUDWIG—I have questions there, but it might be just as easy to put them on notice. Where are the draft standards for mediator accreditation up to at the moment?

Mr Govey—The work that is being done by NADRAC involves liaison with an organisation which has been given a grant by the government to enable further work to be undertaken, in particular to consult very closely with relevant professional and industry groups, and building on a report that was done by NADRAC some time ago to see whether it is feasible to develop national standards for mediator accreditation.

Senator LUDWIG—There is no later work done or finalised? That is not on the web site.

Mr Govey—No, there is nothing further to report. It is not work that is being done directly by NADRAC; it is work that is being done by this other organisation.

Senator LUDWIG—While we are talking about helpful hints, chronologies for that web site would make it easier too—but that is a matter for government. Has any work commenced in the area of personal property securities? Is that under 1.1?

Mr Govey—No, it is not. There has been some work undertaken which we can talk to you about.

Senator LUDWIG—I understand what personal property securities are. If you have been following the development of it for some time now, you can see that there are a lot of interested parties, and we will be following up questions on that over the ensuing period.

Mr Govey—It is in 1.2. It falls particularly out of the work that we do to support the Attorney in his involvement with SCAG, the Standing Committee of Attorneys-General.

Senator LUDWIG—Is that why it is in 1.2?

Mr Govey—That is right.

Senator LUDWIG—Because you will need state cooperation.

Mr Govey—We are certainly seeking state cooperation.

Senator LUDWIG—Is there a time line or dates? Where is the proposal is up to at the moment?

Mr Govey—At the last meeting of the standing committee, if my memory is correct, the work was referred out to a working party in the first instance—a working party set up under SCAG. I think we are now waiting for that working party to come back to SCAG.

[10.49 am]

CHAIR—We will now turn to output 1.2—Support for the Attorney-General as First Law Officer, advice on constitutional policy, and promotion of Australian legal services internationally. At the very least we know that personal property securities come under this output.

Senator LUDWIG—Only because of SCAG. It will eventually break out of there and go somewhere else, won't it, if you develop further work on it?

Mr Govey—If it is handled within the department?

Senator LUDWIG—Yes.

Mr Govey—I think that depends a little on the assessment that we would make at the time about capacity and expertise that have been developed, and whether there was another area that had a capacity to handle it. At this stage there is no intention to move it out of Mr Anderson's division.

Senator Ellison—I took a question on notice in relation to the extra funding, outside the budget, for the Family Relationships Services Program. There was a question raised by Senator Ludwig regarding the extra \$15 million. The information I have is that the decision to increase funds was made in July 2004 after a review of the program had been completed the previous month. The government decided to make significant changes to the family law system, which were announced in July 2004. It was thought at that time that the \$15 million funding was needed to ensure a sound foundation for the program ahead of the government's family law reforms. So it was a decision which was made preparatory to the embarkation on this reform program by the government. That was why the decision was made then, out of budget.

CHAIR—Thank you, Minister, for bringing the response back so quickly. Senator Kirk has some questions on 1.2.

Senator KIRK—I notice that there has been a small cut in the budget for this area, from \$4.096 million in 2004-05 to \$4.053 million in the coming financial year. Could you explain why there has been that small cut in the budget?

Mr Kennedy—It is not actually a reduction in funding for the division that is represented by that output; it is simply a different way that we have allocated overheads in 2004-05 compared to 2005-06.

Senator KIRK—So it really comes down to allocation of overheads. There has not been any reduction in staff, for example?

Mr Kennedy—Certainly not in these estimates.

Senator KIRK—Has there been any change in staffing over the past year in terms of actual numbers?

Mr Anderson—There has been a slight increase in the number of staff in the area of this output, which really reflects filling some positions. The actual budget itself in terms of the number of staff we have has not changed.

Senator KIRK—How many staff are there currently in the division?

Mr Anderson—Currently it would work out as a full-time equivalent of 15.5 staff for this part of the division.

Senator KIRK—That has not changed in the last 12 months?

Mr Anderson—It has gone up slightly, simply by filling some vacant positions.

Senator LUDWIG—Are they getting paid less?

Mr Anderson—We had simply been underspending slightly on our staffing in earlier years.

Senator KIRK—That was because of vacancies that were there?

Mr Anderson—Vacancies that could not be filled—people going on leave and things like that.

Senator KIRK—You now have your full component of staff?

Mr Anderson—That is correct.

Senator LUDWIG—Does that mean they are less expensive officers than the ones that went?

Mr Anderson—We have been taking on legal officer staff at the lower levels, but that is simply because there are some very good young legal officers out there.

Senator LUDWIG—With respect to morale, what has the turnover been like in this area?

Mr Anderson—Because some of the positions could not be filled permanently for a period, that meant that we had a number of non-going staff being employed. The turnover has primarily been in those non-ongoing staff—people who would come to the end of a contract and then move on. In some of those instances, people with non-ongoing contracts secured permanent employment elsewhere before the end of their contract. Obviously, it is in their interests to seek permanent employment if that is what they are looking for. Other than with the non-ongoing staff, there has been very little turnover.

Senator LUDWIG—And the general work that you have been working on recently? Is the International Criminal Court one of the areas that you work on?

Mr Anderson—No, that is not an area. The primary work with respect to output 1.2 is the administration of the legal services directions. In addition, the work covers such matters as bankruptcy policy and classification policy. Within 1.2 there is also defamation and constitutional law, which is dealt with by a particular sub-unit within the division. Then there is support for the Commonwealth participation in SCAG.

Senator LUDWIG—Where is the defamation law up to at the moment? The last I saw, there were some reports in the newspapers—and you cannot always believe everything you read—about the states moving some way towards accepting the national defamation proposals. Has there been any more recent work done by your section in this area?

Mr Anderson—Defamation and constitutional law are dealt with by the Constitutional Policy Unit within my division. I will ask the officer responsible to address that question.

Mr Faulkner—I am trying to recall what I said last time I was here.

Senator LUDWIG—I was trying to think back through too.

Mr Faulkner—It is always a good place to start, I think.

CHAIR—I always read the *Hansard* constantly myself; I cannot imagine why everyone else does not!

Mr Faulkner—Essentially, I probably said something like—

Senator LUDWIG—Perhaps I could warn you: I would not go there; I would start afresh.

Mr Faulkner—Last year the Commonwealth—that is to say, the Attorney—released a proposal for a national defamation law based on existing Commonwealth constitutional powers. The states effectively responded with their own proposal. That was discussed over a number of SCAG meetings last year. As it stands, I would say that the Attorney has indicated that he sees the state proposal as a big step in the right direction, but there are a number of areas in which the Attorney takes a different view to the states in terms of the way the law should look and he has indicated that he would like to see the states move towards what he would regard as a better outcome in those respects. I think he is hoping to see some further discussion of that kind of thing before the next SCAG meeting in July, quite possibly even to resolve those matters. I think it is probably fair to say—this is my understanding, anyway—that the Attorney has indicated again on the last few occasions when he has been quoted in the press and so on that he is not proposing to stand in the way of what the states have said they will do in terms of introducing uniform laws by the beginning of next year but he will be extremely interested to see precisely what they do and to consider whether they have done what they said they would do and whether there is sufficient uniformity in the law and that kind of thing in order to decide whether there is any reason to pursue Commonwealth laws in this area.

Senator LUDWIG—Are those key outstanding matters still the same?

Mr Faulkner—They have not changed.

Senator LUDWIG—What are they?

Mr Faulkner—With regard to corporations, the question of whether a corporation should have the right to bring an action.

Senator LUDWIG—And the Attorney-General is still of the view that that should be the case?

Mr Faulkner—My sense of it is that the Attorney thinks that, in the best of all possible worlds, the rights that corporations have at common law to bring an action should be unfettered. A particular concern here is the place of small and medium business. Their interests should not be prejudiced by any kind of diminution of the right to bring an action. I do not think his position has really changed on that for some time, actually.

Senator LUDWIG—And the other key areas?

Mr Faulkner—Another area is the capacity under the law for courts to order corrections where a plaintiff successfully brings an action. The Attorney's view, I think, is that those kinds of orders can play a very important role in a law which is not inexorably leading to damages, which has been a key part of the Attorney's approach here. His view, as I understand it, is that the law should not concentrate solely on damages; it really should have more of a focus on correcting the record and vindication of reputation. In that schema, the scope for the court to order a correction at the end of a trial can often play an important part in rebalancing the focus of the law, and he has made that quite clear.

Senator LUDWIG—Are there any others? I recollect two.

Mr Faulkner—The third, which I would regard as the triumvirate of big points, is juries. The Attorney has made it clear from the outset that uniformity in the way that juries are involved in the trial process is extremely important—principally to avoid forum shopping but also to bring the law itself into a state where uniformity can be maintained.

Senator LUDWIG—With regard to the Ruhani matter, I understand I cannot ask for the advice that was provided. However, when was that advice provided, if there was advice?

Mr Faulkner—This is *Ruhani v Director of Police for Nauru*—the litigation we were discussing last time. Broadly, it was in the lead-up to the hearing of the appeal earlier this year.

Senator LUDWIG—I imagine it would have been before that.

Mr Faulkner—Yes. Precisely the day on which we put our formal advice, as it were, I would really have to take on notice, I am afraid.

Senator LUDWIG—That would be helpful. Could you advise whether it was requested advice from the Attorney-General—in other words, the Attorney-General requested advice from your section?

Mr Faulkner—There was really no question on which we would not provide advice. It is in the nature of the process of the question of intervention in such cases that the department would consider the issue. Where it was a matter clearly of some interest, as this one was, we would as a matter of course advise the Attorney of our view.

Senator LUDWIG—Could you check your record as to whether there was a request from the Attorney-General for advice in relation to that and on what date you provided that advice? Also, could you advise what form that advice took—verbal or written?

Mr Faulkner—I am happy to do that.

Mr Cornall—We will have to put the usual qualification on that: the extent to which we can answer those questions we will.

Senator LUDWIG—Yes, I assumed that. Of course, I would like the internal emails and correspondence, but I do not think you are going to provide that, so I will not ask for them.

Mr Faulkner—To add one further point—at the risk of stating the obvious—it is not at all uncommon for my area of the department in thinking about these things to discuss various aspects with the office and that was certainly the case here. As I recall, there were a number of discussions and phone calls, and then there was the more formal advice. It was almost certainly not the case that there was a single date on which my area put just the one piece of formal advice.

Senator LUDWIG—I accept that. I can ask for the legal advice but I know it will not be provided, so it is a question of trying to ascertain what the process was. I think you have given an undertaking to at least have a look at what you can provide in relation to that, with the relevant qualifications Mr Cornall has provided. But I would expect that as these matters do come up in the High Court you would generally be watching in any event. Is the national legal profession model bill within your scope?

Mr Anderson—That is within 1.2.

Senator LUDWIG—Where is that up to?

Mr Anderson—The three jurisdictions—that is, Queensland, New South Wales and Victoria—have introduced legislation already. I understand that the remaining jurisdictions should be introducing legislation shortly, but it is difficult to say when that is going to occur precisely. We understand that they do all anticipate enacting the model bill this year. In New South Wales and Victoria their legislation is actually expected to commence on 1 July this year.

Senator LUDWIG—So they are implementing the model bill as such, with relevant state modifications?

Mr Anderson—Yes. There are provisions where there is allowed to be some variation. Those are normally just routine administrative provisions rather than core provisions.

Senator LUDWIG—Has there been any request to modify it more than that by any of the states?

Mr Anderson—The national legal profession project rests upon the work of a working party that involves all the jurisdictions as well as the—

Senator LUDWIG—That was the legal profession joint working group?

Mr Anderson—That is correct. They are continuing to work and, as any requests or suggestions get raised by any of the jurisdictions, they will be considered by that group.

Senator LUDWIG—So they are still meeting?

Mr Anderson—They are continuing to meet.

Senator LUDWIG—Have there been any consultative papers or discussion papers released by them since the model bill?

Mr Anderson—I do not believe so, but I could take that on notice.

Senator LUDWIG—I have not seen any, but I thought I would try a catch-all. I am happy to go to 1.3 now.

CHAIR—So you have concluded 1.2 with those officers?

Senator LUDWIG—Yes.

[11.07 am]

CHAIR—I thank the officers for 1.2. We will move on to 1.3, which is about legal services and policy advice on information law and human rights, if I have got that right. I think the questions that Senator Allison wishes to ask are in this area.

Senator ALLISON—My question may be one for the minister. It is about whether or not the government has considered the question in recent times of a statutory bill of rights.

Senator Ellison—No. The government has got a policy that one is not required and a longstanding view that the rights and protection of the individual's position in society have been well accommodated in our system of law, which has developed over a long period of time, and, accordingly, we do not see any need for there to be a bill of rights.

Senator ALLISON—So the recent case of the removal from Australia of a person who turned out to be an Australian citizen would not be a case in which the government would reconsider whether a bill of rights might have been necessary to protect those rights?

Senator Ellison—I think we appoint to individual situations. They can be dealt with in a discrete manner. When you are talking about a bill of rights, you are talking about a compendious code and accommodation of rights of individuals across the board, including children, women and all sectors of the community. The case in point you deal with is something to do with a particular individual—immigration, and how it was dealt with—and of course there is an inquiry on foot in relation to that. It is not my area of portfolio responsibility and I will not comment on it for that reason and also because there is an inquiry. But the government certainly would not see that particular case as being one which necessitated a bill of rights.

Senator ALLISON—Has the government had a chance to examine the ACT Human Rights Act? I understand that Victoria is also commencing consultations on a possible bill of rights for Victoria. Is the federal government involved in either of those processes and does it have a view?

Senator Ellison—I am not aware of the federal government being involved in any of those processes. I do not think the department is, either. That is the advice I have received here at the table. I think that is a matter for the jurisdictions concerned—the ACT and Victoria and, for that matter, any other state or territory which decides to embark on this course of action.

Senator ALLISON—So your government would not be concerned if we had a different bill of rights or piece of legislation outlining human rights in each state, and which may or may not be different?

Senator Ellison—Over a period of time the approach of the government has been one of cooperative federalism, if you like. We recognise that the states have constitutional powers

and responsibilities, and we have endeavoured to work with the states in that regard. We have worked together on uniform regimes. For instance, we have been discussing the question of uniform defamation laws. I think the Commonwealth has a record of working with the states and territories to achieve uniformity as much as possible. It is desirable that Australians are treated much the same across the country in relation to the laws that affect them. However, we do acknowledge that the states have their own constitutional powers and responsibilities. The Commonwealth government is largely unable to intervene in those powers for constitutional reasons. So we work on the basis of a cooperative federalism, whereby we can bring about uniform laws. A longstanding example has been the Model Criminal Code, which has been worked on for in excess of 10 years. A number of provisions have come out of that. Certainly, we have made it clear that our approach has been one of working with the states and achieving uniformity where desirable.

Senator ALLISON—But it is not desirable with regard to a bill of rights?

Senator Ellison—We do not see that as being necessary for Australia as a country. We believe we have a legal system and a body of law and precedent which have built up protection for the individual's rights over time.

Senator ALLISON—I understand the point you are making, Minister. But in your quest for uniformity, this aspect of laws is not something that the government either has expressed a view about to the states or intends to take a leading role in?

Senator Ellison—You could ask that question of the other states and the Northern Territory, who are not embarking on a human rights bill. That is where you get the issue of federalism. You talked about the ACT; I think they are the only jurisdiction which have done anything in this regard. Victoria is talking about it. I am not aware of anyone else who is talking about it.

Senator ALLISON—So you would wait until all states had decided to proceed with something of the sort that the ACT has done and that Victoria is considering?

Senator Ellison—No, I am not saying that the Commonwealth would wait until then and then do something. I am saying that only one jurisdiction out of nine has actually done anything in relation to a bill of rights. A second jurisdiction is talking about it. I do not see that as being a national move for a bill of rights; in fact, quite the reverse.

Senator ALLISON—What would constitute a national move—three, four or five states? When does the Commonwealth decide that uniformity is something that it wants to pursue in this area?

Senator Ellison—I do not think a bill of rights is something that is called for at the national level, and that is the view of the government.

Senator ALLISON—So if every state—

Senator Ellison—Madam Chair, I think Senator Allison is putting to me that there is this move afoot for a bill of rights. All I am saying is that we should put it in context—that is, it is definitely a move by the minority.

Senator ALLISON—At this stage.

Senator Ellison—I would venture and be bold enough to say that it will be a minority view for some time to come. At this stage, I think we can be strong on that, because I am not aware of any other jurisdiction which is even talking about it, apart from the two that you have mentioned.

CHAIR—We are on output 1.3, which is where disability discrimination is located, Senator Ludwig.

Senator LUDWIG—And privacy. There have been a number of media reports dealing with privacy concerns. How many freedom of information requests of the government have been refused on the basis of privacy?

Ms Lynch—I do not have that statistic available to me.

Senator LUDWIG—I can ask that in terms of where the issue of freedom of information sits within your administration but, with regard to access to freedom of information, does that come through your area where it has been refused on the grounds that it offends privacy legislation or the Privacy Act? These are process issues.

Mr Cornall—The administration of our response to freedom of information requests is managed in the corporate services group. We could obtain that information for you; we just do not have it at our fingertips here. My understanding is that the great bulk of freedom of information requests made of the Commonwealth is by people asking for their own personal information. We do not have a lot of personal information because we are not dealing directly with members of the public most of the time. We can look at our records and see what the answer to your question is.

Senator LUDWIG—I am happy for you to take it on notice and come back to me in broad terms with the Attorney-General's perspective and, now I know it is within corporate services, the level that have been refused on that basis. If there is any data about whether it is requests for private information by the person concerned or outside of that as well, if it is broken down by type or level of response given to the individual requestee, that would be helpful. I am not sure how you keep your statistics but, if you do keep it in that format, that would be helpful.

Mr Cornall—We will see what we can do.

Senator LUDWIG—I guess this also goes to questions on notice but, if there is tabulated data on the types of requests that you get, we would appreciate that. The other area, which I suspect relates more to you, Ms Lynch, is the report by the Privacy Commissioner that has been released. I know it is early days with regard to that, so we will bear that in mind as we go through. There have been a number of recommendations made within that report. Have you had an opportunity to have a look at those recommendations?

Ms Lynch—The department has started looking at the recommendations and has started consultations with other relevant agencies who have a close interest in a number of the recommendations the Privacy Commissioner has made. We have had discussions with the Privacy Commissioner in her office as well.

Senator LUDWIG—This question about the privacy report might be more directed to the minister, but I am trying to ascertain whether there will be a response to government, or is it

the intention to look at the recommendations, provide a report to government and then deal with that subsequently?

Mr Cornall—Yes, generally at the present time we are developing a suggested response to the report for the government's consideration. As you know, there are 85 recommendations in the report, so there is quite a bit of work to be done on that. They do fall into three broad categories: legislative amendments and other matters for the Australian government, changes to the practice of the Office of the Privacy Commissioner and some matters for the states and territories as well. So there is obviously quite a broad range of issues for the government to consider when we have had the opportunity to prepare the suggested response.

Senator LUDWIG—I appreciate that. It is really a case of this being something that we will follow as time goes by. If we could start that process by having this on the record now, that would be helpful to us all. The position then is that only work which goes to addressing the recommendations for government has commenced at this point in time. There has been nothing substantive in terms of the recommendations which work would commence on—is that right?

Ms Lynch—I think the commissioner herself will be looking at a number of recommendations she made that relate to work that the office might get down to.

Senator LUDWIG—Yes, I can come back and ask the Privacy Commissioner about those.

Ms Lynch—There were areas where she suggested the office might work with other agencies—for example, to develop further guidelines or to provide greater clarity to affected businesses—and some work where she thought they could change internal processes. Those would be a matter of course for the commissioner herself. There were a number of other areas where she suggested that the government look at changes to the law. There were also recommendations in relation to some work that the government was already pursuing itself. So there would be a range of matters, not all of which would necessarily come within our government response or necessarily be ones for the Attorney-General to implement directly.

Senator LUDWIG—There was a press release on marriage certificates—does that come within output 1.3?

Ms Lynch—No, that would be within output 1.1.

Mr Cornall—We can deal with your question, though.

CHAIR—While officers are coming to the table, I would like to acknowledge the presence in the Main Committee room of a delegation of members of the Regional Representatives Council, or the DPD, of the Indonesian parliament and welcome them very much to their observation of the estimates program. I particularly welcome the leader of the delegation and the deputy chairman of the DPD, Mr Irman Gusman. Thank you very much for joining us this morning and we hope you find this experience of interest.

Senator LUDWIG—So this issue is covered in output 1.1.

Ms Leigh—Yes.

Senator LUDWIG—There seems to have been a proposal to tighten the issuing of marriage certificates. What stage is that proposal at now? It seems to be a suggestion that was put out.

Mr Duggan—That falls into my area of responsibility.

Senator LUDWIG—So it comes within the area of family law?

Mr Duggan—Yes, it comes within the areas of family law and the Marriage Act. The government has made an announcement in that regard. We are working to develop the necessary regulations and a new form to go with that announcement.

Senator LUDWIG—Is there a time line for that?

Mr Duggan—The expectation is that we will have it as soon as possible. At this stage there is no formal time line I am aware of, but we are working at having it in place as soon as possible while at the same time allowing the existing stock of certificates to be used, to the extent that that is possible.

Senator LUDWIG—What grounded the determination that there was a requirement for a new certificate? Was there any background work done or is there material available which demonstrates that there was fraud going on in that area?

Mr Duggan—No, it is more a question of concern about the lack of control the Commonwealth saw in relation to certificates. At the moment they are produced by a range of people—including celebrants themselves, for example—and we have virtually no control over what they produce. As a result, the government, given its concern about identity fraud generally, was concerned with making certain that there was more control in relation to those certificates—not that we have specific instances where in fact they have been used. The certificates themselves are not documents of identity, but they are used on occasion—for example, by banks and those sorts of organisations—to establish, as part of something else, a person's identity.

Senator LUDWIG—Are you referring to the 100-point ID checks that banks usually have?

Mr Duggan—Yes.

Senator LUDWIG—When will the reason that you are moving to a new certificate, although you do not have a time line, be available? When will you work out a more concrete proposal?

Mr Duggan—We have advice with the Attorney at the moment.

Senator LUDWIG—What can you tell me then?

Mr Duggan—It is going to be as soon as possible—as soon as the Attorney has made a formal decision.

Senator LUDWIG—Is it with the Attorney-General at the moment?

Mr Duggan—Yes.

Senator LUDWIG—So the new certificates have been completed—how they will look—

Mr Duggan—Yes. We are working with CanPrint, who is our present publisher, to look at the sorts of things that should be in those certificates. They will be somewhat similar, if I may venture, to the citizenship certificates, which you may be aware of.

Senator LUDWIG—Yes.

Mr Duggan—It is that sort of approach that we are modelling ourselves on, if you like.

Senator LUDWIG—Are there any other measures to tighten other forms of legal document within your area of expertise?

Mr Duggan—No. As you are probably aware, the formal marriage certificates that can be used for identity are issued by the registrars of births, deaths and marriages in each of the states and territories and they are subject, as you are aware, to a fair number of checks and balances already. We do not think there is a need to further tighten those. Our concern is those certificates which fall outside that area.

Senator LUDWIG—Has there been a referral of the matter to SCAG to deal with that area any further?

Mr Duggan—We have had consultation with a range of stakeholders, obviously, since the announcement by government that this would be done. This particular issue is peculiar to the Commonwealth and it is in line with, as I said, the general move to deal with issues relating to identity fraud.

Mr Cornall—When we come to outcome 2 we can talk about the document verification service that is part of the plans we have for the next 12 months.

Senator LUDWIG—Yes; I have a whole host of questions there as well. I am exhausting this area before we move on to the broader area of document verification. The other area is the issuance of the forms. Has that been perceived as an issue as well—who issues them and whether they have security checks—or is it just tightening the form?

Mr Duggan—Are you talking about marriage celebrants now?

Senator LUDWIG—Yes.

Mr Duggan—As you are aware, there is a new system in place for appointing marriage celebrants. We do not see a need for any further checks and balances in relation to that at this stage. It is a fairly new process. Our concern is effectively to gain further control by the Commonwealth over the issuance of these certificates. We believe the processes that we have in mind will give the Commonwealth that control. As that is the only document, if you like, that has an evidentiary base, we think that will be sufficient at this stage. Clearly the new reforms in relation to marriage celebrants are under constant review or monitoring, but at this stage we do not see a need to further refine those reforms.

Senator LUDWIG—Was that requested by the states or was it a matter that you picked up in an internal review?

Mr Duggan—It was a matter for internal review. We had been becoming more and more aware that increasingly people were producing their own marriage certificates without any control exercised by the department or the Commonwealth generally. Whilst the certificates that were bought from CanPrint were under safekeeping, you were able to produce your own

certificates effectively online. A number of associations and individual celebrants were doing that, and we were concerned about the potential for persons who were not celebrants to produce certificates of that sort—not that we have any particular evidence that that is the case.

Senator LUDWIG—That was my next question, thanks.

Senator ALLISON—You would be aware that a number of marriage celebrants who have gone to the trouble of printing very nice marriage certificates are a bit dismayed about this move. Given that there has not been any evidence of anybody trying to produce fraudulent marriage certificates, isn't this a bit heavy-handed?

Mr Duggan—That is a question for government. The concern that was put to the Attorney in terms of the advice was that there was no control over these certificates and it is certainly undeniable that there is potential for these to be misused.

Senator ALLISON—But isn't it the case that they are all recorded, that the marriage celebrants are required to be licensed and that they must sign these marriage certificates? What is missing in terms of what you do not know about marriage certificates that have been issued?

Mr Duggan—We have no idea how many certificates have actually been produced. We will in the future.

Senator ALLISON—But you have no evidence of any having been produced.

Mr Duggan—No evidence of how many are being produced at the moment. Celebrants can produce mass numbers of them and then hand them out. I am not saying they are doing that but under the present system there is nothing to stop them doing that, or anybody else.

Senator Ellison—I will add something because it is getting into the area of government policy. The marriage certificate, the citizenship certificate, the birth certificate and the death certificate are perhaps the most important certificates that an individual has during his or her lifetime. These are certificates which are issued by governments, state, federal and territory, and, as a result of work being done at both the Standing Committee of Attorneys-General and the Police Ministers Council of Australia, there has been agreement that we need to enhance the integrity of the documents that we rely on for identification. These are just some of them. A drivers licence obviously is part and parcel of that, as is a passport. But these documents are official documents and, as much as I can appreciate that people might like to have a different format for them or their own artistic presentation of them, I am afraid that the government has a view that identification security now is of major importance across the country, increasingly so not just for security but more importantly for law enforcement and fraud on the government, where we are now getting fraud costing this country billions of dollars a year. To leave open a loophole and wait for something to happen is inappropriate. There is agreement across all governments of Australia of all political persuasions that we need to do work on this and to enhance security. So this is not something that is being done in isolation; it is part of a very broad approach to enhancing the security and integrity of documentation which is provided by governments.

Senator ALLISON—Has the department or the government listened to complaints that marriage celebrants have made about the quality of the government endorsed marriage

certificates? As I understand it, that is the main concern: that this does not look substantial enough, does not carry the sort of weight that many of the marriage certificates that have been developed and printed by marriage celebrants do and that these are much preferable. Has the department taken notice of those complaints? Why is it not possible for the government to endorse the preferred printed version, which I understand has been ticked off by the marriage celebrants group. We are not talking about every marriage celebrant stitching up something on the printer at home; we are talking here about a generally accepted format which has got gold lettering and all sorts of elaborate arrangements. I am not advocating for that specifically, but it seems to me that if you have an association it is worth working with them to come up with an acceptable form.

Mr Duggan—There are a range of associations that operate in relation to marriage celebrants.

Senator ALLISON—How many?

Mr Duggan—There are about 18 at the moment.

Senator ALLISON—Is that too many to deal with?

Mr Duggan—It is a matter for celebrants. Certainly it does make—

Senator ALLISON—It is a matter for the government if the government is not willing to listen to their complaints.

Mr Duggan—But the dilemma is that the government took the view that it needed to take control itself in relation to the issuance of these documents, similar to what it does in relation to citizenships certificates. The proposal is that in fact these documents would have a unique identifier—

Senator ALLISON—So why couldn't you just number the certificates? Why couldn't there be a requirement that they be stamped on the back with a number that the government could keep a register of?

Mr Duggan—That is indeed what will happen, but if in fact these are being produced by 15, 20 or 30 people, as is the case at the moment, there is no way of keeping track of those numbers. The intention is that there will be numbers on each of the documents. They will be recorded at the place of issue, and by the celebrants concerned, and the government will know where those documents have either been used for a particular marriage or have been destroyed because of errors and what have you. We will be able to ascertain the whereabouts of each certificate, which we cannot do at the moment.

Senator ALLISON—But you could do that by simply issuing the numbers. I am sorry to keep arguing about this, but it does not seem beyond the wit of bureaucracy to manage such a situation.

Mr Duggan—The dilemma is, as I said, if you are dealing with, for example, 18 different issuing authorities, keeping track of those numbers. And there are organisations over which we have no control.

Senator ALLISON—If those organisations were to group together for the purposes of this numbering system, the Commonwealth would be willing to deal with them on that basis?

Mr Duggan—That is entirely a matter for government.

Senator ALLISON—Minister?

Senator Ellison—I do not think I can really add anything to what I have said other than, if there are constructive suggestions in relation to the integrity of the document concerned, of course we will take those on board.

Senator ALLISON—Mr Duggan has just said 18 organisations is too many to deal with. My question was: if they agreed to collaborate and be one agency, would this remove a barrier to doing what has been requested?

Senator Ellison—The issue is the circumstances under which they come together and the arrangements—it is a hypothetical question. I certainly cannot answer a hypothetical question about what if they all came together. There are other factors which—

Senator ALLISON—I would not ask it, Minister, except that Mr Duggan has said it is a barrier—the fact that there are 18 is a problem.

Senator Ellison—I think it was one of the barriers that we face. No-one has put that proposal to the government, as I understand it.

Senator ALLISON—So you would possibly consider a proposal being made to you, if one were to emerge.

Senator Ellison—Certainly it would be considered if it were put to the government.

Mr Duggan—I would like to make a point in relation to the introduction of the certificates themselves. We have consulted extensively with marriage celebrants on the production of the new certificate. They have been involved in trialling a range of possible certificates. We are aware of the concerns that you have expressed, Senator Allison, and we think we have come up with a possible solution which will satisfy celebrants.

Senator ALLISON—Is it a new solution? Is it one that they have not thus far seen?

Mr Duggan—This is the new certificate. You were talking about the issue of certificates and the criticism of the certificates. You asked whether we had taken that criticism on board, and the answer is yes, we have. We have gone to celebrants to ask them, given a range of possible options, which they would prefer. As a result of that, there will be advice given to government about where we should go in that regard. So the celebrants have been extensively involved in that process.

Senator ALLISON—I am not clear whether the certificates they are complaining about are those that predate your consultation with them or not. Could you just clarify that?

Mr Duggan—Yes, they do. What we are proposing now is that there be a new certificate.

Senator ALLISON—I see.

CHAIR—I understand that Senator Carr has some questions in 1.3 as well.

Senator CARR—I do indeed. This is to do with the legal services for Aboriginal and Torres Strait Islanders—1.3 tendering out of services.

Mr Govey—That will be 1.7.

CHAIR—The tendering out is 1.7, Mr Govey?

Mr Govey—That is right.

Mr Cornall—If it would assist the senator, Dr Popple is here. We could deal with it now.

[11.39 am]

Senator CARR—Regarding the tendering out of Aboriginal and Torres Strait Islander legal services, the minister announced on 14 April that the services for Western Australia had been successfully tendered to the Indigenous legal services in that state. That is right, isn't it?

Dr Popple—That is correct.

Senator CARR—And that followed an announcement on 1 April that the Victorian Aboriginal Legal Service was a successful tenderer for services in Victoria.

Dr Popple—That is correct.

Senator CARR—That does not surprise me because, as I understand it, both those services were given rave reviews by ATSIC's Office of Evaluation and Audit in 2003. Would you agree it is not surprising that they should secure their tenders for those organisations?

Dr Popple—No, we were not surprised.

Senator CARR—And you were aware of ATSIC's evaluation and audit report on those services in 2003?

Dr Popple—Yes.

Senator CARR—What was the cost for the tender processes for those two states?

Dr Popple—I think I will have to take that on notice. We do not have a breakdown for the costs. We have a team within the Indigenous Law and Justice Branch who manage the tendering process. We take probity advice from the Australian Government Solicitor. Those costs would be departmental costs plus the costs of the probity advice we are seeking. We can take that on notice and try to break that down.

Senator CARR—Can you tell me how many other organisations tendered for those contracts?

Dr Popple—I understand that the advice that we have from the probity auditors is that we cannot give that information.

Senator CARR—You cannot provide me with the number of people who tendered for the contract?

Dr Popple—We could take further advice from the probity auditor, but that is our understanding—mainly because, as you know, the process is still continuing in other states.

Senator CARR—But we are talking about contracts that have been awarded.

Dr Popple—That is correct.

Senator CARR—So why couldn't you tell me how many people were seeking to tender for those contracts that have already been awarded?

Mr Boersig—When we were dealing with this matter, because of the probity requirements—they were very strict—at this stage we would have to take your question on notice.

Senator CARR—What are the probity arrangements for a contract that has been awarded? I am having trouble understanding what possible reason there would be for you not being able to provide that information to this committee.

Mr Boersig—As I indicated, I would need to take that on notice.

Senator CARR—You are going to take on notice why you cannot answer a question.

Senator Ellison—Madam Chair, the situation here is that, with a tendering process, you have a probity adviser. The probity adviser has given advice in this case, it would seem, that you cannot divulge the number of tenderers for the contract despite the contract now having been awarded. I will ensure that we try to get the information—that is, the advice, because it is not a question for the official if the official is merely saying there is advice to that effect—to the committee. I would like to know the answer to that as well. I find it odd as well. I will make my own inquiries about that and we will get back to you.

Senator CARR—It is just that it does—

Senator Ellison—All I am saying is: let us not badger the official who is here giving evidence today. It is the probity adviser we both want to question. I find it odd as well.

Senator CARR—It is not my intention to badger anyone, Minister. I am just shocked, frankly, by the answer.

Mr Cornall—I wonder if we could perhaps ask Mr Boersig to go out and ring the probity auditor.

Senator CARR—Thank you.

Senator Ellison—Yes, good idea.

Senator CARR—It is just that I have a series of questions that flow from that.

Mr Cornall—Let us see if we can resolve that in the next five minutes.

Senator CARR—Can I move on to another issue.

CHAIR—If Mr Boersig could do that, that would be helpful.

Senator CARR—He could find out now what the reason is—what is the state secret that is being protected here?

CHAIR—I hope it is a good one!

Senator CARR—I want to ask another question.

CHAIR—Dr Popple is still here.

Senator CARR—He can still answer questions. My understanding is that the Senate inquiry into legal aid and access to justice reported in June 2004 and recommended that the government should increase the level of funding for the Indigenous legal services. You would be familiar with that report, would you, Dr Popple?

Dr Popple—Yes.

Senator CARR—Are you able to tell me whether the two organisations that have been awarded the contracts received a higher level of funding than under the previous arrangement?

Dr Popple—The answer to that is that they will. The amount of money disclosed in the respective tender documentation indicated that it did not include FBT supplementation. That FBT supplementation has since been extended by the government and, with the addition of that FBT supplementation, the amounts for both Victoria and Western Australia will be more than the amounts that those respective states received under the previous arrangements.

Senator CARR—Can you refresh my memory: what was the value of those contracts?

Dr Popple—I do not have the contracts here. I have the Queensland contract, which does not help you much, but I do not have the—

Senator CARR—We will get to the Queensland one in a minute.

Dr Popple—Those, of course, are available on the web site as public documents, but I just do not have them here, I am afraid.

Senator CARR—What was the value of the FBT increase?

Dr Popple—The FBT increase for the programs administered by the department is about 2.4 million per year.

Senator CARR—Will both those contracts increase roughly by the same amount, or is it an aggregate?

Dr Popple—No, it is a proportionate amount. It is determined on the basis of a funding model for the allocation of money.

Senator CARR—Is the 2.4 million you refer to the figure I could apply to both contracts or to each of the contracts?

Dr Popple—It is 2.4 million across the whole country. A proportion of that amount will go to each state and territory—Victoria and Western Australia.

Senator CARR—Can you tell me what the proportion is for each of those contracts?

Dr Popple—I cannot at the moment, I am afraid, because the contract requires us to now negotiate with the successful tenderers. We will basically go to them and say, ‘We’d like you to provide some more services. Here is some more money we’d like to give you,’ but we haven’t finalised that yet.

Senator CARR—What additional services are you requiring?

Dr Popple—It will be more of the same services—more of the services currently provided for under the contract.

Senator CARR—The services are already being provided much more cheaply than mainstream legal aid, wouldn’t you agree? Would that be the case?

Dr Popple—Yes, I think that is right.

Senator CARR—In your judgment, roughly how much cheaper are they?

Dr Popple—I do not have a figure for that. There have been various attempts to quantify it but we have not done so and I am not aware of a definitive figure for that.

Senator CARR—Did the Senate report not canvass that issue?

Dr Popple—I do not think it did. The evaluate and audit report—that is, the AT SIS report—earlier did but it did it in a way that we would not necessarily agree with. So we do not necessarily agree with that final result.

Senator CARR—I noticed that, with regard to the valuation of the legal and preventative services program, the audit report suggested that quite substantial differences were to be found in the cost of work provided—the price, one might say. Is there a difference in quality, in your experience?

Dr Popple—I am sorry?

Senator CARR—Is there a difference in quality between the work that is provided by the Indigenous legal services and mainstream legal aid?

Dr Popple—No, we are not suggesting that.

Senator CARR—So how do you account for the significant difference in the funding arrangements?

Dr Popple—The amounts that are available for Indigenous legal aid, as opposed to mainstream legal aid, have been arrived at over many years. We apportion them in the fairest way we can in a way that best takes account of the relative need, if you like, of the respective beneficiaries of that program.

Senator CARR—And you are now asking them to do more work. Is that right? The successful tenderers will be asked to do additional—

Dr Popple—You mean as a result of the FBT supplementation continuing?

Senator CARR—Yes.

Dr Popple—Under the contract, we will go to them and say: ‘We now have available more money than we did when we negotiated the contract. Will you’—the successful tenderer—‘be able to provide more services if we give you this money?’

Senator CARR—What if they say no?

Dr Popple—Presumably we will be able to make use of that money elsewhere within the program but we anticipate that they will be able to do that. It was, as you would be aware, indicated in the tender documentation that this was a likely result of the budget process.

Senator CARR—But the original contract was issued on the basis that the same level of service be provided.

Dr Popple—No. The original contract was issued on the basis of a service being provided for a certain amount of money. What has changed is that we are now in a position to provide more money than we had available to us when we put the documents out to tender.

Senator CARR—In what way will you measure that? How will you determine that the work is being done?

Dr Popple—Within the arrangements there are various reporting requirements. We will measure those the same way we measure the service they are providing even without the FBT supplementation.

Senator CARR—Will it include the number of people who are helped and that sort of thing?

Dr Popple—Yes, that sort of thing.

Senator CARR—Can I turn to the Queensland process. The closing date for tenders there is 6 April—is that right?

Dr Popple—Yes, that is correct. They closed on 6 April.

Senator CARR—When will service providers be required to commence those contracts?

Dr Popple—From 1 July this year.

Senator CARR—How many tenders have you received to date?

Dr Popple—I would like to wait for Mr Boersig's advice about whether I can answer that question, because it is the same question in relation to Victoria and WA.

Senator CARR—No, the others are past tense; these questions in regard to Queensland go to the present.

Mr Cornall—I think that is a more sensitive question.

Dr Popple—Yes, that is right. I would like to wait for Mr Boersig's advice.

Senator CARR—I expected you to say that, but I want to distinguish between the two processes. Can you tell me whether the processes for the issuing of the contract go to provision of service on a state-wide basis or on a regional basis?

Dr Popple—The request for tender documentation allows for two possibilities: one is that the successful provider will provide services across the entire state of Queensland and the other is that two providers will be selected to provide services within two zones—roughly speaking, a northern and a southern zone.

Senator CARR—Does that affect the price of the contract?

Dr Popple—No. The amount that the request for tender documentation provides for the entire state is the sum of the two zones.

Senator CARR—The ATSI Office of Evaluation and Audit found that Queensland and Tasmania were the only states where the cost of the provision of services was actually higher for Indigenous services than what might be referred to as the general market rate. Are you able to provide the committee with any advice as to whether the Queensland tendering process will factor in the proposition that it is actually more expensive in Queensland and in Tasmania to provide services for Indigenous people?

Dr Popple—That is factored in because the amount of money that is made available in that documentation, and in fact across the whole country, is based on a funding allocation model that attempts to take into account the different cost of providing those services around the country. In other words, the amount of money that is being offered in that documentation to

Queensland is intended to take account of the fact that there are, as you say, for example, questions of remoteness that apply in Queensland that do not apply in some other states.

Senator CARR—When do you expect an announcement to be made on the successful tenderer?

Dr Popple—I would say within the next few weeks.

Senator CARR—I turn to South Australia and the Northern Territory. Would you agree that the services provided in those two jurisdictions are currently provided by Indigenous organisations at considerably lower than the market rate?

Dr Popple—Again, as I said, there have been various surveys and one of those from the Office of Evaluation and Audit made that suggestion.

Senator CARR—Do you agree with that suggestion? Is that a reasonable suggestion?

Dr Popple—It is difficult because the methodology of that estimation was based on how much it would cost, for example, to have those services provided by mainstream solicitors. We do not necessarily agree that that is a way to quantify the actual cost and therefore the efficiency of different service providers.

Senator CARR—The report says that. You can either agree or disagree with the report; whether the methodology is correct is the matter that you are disputing.

Dr Popple—We do not have an opinion either way, I think, is the short answer.

Senator CARR—How else will the services be compared?

Dr Popple—Part of the process we are going through is meant to, if you like, find those efficiencies and ensure those efficiencies. The government has decided on a particular way to distribute the amount of money available across the jurisdictions, and the tendering process is intended to find the most efficient way to provide those services to people within those states.

Senator CARR—Why is the tender process in those two jurisdictions not being released until 2 August?

Dr Popple—We have been phasing the release of those out because a large amount of work is required in each state to go through the tendering process. The government decided to, as you said, stagger those out to 2 August for the Northern Territory and South Australia, with the remainder to happen later on, early in 2006.

Senator CARR—So is managing the workload of the department the factor here?

Dr Popple—That is right. But also, as Mr Govey has just reminded me, the process is not just us dealing with the documents as they come in; there is a process of education and information provision that has to happen before each tendering. For example, we travel around and explain to interested organisations the process we are going through. We also provide assistance to Indigenous organisations who might like assistance in preparing tender documentation. We provide an independent consultant to provide that to them. We think that is best phased in over that period.

Senator CARR—So the three reasons are preparation of tender documents, education of potential applicants and the workload of the department.

Dr Popple—Yes.

Mr Cornall—I would add a fourth one—that doing one jurisdiction first enabled us to, to some extent, learn from that experience if there was anything to be learned from it. Departments can sometimes be criticised for doing things all at once whereas you can learn from a process, and that is one of the reasons we went about it the way we did, in addition to the other three reasons that Dr Popple gave.

Senator CARR—The minister also said, though, that there was to be an intent to tailor each tender to the particular needs of each jurisdiction. Is each of the tender processes different? They are not consistent?

Mr Boersig—They would be dealt with in relation to the needs of that particular region and that would affect the way the tender was assessed.

Senator CARR—What is the nature of the difference in need between, say, Queensland and the Northern Territory?

Mr Boersig—That is an amalgam of issues that would relate to, for example, the number of services currently being provided, what was being provided and the outcomes that we are seeking in terms of how each of the new services would reach the priorities.

Senator CARR—How would you describe the difference between the Northern Territory and Western Australia?

Mr Boersig—In the Northern Territory there are four current services. In Queensland there are 11.

Senator CARR—What about Western Australia?

Mr Boersig—One.

Senator CARR—Victoria?

Mr Boersig—One.

Senator CARR—Tassie?

Mr Boersig—One.

Senator CARR—South Australia?

Mr Boersig—One.

Senator CARR—New South Wales?

Mr Boersig—Six.

Senator CARR—The Australian Capital Territory?

Mr Boersig—There are none in the Australian Capital Territory. It is covered currently by the New South Wales providers.

Senator CARR—Is the number of providers the main difference?

Mr Boersig—There are variations in the nature of the services currently being provided and how they are being provided. One of the major issues we are looking at is in regard to

rural and remote areas and how they would blend with and match the metropolitan or larger rural cities.

Senator CARR—That affects issues such as access to justice.

Mr Boersig—Those types of issues are broadly considered when you develop funding formulas and government priorities in the purchase of the services.

Senator CARR—Would attitudes to the police and cultural differences be factors in your consideration?

Mr Boersig—Yes, they are all key factors in consideration.

Senator CARR—And the number of Aboriginals, surely.

Mr Boersig—Yes. Demography and dispersion are both factors.

Senator CARR—Will we see all of that reflected in the tender documents?

Mr Boersig—You will.

Dr Popple—Can I indicate that Mr Boersig has sought that advice we discussed and I am able to tell you that there were two tenderers for the services in Victoria. There were also two tenderers for the services in Western Australia. That includes the successful tenderers.

Senator CARR—Are you able to tell me who the unsuccessful tenderer was?

Dr Popple—I have been advised I am not able to tell you who they were, just the numbers. I am also advised I am not able to tell you the numbers for Queensland because, as you know, that process is still being conducted.

Senator CARR—I can see your argument. Presumably you will say that is a commercial-in-confidence issue.

Mr Boersig—It is governed by the Commonwealth Procurement Guidelines.

Senator CARR—What were the savings achieved for Victoria and Western Australia in terms of the administrative arrangements?

Mr Boersig—Savings were addressed in a number of ways. Chiefly it is about targeting of services. The key to that is the direction of the services toward the provision of casework and legal assistance.

Senator CARR—What was the aggregate saving for Victoria?

Mr Boersig—In terms of money?

Dr Popple—As I explained before, there is actually more money available for Victoria than was previously available, so it is not so much a saving as an increase—

Senator CARR—That is now because of the FBT?

Dr Popple—Yes, but the FBT was applicable before the contracting arrangements, so there has actually been an increase, and we would say that that is not a saving but an increased efficiency and provision of services.

Senator CARR—How much of an increase is it?

Dr Popple—As I said, it is \$2.4 million—

Senator CARR—I understand. That is for the whole country, but if you could tell me there was an increase, perhaps you can tell me—

Dr Popple—I cannot tell you that, Senator; as I said before, we have not yet finalised arrangements with the tenderers in Victoria and Western Australia. When we have done that, we can give you the final number and then we can tell you the increase.

Senator CARR—Could you tell me if there are any efficiencies? Would I be able to describe it in those terms? What is the efficiency that has resulted from these changes? How many more people are getting assistance? What is the point of this? That is where I am going. What have we gained out of this?

Dr Popple—We can take on notice some of those efficiency—

Senator CARR—And could you tell me: what is the lesson that you have learnt from the two contracts you have now awarded?

Mr Boersig—There are issues about economies of scale that are apparent when looking broadly at the kinds of services in Victoria and Western Australia. That has been confirmed—that there are values in having a central, strong office—and in terms of the distribution of that funding on a state basis, and management.

Senator CARR—In the case of Victoria and Western Australia, the contract was awarded to the people who were doing the job beforehand?

Mr Boersig—That is correct.

Senator CARR—How much money have we spent establishing that they do a good job?

Dr Popple—I think I have already taken on notice that that will be a matter for us to work out—

Senator CARR—I am just interested to know if there is any efficiency that can be found there by reinventing the wheel.

Dr Popple—There is more than that. The government is, hopefully, now in a more confident position to say that there is an efficient service delivery within those two jurisdictions. It is obviously a good thing that the existing providers were successful in that process, but at least now the government is confident that the most efficient provider is providing those services.

Senator CARR—You do not have that information there to tell me how much this has cost?

Mr Cornall—It has not cost us very much—that is the answer we are trying to give you. We have done it largely ourselves and we have had probity advice. That has basically been the cost—and some advertising, as far as I understand.

Senator CARR—So it will not be very much at all.

Mr Cornall—That is my understanding. It is not a great deal of money.

Senator CARR—Thank you.

Mr Cornall—If I could answer your question: firstly, in terms of savings and efficiencies, one of the key principles of the new arrangements is that all of the money expended on

Indigenous affairs must continue to be spent on Indigenous affairs. There is no suggestion of any of the funding that was previously allocated to ATSI and that came across to this department being expended on anything other than Indigenous affairs matters. Secondly, we have tested the market and determined that the Victorian Aboriginal Legal Service and the Western Australian legal service were the best providers. They were not only the best of the people who tendered but also met some very significant criteria to satisfy us that they were high-quality service providers. The government is now satisfied on that score as well. Finally, we have put our arrangements with those providers on a different basis to what they were previously. That is, in some ways, consistent with the way we have approached community legal services over the last few years—having clear understandings about what we are funding them for and what they are providing in return. I think the process has been worth while.

Senator CARR—Mr Cornall, the office of evaluation from ATSI found exactly that in June 2004, only a year ago.

Mr Cornall—I am not sure whether they used the same criteria that we used in our request for tender process.**Senator CARR**—Maybe I was wrong about the date. How long ago was that?

Dr Popple—That was in 2003, Senator.

Senator CARR—So it is not that long ago. You seem to have confirmed that conclusion.

Dr Popple—As Mr Cornall said, we have used different criteria, but crucially the conclusion in that report was that those two states were comparatively efficient compared to the other ATSI then providing the service. What we have done now is something quite different. We have gone out to market completely, rather than comparing ATSI with each other. We have gone out to the entire market and asked, ‘Who can provide this and what services at this cost?’

Senator CARR—What is the duration of the contracts?

Dr Popple—They are three-year contracts.

Senator CARR—So we are going to do it all again in three years time?

Dr Popple—That will be a matter for government at that time. That is one option; the other option would be to renew the contracts.

Senator CARR—The same audit report found that the providers in South Australia and the Northern Territory were very cost-effective. What benefits will you gain from this tendering-out process in those jurisdictions?

Mr Cornall—The same as I have just identified: we will test the market, we will measure them against strict criteria and we will establish a new basis for the relationship between the government and the service provider for the future.

Senator CARR—I noticed in a report recently in the *Independent Weekly* that the CEO of the Aboriginal Legal Rights Movement, Neil Gillespie, said that there was only likely to be one tenderer there. Is that your expectation?

Dr Popple—We do not have any expectation about the number of tenderers before we put the tenders out.

Senator CARR—Have you done any market testing before these requests for tender were issued?

Dr Popple—No, Senator, not along the lines of finding out how many people might be interested in tendering.

Senator CARR—Given the outcomes in Victoria, you do not think that would be wise? Wouldn't considerably more money be able to be spent on Indigenous legal services if we knew that?

Mr Cornall—No, Senator, because we still want to move to these new arrangements and the new basis on which the services are being provided, so that the government can have a basis of accountability for the funding that is made available to the service.

Senator CARR—This was essentially a decision of government to do this, wasn't it?

Mr Cornall—Yes.

Senator CARR—So it really does not matter whether you market test it because it has already been decided that it will happen.

Mr Cornall—We have the responsibility for administering this program and we are very committed to making sure that it works efficiently and well.

Senator CARR—My colleague Senator O'Brien asked some questions about the link between the legal services provided by these Aboriginal legal services and the social services that they provided. He gave the example of the Aboriginal and Torres Strait Islander Corporation for Legal Services in Brisbane, or QEA. The advice that we received at the time from ATSISS was that QEA employed three staff to undertake social work and prevention and diversion activities. They advised that funding for these services would continue to be provided under the prevention, diversion and rehabilitation program. Can you confirm that that will still happen?

Mr Boersig—Those types of services will still be available. They will be subject to the usual processes—in fact, we are going through them now—in terms of that organisation applying to the department to provide those services. But they are separate and distinct from the tender process.

Dr Popple—They are funded under a different program—the prevention, diversion and rehabilitation program.

Senator CARR—So there will be a separate set of tendering arrangements?

Dr Popple—Not tendering at all, Senator. It will be the same process that applies to all the ex-ATSISS programs across government—not just ours—where people make application through the Indigenous coordination centres and those applications are processed by the relevant department.

Senator CARR—Given that the philosophy of these services has been for some time now to link the provision of legal services with social services, given that the relationship between the law and society, surely, is all the more evident in regard to Indigenous injustices in this

country, how can you be certain that there will be any coordination between these two programs?

Mr Boersig—The tender documentation specifically requires that as a criterion in terms of negotiating and coordinating with other stakeholders. That is one of the four essential criteria for the application. All the organisations who apply need to show us that they will make and maintain those links.

Senator CARR—And how will we know that that has been done?

Mr Boersig—How will we assess that? That would be part of the monitoring of the organisations. The type of monitoring includes both quantitative and qualitative, so they will have to tell us how they are doing it and we will be looking at the numbers of people they assist and how they are doing it.

Senator CARR—Senator O'Brien also sought copies of submissions received by ATSiS with regard to the legal service exposure draft tendering documents. He was provided with a list of organisations that made submissions and was advised that one organisation had requested that its submission be kept confidential. ATSiS said that it would write to all parties that had lodged submissions and inform them of the Senate committee's request. To date I am not aware that any of those submissions have been provided. When I followed up this matter with a question in February, I was told that this was now a matter for you—that is, your officers—to deal with. The answer to the question I asked was:

It is not our position to answer this. It is now a responsibility of the Attorney-General's Department.

If we cannot get coordination between two departments of the Commonwealth, I am just wondering whether or not there would be an improvement in the level of coordination between two different sections of the one department. I trust that is the case. In any event, what have you done with my request?

Dr Popple—I was aware of your request; I was not aware that it had not been provided to you. We can certainly take that on notice. I am sure that, if, as you say, all organisations bar one have agreed to the release of those, we can release them.

Senator CARR—Thank you. That was last year—

Dr Popple—As I said, Senator, I was aware of it and I knew that you had asked it of ATSiS. I did not realise that ATSiS had not provided it to you.

Senator CARR—They said that you were going to. They did not task you to do that?

Dr Popple—No. I had not heard that, no.

Senator CARR—All goes well, doesn't it?

Dr Popple—When you asked the question of them, of course, it was their responsibility. It became ours after 1 July. I was not aware that they had not provided it to you.

Senator CARR—It is not your problem that they do not follow up. My concern is that the level of coordination between officers is such that you do not know. I take it that you are not to ask about matters that you are not familiar with. If they have said that it is your responsibility, presumably they would have told you that this had not been done. That is what troubles me. Also, if you have any correspondence with ATSiS, given that you have now

inherited the files with those organisations that have made submissions, what action did they actually take to address this parliamentary question? Are you able to tell me that?

Dr Popple—I am sorry; the correspondence from who?

Senator CARR—ATSIIS to the organisations that made submissions. What effort did they make to actually address the parliamentary question?

Dr Popple—I would have to take that on notice.

Senator CARR—Given that they did not ask you to answer it, presumably they were working hard on the task. Thank you. I formally request once again a copy of those submissions. I turn now to payments for Indigenous interpreter services in the Northern Territory. The budget contains \$1.1 million to continue payments for Indigenous interpreter services, as I understand it. That is right, isn't it?

Dr Popple—That is correct, yes.

Senator CARR—The portfolio budget statements indicate that this comprises \$900,000 for administered expenses and \$179,000 for departmental expenses. Would you agree with those two figures?

Dr Popple—I do not have them in front of me, but I am sure you are right, Senator.

Senator CARR—I am interested to know. It is on page 52 of the Attorney-General's PBS. I just want to make sure I have not misunderstood something. That is often something we are accused of, or perhaps we have it drawn to our attention that we have not read something properly. I just want to be clear that I have understood this correctly. Do you see those two figures—for Northern Territory Indigenous interpreter services, under 'Departmental'—

Dr Popple—Yes, I do.

Senator CARR—it says \$179,000, and below 'Administered', for Northern Territory Indigenous interpreter services it says \$900,000. Are those figures right?

Dr Popple—Yes.

Senator CARR—Can you explain to me why you have to spend \$179,000 administering \$900,000?

Dr Popple—The short answer is that that is the estimation that the department came up with in the course of the budget process on renegotiating the agreement with the Northern Territory and monitoring the expenditure of that money by the Territory over that year. I do not have the precise staffing levels available. My recollection is that it was an APS6 and an APS3.

Senator CARR—You must have a hell of a lot of them for that sort of money—\$179,000 to administer a \$900,000 program. Your explanation is that that is your estimate of what it costs.

Dr Popple—What it will cost.

Senator CARR—What do we get for that \$179,000?

Dr Popple—As I said, we need to renegotiate the agreement with the Northern Territory and, once that has been renegotiated, we need to monitor to ensure that that money has been spent within the expectation of the Commonwealth for that program.

Senator CARR—So what is the total program's value? The \$900,000 remains constant.

Dr Popple—That is right.

Senator CARR—So when we talk about the same amount of money being spent on Indigenous affairs—that is what Mr Cornall just said—we have a situation here where in fact we have \$179,000 being spent to administer the same amount of money. Is the administrative item an increase?

Dr Popple—The administered item is the same; the \$900,000 is the same as previously. But the \$179,000—

Senator CARR—I understand that. We have not seen any increase at all in the actual delivery of services. What we have seen is an increase of \$179,000 in what it costs for the department to administer.

Dr Popple—No, the department previously administered it.

Senator CARR—What did it cost then?

Dr Popple—I will ask my colleagues in the Criminal Justice Division, because they administered that up until 1 July. But the estimation of how much it will cost us to administer it is the \$179,000.

Senator CARR—That is the normal ration, is it? That is the sort of money that you normally spend in this department, administering a \$900,000 interpreter service? It costs you nearly \$180,000 to do that?

Mr Cornall—Would it help if we took the figure on notice and gave you a breakdown of the \$179,000? It would be easier if we did that.

Senator CARR—But I would like to know in particular what, if we are going to spend \$180,000 to administer a \$900,000 program, the value for money is? Can you answer that question: what value for money can the Commonwealth point to with that sort of ratio? That is not a common ratio across the Australian Public Service. That is right, isn't it—that is not the normal expectation you would have?

Mr Cornall—I am not in a position to answer that across the Public Service. We will give you a breakdown of the figure.

CHAIR—I think that is a statement that Senator Carr is making; it is not really a question.

Senator CARR—But you are an experienced officer.

Mr Cornall—We will explain that figure to you.

CHAIR—Thank you.

Senator CARR—Thank you. I look forward to that explanation. Budget paper No. 2 states that the current funding arrangements are in fact a joint funding agreement which expires on 30 June. How much did the Northern Territory contribute to the last agreement?

Dr Popple—I would have to take that on notice; I do not know. I have looked through the papers for the next agreement but I do not know the previous one.

Senator CARR—How much are they proposing to spend on the new one?

Dr Popple—I have to say that it is not clear to me from the Northern Territory budget papers how much of that is proposed to be towards this program. My understanding is that it is roughly fifty-fifty, but Dr Heriot might be better placed to answer that question.

Dr Heriot—The Northern Territory government contributed around \$500,000 per annum to the running of the interpreter service. I would have to check the exact amount, but it was in that region through the life of the agreement and the extension agreement.

Senator CARR—So the total cost of running the program is \$1.4 million. Sorry, I mean the total cost of the actual administrative item, because I could not believe that the Northern Territory would have those sorts of administrative costs with that kind of ratio.

Dr Heriot—It is a complicated issue. The Northern Territory contributes around \$550,000 per annum to the operational costs of the Indigenous interpreter service. I believe there is also budget supplementation for Northern Territory agencies to purchase interpreter services. I do not have the figures for those; that is a Northern Territory budget item.

Senator CARR—Could you give me a breakdown of the total cost of the program. I notice it has only been proposed to extend this agreement for one year.

CHAIR—Do you mean on notice, Senator Carr?

Senator CARR—Yes.

Dr Heriot—Could you clarify: total cost of the program—for the interpreter service?

Senator CARR—That is right. I take it you will not have that at your disposal.

Dr Heriot—No, I am sorry.

Senator CARR—I also understand there is an intention to extend this agreement for only one year.

Mr Cornall—That is correct.

Senator CARR—Why is it only one year?

Mr Cornall—The history of this project is that it commenced several years ago at the time when there was a mandatory sentencing regime in the Northern Territory which was the subject of some controversy. At that point the Australian government contributed \$20 million over four years to establish a juvenile diversion program for Indigenous youth in the Northern Territory caught up in the legal process and also to establish the Indigenous translation service, the Aboriginal Interpreter Service. That program has run through its lifespan and the four years expired in August last year. At that point the government had to make a decision whether to continue any aspect of the program or just treat it as a program that had reached the end of its period of funding by the Commonwealth. It was determined at that stage that the juvenile diversion program was clearly a matter for the Northern Territory but that the Indigenous interpreter service was something that the Commonwealth was at that stage not prepared to simply let lapse, and it received funding until 30 June 2005. We are still not clear

as to what would be a suitable outcome for that program for the future and on that basis it has been extended for another 12 months to enable further discussions to take place between the Commonwealth and the Northern Territory, and possibly with other states, as to the continuation of this service beyond 30 June 2006.

Senator CARR—So it would be fair to describe this as an uncertain future.

Mr Cornall—At this stage its future beyond 30 June 2006 is uncertain, yes, insofar as it is funded by the Commonwealth.

Senator CARR—So you have not started the process of evaluation of the program in the future beyond 2006 within the Commonwealth department?

Mr Cornall—No, not at this stage, because it is only in the current budget process that the funding has been agreed to be extended beyond 30 June 2005.

Senator CARR—I notice that one of the five priority areas in the overarching agreement on Indigenous affairs which was recently agreed between the Commonwealth and the Northern Territory government is safe communities, which includes issues of authority—law and order, to quote it directly. Have there been any bilateral discussions scheduled to focus on that particular priority?

Mr Boersig—Not at this stage and certainly not that we are involved in.

Senator CARR—Who else would be involved with it?

Mr Boersig—The Office of Indigenous Policy Coordination is overseeing the bilateral agreements.

Senator CARR—And they have not advised you that there would be any discussions requiring your assistance?

Mr Boersig—At this stage we are not involved in those discussions.

Senator CARR—I take it there could not be any serious discussions without your involvement.

Mr Boersig—At this stage I understand that they are taking the lead role in relation to the overall agreement.

Senator CARR—I got that point from you; you have told me three times now that they are the lead agency. I want to know whether or not you have got any involvement. They are the lead agency, you are the agency responsible for these matters, and you are not aware of any bilateral discussion on this matter.

Mr Boersig—We are involved in a number of working groups, and one of those working groups relates in particular to the safer communities.

Senator CARR—How often has that working group met?

Mr Boersig—That has been meeting all year on a regular basis, roughly once a month to six weeks.

Senator CARR—When will we see any product come out of that working group?

Mr Boersig—As I understand it, advice is going now through to the secretaries' group.

Senator CARR—For the next meeting of the secretaries' group?

Mr Boersig—As I understand it.

Senator CARR—Will that advice go to the issue of a schedule to actually enforce this particular priority area?

Mr Boersig—The wider issues of community safety are a key issue for the ministerial task force as well as the secretaries' group, and it is being considered in that sense.

Senator CARR—So you have nothing specific at this time.

Mr Boersig—Nothing further to add.

Senator CARR—I have a question about interpreter services in the Kimberley region of Western Australia. I am told that is now a matter for your officers, Mr Cornall—is that right?

Mr Cornall—We are not aware of any interpreter service that we are funding in Western Australia—not from this division, I should say.

Senator CARR—There is nothing in your agency?

Dr Heriot—I am aware that the Department of Transport and Regional Services has provided some funding for the Kimberley interpreter service, as has DCITA. But I do not believe there has been any from this portfolio.

Senator CARR—OIPC tell me that you are the agency that I should talk to about these matters. We ask them questions and we are sent down here. You tell me, 'No, go off and see Transport.'

CHAIR—Let us see what we can clarify, Senator Carr.

Mr Cornall—The position is that, as I explained, we had responsibility for the Northern Territory service. That goes back some years to the government's decision to sponsor the juvenile diversion program and the Aboriginal Interpreter Service in the Northern Territory. That was our involvement. Since 1 July 2004 we have been responsible for the former ATSI Law and Justice Program. We do not have responsibility for interpreter services generally; however, when you talk about interpreter services and whether we should look at the possibility of a national interpreter service, because we are responsible for the Northern Territory service, obviously we would have some experience and some views to contribute to that discussion. But, in terms of the Kimberley service, we have no involvement.

Senator CARR—If the Office of Indigenous Policy Coordination seems to be so uncoordinated, what hope have the Aboriginal services requiring funding got of following the maze through to actually talk to someone that makes decisions about these things?

Mr Cornall—One of the other complexities in this matter is: where does the funding responsibility lie between the Commonwealth and the states? That is an issue that clearly has to be resolved as well.

Senator CARR—That is very clear. I have a question about the \$5.1 million from the National Native Title Tribunal funding. I read in the budget paper here—

CHAIR—They may need a different officer, Senator Carr.

Mr Cornall—We will get Mr Anderson.

Senator CARR—It is the in budget measures paper.

Mr Cornall—What page of the paper are you on, Senator?

Senator CARR—It is budget measures paper No. 2, page 220.

Mr Govey—That is in output 1.6, so it is Mr Anderson's division.

Senator CARR—I know, but to facilitate my—

Mr Cornall—I was just introducing Mr Anderson for this purpose.

Senator CARR—Is it the case that there has been a transfer of \$5.1 million over four years from the National Native Title Tribunal to the Attorney-General's Department?

Mr Anderson—That is correct.

Senator CARR—I am reading that it is actually a relocation of \$5.1 million over four years. Would that be a fair description?

Mr Anderson—Reallocation, Senator.

Senator CARR—Reallocation, of course. That would be an even fairer description. What is the purpose of that, transfer, that reallocation?

Mr Anderson—Of that \$5.1 million over four years, \$2.4 million of that goes to the Legal Services and Native Title Division to pay for some staff and \$2.7 million over the four years goes to the Indigenous Justice and Legal Assistance Division to pay for some staff for that division, where that part of the staffing is for the financial assistance program for respondents in native title proceedings.

Senator CARR—Who are the respondents, as a rule?

Mr Anderson—That outcome is actually administered by Dr Popple. We are generally talking about pastoralists, local government or people like that.

Senator CARR—So it is actually people who object to the native title extension, isn't it?

Mr Anderson—It is people who are parties to native title claims and agreement making.

Senator CARR—It is usually people who are opposed to the granting of native title?

Mr Anderson—Not necessarily. The majority of native title determinations to date have been made by agreement.

Senator CARR—So what is this money for then? Is it to fund pastoralists?

Dr Popple—Perhaps I can answer that. It goes to staffing within the Indigenous Justice and Legal Assistance Division for the administration of the program that provides money to respondents to native title matters.

Senator CARR—To pastoralists?

Dr Popple—The administration of the program for pastoralists and others, yes.

Senator CARR—The review that was undertaken indicated that there should be greater flexibility within the system for transferring funds from one part of the system to another as needs become apparent. I take it this is part of the response to that need for flexibility.

Mr Cornall—Is this the whole of government review that you are talking about?

Senator CARR—This is the review of the native title funding undertaken by the native title coordinating committee.

Mr Anderson—That was certainly a recommendation of the 2004 review of native title system funding. This is certainly in line with that—it is a reallocation of funding from one part of the native title system to another part where the Attorney-General believed that there was a greater need for those funds.

Senator CARR—So you have interpreted flexibility here to mean that you should be providing more money to people who are opposed to native title?

Mr Anderson—No, I am saying that the Attorney-General believed that there was a need for more funds to be allocated to staffing these two areas of the department to assist the overall functioning of the native title system.

Mr Cornall—Senator, I think you are putting a particular interpretation on this. The fact is that various people have interests in land which could be affected by native title. I think the government's position is that all of those positions should be fairly represented so that the outcomes that are reached are fair to everybody.

Senator CARR—Budget paper No. 2 says that the funding:

... will allow agencies to better meet the Government's native title priorities, including examining the linkage between native title and economic development and the effective administration of the native title respondent funding programme.

How is this transfer of money to provide staff for pastoralists meeting the government's native title priorities?

Mr Cornall—By enabling the efficient administration of the program which the government funds to ensure that parties involved in native title claims are properly represented.

Senator CARR—How is it assisting the examination of the linkages between native title and economic development?

Mr Anderson—The extra staff for the legal service in the native title division are able to consider policy issues such as the linkage between native title and economic development. So that is where that part of it comes from.

Senator CARR—How many extra staff will you get for \$5 million?

Mr Anderson—I think that the total number of staff is nine over four years between the two divisions.

Senator CARR—So this money will in fact go entirely to department outputs rather than administrative expenses—is that correct?

Mr Anderson—Yes, that is correct. There is no increase in the administered expenses amount set aside for the respondent funding program.

Senator CARR—So we are not actually providing additional financial assistance to anyone; we are employing more people in the department—is that right?

Mr Anderson—That is correct.

Senator CARR—The department has done quite well out of the Indigenous affairs transfers, hasn't it?

Mr Cornall—No, not really. By the time you take account of the cost of establishing new offices, training staff, acquiring computers and all those sorts of things, I would say that at this stage it is a lineball.

Senator CARR—What was the total cost of the transfer then?

Mr Cornall—I do not have those figures at my fingertips. The broad proposition that we are doing well out of it is not, I think, a fair statement.

Senator CARR—I think it is important for you to be able to make sure the department does not do poorly out of it. That is the job of the secretary, to look after your bit of turf in these affairs, isn't it? So what has the cost been to the department of the transfer of the functions?

Mr Cornall—If you want us to answer that question, I am happy to take it on notice.

Senator CARR—Thank you. If you would, I would appreciate that. And what has been the increase in funding for services actually going to people other than the departmental outputs?

Mr Cornall—Are you asking us to take that on notice as well?

Senator CARR—Identify the additional increase in service provided—not the transfer of funding. I have been looking forward to seeing how that additional money is being spent. How will the funding to respondents be spent more effectively?

Mr Cornall—It will be spent more effectively in the sense that we will be better resourced to administer the claims that we are granting assistance for—paying bills, reviewing claims, granting extensions of legal assistance and so forth.

Senator CARR—So you will speed up the processing of applications?

Mr Cornall—This is an area of work that has grown considerably over the last few years. We are happy to provide you with the details that illustrate that growth.

Senator CARR—If you could, please. Many of the native title representative bodies are now saying they are underfunded. Even the Minerals Council is indicating that the rep bodies are underfunded. Will you be putting any additional money towards those organisations?

Mr Anderson—Minister Vanstone has responsibility for the native title representative bodies. Questions about their funding should really be directed to her portfolio.

Senator CARR—I should go back and talk to them?

Mr Anderson—They have always had the responsibility for that.

Senator CARR—I just want to be clear about this. You can get a bit lost with these new arrangements. That is a matter for DIMIA?

Mr Anderson—Yes. That is right. That precedes the new arrangements.

Senator CARR—The social justice commissioner in his last report agreed with you that there needed to be an improved link between native title and economic development. What work are you doing to achieve that objective?

Mr Anderson—In some of the public debate and speculation about economic development issues I believe that there has been some confusion between land rights and native title. Under native title, Indigenous parties already do have a seat at the table, delivered through the procedural rights they get from having a registered native title claim or procedural rights they get from being native title holders in terms of the ability to enter into Indigenous land use agreements. The numbers of agreements generally made under native title are increasing. There is already the ability to have a linkage. But in terms of the effective use that can be made of that linkage, that is what we are starting to consider at the officer level, to see whether parties are actually able to reap the kinds of benefits that are potentially there under native title, having regard to their procedural rights.

Senator CARR—What sort of work are officers doing to achieve that?

Mr Anderson—At the moment it is at a fairly early stage. We are having some internal consideration of what issues go to economic development and what issues go to things like effective agreement making. We are having regard to work that has been done in other areas by, for example, the Native Title Tribunal, looking at durable agreement making—things like that—and having regard to research by AIATSIS and other parties on what it takes to develop sustainable agreements and to realise outcomes from those. The social justice commissioner also said in his 2004 report that, while he had not yet discussed his thinking on those matters with government, he was intending to do so. So we need to be ready to have those discussions with him.

Senator CARR—How many Indigenous people do you have working on these issues?

Mr Anderson—We have no Indigenous people currently in the division.

Senator CARR—None at all?

Mr Anderson—None at all.

Senator CARR—How long has that been the case? You must have employed someone at some time.

Mr Anderson—We had an Indigenous person until earlier this financial year, but they have been promoted to the Office of Indigenous Policy Coordination.

Senator CARR—So there was one person, was there?

Mr Anderson—That is correct.

Senator CARR—When did they leave?

Mr Anderson—Early this financial year.

Senator CARR—How early? Because we are at the end of the financial year now.

Mr Anderson—I think it was around July or August. I could check if you wish.

Senator CARR—So it was at the beginning of the financial year.

Mr Anderson—That is correct.

Mr Cornall—There are 19 Indigenous people working in Dr Popple's division.

Senator CARR—But none on these issues of economic development?

Mr Cornall—Well, Mr Anderson has answered that question. They are very largely legal issues. They are also being taken up by the National Indigenous Council. Mr Mundine and his colleagues there are also expressing views and so on, which we take on board.

Senator CARR—Oh, I see. They are public servants now, are they?

Mr Cornall—No. I said they are expressing views on these issues which we are taking into account.

Senator CARR—I see. I did not realise that they were part of the policy process of government. I thought they were advising and that they had opinions they occasionally voiced. Do they have a more formal role now?

Mr Cornall—No, I said that they are expressing views on these issues which we are taking into account.

Senator CARR—Do you provide any supplementary work for the National Indigenous Council?

Mr Cornall—I am not sure what you mean by supplementary work.

Senator CARR—Do you provide advice to the secretariat, for instance, of the NIC?

Mr Anderson—I have attended one meeting of the council in an observer status at the invitation of the council.

Senator CARR—Have you provided any assistance other than attending one meeting?

Mr Anderson—I have provided some input to their thinking on the question of economic development and land.

Senator CARR—The issues that were raised in the NIC paper I understand were discussed at the meeting of the NIC in late January. Were you a party to that?

Mr Anderson—I believe that was the meeting at which I was present.

Senator CARR—Did you provide any advice for the construction of that paper?

Mr Anderson—I had some input into the thinking that went into the paper.

Senator CARR—What was the form of the input?

Mr Anderson—The paper was Mr Mundine's that was presented to the council. In the course of formulating that paper, I did provide some input in terms of some thoughts about what the Native Title Act currently provides. As I said earlier, I think there has been some confusion in some areas between native title and land rights. Not everyone is aware that under the Native Title Act there are already provisions such as Indigenous land use agreements which are very flexible in terms of what people wish to do with their land for economic development purposes. I was just ensuring that people were clear about that.

Senator CARR—Did you provide advice about amending the relevant state and Australian government legislation?

Mr Anderson—No, I did not provide advice about amending legislation. As I said, there has been some confusion and some people might have thought, for example, that you would

need to amend the Native Title Act. My role was really just ensuring that there was clarity about what the Native Title Act currently provides.

Senator CARR—You would have advised against the need to amend the Native Title Act?

Mr Anderson—I was not actually advising in favour or against; I was simply ensuring people understood the opportunities currently available under the Native Title Act. At the end of the day, it was Mr Mundine's paper. He was the one who settled the final paper and presented it.

Senator CARR—Was it Mr Mundine's idea?

Mr Anderson—It was Mr Mundine's paper. He went away and settled it and presented it to the National Indigenous Council.

Senator CARR—The proposal to require collective groups to approve requests for the grants of leasehold interests was not an idea that you proposed?

Mr Anderson—That is correct. It was not an idea that I proposed.

Senator CARR—Did anyone from the Attorney-General's propose that?

Mr Anderson—I believe that is correct. No-one from Attorney-General's proposed that.

Senator CARR—In fact, your advice would be that it is not necessary.

Mr Anderson—That is correct. In terms of native title, you do not actually require such a measure because you already have provisions such as Indigenous land use agreements which have been shown in practice to be quite practical for a range of measures that the parties might want to engage in.

Senator CARR—Do the words 'the Native Title Act already provides means by which native title holders can leverage economic development from their native title rights' reflect your view?

Mr Anderson—That is the sort of view that we would be putting.

Senator CARR—Did you put it in writing?

Mr Anderson—There was some email traffic between ourselves and the Office of Indigenous Policy Coordination on some of these issues.

Senator CARR—Did that include to the National Indigenous Council?

Mr Anderson—Not to the council itself.

Senator CARR—Was it provided to Mr Mundine?

Mr Anderson—I have been involved in some discussions with Mr Mundine as well. I have not given anything in writing to Mr Mundine.

Senator CARR—Right. So was the proposition that amending the Native Title Act could lead to a claim of compulsory acquisition of private property and thus invoke the just terms compensation of the provisions of the Constitution also part of your advice?

Mr Anderson—It is a correct proposition that to amend the act in some way would raise questions of compensation, depending on the path that the amendment was going down. But not actually knowing what you are reading from or seeing—

Senator CARR—I am reading from the NIC paper.

Mr Anderson—I do not actually have the NIC paper.

Senator CARR—Why didn't you get a copy of the paper?

Mr Anderson—It is a paper for the NIC.

Senator CARR—Would you agree with the proposition that the compensation obligation would be financially significant if the legislative amendment itself, as opposed to the subsequent grant of individual leases, were held to constitute compulsory acquisition?

Mr Anderson—I should clarify: one of the things that was being identified as a possible option had to do with the Aboriginal Land Rights (Northern Territory) Act. If you have certain changes under the land rights act with respect to leaseholdings and the ability of people to agree to leaseholdings, that could have native title consequences such as amounting to potentially the acquisition of native title interests.

Senator CARR—So you did not advise on amendments to the Native Title Act specifically.

Mr Anderson—I am not aware that there is a proposal actually canvassing amending the Native Title Act.

Senator CARR—I have a copy in front of me and it clearly is.

Mr Anderson—All I can say is that not having that document in front of me at the moment I am not aware of a proposal to amend the Native Title Act.

Senator CARR—I see.

Mr Anderson—I am aware of an option of amending the Aboriginal land rights act and that that could have native title consequences.

Senator CARR—Would you agree that native title exists independently as a common law property right, not as a consequence of the Native Title Act? You would have advised to that effect, wouldn't you?

Mr Anderson—It is certainly correct that native title exists as a matter of common law.

Senator CARR—Would you also advise that changes to amend that act would weaken—and I am quoting from this document—the negotiating position of native title holders and reduce their ability to achieve good economic outcomes for their communities.

Mr Anderson—I cannot actually give a view on that proposition because it would depend on what the changes would be. Some changes might strengthen their position and others might weaken it—that is true—but without knowing what the changes are, I cannot actually comment.

Senator CARR—When did you provide advice to the OIPC about the NIC paper?

Mr Anderson—That would have been in January of this year.

Senator CARR—Do you recall a date?

Mr Anderson—It would have been late January. I would have to take on notice the precise date.

Senator CARR—Do you recall the first time the matter was raised with you?

Mr Anderson—Late January again.

Senator CARR—In view of the statement in the budget papers about the different priorities the government is seeking with regard to native title, can you outline what they are?

Mr Anderson—It is a fairly general statement. There are a number of priorities, which are current priorities. Then there are other priorities which are possible priorities. Certainly the government is interested in economic development generally, and native title has a role to play in that. The department, on an ongoing basis, is also looking at the effectiveness of the native title system generally and whether the system is operating as best it can. One subset of that, for example, is how well the Federal Court and the Native Title Tribunal work together. So that could be an issue that the government might wish to explore further. But as yet there has been no formal decision on proceeding down that path.

That is something that could be explored, and at the officer level we are doing some work on that to identify the sorts of procedures and powers that the Federal Court and the tribunal have and how they both exercise them. Other areas include how governments themselves play a role in native title. Governments are obviously very important parties. They are the primary respondent to all native title claims. The Attorney is quite keen to encourage more transparent behaviour by all governments in native title matters—to share their thinking with other respondents to see if that would speed up the progress of native title claims. So we are doing some work within my division on that—and that includes, for example, having some bilateral discussions with other governments at the officer level, and there is the potential for discussions at the ministerial level. So there are a number of matters encompassed within that notion of achieving the policy priorities of the government.

Senator CARR—I do not want to ask you about advice that you are tendering, but what decisions have been taken in regard to amendments to the Native Title Act after July 1 this year?

Mr Anderson—No decisions have been taken. The Attorney has indicated publicly that he is always prepared to consider suggestions for technical amendments to the Native Title Act, and his predecessor publicly said the same thing. So the department has been continuing to collect suggestions for technical amendments to the Native Title Act but there has been no decision as to whether they—

Senator CARR—What are the technical amendments you are considering?

Mr Anderson—There is a list of about 60 that have been proposed so far. I am not actually in a position to detail all of those.

Senator CARR—Could you give me a list of the 60 technical amendments that you are considering on notice?

Mr Cornall—We would have to refer that to the Attorney-General.

Senator CARR—I do thank you for the frankness of your answers. It saves me a lot of time and saves the committee a lot of time. There are a number of other proposals that were canvassed back in 2003 by the Northern Territory land rights councils and the Northern

Territory government with regard to the Northern Territory land rights legislation. What decisions have been taken about amendments to the Northern Territory land rights legislation?

Mr Anderson—That is actually administered by Minister Vanstone. You would need to direct questions to the Office of Indigenous Policy Coordination.

Senator CARR—You have no responsibility in terms of advice to the Office of Indigenous Policy Coordination on the Northern Territory land rights act?

Mr Anderson—We have no formal responsibility with respect to the Aboriginal Land Act.

Senator CARR—In terms of the preparation of the budget papers, at page 52 of the PBS there is a footnote indicating that the figures on the table relating to native title are different from those in the Indigenous budget statement due to the final revisions of output prices for the PBS. Can you have a look at that to make sure that I have not misunderstood that.

Mr Kennedy—In the process of preparing the portfolio budget statements there can be a difference in timing for finalising our figures for the PBS and the deadlines by which figures need to go into another department such as immigration and Indigenous affairs, which was preparing the overall expenditure statement.

Senator CARR—The Office of Indigenous Policy Coordination prepare the Indigenous budget statement—is that right?

Mr Kennedy—That is correct.

Senator CARR—Do they prepare it before the PBS is completed?

Mr Kennedy—The timing overlaps. Because they have a large coordination task they will tend to want to have their information relatively early in the process to complete their documentation whereas the department, because we control the timing of the production of our portfolio budget statements, have a little more time in which to prepare our final figures to be included in the statements. The intention was to make an honest and open statement that there was a difference and that that was due to the timing of the preparation of figures.

Senator CARR—Is it a significant difference?

Mr Kennedy—In the overall scheme of things, I think it is less than one per cent.

Senator CARR—And in dollar terms?

Mr Kennedy—It is \$400,000, but it is a very small percentage of the total.

Senator CARR—You say that the \$72.9 million extension of funding to the native title scheme has no impact on the bottom line because it is already included in the forward estimates.

Mr Kennedy—That is correct.

Senator CARR—I also note that the measures description in Budget Paper No. 2 at no stage uses the description ‘additional funding’. I am wondering how it is that, in the fact sheets prepared by OIPC—I think you have agreed they are responsible for them—the term ‘additional funding’ is used to characterise the funding. That is Indigenous budget measure No. 16, which is administered by you. It is an inaccurate statement, isn’t it? Were you advised that there was that statement? Were your opinions sought?

Mr Anderson—I am not sure whether there is perhaps some confusion there. In terms of Indigenous budget measure No. 16 and the release put out by OIPC or Minister Vanstone, are you talking about the reference to additional funding for the native title system in that?

Senator CARR—Indigenous budget measure No. 16. That is what it says, isn't it?

Mr Anderson—The budget did provide additional funding for the native title system over four years. It provided \$72.9 million additional funding over four years.

Senator CARR—But then what is the reference in the footnote on page 52 to?

Mr Anderson—Do you mean footnote 1?

Senator CARR—Footnote 1, native title.

Mr Anderson—I think Mr Kennedy was just explaining the basis for it.

Senator CARR—He did. I understood him—I understood him clearly: a \$400,000 difference; no additional money provided; the extension of the native title system; budget measure No. 16. You are saying that there was additional money provided.

Mr Anderson—Yes, there was additional money provided. I think what Mr Kennedy was talking about was that there is a difference in the figures that appear on page 52 and in the single Indigenous budget statement with respect to those particular amounts, but there is additional funding both on page 52 and set out in Indigenous budget measure 16.

Senator CARR—If I look at page 220 of the budget measures I see: 'Provision for this funding has already been included in the forward estimates.' Is that true or not?

Mr Cornall—I am not fully in a position to explain this. I think that, for lapsing programs that may be continued, the Treasury or the department of finance puts into the forward estimates a calculation for the continuation of that program if government decides to do it. But it had not made the decision to do it. So I think it is fair to say that, when the decision is made, it is additional funding—yes, the government has agreed to commit it—but, in terms of its forward projections for what it has already allowed for as possible expenditure, it has already been taken into account. That is as far as I can take it.

Senator CARR—This is the spin doctors at work, isn't it?

CHAIR—I do not think that is a matter to which you expect Mr Cornall to respond, frankly, Senator Carr. It is almost one o'clock, and I would like some guidance from you, Senator Carr—

Senator CARR—I do not know whether the committee wants to, but I have a very limited number of questions to go. I might be able to conclude this—

CHAIR—Five minutes?

Senator CARR—If you can give me another five minutes, I think I might be able to put the rest on notice.

CHAIR—All right.

Senator CARR—The fact sheet funding indicates that the National Aboriginal Justice Advisory Committee secretariat will be resourced through the Law and Justice Advocacy Program. That is correct, isn't it?

Dr Popple—Yes, that is correct.

Senator CARR—What is the level of funding for the operation of the NAJAC?

Dr Popple—As you will see, the estimated actual for 2004-05 is about \$15,000. We have not yet actually received the application from NAJAC as to how much money they propose for this coming financial year, but when we do we propose to deal with it from the Law and Justice Advocacy Program. But I do not anticipate any major change from the preceding year and years.

Senator CARR—So there are no additional moneys that you expect?

Dr Popple—No. It is really a matter of NAJAC indicating to government how much they anticipate they will spend. Just to be clear: the amount there includes travel costs for the members et cetera; it does not include secretarial support, for example, which the department provides itself.

Senator CARR—I will ask a more general question. Mr Cornall, how are you going to apply the efficiency dividend in terms of Indigenous programs? What will the effect on Indigenous programs be of the 1.125 per cent efficiency dividend?

Mr Cornall—It will not affect the administered programs, obviously, so we are only talking about departmental appropriations. We would normally take account of the total budget available to the department after the application of the efficiency dividend and set our budget accordingly across the needs of the department.

Senator CARR—So are you able to tell me what the effect will be on the departmental outputs for Indigenous programs?

Mr Cornall—We have not set our departmental budget for the coming year yet, but I do not imagine it would be significant.

Senator CARR—What is the aggregate effect?

Mr Cornall—The aggregate effect across the department for 2005-06 is \$367,000.

Senator CARR—And you cannot tell me what it is specifically for Indigenous programs?

Mr Cornall—No.

Senator CARR—Can you take that on notice?

Mr Cornall—Yes, Senator.

Senator CARR—Thank you. I will put the rest of my questions on notice.

CHAIR—Thank you. When we resume we will resume in 1.3.

Proceedings suspended from 1.03 pm to 2.05 pm

CHAIR—Before we resume discussion on output 1.3, I understand that Mr Anderson has some information he wishes to offer the committee.

Mr Anderson—When Senator Carr was asking about the paper that Mr Mundine presented to the National Indigenous Council, I indicated that I did not have a copy of that paper. What I intended to convey was that I did not have a copy in front of me and therefore had some

difficulty in discussing the paper, but I do in fact have a copy of that paper. I was presented with it at the meeting of the National Indigenous Council that I attended as an observer.

CHAIR—You were not planning to give it to us; you were just telling us you have one.

Mr Anderson—I just wanted the committee to be clear that I do in fact have one.

Senator LUDWIG—Have you read it?

Mr Anderson—I have read it, yes.

CHAIR—It is clear from the discussion earlier that Mr Anderson certainly read it.

Mr Duggan—With regard to the marriage certificate discussion we were having with Senator Ludwig, I indicate that there was an announcement a week or so ago in relation to the start date for that. It is 1 September 2005. Unfortunately, my briefing was not updated. I do apologise for that. That date of 1 September 2005 is when we expect the changes to commence.

CHAIR—Thank you very much for that.

Senator LUDWIG—Now that we have a start date, has what it is going to cost been worked out? You have indicated that CanPrint is going to print the forms up or distribute them. What process is going to be used to distribute them by 1 September? What legislation will be required? If anyone is issued with an old certificate after 1 September, what happens? Is the integrity of their marriage put in jeopardy as a consequence?

Mr Duggan—Where shall I start?

Senator LUDWIG—Anywhere.

Mr Duggan—Firstly, we are still working out the cost with CanPrint. It has not been resolved. We have only just now been able to get the Attorney's approval settled on the actual paper that is to be used, for example. There is an issue about how much of the security measures can be incorporated into one certificate. Those things are still being discussed with us and CanPrint. I anticipate that offer being made quite soon but it has not been made as yet. We expect the certificates will start to become available from 1 August. With regard to the issue about whether you have an earlier certificate, the answer is that it does not invalidate your marriage in any way.

Senator LUDWIG—Is there legislation required?

Mr Duggan—There will be regulations required.

Senator LUDWIG—Is that under the Marriage Act?

Mr Duggan—That is right.

Senator LUDWIG—Have they been drawn up yet?

Mr Duggan—They are being drafted as we speak. It is just a question of working out precisely which of the security measures we can finally put on the document before we go to the final film of those regulations.

Senator LUDWIG—Has the final cost been determined yet?

Mr Duggan—Not as yet, but it will be soon.

Senator LUDWIG—Do you have a ballpark figure?

Mr Duggan—I do not think I do at the moment, because a lot does depend on the strength of the paper, the sorts of inks that you use and all those sorts of issues. We have not yet determined finally on that.

Senator LUDWIG—Is it going to be issued on a cost recovery basis?

Mr Duggan—It will be issued on a cost recovery basis. In terms of how it is distributed, it will be distributed the same way that CanPrint distribute now, and that is that celebrants would ring in with their authorisation number and then a package of certificates would be sent to them which would be recorded as it is going out. Each of those certificates is numbered and the celebrants would be required to keep a sheet which indicates what has happened to those certificates.

Senator LUDWIG—Thank you. I have questions in relation to copyright. That is back to you, Ms Lynch. It comes from the US FTA, where there is a requirement within two years to have technological protection measures. How far advanced is that now?

Ms Lynch—Some preliminary work has been done within the branch with a view to public consultation further down the track.

Senator LUDWIG—Is it envisaged that there will be legislative requirements?

Ms Daniels—Yes, there will be legislation required.

Senator LUDWIG—So you have got 18 months to go?

Ms Daniels—That is right. The plan is that we will have some public consultation around September-October this year setting out a framework of what options should go in possible legislation. We will consult on that and then refine from there.

Senator LUDWIG—Do you have available now the key areas that you are looking at?

Ms Daniels—Not at this stage, no.

Senator LUDWIG—Will those consultative rounds that you spoke of be public or will they be with selected or key industry stakeholders?

Ms Daniels—With most copyright issues we tend to put out a public document that anybody can comment on and I do not envisage this will be any different.

Senator LUDWIG—When will the decision be made on that?

Ms Daniels—We plan to put something to the Attorney in the next few weeks setting out the proposed course of action.

Senator LUDWIG—We might wait for the next round, then. The document verification system is in output 2.1, is it?

Mr Cornall—Yes.

Senator LUDWIG—The data and workflow grant system: is that within 1.3?

Ms Lynch—That is Dr Popple's financial assistance in 1.7, I think.

Senator LUDWIG—Legal aid.

Ms Lynch—That is 1.7 as well.

Senator LUDWIG—The community legal service.

Ms Lynch—It is 1.7.

Senator LUDWIG—Then, happily, we are finished with 1.3.

CHAIR—Thank you very much, Ms Lynch. We will move on to output 1.4, Legal services and policy advice on international law, where I am confident in predicting we are safe because there is no change to this output, so it is still legal services and policy advice on international law. We welcome Ms Leon and Mr Campbell.

[2.14 pm]

Senator LUDWIG—If I understand the budget, if you look at the 2005-06 PBS, page 37, and then you look back to the previous year's at page 31, there appears to have been an underspend, but then there is no reduction in the budget that has occurred as a consequence. As I read the figures, the PBS shows an estimated actual figure of \$3.636 million where last year's budget was \$4.919 million. What happens with that?

Mr Cornall—Sorry, Senator. What is the second figure you are referring to?

Senator LUDWIG—The \$4.919 million, which was reflected at page 31 of the 2004-05 PBS.

Mr Kennedy—The differences are due to the restructure within the department. We have recalculated all of the output prices for the 2004-05 year.

Senator LUDWIG—So was there an underspend?

Mr Kennedy—No. The difference is simply the recalculation of the output prices due to the restructure. So the figure that appears in the 2005-06 PBS as the estimated actual for 2004-05 simply represents the current budget including overheads for the division based on the restructure within the outputs.

Senator LUDWIG—I thought 1.4 had not been restructured.

Mr Kennedy—The overheads change with the difference—the movement in the staffing—and they have a significant impact on—

Senator LUDWIG—What changes have actually occurred in this area?

Mr Kennedy—In this area it is really just the allocation of the overheads that has changed.

Senator LUDWIG—Has there been a change in staffing?

Mr Kennedy—There has been no change in staffing for that output.

Senator LUDWIG—So why is there a change in overheads? You are losing me a bit in understanding that.

Mr Kennedy—The overheads are allocated on staffing for all of the outputs across the two outcomes and where we have moved functions around and also picked up the final allocations.

Senator LUDWIG—I see. So even though there has been no change to 1.4, others have changed which then make the distribution different.

Mr Kennedy—That is correct.

Senator LUDWIG—Then there is the free trade agreement special advice. The budget provided an additional \$1.9 million over four years for the department to fund specialist advice to support the negotiations. Will all that money go in output 1.4 or will that be distributed elsewhere?

Mr Kennedy—All of that has been presented as going into output 1.4.

Senator LUDWIG—What does that mean, when you say ‘presented’?

Mr Kennedy—There is an overhead element within all of the costings for our measures. We have presented them in the 2005-06 estimates as being the full amount for the measures—the amount that will go directly to the division and the overhead component. When we come to finalising all our internal budgets for 2005-06, we then have a final pool of overheads which is then reallocated.

Senator LUDWIG—All right. So there has not actually been any reduction in output 1.4 in terms of its budget allocation?

Mr Kennedy—There has been no reduction for the division itself.

Senator LUDWIG—And the change in amounts is a recalculation of overheads across all departments which is reflected in a different amount.

Mr Kennedy—For the 2004-05 estimates that is correct.

Senator LUDWIG—And how will the additional \$1.9 million to fund specialist advice be spent? Will that be spent within 1.4?

Ms Leon—The amount that we received for the negotiation of the free trade agreements, if that is the budget measure to which you are referring—

Senator LUDWIG—Yes.

Ms Leon—The internal allocation of that is likely to involve some other divisions as well. Primarily the amount will be spent within output 1.4, but there are other areas of the department that have particular interest in free trade agreement negotiations, particularly in the areas of copyright and legal services. But also, from time to time, depending on the agreement under negotiation, issues of private international law or of criminal law do arise, and it is intended that there be some flexibility within the department as to which areas of the department attend particular negotiations. Some of that money may be spent, in different negotiations, on sending officers from other outputs because they are the specialist experts on the areas that are of particular interest to that round of negotiations.

Senator LUDWIG—Has there been any additional money earmarked for new free trade agreements?

Ms Leon—That money is the amount that has been allocated to the Office of International Law. Of that money, some will, in practice, probably be spent by other divisions of the department in order to attend particular negotiations. But the bulk of the money will be spent in the Office of International Law, because that is where the bulk of the work is done on the free trade agreements.

Senator LUDWIG—Will extra staff be employed as a consequence?

Ms Leon—Yes.

Senator LUDWIG—In what fields or specialities?

Ms Leon—International law.

Senator LUDWIG—As a broad heading.

Ms Leon—The Office of International Law advises across a broad range of issues in a free trade agreement, as in any other significant international negotiation, so we recruit people with a broad range of international law skills.

Senator LUDWIG—Do you deal with the International Criminal Court at all?

Ms Leon—No, that is dealt with in the Criminal Justice Division.

Senator LUDWIG—You do not provide any advice?

Ms Leon—If international legal issues arise we would provide advice, but at this stage we are not doing any work on issues of that nature.

Senator LUDWIG—In respect of the International Criminal Court.

Ms Leon—Correct.

Senator LUDWIG—On the convention against torture, has any work been done in relation to the consideration by government of the optional protocol?

Mr Govey—Ms Lynch advises that the government has not made a decision on the optional protocol. Was that your question?

Senator LUDWIG—That was the next question. The question was whether you are doing any work in relation to the optional protocol now; and, if you are not, is it still the position of government that they are not going to sign and that we have said ‘no’ on that?

Mr Govey—We have been saying ‘no’ on the first part as well. There is no work being done on that. But, on the second one, there is no formal decision.

Senator LUDWIG—Yes. I misrepresent you. There is no formal decision in respect of whether you intend to ratify or not ratify rather than that you have not made a decision at all.

Mr Govey—That is correct.

CHAIR—Senator Allison, may I check in relation to your questions. We are dealing with 1.4—Legal services and policy advice on international law. Are your questions in this area?

Senator ALLISON—They are indeed. I have some questions about the International Criminal Court.

CHAIR—In fact, they are not in this area.

Mr Cornall—I think the people here can assist. Seeing as Senator Allison has come in specially, we could perhaps deal with her questions now.

Senator ALLISON—In estimates in February, the Department of Foreign Affairs and Trade indicated that Australia had received its most recent correspondence from the US regarding proposed article 98.2—I think that was just a short time earlier—and that a relevant

officer had not had the opportunity to look at the letter in detail. I wonder if we could now be advised of the nature of that communication and an update of where negotiations might be on the court.

Ms Blackburn—We have consistently taken the position before this committee that we have not provided details of the stages of the negotiation. I am in fact unaware of the comment you referred to from my colleagues in the Department of Foreign Affairs and Trade. The position we have consistently expressed to this committee is that the negotiations with the United States are continuing and they are active.

Senator ALLISON—Should I ask the department of foreign affairs for details of that letter?

Ms Blackburn—I am unaware of the statement that you are quoting from. As I have indicated, the position we have consistently taken is that we do not disclose the specific stages of the negotiation or the details of those specific stages.

Senator ALLISON—I think it has been three years since the initial request was made of the United States. Are we any closer to knowing what the likely resolution time frame will be?

Ms Blackburn—No. It is not possible to give you a time frame on that. The negotiations are continuing.

Senator ALLISON—So it is not possible to indicate what the sticking points are?

Ms Blackburn—It is not possible to disclose to you the particular details of the issues that are under negotiation between the Australian government and the US government.

Senator ALLISON—Has Australia received any formal, or informal, for that matter, expressions of concern from other states or international organisations regarding the government's intention to enter into article 98.2 of the agreement with the United States?

Ms Blackburn—If what you are intending to cover is formal representations, I will need to take that on notice and consult with the Department of Foreign Affairs and Trade.

Senator ALLISON—I did ask about formal and informal representations.

Ms Blackburn—I would need to take both on notice. With informal representations I assume you are referring to, for example, ministerial correspondence from members of the public?

Senator ALLISON—States and organisations rather than individual members of the public.

Ms Blackburn—I will take that question on notice.

Senator ALLISON—It would be good if we could have an indication of which states and organisations have made representations and the substance of their concerns.

Ms Blackburn—I will take that on notice.

Senator ALLISON—Thanks very much.

Senator LUDWIG—My questions have been covered. I will put any that fall out of later questioning on notice.

CHAIR—On the ICC at least the matters have been covered. If there is anything further, Senator Ludwig will put them on notice. Do you have anything further in 1.4, Senator Ludwig?

Senator LUDWIG—It depends whether my questions fall within 1.4. As I understand it, the department is currently assisting in negotiating with the Lebanese authorities the text in relation to the welfare of children. I take it that is not in 1.4. We will get better as we go on. If you would restructure your department it would be helpful! Give us a bit more warning next time, if you can.

CHAIR—Preferably before we print the program.

Senator LUDWIG—Has the department received any advice as to whether the amended text has been, or will be, accepted by the Lebanese authorities?

Ms Leigh—Yes. We have recently been advised that it has been accepted.

Senator LUDWIG—Is that available?

Ms Leigh—I need to take that on notice.

Senator LUDWIG—That is pending final agreement, I take it.

Ms Leigh—Exactly. So it is significant progress in the negotiations.

Senator LUDWIG—So the next stage is—

Ms Leigh—Finalisation of an agreement.

Senator LUDWIG—Are there any interim steps or interim measures that have been put in place until you finalise the text?

Ms Leigh—Not at this stage. We are working on the next step now because, as I said, we have only recently been advised that those amendments have been accepted.

Senator LUDWIG—Are you pursuing that text with any other countries at the moment?

Ms Leigh—This is a specific bilateral.

Senator LUDWIG—Yes, but it could have broader application.

Mr Duggan—We are not pursuing it at the moment. There have been suggestions that, in other contexts, it may be worth pursuing with other countries, particularly other Muslim countries. At this stage, we have not had any formal approaches and we have not made any formal approaches in that regard.

Senator LUDWIG—There have been no formal approaches.

Mr Duggan—No.

Senator LUDWIG—Have there been any informal approaches?

Mr Duggan—Not that I am aware of.

Senator LUDWIG—So there have been no approaches at all.

Mr Duggan—That is right.

Senator LUDWIG—And there are no interim measures in place. When is it expected that the text will be finalised, then?

Ms Leigh—It is too early to say.

Senator LUDWIG—Is there an expectation?

Ms Leigh—I simply do not think we are in a position to say at the moment.

Senator LUDWIG—In 1.4, is the billing of Papua New Guinea and Nauru services and those sorts of things international or is that somewhere else again?

Mr Cornall—What is the exact nature of the question?

Senator LUDWIG—The governments of Papua New Guinea and Nauru have, as I understand it, money outstanding from the federal government—billing for services and the like. It was the original question on notice No. 129. You provided some response to us. It was fee for services, for legal services and the like.

Mr Cornall—I do not recall the answer to question No. 129 but it sounds like it might be more to do with Immigration than this department.

Senator LUDWIG—I will come back to that. I am sure it is somewhere. If not, I can put it on notice. I am not going to waste time on it. Is extradition part of this output?

Mr Cornall—It is a criminal justice matter—2.1.

Senator LUDWIG—Australia's fourth report under the convention against torture—I have found one. Regarding ICCPR, there is a fifth report due, isn't there?

Ms Leon—Yes. Australia's next report under the ICCPR is due in July this year.

Senator LUDWIG—Has any work been done on that to date?

Ms Leon—Yes, the preparation is well advanced. We have undertaken extensive consultation with both the state and territory governments, other Commonwealth agencies and non-government organisations. There has been a considerable degree of drafting undertaken. The report is not completely finalised but it is at an advanced stage.

Senator LUDWIG—Is there a date for release? Are you working towards one?

Ms Leon—I do not have a date precisely in mind, but I can say that the drafting is well advanced and that all that remains to be done is to finalise the drafting and then have the report cleared through the various levels of clearance.

Senator LUDWIG—Thank you. I am happy to move to output 1.5 now.

[2.35 pm]

CHAIR—We go to output 1.5. As I understand it, output 1.5 is 'Drafting of legislative and other instruments, maintenance of the Federal Register of Legislative Instruments (FRLI), publication of legislative materials and provision of related legal services'. Have I got that right?

Mr Govey—Yes.

CHAIR—The only additional area in this area is the Federal Register of Legislative Instruments—is that right?

Mr Govey—Yes.

CHAIR—Other than that, we are operating under the previous assumptions.

Mr Graham—Yes, that is correct.

CHAIR—Thank you.

Senator LUDWIG—We might deal with general questions first. The 2004-05 appropriation for the output was, as I understand it, \$6.126 million but the estimated actual in the 2005-06 PBS is \$7.568 million. Can you explain the difference in those figures?

Mr Graham—I think Mr Kennedy should take that question.

Mr Kennedy—It is for the same reason as for the previous output: as part of the restructure, we recalculated the output prices. While there has been no change to the divisional direct budgets as a result, except in relation to the restructure, that has resulted in a change to the figures for 2004-05 from those that were in the 2004-05 PBS.

Senator LUDWIG—So is that all absorbed in that difference? In other words, is it the restructuring or is it a redistribution of the overheads?

Mr Kennedy—It is a combination of both.

Senator LUDWIG—Is there a way of depacking that?

Mr Kennedy—There is. I do not have any information with me—

Senator LUDWIG—I am happy for you to take that on notice.

Mr Kennedy—Yes, I can do that.

Senator LUDWIG—Those two issues—both the redistribution of the overheads, if I can call it that, and the reorganisation or restructure of output 1.5—account for the total difference?

Mr Kennedy—Yes.

Senator LUDWIG—Is the ComLaw web site within this portfolio area?

Mr Graham—Yes.

Senator LUDWIG—How much has that cost so far?

Mr Graham—The costs of that are in two parts. The cost of setting up the IT system was the subject of a question at the last estimates. The total cost is still being worked through. The budget is on track.

Senator LUDWIG—We were told at the additional estimates that the set-up would be \$2.575 million plus another \$400,000 over three years. Is that still the case?

Mr Graham—That is still the budget.

Senator LUDWIG—Then there is a monitoring cost which will then be added to that.

Mr Graham—Costs of operation?

Senator LUDWIG—Yes.

Mr Graham—The additional costs of that are difficult to quantify because the office has been running an electronic publishing system, SCALEplus, for some time and that system and all the work that goes with it have been redirected to the ComLaw system. An additional 10

staff have been taken on and that is the principal extra operating cost, but the actual effect on the budget of course depends on other savings that we can make.

Senator LUDWIG—It might be too early yet, but have you instituted any monitoring or quality assurance work as to market acceptability?

Mr Graham—Not formal or external work of that kind, but we maintain our own internal quality controls and put a great deal of effort into that as to the accuracy of the electronic versions of the instruments that are placed on the register. The whole point is that it has to be accurate because it is the definitive version.

Senator LUDWIG—Has there been any quantitative or qualitative feedback on the site—the usability, how the site works, people’s views about whether it is easy to use and so on?

Mr Graham—There has been a fair amount of feedback. Some of the early feedback, as you are aware, was negative because a very early version of the site had problems. A large number of these were resolved by some improvements to the site made shortly after the additional estimates. The office is at present reviewing work being done by the IT people in preparing for another tranche of improvements which we hope to introduce in two or three weeks time.

Senator LUDWIG—What is that designed to improve?

Mr Graham—The most important aspect of the improvement to the public web site will be a new search engine. There will also be a lot of other minor improvements to layout and the ease with which people can track down information.

Senator LUDWIG—What was wrong with the first search engine?

Mr Graham—It was not in fact the search engine we had originally hoped for. You will recall that at the previous estimates we explained that the time available to build the system had been short and not all of the final functionality we were hoping for had been able to be put in place by 1 January. The new search engine will be a high-quality one that will improve the ability of people to find information.

Senator LUDWIG—Has there been any testing on the response time or success rate of searching?

Mr Graham—Not at present.

Senator LUDWIG—So when will this be finalised—the new search engine and the minor modifications?

Mr Graham—We are examining and testing them at the moment, so we expect that it will be in two or three weeks.

Senator LUDWIG—It is very clunky—in my words—to operate at the moment and everyone I speak to or have spoken to so far, when they compare it to SCALEplus, says that it does not seem to work as efficiently or effectively.

Mr Graham—It will certainly improve the searching. Other aspects of it will be improved. I am not sure in detail what you mean by ‘clunky’. The new system is a good deal more ambitious than SCALEplus and provides a great deal more information and links between

documents. It does take some time to get used to the new system because of the new information that is available.

Senator LUDWIG—Is there any qualitative or quantitative work planned to ensure that it is meeting expectations?

Mr Graham—We are reviewing it all the time and we have various groups of people whom we consult—heavy users such as the librarians association and people of that kind—to get feedback on the way the system works. We will be working very hard over the next year or so to improve the system in any way that we can.

Senator LUDWIG—Let us talk about the new search engine that you are going to put in place. To give you one example: if you leave a space when you use the current search engine it just will not find the relevant act, whereas with a lot of search engines you can be a bit hit or miss about it. Is that going to be effectively improved in the new one?

Mr Graham—It will be improved, yes.

Senator LUDWIG—That is what I mean by ‘clunky’ in a sense. I think everybody else in web world understands the expression.

Mr Graham—The current search engine is—not to put too fine a point on it—not really adequate, and so we are very anxious to improve it.

Senator LUDWIG—I think I have finished with 1.5 now.

Mr Cornall—Madam Chair, just before we leave this output, I have question No. 29 and the answer that Senator Ludwig was referring to, and it goes to assistance provided in drafting bills for Nauru and, I think, PNG. These are all tasks that are being undertaken at AusAID’s expense and are being billed to AusAID. That is what the answer reflected.

Senator LUDWIG—So there is no work being undertaken by the A-G’s Department?

Mr Cornall—We were undertaking drafting tasks for a fee, and the fee was being met by AusAID.

Senator LUDWIG—Am I better off directing my questions to AusAID then? There will be a limit as to what you can say without AusAID giving you permission to say it, I suspect.

Mr Graham—As I understand it, this is assistance being provided by AusAID. I would imagine that there is no question of billing those countries.

Senator LUDWIG—So the billing is going to AusAID from—

Mr Graham—From this department.

Senator LUDWIG—How much has been billed to date?

Mr Graham—I would have to check to what extent bills have been sent out since the—

Senator LUDWIG—It is really just an update of that question.

Mr Graham—You would like an update of that question.

Mr Cornall—We will do it that way.

Senator LUDWIG—Perhaps we could treat it in that more generalised fashion. I would have put it on notice otherwise. I have finished in 1.5.

[2.48 pm]

CHAIR—As I read the revised outcomes and outputs, 1.6 is legal services and policy advice on native title, which we have dealt with, so we can move now to 1.7, which is legal services and policy advice on Indigenous law and justice and legal assistance and the administration of related government programs, which we discussed this morning, and includes the pro bono scheme, amongst other things.

Senator LUDWIG—Yes. It will be a catch-all, I suspect, between now and output 2.

CHAIR—I will wait to see.

Senator LUDWIG—You might recall that the Prime Minister announced—and I am happy to provide this material if you need it—reforms to the family law system. Part of that included the following indication:

Grandparents are an essential part of children's lives but this is often not recognised when families separate. The government proposes to give greater recognition of the role of grandparents ...

It goes on. The initiative also outlined:

The government also proposes additional legal aid resources in recognition of the increased demand as a result of more grandparents exercising their rights.

I could not find any grandparent legal aid budget initiative. Is there one?

Ms Leigh—This comes under output 1.1. I am happy to assist you with this.

Senator LUDWIG—I wrote down 1.7.

Ms Leigh—Legal aid is under 1.7 but I can draw your attention to that particular initiative. You are asking where the money appears. In Budget Paper No. 2 there is a new family law system dispute resolution for grandparents. I took my copy off the internet so I have different page numbering from yours.

Senator LUDWIG—I will write it down. I am certainly not going to doubt your word.

Ms Leigh—It shows \$1.7 million over four years. Legal aid commissions will run mediation and counselling sessions specifically for grandparents who wish to develop arrangements for participation in their children's lives. That is why it goes to legal aid.

Senator LUDWIG—So that will be additional money on top of legal aid money and it will be administered through legal aid as counselling and mediation services.

Ms Leigh—That is correct.

Senator LUDWIG—Thank you very much.

Mr Cornall—It is on pages 96 and 97 of Budget Paper No. 2.

Senator LUDWIG—Thank you. I was obviously looking in the wrong area. With regard to legal aid more generally then, the triennial funding agreement for legal aid has now been completed for this financial year. When was that finally agreed?

Dr Popple—Would you like the dates on which the agreements were finalised with each state and territory? Is that what you meant?

Senator LUDWIG—Yes, if you can.

Dr Popple—New South Wales was finalised on 29 March, Queensland on 7 March, Victoria on 19 April, Western Australia and South Australia on 4 April, Tasmania on 5 April, the ACT on 4 April and the Northern Territory on 23 March.

Senator LUDWIG—When was it due for completion?

Dr Popple—The previous agreement nominally expired at the end of the last financial year and the agreements, once signed, have effect from 1 July 2004. So the funding has been provided on that basis. The funding has been backdated, effectively.

Senator LUDWIG—What was the major cause of the delay then?

Dr Popple—Perhaps I can give you a chronology. That might assist.

Mr Griffiths—I think the chronology that Dr Popple is referring to is that the Attorney-General's initial letter to each state and territory to open negotiations on the new legal aid agreements was sent on 25 March 2004. The Commonwealth Attorney wrote again on 12 May 2004 following the 2004 budget to communicate the funding offers to each state and territory. Subsequently, the department commenced negotiations with National Legal Aid to reach agreement on the core or template legal aid agreement. There were a couple of issues in that agreement that involved a disproportionate amount of time, the main one being the intellectual property clause. National Legal Aid advised us in February 2005 that they were now satisfied with the intellectual property clause and hence with the template agreement.

Subsequently we commenced bilateral negotiations with each of the commissions, which resulted in the agreements actually being agreed and signed, according to the timetable that Dr Popple mentioned, between March and April this year.

Senator LUDWIG—So one of the major changes to the agreement itself was on the intellectual property issue?

Mr Griffiths—That was certainly one of them. There were a number of changes and improvements to the agreements. Other changes dealt with, for example, the amount of reserves that a commission could carry from time to time; how Commonwealth funds were calculated and attributed under the new agreements; and, as I said, the intellectual property clause.

Senator LUDWIG—What was the effect of the intellectual property clause?

Mr Griffiths—It set out the ground rules for the understanding between the Commonwealth and each state and territory about the entitlement to use material that had been brought into existence using Commonwealth funds.

Senator LUDWIG—Was that a disputed clause between the states or a difficult clause to get through the legal branch?

Mr Griffiths—When you say 'disputed', certainly it took some time to reach a formulation, both in terms of the core principles and the actual wording, that could be agreed between ourselves and NLA. Some of the difficulties are fairly readily apparent, I think—for example, how you can determine what material is brought into existence with Commonwealth money and then, once you have some certainty or precision about that material, what the respective rights will be in terms of the usage of that material.

Senator LUDWIG—Do you mean, for example, reports, publications and the like, or would it stretch more broader?

Mr Griffiths—I guess the most common example would be materials that a commission might bring into existence relating to, say, family law which would be created with Commonwealth funds. We might want to make that material available to, for example, Indigenous legal aid services or to community legal centres. We wanted to have some certainty about our ability to do that, notwithstanding that the document had been created by a state legal aid commission but with Commonwealth money.

Senator LUDWIG—Were the guidelines themselves changed?

Mr Griffiths—Yes.

Senator LUDWIG—Is there a document that outlines the places where they have changed? I take it that the current guidelines are available.

Mr Griffiths—Certainly the current guidelines are. I assume we would have a working document on one of our files that would track the changes, but I do not think there is any public document that is available that shows the changes from the previous guidelines to the current guidelines.

Mr Govey—We could provide you with the details of the changes.

Senator LUDWIG—I am not interested in all the small changes. I am talking about the substantive changes in the guidelines and how they will operate over the ensuing three years. There has been no change in the funding guidelines—or is that being modified?

Dr Popple—The model that was used this time is different to that which was used in previous agreements, yes.

Senator LUDWIG—Is there a short version of how that now operates?

Dr Popple—I could give you one now.

Mr Griffiths—I am not sure that I would call it a short version, but there is a report of the review of the legal aid funding model. The legal aid funding model is brought into existence as part of the negotiation of each legal aid agreement so it is particular to that agreement. This is the review of the previous legal aid funding model and it sets out the changes that are proposed. This is a document that all of the commissions obviously have. We could provide you with a copy of that if you would like.

Senator LUDWIG—Yes, thank you. If we have not already received it or asked for it in the past, that would be good. Does that also point the way to which ones were then adopted and incorporated into the new funding model?

Mr Griffiths—No, this document is prepared ahead of the new model coming into existence.

Senator LUDWIG—As I understand it, you had a review of the old model and it then proposed certain changes. You then had the new model argued about and then finalised which would not necessarily have incorporated all the proposals out of the review of the last. I am assuming the latter.

Mr Griffiths—There was of course a model that was prepared for the purposes of the review. It was a process over a period of time and this document discusses the new features of the proposed model. This report was provided to National Legal Aid in June 2004. So I think this will be quite a self-contained document in terms of explaining the differences between the model used for the current agreement and that which was used for the preceding agreement.

Senator LUDWIG—That would be helpful, if there were significant changes to the new model as well. Has any work been done—we have canvassed this in the past—on that demand unmet by legal aid and the current demand and what has been done in terms of that data collection to establish what unmet demand exists?

Dr Pople—You are right: it was canvassed this time last year, and at that time Mr Cornall pointed out that the department's view is that there is not necessarily any great value in pursuing that, on the basis that there is really no meaningful answer to the question of unmet demand. You would also be aware that it is a recommendation of the report into legal aid and access to justice that the government has not yet responded to. But the department has not done any further work on it for that reason.

Senator LUDWIG—For the reasons that Mr Cornall gave last time.

Dr Pople—Yes.

Senator LUDWIG—I guess this is the same question again. I am still not satisfied, in truth. How do you work out, or is it just a guesstimate, what you propose as a way of funding legal aid as distinct from the utilisation of the service? If you were in business, you would want to know the size of your market and what your likely expansion is going to be—those sorts of issues. I understand that that does not translate directly to this area, but the concept of trying to work out whether you are funding it above or below the demand would seem to be a relevant issue, to me anyway.

Dr Pople—Perhaps I could tell you how we applied the new model to the previous funding agreements to come up with new amounts with this one. That might assist. We basically took as our starting point the previous funding arrangements and we added to that, for example, larger amounts of money for New South Wales, Victoria, South Australia, Tasmania and the ACT on the basis that—I will start again. When we applied the new model to the existing money, we found that some of those states would actually have received a lesser amount under the new model than they were receiving, so we upped those to at least the amount they previously received. Then we applied a number of additions to take into account the new initiatives. For example, there were the cost of implementing the revised guidelines and the new priorities within the agreement; some new initiatives relating to primary dispute resolution; some more money in order to make sure that all states are able to pay private practitioners at a certain rate, in this case \$120 per hour, where previously some of those states were not able to do so; in relation to almost all the states, an amount to bring the amounts to be paid in relation to veterans' matters up to a certain amount; and also some money for the family law duty lawyer service.

The reason for telling you all that is that we start where we are and work out what extra services need to be provided within the new funding model approach and come up with the final result. It is still a way of distributing the amount of money that is available we think as

equitably as possible, but also to take into account new initiatives that we think will be best delivered by the commissions.

Senator LUDWIG—Can I put it this way: do you work out a sum of money and then distribute it?

Dr Popple—Sorry, Senator?

Senator LUDWIG—Is it a mechanism where, having determined the amount of money, you then work out an equitable way of distributing it; or is it a way of deciding as a policy initiative how much legal aid assistance is generally needed or required and then planning the budget for that?

Dr Popple—It is both. We start with an amount of money and work out how best to distribute it, but we also come up with some new initiatives, cost those and distribute those accordingly as well.

Senator LUDWIG—So how do you plan for the amount of legal aid? How do you say with any degree of confidence that you are meeting the market or you are meeting the demand? I know we have had this before, but it escapes me as to—

Mr Cornall—Part of the work that was done on deciding how to allocate the funds between different commissions included some demographic work about family break-ups, people who are applying for child support assistance and that sort of thing, as I understand it. So some of the work that was done was based on demography—where there were indicators in government statistics of people having particular needs.

Senator LUDWIG—So you use those demographic statistics to work out what the general need is and then work back from there as to the cost delivery?

Mr Cornall—It is relative in the sense that there is a limited amount of money that we have available. It has been significantly increased over the last few years by the government. We have used this demographic breakdown and these other indicators to work out how to fairly allocate it. We have also had regard to the financial outcomes achieved by the various legal aid commissions and, if they have had surpluses, we have taken into account how those surpluses can best be spent and so forth. Ultimately, it has often been said that the legal profession will provide as much legal aid as the government is prepared to pay for. That is, I think, to some extent still true today.

Senator LUDWIG—Is there any additional funding for the community legal service program?

Dr Popple—There is no additional funding apart from the indexation that applies. There is no new measure that affects the CLCs.

Senator LUDWIG—Has there been any current research as to the need for the community legal services or any data produced on the demand for free legal services?

Dr Popple—There is currently a review, as you may be aware, of the provision of community legal services within New South Wales. There have been reviews of other states as well which look at those sorts of questions, but it has been focused in this case on that state.

Senator LUDWIG—Have any been initiated by the Commonwealth?

Dr Popple—The Commonwealth is involved in that review.

Senator LUDWIG—Which review is that?

Dr Popple—As I said, it is a review of the provision of community legal services within New South Wales. It is one which was commenced in August last year. We anticipate completion in June this year.

Senator LUDWIG—And will that be made public?

Dr Popple—That might be a matter for government once it is completed.

CHAIR—For the federal government or the New South Wales state government?

Dr Popple—It would be both, because the New South Wales government and the federal government are both involved. The Legal Aid Commission of New South Wales is also on the review steering committee, as are representatives of the stakeholder organisations.

Senator LUDWIG—Does anyone have veto rights if one party says no?

Dr Popple—I do not know about that—no.

Senator LUDWIG—It obviously arises if the state puts it out and the Commonwealth—

CHAIR—Doesn't want to put it out.

Senator LUDWIG—says no here.

CHAIR—I might take this opportunity to acknowledge that the committee is well blessed with delegations today. We have a visiting delegation in the Main Committee room from the New Zealand parliament—the Justice and Electoral Select Committee. I would like to welcome the delegation, acknowledge the chair, Tim Barnett, and of course thank you, Mr Barnett, and your colleagues for the hospitality you showed our committee on a recent visit to your parliament. We hope you were able to tear yourself away from the House of Representatives question time proceedings to join us here. You will find the Senate estimates committee process a far more dignified one.

Senator LUDWIG—Oh, let me play up!

CHAIR—Indeed. Don't change the habits of a lifetime, Senator Ludwig. Thank you very much. Enjoy your visit.

Senator LUDWIG—I would like to associate myself with those remarks.

Dr Popple—I point out that the previous reviews—for example, the Western Australian one most recently—were made public. We have no reason to think this one would not be made public as well, but we obviously should not prejudge the decision of this government or of the state government.

Senator LUDWIG—We will await the outcome of that. When is that due out?

Dr Popple—We are hoping at the end of June this year.

Senator LUDWIG—That is not that far away. If that proposes additional funding and there is nothing allocated for it in the budget, what will we do?

Dr Popple—There is always the option of other budget processes, but there is no additional funding within the system at the moment. The review is also looking at the best

way to spend the money that is available, in this case in New South Wales, across the whole sector.

Senator LUDWIG—The electronic data collection system that was rolled out in 2003-04, which I think was mentioned in the annual report on page 53, has obviously been going on since that time.

Dr Popple—Are you still talking about the community legal services?

Senator LUDWIG—Yes. Is the electronic data collection system now for all the community legal centres?

Dr Popple—The system has been rolled out to all centres. There is a new version which was rolled out to nearly all centres quite recently. Certainly the centres have had that since February 2004.

Senator LUDWIG—Are all the community legal centres now operating on at least the first version?

Dr Popple—Yes.

Senator LUDWIG—Why was there a need for the second version roll-out?

Dr Popple—It was an upgrade. We took on board a number of suggestions, particularly from the CLCs, about how better it could serve them and what they needed it to do, and we did that.

Senator LUDWIG—Is the data collected in a summary form? Is it deidentified material?

Dr Popple—When it comes to the central repository, if you like, when it comes to us, it is deidentified. The centres can use it more as a case management tool and to perform other functions for them. In fact, the information is consolidated as well as deidentified.

Senator LUDWIG—Is that material or summary of the data available to the committee?

Dr Popple—I will have to take that on notice. I do not know whether we have done that before.

Senator LUDWIG—It should be if we have established that it is deidentified.

Dr Popple—I think that should be okay. After all, the National Association of Community Legal Centres has access to some of that information. I cannot imagine any problem. What sort of data would you want from that?

Senator LUDWIG—I hesitate to say. What do you have?

Dr Popple—I would have to take that on notice as well. Basically the community legal centres record a little bit of information about what they do for people who come in their door or ring them—whether they refer them or provide other assistance. We would be able to provide consolidated information about some of that data. But there are an awful lot of ways of presenting that data. I think 20 or 30 different reports are in use just within the national association and within the CLCs.

Senator LUDWIG—Can you provide a summary of the different reports that are available and then, if the committee is minded to have a look at some of those, we can subsequently ask for those, if that suits, Mr Cornall.

Dr Popple—We can do that.

Senator LUDWIG—It might be a way of ensuring we do not get flooded with paper warfare.

Dr Popple—We will give you a summary of the reports that we have access to, if you like.

Senator LUDWIG—Yes.

Dr Popple—There are some reports which the centres have access to and we do not.

Senator LUDWIG—Can you list those so at least I know which ones you do not have access to and then list who does have access to them?

Dr Popple—We can do that.

Senator LUDWIG—Is that separate again from any quality assurance or does that also form part of the quality assurance?

Dr Popple—It forms part of our quality assurance. It becomes part of the monthly reporting that the centres have to provide to us or the relevant state coordinator.

Senator LUDWIG—Who has access to that sort of information? It is obviously collected and collated by the CLCs and then forwarded to you as one of the points of receipt.

CHAIR—Did you say the national association has the information?

Dr Popple—The national association has access to some of it. In all the states there is a state program manager. In the Northern Territory and the ACT we are the state program manager. So that information goes to them because of course some of the centres also receive funding from their respective states and they have an interest in that information as well.

Senator LUDWIG—So the states would then obtain it. Who else is in the loop?

Dr Popple—That is all I am aware of in the loop, apart from the centres themselves, the national association, the state program manager and us.

Senator LUDWIG—Has any consideration been given as to how the CLCs will interact with the proposed family relationship centres?

Dr Popple—I will pass that question to Ms Pidgeon.

Ms Pidgeon—Certainly we would accept community legal services to be an important part of the relationship that the family relationship centres have with other services in the area, including government and non-government services. We would expect there to be referrals both ways—from community legal services to the family relationship centres and vice versa—depending on people's needs.

Senator LUDWIG—Would you be expecting what could be called a close working relationship between the family relationship centres and community legal services?

Ms Pidgeon—That is certainly what we would be expecting and encouraging.

Senator LUDWIG—As part of the national advice line that you mentioned earlier, would you expect that there would also be referrals to the community legal services program or the various local CLCs?

Ms Pidgeon—The information you could obtain from that would include your local CLC, yes.

Senator LUDWIG—So there will be both referrals from the centres and referrals from the advice line to CLCs?

Ms Pidgeon—We would expect so, yes.

Senator LUDWIG—Do you have any expectation of how many there would be?

Ms Pidgeon—I do not think we have any way of predicting that. Bearing in mind that the family law hotline and family law online already provide referrals to CLCs, there may not be any more than currently exist or there may be an increase. We have no way of knowing at this stage.

Senator LUDWIG—You would expect, though, that there would be an increase in the number of referrals once you set up the centres and they become places where people go and receive—in my words—three hours of mediation that might result in a requirement to obtain further legal advice.

Ms Pidgeon—Certainly we would expect some referrals, but whether that will include people who would not otherwise have found a way to a centre through another way we do not know. It may not be an increase; it may just be a different point of referral. We do not know at this stage. We will have to wait and monitor what happens.

Senator LUDWIG—Have you liaised with the community legal services area about the expectation of what is going to happen to the family relationship centres and what might be the impact on the community legal services area?

Ms Pidgeon—For most of the time that we were developing the policy for the family relationship centres, I was responsible for both areas, so I was able to bring those two areas together.

Senator LUDWIG—I come back to you then, Dr Popple. Has any room been allowed for a possible increase in referrals from family relationship centres to community legal centres once the family relationship centres are up and running? It seems to me that there is at least a likelihood of an increased demand for community legal services emanating from the family relationship centres, but there is no additional budget funding for it.

Dr Popple—As Ms Pidgeon says, we do not yet know whether there will be an increase. It is possible, and we at least have the systems in place to measure it and be aware of it, if and when it happens. So we will have to address that then, I think.

Senator LUDWIG—When you say that you have got systems in place to measure that, does that include monitoring the data to see whether there has been an increase in community legal service contact?

Dr Popple—I am suggesting that if there were to be, as you suggest, any increase in referrals—

Senator LUDWIG—It is a theoretical possibility—

Dr Popple—that would show up in our monthly reports and we would be in a position to know that. The sector will also no doubt advise us that that is the case, if that happens.

Senator LUDWIG—If there is an increase, where will the money come from?

Dr Popple—That would be a matter for the government to consider in its next budget process, I think. Certainly, as you pointed out, there is nothing within the current CLC program to address that.

Senator LUDWIG—It is starting to get into the area of policy. Minister, why wouldn't you have contingency money available just in case there is an increase in community legal services, given that you are going to start rolling out community legal centres with an advice line which will refer work to the community legal services?

Senator Ellison—It depends on the work that community legal services do and the outcome of that work—for instance, cutting down disputes. I think that is something which remains to be seen. It is really the outcome of the success of their efforts, if you like, and that could bring about different results.

Senator LUDWIG—Has any consideration been given to expanding the community legal services area in outer urban or regional areas?

Senator Ellison—That is one of the issues that may well come out of the New South Wales review. Some of the previous reviews have looked at different areas within a particular state that might require different levels of services. So the answer is yes, on a state-by-state basis.

Senator LUDWIG—Has any work been done in Queensland?

Dr Popple—We think not since 1996.

Mr Cornall—I would like to add to what the minister said. The aim of these new programs is to reduce disputes between separating couples and to reduce the need for court resolution of those disputes. This in turn should reduce the burden on the legal aid commissions, which is where the bulk of the work would go because the nature of the work would be, for many CLCs, beyond their capacity to deal with on an ongoing basis. The whole purpose of the family relationship centre is to reduce the disputation and, therefore, it should have some beneficial effect to legal aid commissions.

Senator LUDWIG—It is fair to say that one indicia of whether the introduction of the family relationship centres are working is that there is a reduction in the need for community legal services in that client area?

Mr Cornall—I am not entirely sure how much work the CLCs do in terms of disputed arguments between parents about children or whether, because of the time-consuming nature of those disputes, they are more handled by the legal aid commissions, who have more adequate funding for those purposes. But, certainly, the whole purpose of the family relationship centre is to reduce the amount of dispute about how the children will be treated in a family that is separating and hopefully to move people away from courts and more into mediated solutions.

Senator LUDWIG—Are the regional law hotline and the family law hotline within this area? I take it that is a yes.

CHAIR—Or a not sure.

Dr Popple—Just while Ms Leigh finds her papers, in relation to your previous question about the CLC program and perhaps some of the earlier questions you asked about that, the Attorney-General has asked the department to look at some preliminary work on options for enhancing the program. That could be considered by government no doubt with other important priorities in the 2006 budget process.

Senator LUDWIG—That is enhancing the Community Legal Services Program.

Dr Popple—To address some of the issues that you raised in your last few questions, yes.

Senator LUDWIG—In what format has that been requested?

Dr Popple—The Attorney has asked us to look at that. He has also announced that he will raise that in other forums as well.

Senator LUDWIG—Which announcement was that?

Dr Popple—Sorry, it was not an announcement. I am not saying he has actually—

Senator LUDWIG—I just cannot recall it. I am fallible.

Dr Popple—It was not an announcement. He has certainly told us and other people that he would like that to happen, so we are doing that.

Senator LUDWIG—What exactly is that work?

Dr Popple—That is work that we are doing regarding other options that the government might like to consider in its framing of the next budget.

Senator LUDWIG—What could that include? Can you put something concrete to me by way of an example?

Dr Popple—You raised, for example, the question of whether or not there is sufficient community legal service representation in rural and remote areas. That could be achieved, within the current framework, only by reducing the services available elsewhere. There might be ways to achieve that other than that. Whether services are most efficiently being provided in those areas. It is questions like that, Senator.

Senator LUDWIG—Thank you. That is helpful.

CHAIR—So do we agree that is, in fact, in the right section, Ms Leigh.

Ms Leigh—It is in output 1.1.

Senator LUDWIG—That is on regional law hotline and family law hotline.

Ms Leigh—That is correct.

Senator LUDWIG—Ms Leigh, in previous estimates we have asked a series of questions in relation to that hotline and you have been helpful in providing a breakdown of that material by an updated version. I do not need to ask any more, do I? You have probably got it there for me.

Ms Leigh—Yes, we have the usual statistics ready for you.

Senator LUDWIG—The other one was the unanswered calls. Do you have those as well?

Ms Leigh—Unanswered calls?

Senator LUDWIG—Yes. I thought up a new one.

Ms Pidgeon—I do not believe we have unanswered calls. We do answer all the calls.

Senator LUDWIG—I have had that experience in another department, Minister, that you look after. But now it has been rectified and I can say that it is quite good now in that other area.

Senator Ellison—Other departments have those sorts of problems, but not this one.

Senator LUDWIG—Do you have information on how long people wait?

Ms Pidgeon—We have a very high standard—which is why we do not have unanswered calls, I believe—for waiting. Are we talking about the family law hotline or just the regional hotline?

Senator LUDWIG—They are the same questions, effectively. I was just checking. There are only two areas in this other section of justice that I looked at. It begged further questions.

Ms Leigh—The MOU provides for a service level that requires 80 per cent of calls to be answered within 30 seconds.

Senator LUDWIG—And then the next line? Eighty per cent within 30 seconds and then the remaining 20 per cent when?

Ms Pidgeon—The standard just refers to the 80 per cent within 30 seconds. That is such a short duration that anything else would be answered very quickly after that.

Senator LUDWIG—But there is nothing here to give it any weight, so if they take two hours it does not matter—is that right?

Ms Pidgeon—They are not going to be able to answer 80 per cent in 30 seconds if they take very long to answer the remaining calls. They would not meet the 80 per cent. They would need to staff it to meet at least 80 per cent, which means that all calls get answered very quickly.

Senator LUDWIG—So you assume.

Ms Pidgeon—We would be satisfied, from the statistics that we get, that that is the case. But the standard is simply 80 per cent within 30 seconds.

Senator LUDWIG—Are there any user satisfaction surveys undertaken?

Ms Pidgeon—We do not have user satisfaction surveys as such. But, at the end of each call, people are asked a question similar to one you would ask in such a survey.

Senator LUDWIG—That is all I had in that area, unless I have again got the wrong output.

CHAIR—In that area or in 1.7 completely?

Senator LUDWIG—I wanted to deal with some privacy issues, the ANAO report and the data and workflow grants system.

CHAIR—I thought privacy was elsewhere.

Ms Leigh—Privacy is in 1.3, but which ANAO report? I might be able to help you with that while I am here.

Senator LUDWIG—Sorry, I must have confused that last group.

CHAIR—We resolved that pro bono was in output 1.7 and we agreed that privacy was in output 1.3.

Senator LUDWIG—I thought we had moved privacy to output 1.7. Sorry, that was my mistake. The ANAO report is the one on freedom of information reporting.

CHAIR—Dr Popple, do you want to say something about that?

Ms Leigh—No, that would be in output 1.3 as well.

Dr Popple—The data on workflow comes under my output so perhaps I can help you there.

CHAIR—So that is correct?

Dr Popple—Yes, that is correct—if you are talking about the system that we use for the monitoring of financial assistance.

CHAIR—It is like playing bingo really, isn't it? You just have to get your numbers in a line.

Senator LUDWIG—KAZ Technology Services was an area covered by that data and workflow grant system. They provide the service?

Dr Popple—They built the system for us.

Senator LUDWIG—Yes, and \$330,000 was paid to KAZ technologies. I think that agreement is due to expire in December.

Dr Popple—There is a general agreement that the department has in relation to information technology generally. In relation to the development of this system, I do not believe we have any further involvement with KAZ about that. I think you are referring to the answer that we gave to a previous question on notice.

Senator LUDWIG—Yes.

Dr Popple—That is a department-wide arrangement.

Senator LUDWIG—So who looks after that output?

Dr Popple—Mr Fry.

Senator LUDWIG—My question is a general follow-up to your last answer. The general agreement with KAZ Technology Services is due to expire in December. Has work commenced now on a replacement for that? Is it going out to tender or is there an option to renew that?

Mr Fry—We do have an option in the contract to extend. We are in the process of preparing for the eventuality that we might go to market so we are keeping our options open. We are taking legal advice on the impact of the free trade agreement on whether we are able to go out to market or to extend the contract depending on our review of the contract. One of my branches has a review of the contract in progress now.

Senator LUDWIG—How will the US free trade agreement impact upon it?

Mr Fry—We have an obligation to make any offers that we make available to the market. The question is whether in this particular agreement the extension within the contract is enough or not—so whether we can extend it or whether we actually have to go to market. That is something we are looking at.

Senator LUDWIG—Because it was limited in the first round?

Mr Fry—Yes, that is correct.

Senator LUDWIG—When will that decision be made? Are you receiving legal advice at the moment on that?

Mr Fry—Yes, I would expect we would make the decision by around August.

Senator LUDWIG—So is it fair to say that you are awaiting advice as to whether or not you can renew the option and if that advice is negative then you will have to go to tender?

Mr Fry—That is true, but we are not just waiting; we are also reviewing the contract performance internally because we obviously will make that decision depending on the contract performance.

Senator LUDWIG—Yes, and if you do not have to go to the market, because it does not offend the free trade agreement, then you have two options available which you can assess: (1) whether you should renew; and (2) whether you should go to an open, competitive tender again.

Mr Fry—That is quite correct, yes.

Senator LUDWIG—Should I pose questions to the department about HREOC here.

CHAIR—If you are dealing with human rights, I think that area is covered by output 1.3.

Senator LUDWIG—I think I mentioned earlier those issues relating to disability discrimination and the access to premises. Are they covered by output 1.3?

Ms Lynch—Yes.

Senator LUDWIG—And the Human Rights and Equal Opportunity Commission departmental questions are in 1.3. We will have a record of this in the future now that I have mentioned that on transcript. Let us deal with the disability discrimination legislation to do with access to premises. Whereabouts are we up to with that standard?

Ms Lynch—Since the last estimates there have been two further meetings of the Building Access Policy Committee. The chair of that committee has now, I understand, written to the Australian Building Codes Board with the work of the committee, and the Australian Building Codes Board will now need to make its recommendations to ministers about how to proceed from here.

Senator LUDWIG—Has that been finalised in terms of the standard or are we stuck?

Ms Lynch—The standard is still in draft form, but the Australian Building Codes Board will now need to provide advice to the Attorney and the minister for industry on what matters should be included in the disability standard and the building codes. It was intended in the exercise that they would mirror each other. I understand the next meeting of the Building Codes Board is on 26 May.

Senator LUDWIG—Has the position changed from where we were last with it?

Ms Lynch—The position has changed to the extent that the Building Access Policy Committee has now finalised its work and the chair has now prepared a report of that committee's work to go to the Building Codes Board and they will be the group that makes recommendations to ministers on the standard.

Senator LUDWIG—Is that report—that is heading, or has gone, to the Australian Building Codes Board—available for the committee?

Ms Lynch—I do not have a copy myself as yet. It went sometime last week. That will be something that will then be used by the Building Codes Board to inform its decision-making processes to government. I would have to take it on notice.

Senator LUDWIG—I am happy for you to take that on notice. It will be at least post their consideration when we see the standard up and running?

Ms Lynch—Yes. The Building Codes Board will make recommendations to ministers, but the actual making of the standards will be a matter for the Attorney-General.

Senator LUDWIG—Yes, and the Attorney-General, if I am right, will wait for advice from the Building Codes Board to determine—

Ms Lynch—That is correct.

Senator LUDWIG—when the standards will be ready to go. Are there currently any sticking points? The last time I think we were stuck on who it would apply to, the height, and some of those areas. Are there still the same issues?

Ms Lynch—I am loath to pre-empt what might be decided by the Building Codes Board, which is the stage it is now at, but there were some issues where the Building Access Policy Committee had some differences of opinion or view that were not resolved in the access policy committee stage. Those matters will be noted, I understand, in the report that goes to the Building Codes Board.

Senator LUDWIG—Did your department have any input into the Building Codes Board's cost-benefit analysis for the draft regulatory impact statement that they produced last year?

Ms Lynch—I will just check with my colleagues. I am told that we had some input through the Building Advisory Policy Committee but the contract itself for the cost-benefit analysis was let by the Building Codes Board. So we had some indirect input into it through the policy committee.

Senator LUDWIG—The other way of framing it is: does the government have any view on the idea that there should be a blanket exception of two- or three-storey buildings from the requirement to install lifts?

Ms Lynch—I understand one of the areas where the policy committee had not been able to reach agreement was on the issue of access to upper floors of small buildings. That is a matter now before the Building Codes Board to consider to provide advice to government.

Senator LUDWIG—Does the Attorney-General's Department have a view?

Ms Lynch—I think that might be a matter where it would be inappropriate for us to try to pre-empt the recommendations that the Building Codes Board will make to government and ministers in due course. The recommendation will come from the board. There will of course first be consultation within the departments who will provide advice to ministers, but at this stage I think I might be pre-empting further work to be done by the body that has been tasked with providing the advice to government in the first instance.

Senator LUDWIG—All right. If we go back to HREOC's advisory note on access to premises—HREOC's advice on access to premises—was any work done by your department about how many buildings might be affected by that note?

Ms Lynch—I might ask my colleague Mr Minogue to help with that question. He has the corporate memory.

Mr Minogue—When you say 'HREOC's advisory note'—

Senator LUDWIG—On access to premises.

Mr Minogue—When was that published? I am not sure that I have the same recollection of the document.

Senator LUDWIG—I will have to come back to that. I do not have the actual primary source; I only have that HREOC provide advice on access to premises.

Mr Minogue—They do. They are also a technical adviser to the Building Access Policy Committee. The way that committee works has been on an ongoing basis, with some 38 meetings over the last several years.

Senator LUDWIG—The note I have goes back to 1997. It is on their web site.

Mr Minogue—I am not familiar with that particular thing.

CHAIR—But they will be here tomorrow.

Mr Minogue—Yes, the commission will be.

Senator LUDWIG—Yes. I thought I would follow it up then as well. We can then identify what their advisory note was. But we are effectively looking at whether or not the department has undertaken any work as to how many buildings might be affected as a consequence. That will obviously mean one of two things. If you have not seen the note then there may not be any work done. Alternatively, you may not have done any work in any event, irrespective of the note.

Mr Minogue—Or, in fact, it might mean that the world had moved on since 1997 in the context of the consideration of the development of the standard within the Building Access Policy Committee, which is a creature of the Building Codes Board, as Ms Lynch said. In terms of which buildings it would apply to, generally it is all public buildings. The proposal in the draft standard that was released in late 2003 had various measures as to how it would apply to existing buildings, new work in existing buildings or new buildings and the different applications for each of those. Is that the sort of material you are interested in?

Senator LUDWIG—Yes. So the position we have then arrived at is where it is now with the Building Codes Board. We will have to wait for their deliberation. The department has not undertaken any additional work in, say, the last three years about this issue.

Mr Minogue—Except as part of that process.

Senator LUDWIG—Part of the input into that process.

Mr Minogue—Yes.

Senator LUDWIG—Regarding the input into the process, you were going to check on whether or not the report we identified earlier was available.

Mr Minogue—If I can add something to what Ms Lynch said, our advice from the Building Codes Board is that Mr Garry Fielding, who is the chair of the Building Access Policy Committee, will actually be reporting in person at the Australian Building Codes Board meeting on 26 May. I am not sure whether he has prepared a written report or not. Could we take that on notice. If he has done a written report, we would take on notice whether that was available. He certainly will be attending the Building Codes Board meeting this week and reporting to that meeting on the deliberations of the Building Access Policy Committee.

Senator LUDWIG—I have their web site. The web link is www.hreoc.gov.au/disability_rights/standards/access_2_premises/premises_advisory.html.

CHAIR—We get the drift, Senator Ludwig.

Mr Minogue—That was ‘w’ something, wasn’t it?

Senator LUDWIG—I can confidently say it quickly because it will appear in the transcript. You can obtain that web site later and my following question will then make sense.

CHAIR—You hope!

Senator LUDWIG—Yes, I do. If you could have a look at that and at least tie in where that is now at from your perspective. It provides advisory notes on access to premises—that was at June 1997 and amended in March 1998 and then there was a further update in 1999. There has been significant work done by the disability rights part of HREOC in this area. I am trying to establish what work the department has done to complement it and to progress the standards.

CHAIR—I am sure HREOC are hanging off our every word today as well, so they will be able to update us tomorrow. Mr Minogue, did you want to add something?

Mr Minogue—I want to reiterate that the work the department has done is through the Building Access Policy Committee. It has been a reasonably intensive commitment of time and resources, not just for the department but for all the members of that committee.

Senator LUDWIG—Are there no additional budget measures for HREOC, or have I missed that?

Ms Lynch—There are no additional budget measures for HREOC.

Senator LUDWIG—There has been no significant increases in funding since they were, in my words, ‘dramatically cut’ 2000-01?

Ms Lynch—That is right. The commission has been receiving indexation but has not had new funding.

Senator LUDWIG—It has only been indexed since the cutback in 2001.

Ms Lynch—I would have to check that particular date, but, yes, this year the appropriation for HREOC for 2005-06 is \$12.093 million, which is an increase from the appropriation of \$11.9 million in 2004-05.

Senator LUDWIG—Yes, that is indexation.

Ms Lynch—That is indexation less efficiency dividend.

Senator LUDWIG—It has been some time, but have you undertaken any work to ascertain whether HREOC are now completing all their areas? In other words, have you instituted any work to examine how they are coping with indexed funding since they were cut back in 2000-01 and there have been no additional budgetary measures?

Ms Lynch—It would be fair to say that we have had discussions with HREOC about their funding position and the work they are doing.

Senator LUDWIG—What have they said?

Ms Lynch—I think their paper notes that they will be in a viable position again by the 2005-06 financial year. I think there is a reference to that in the papers. We have had discussions with them about funding issues. As a separate statutory agency, how they manage their funding is a matter within their appropriations and is a matter for them.

Senator LUDWIG—I appreciate that and I will ask them about it tomorrow. I want to know what they have said to you about the requirements for additional funding, whether you have commissioned any work to assess whether they require any additional funding and whether you have looked at any reports or available material to determine whether there is a requirement.

Ms Lynch—We have not commissioned any specific work to look at that.

Senator LUDWIG—Externally or internally?

Ms Lynch—No.

Mr Cornall—Ms Temby raised with me during the course of last year the fact the commission would happily receive further funding if any were available. That matter was considered in the course of the portfolio budget submissions, but it was not a matter that was taken forward.

Senator LUDWIG—Have HREOC advised the department whether they have had to cut any programs or reduce staff numbers or services as a consequence of the present funding arrangement?

Mr Cornall—My discussions with Ms Temby were of a broad and general nature, not specific to detail.

Senator LUDWIG—Have they communicated any of that to the department, though?

Ms Lynch—HREOC wrote to the Attorney-General last week, in a letter dated 12 May, talking about its funding position in light of the operating loss that is noted in the budget statement. So a letter went to the Attorney last week setting out what the commission would be doing to bring itself back within budget.

Senator LUDWIG—Is that letter available today?

Ms Lynch—I would have to take that on notice.

Senator LUDWIG—Can you check and get back to me after tea as to the availability of the decision; and, if it is available, can you provide it after tea?

Ms Lynch—Yes, I will check.

Senator LUDWIG—What were the main points in the letter?

Ms Lynch—I will take that on notice as well.

Senator LUDWIG—Is there a problem with producing it?

Mr Cornall—It is a letter from the organisation to the Attorney-General, and I think the Attorney-General should determine the extent to which we make it available.

Senator LUDWIG—That is not the case for all correspondence that goes between departments and agencies.

Mr Cornall—No, but it is not between the department and the agency; it is from the agency to the Attorney-General.

Senator LUDWIG—It still would not be the case, I suspect, that correspondence with the Attorney-General was not available to the committee.

Senator Ellison—It is akin to advice to the minister in some form.

Senator LUDWIG—I am not sure I agree, Minister, but I am happy to be persuaded.

Senator Ellison—It is communication between an agency and the minister. Much like the department advising the minister or like the AFP writing to me on a matter, that type of communication is not normally provided. But we will have a look at it and see what we can do.

Senator LUDWIG—I might come back to it after tea then. Is it the intention to keep the position of Disability Discrimination Commissioner as part of Commissioner Ozdowski's work, or is that going to change? I think we have had this sort of general discussion before. You have got unfilled positions—at least, in my words; is that going to continue?

Mr Minogue—Dr Ozdowski's term as Acting Disability Discrimination Commissioner expires in July, I think. Whether another acting commissioner is appointed or Dr Ozdowski is reappointed would be a matter for the government. If it were not Dr Ozdowski—and I certainly have no indication that it would not be him—it would be one of the other commissioners, consistent with the government's policy that there be three people filling commissioner positions. At this stage we certainly have no indication that it would be anyone other than Dr Ozdowski, but because that is a matter determined by the Attorney—

Senator LUDWIG—So the short answer is no decision has been made to date—

Mr Minogue—No.

Senator LUDWIG—and when it is you will advise the committee. That would be helpful.

Mr Minogue—Yes.

Senator LUDWIG—Thank you. The National Pro Bono Resource Centre—no, privacy was 1.3, wasn't it? We have not done privacy yet.

CHAIR—But Ms Lynch is ready for that.

Senator LUDWIG—I am not sure I am. There are two parts to it. There is the ANAO report, which dealt with freedom of information reporting and made certain recommendations—in particular, recommendations 1, 6, 7 and 9. Looking at recommendation 1, are those matters now in hand in the sense that you have a response to the recommendations of that ANAO report No. 57?

Ms Lynch—Is this the FOI audit by the ANAO of six agencies?

Senator LUDWIG—It is numbered 57: does that help?

Ms Lynch—Our brief does not actually have the number—

Senator LUDWIG—Freedom of information reporting.

Ms Lynch—Yes. That is one where they had audited six selected agencies, one of which was AGD. I have some information on that.

Senator LUDWIG—Recommendation 1 talks about what specific measures the Attorney-General's Department has implemented in order to take a more active role in monitoring agency compliance with the FOI Act.

Ms Lynch—I think in the report itself the department had responded saying that we would write to agency heads to advise them of any inherent consistent noncompliance. I understand that work has been done going back through FOI reports looking at statistics and that work is in hand with a view to writing to agencies. But the analysis has been commenced and is under way—

Senator LUDWIG—Sorry, I missed that.

Ms Lynch—Analysis is being done of FOI statistics from the FOI annual reports looking at agencies' compliance and responses.

Senator LUDWIG—So it is in train. Is that a better way of putting it?

Ms Lynch—Yes.

Senator LUDWIG—And the monitoring of the measures and the effectiveness and the implementation—

Ms Lynch—The Attorney-General's Department does not actually have any powers to require or ensure compliance with the FOI Act. We administer it in general policy terms but, other than collection of the FOI statistics, we do not have an enforcement role. I think the department noted that in its response to the recommendation.

Senator LUDWIG—A bit like legal services directions, isn't it? I do not ask for an answer. I might put those on notice. If it is in train, I will not get much more out of it at the moment, unless you have got something to volunteer other than that, which I suspect will be 'no'. It is rhetorical really.

Ms Lynch—There is some work being done on updating of FOI memoranda. There are some references to particular memoranda—that work is being done at the moment on updating memorandum 19, which is the general memorandum, and the next one after that in the forward program is the memorandum relating to fees and charges. In addition, I

understand that memorandum 98, which deals with exemptions, is reviewed annually and that is under way at present.

Senator LUDWIG—But the amended memorandum has not been finalised yet.

Ms Lynch—It has not been released. Memorandum 19, which is the general one, is in draft form. The draft of that one has been prepared but it has not been released yet.

Senator LUDWIG—That was under recommendation 7, I think it was.

Ms Lynch—I was just trying to be helpful. I think recommendation 7 is the one that relates to rights of review. That is a bit further down on the work program.

Senator LUDWIG—That is why I thought I would put those on notice. They have not been completed as yet.

Ms Lynch—No. The next cab off the rank after 19 is the one that relates to fees and charges, which is a specific recommendation and one of the other ANAO matters. I think it is recommendation 6.

Senator LUDWIG—Waiving and remitting application fees and the like. That work has not been finalised yet either.

Ms Lynch—That is the next cab off the rank once the general memorandum is updated.

Mr Cornall—I should say that the general memorandum has been given to me in draft form to look at. It is over 100 pages long and it is quite an undertaking to read it.

Senator LUDWIG—I will not promise to read it if it becomes available to the committee, then. There is only one other more general area. I do not know whether you have seen this but I can provide it to you if you need it. The *Australian Financial Review* on Tuesday, 12 April 2005 had a couple of articles, one article by Rachel Lebihan about the government's, in my words, inability to respond to freedom of information requests because the government denies it on the basis of privacy. I know this is by individual agency so it would be matters for individual departments to look at, but could we look at the Attorney-General's Department—I know it is under corporate services, so I am happy for it to be taken on notice—to see what figures are available as to how many are received and how many are knocked back on privacy grounds or otherwise amended. I would like to have it split between two areas: that area of individuals asking and other individuals asking for information on that basis.

Ms Lynch—That is individuals asking for their own information—

Senator LUDWIG—Yes, and then for others.

Ms Lynch—and individuals asking for information that involves third parties' private information

Senator LUDWIG—Yes.

Ms Lynch—I need to take that one on notice.

Senator LUDWIG—In addition, is the department looking at this issue more broadly or has it decided to do any work in this area to see whether they can improve the process?

Ms Lynch—I would need to take that one on notice as well.

Mr Oliver—We are endeavouring to get some statistics for you by the end of today and, if at all possible, we will give them to the secretary a little later on. He may be able to come back to you on that question.

Senator LUDWIG—Thank you. That would be helpful. I turn now to the National Pro Bono Resource Centre.

Ms Pidgeon—Can I just explain before we start that it is 1.7. It is correctly in 1.7.

Senator LUDWIG—Don't do that to me now!

Ms Pidgeon—I am answering the question because I retained responsibility for this for some time after the restructure. Probably next time Dr Popple will answer the questions on pro bono, but at the moment I will do so.

Senator LUDWIG—Is it fair if I ask you between 1.1 and 1.7? You seem to have turned up a lot on most of these programs.

Ms Pidgeon—Next time it will hopefully be 1.1.

Senator LUDWIG—I apologise for that.

Mr Cornall—Madam Chair, after this session I will write to the secretary with each outcome, each output, each issue under each output and each organisation, committee or relationship that comes under that output which might be helpful for next time.

Senator LUDWIG—That would be helpful.

CHAIR—You did give us some assistance earlier, Mr Cornall, but it was only last week. The committee was well under way in terms of preparation for these estimates hearings long before that, so we are trying to work from our original printed program. I thought we had an agreement that officers would be available as we reached each output—and by and large they have been, so there is not a problem there—but we are working between that printed program and the revised table, which has some errors in it, and is confusing as a result of that as well. We will make our way through it. Any assistance after this period has concluded would be appreciated.

Senator LUDWIG—That does explain part of it. We worked on an old list and then a revised list and then what was supplied to us. Consequently, it was then updated, so it has been shuffled around a fair bit, unfortunately. Some of the revised outputs miss that sort of additional information that you will provide us with, so we thank you for that. The National Pro Bono Resource Centre has a continuation of funding of \$1 million over four years. How will that \$1 million be used? Is it earmarked for more general work or for additional administration of the centre?

Ms Pidgeon—It will go straight to the centre. The department will not use any of that for any other work.

Senator LUDWIG—The centre does not appear at estimates, does it?

Ms Pidgeon—The centre is not a government agency. It has been set up with government seed funding and it continues to have some government funding as in this budget measure but it is not a government agency.

Senator LUDWIG—So questions about the operation of the centre—

Ms Pidgeon—I can answer them as much as we can ever answer a question about a community based organisation.

Senator LUDWIG—So is the money provided on a grants basis?

Ms Pidgeon—It is provided under a funding agreement which is similar to the sorts of funding agreements that we would have for other organisations that the Commonwealth funds.

Senator LUDWIG—Is that agreement available to the committee? Have we asked for that before?

Ms Pidgeon—I am not sure if you have asked. If you did it would have been some time ago.

Senator LUDWIG—Has it been updated or changed? If you have not already provided it it might—

Ms Pidgeon—The original funding agreement is expiring on 30 June, so it will need a new funding agreement in any case which will not be available at this stage. We can take that on notice. Would you be interested in the new one?

Senator LUDWIG—Yes.

Ms Pidgeon—In which case it is not available yet, but we can see whether it can be made available when it is settled.

Senator LUDWIG—That would be helpful, thank you. Is there a breakdown of what you require in that agreement between the funding of the centre itself from its internal revenue and what the Commonwealth provides? Is it on a fifty-fifty shared basis or are there no criteria?

Ms Pidgeon—No, that is not part of this particular funding agreement.

Senator LUDWIG—Is there a requirement to look into any particular research areas as part of the funding agreement?

Ms Pidgeon—It will depend on what is decided for this new funding agreement. I am not aware that there has been any detailed work on it at this stage. The budget decision had to be made first. The detailed work of what will be in the funding agreement will now take place.

Senator LUDWIG—Do you require the centre to look for additional funding areas?

Ms Pidgeon—The Commonwealth does expect the centre to obtain other resources. A lot of that is in kind resources. A lot of legal firms and the University of New South Wales do provide quite a bit of in kind help and assistance to the centre, including things like accommodation, postage, facilities for meetings and so on. They are provided in kind. The centre is certainly also looking for other sources of funding but at this stage, generally speaking, you could say it is all in kind.

Senator LUDWIG—Is there any requirement for them to provide a report to you about their operation?

Ms Pidgeon—They do have reporting requirements under the funding agreement. That will also be set out in the new funding agreement.

Senator LUDWIG—Are those reports available? Are they made public or are they just internal documents?

Ms Pidgeon—They are not made public. We can certainly look at whether they can be made available. Are you interested in—

Senator LUDWIG—Yes, I am. It would be helpful if they could be made available.

Mr Govey—In case you are not aware of it, there is a lot of information about what the centre does on their web site. They also have a newsletter, which they put out regularly.

Senator LUDWIG—I have checked their web site. I am not sure I am on their mailing list—if they can hear me—for their newsletter.

Mr Govey—I am sure they would be only too happy for us to pass that on to them.

Senator LUDWIG—Thank you. It would fall within their area I suspect but how do you gauge the pro bono work done by lawyers? There are two areas that cross my mind. The first is part of the question I have put on notice to the legal services direction: as part of the outsourcing of legal services, do they outsource to places that do pro bono work? Do you keep any statistics on the data done by lawyers for pro bono work?

Ms Pidgeon—Statistics have been available from the Australian Bureau of Statistics in the past. I am not sure that they will continue to collect those statistics. When we last spoke to them, there was a bit of a question mark over continuing to collect those particular statistics. One of the things that the National Pro Bono Resource Centre can do is defer the work in terms of assessing the level of pro bono, particularly if we do not have future Australian Bureau of Statistics sources.

Senator LUDWIG—Is that part of the agreement that you will ask of them?

Ms Pidgeon—It was not specifically part of the existing agreement that is about to expire. We will have to wait until the new one is agreed.

Senator LUDWIG—Is there no work done internally by the department about assessing the amount of pro bono work done by lawyers?

Ms Pidgeon—We do not have the capacity to do that. There was not a need to when the Australian Bureau of Statistics provided that. Every few years they did a survey. As I said, I am not confident that that will be a source of information in the future. I should just clarify that the specific tasks of the Pro Bono Resource Centre under the existing agreement—the one that is almost finished—really did not specify particular areas of work but rather left it to the board to determine that. We then had discussions with them about what their work plans were. We were always very happy with the work that they proposed to do and then did.

Mr Govey—They do consult quite widely with the board and also with the advisory committee or council on which the department is represented. In fact, the department is represented on the advisory body, so we get an opportunity to provide input, but at the end of the day it is a matter for the centre and its governing body to make the decision on the priorities for their work.

Senator LUDWIG—Chair, I have now finished on outputs 1.7 and 1.8.

CHAIR—I am reluctant to say this, but we do not have a 1.8 anymore.

Senator LUDWIG—I know, but I thought I would throw that in.

CHAIR—I am glad you have finished it, given that we do not have it.

Senator LUDWIG—I could have said 1.9 as well.

CHAIR—You could have. You will see, before we go to outcome 2, that we have listed the National Native Title Tribunal. I understand you have Senator Carr's questions in that area.

Senator LUDWIG—I do, and I was going to ask whether you wanted to have a short break before I started that.

CHAIR—If you would like a short break, we can do that.

Senator LUDWIG—I would not mind five minutes.

CHAIR—We will take a short break.

Proceedings suspended from 4.10 pm to 4.19 pm

National Native Title Tribunal

CHAIR—Welcome. You have been very patient. Every time the words 'indigenous' and 'native' have been mentioned I have noticed you running in and out of the room. We are glad to finally reach you.

Senator LUDWIG—I take it you have had an opportunity to look at the native title report of 2004—is that right?

Mr Doepel—Is this Mr Calma's report?

Senator LUDWIG—Yes.

Mr Doepel—We are aware of it, yes. We saw it when it came out.

Senator LUDWIG—Have you seen the commissioner's comments about the operation of native title consultative forums?

Mr Doepel—You will have to refresh my memory.

Senator LUDWIG—Mr Calma stated that, while this forum is a step in the right direction, it has a number of shortcomings, including not giving sufficient weight to Indigenous perspectives, being restricted to those involved in the native title system as it currently exists and focusing on the implementation of the native title system. Does that help?

Mr Doepel—Yes, that does help.

Senator LUDWIG—I can go on. He says:

Nor are there any formal mechanisms for the outcomes or discussions to be fed back to NTRBs

Do you agree with that assessment?

Mr Doepel—I have a procedural response to make first. We are a participant in the forum; we do not convene it. We are there along with a number of other agencies and the Federal Court. In our experience, and we are rigorous attendees, I think it is proving to be a very complete opportunity for the exchange of information. Mr Anderson would be able to

comment more on this as it falls within his division, but the forum's essential terms of reference are about information exchange on the system and assisting in system coordination.

Senator LUDWIG—When you say that you are a participant in that particular forum, what role do you play then?

Mr Doepel—As one of the Commonwealth funded agencies, we attend. The agendas are structured in such a way that there is usually an update from all the participants—that is, the Commonwealth bodies, the industry peak bodies and the Indigenous organisation representatives. It gives an opportunity for organisations to foreshadow changes in their administration and the way they are approaching the handling of native title matters. It provides an opportunity for the institutions to hear if there are any shifts in approach in industry and also an opportunity to hear what is happening around the native title representative body community. It provides a very good opportunity for participants to, basically, keep up to date with what is happening across a number of sectors—because, as you are aware, there is a fairly broad representation these days on the NTCF.

Senator LUDWIG—I want to take a look at the impact of the transfer of the \$5.1 million to the Attorney-General's Department and the change in the native title funding as compared to the forward estimates from 2004-05. It seems to be that the transfer of the \$5.1 million over four years is from the NNTT to the Attorney-General's Department, which is on page 220 of budget paper No. 2. Is that your understanding of how that is going to work or is there an agreement as to how that funding will be transferred?

Mr Doepel—In short, our estimate across the four years of the funding cycle has simply been trimmed by approximately \$1.25 million to \$1.3 million a year.

Senator LUDWIG—How do you intend to absorb that reduction in funding?

Mr Doepel—I think we have to put our funding in context. For the previous two financial years we have actually returned to budget amounts in the order of \$2 million because we have not required the funding. We have been quite up-front about that and it has been identified in our various financial estimate statements. We are also heading to the end of this financial year with a carry forward of some three-quarters of a million dollars. We will do a couple of things. If we need to fund some infrastructure, we will probably use some of our reserves. The other thing is that we are also engaged, as you know, in a range of discretionary activities, particularly around community information and capacity building. We have partnerships and run projects with a number of groups. Most of this is driven by demand—and, I have to say, we have been active in the past in talking to people about the extent of that demand. If things begin to pinch, we will have to ease back on that. But that, again, is very much demand driven and we will see how we go.

Senator LUDWIG—Will it reduce your workload or your expectation of the work that you will do?

Mr Doepel—As we get into the cycle it could do so around some of the discretionary activities that we take part in—again, I emphasise, depending on demand. We do have some discretionary activities—for example, the assistance that we provide to parties to negotiate Indigenous land use agreements, which, even though it is discretionary, we consider to be a flagship activity of ours, particularly when those negotiations are in connection with the

mediation of native title claimant applications. We certainly would not be wanting to cut back on that service. That is something for which there is a high degree of client demand. We keep going with that. As I said, we do have some discretion around the partnership and the capacity building arrangements.

Senator LUDWIG—When will you make those decisions as to which discretionary funding areas you will continue to try to deal with and those that you will not?

Mr Doepel—Essentially, those are inherent in the structure of the budget paper. I take you to table 3.1—‘Total resources for outcome’ is the heading—on page 410. If you look at the output groups there, and this is cast in the terminology of our new output group structure, when you look at the order of magnitude of the resources being committed around each of those output groups you will find that the agreement making activities in output group 2 come out at \$19 million in each year and the registration and decision making activities come out at around \$11 million and \$10½ million each year respectively. But already we are contemplating not being able to do quite as much in capacity building because there is \$3.8 million there for estimated actual for the current year and \$2.4 million has been earmarked for the expenditures in this financial year. However, as I have said before, we do have some reserves and we will make some judgments on the way through the year as to how we might use those reserves. If there are worthwhile activities, we will fund them.

Senator LUDWIG—Will that come on top of the change in the efficiency measures? There is a change from one per cent to 1.25 per cent, so there is an additional efficiency saving.

Mr Doepel—That is already in the figures.

Senator LUDWIG—So it is already part of the \$5.1 million?

Mr Doepel—It is already part of the reckoning there.

Senator LUDWIG—That is \$60,000 in the first year and that is expected to grow. So you have already taken that into account?

Mr Doepel—Yes, we have.

Senator LUDWIG—Have you had any discussions with the Aboriginal and Torres Strait Islander Social Justice Commissioner in relation to the type of work that you may not continue with which you have indicated is discretionary?

Mr Doepel—Not at this stage. From time to time we have discussions with the social justice commissioner, but we are overdue a discussion with the commissioner’s office.

Senator LUDWIG—The native title report indicates on page 111 that the SJC will be holding discussions with the government and other stakeholders. That has not occurred with you?

Mr Doepel—No, it has not occurred at this stage.

Senator LUDWIG—And then in terms of the \$5.1 million that will be allocated, is this a question to you, Ms Leigh?

Ms Leigh—Mr Anderson.

Senator LUDWIG—Is that going to be utilised by the department in this area?

Mr Anderson—That \$5.1 million will be utilised in the area of native title. In part it will be used for staff funding for policy work in the legal services and native title division, which is output 1.6, and in part it will be for staff for the respondent funding program in the native title system, which is output 1.7, the Indigenous justice and legal assistance division.

Senator LUDWIG—Is there any decision made on how that money will be split up between 1.6 and 1.7?

Mr Anderson—An amount of \$2.4 million over the four years goes to output 1.6 and \$2.7 million over the four years goes to output 1.7.

Senator LUDWIG—And is that further broken down by whether or not it will be staffing or other measures?

Mr Anderson—The intention is that it is broken down into three staff for output 1.6 and six staff for output 1.7.

Senator LUDWIG—And that would absorb the \$2.4 million?

Mr Anderson—Yes, that would take up the whole amount. Mr Govey has just pointed out that an amount out of the \$5.1 million will go in corporate overheads such as accommodation, information technology and things like that.

Senator LUDWIG—And that is part of the distribution that is available to all of those areas? It is the same thing we talked about before?

Mr Anderson—Yes. The nine positions are nine positions over the four years. They are not necessarily nine positions for the entire four years, either.

Senator LUDWIG—Going back to the tribunal, are you doing any work in court security?

Mr Doepel—We are engaged in one site—Western Australia—where we share the Commonwealth law court premises with the Federal Court of Australia and the Family Court of Western Australia. We are a subtenant in that building under a memorandum of understanding. We have been asked to make a contribution to the upgrade of security in that site.

Senator LUDWIG—What would that be?

Mr Doepel—It is \$90,000 to \$100,000.

Senator LUDWIG—Is there an idea of what that will be spent on in terms of court security?

Mr Doepel—Mr Winkler, our chief financial officer, can probably answer that.

Mr Winkler—The court security includes airport type security access: the X-ray machine and walking through a door, including staff to man all the entrances to the Federal Court building on an ongoing basis.

Mr Doepel—Our position as a tenant has been: ‘We will continue to discuss the arrangements with the building managers on behalf of the two courts’—bearing in mind that we share with the Family Court, which has pretty fair security requirements—‘and we will basically come into line with whatever it is put in place.’

Senator LUDWIG—Thank you. I do not have any further questions.

CHAIR—I understand that concludes questions in that area. If there are further questions from Senator Carr—I do not expect that there will be; I think they have been dealt with—they will be placed on notice.

[4.32 pm]

CHAIR—We move now to outcome 2. As I understand it, output 2.1 is still ‘Policy advice on, and program administration and regulatory activities associated with, the Commonwealth’s domestic and international responsibilities for criminal justice and crime prevention; and meeting Australia’s obligations in relation to extradition and mutual assistance’. I do not think there has been a significant change to that output—I hope not, anyway. Also, between this and output 2.2, we have listed the Australasian Police Ministers Council (National Common Police Services) questions to be asked in this area as well. Ms Blackburn and her officers are here ready to address those questions as well as the questions in 2.1.

Senator LUDWIG—Is extradition within here?

CHAIR—Yes.

Senator LUDWIG—We might start with some general questions in this area. I think I have asked a couple of questions about Edward Dutton before. Can you provide an update of where we are and how long Mr Dutton has been in custody? He is the person awaiting extradition to South Africa, as I understand it.

Ms Blackburn—As you note, this has been a long and complex case. On 4 May the Attorney-General considered the submission on whether or not to extradite Mr Dutton. The Attorney decided not to extradite Mr Dutton.

Senator LUDWIG—Was a statement put out on that date?

Ms Blackburn—No, no public statement was made.

Senator LUDWIG—What criteria were used to determine that he would be refused extradition? Is there a process that is gone through, Minister, or is it a decision by you?

Senator Ellison—It is a decision which is communicated by government to the government that is requesting the extradition. Of course, if a person is in custody and there is a decision to refuse extradition, then the person is released from custody. The Attorney-General determined, in this case, that Mr Dutton was not to be extradited. Reasons are not given for those decisions and never have been.

Senator LUDWIG—Is that ‘never will be’ too, Minister?

Senator Ellison—Unless it is provided for in an agreement between the two countries. The treaties between Australia and the other country can provide for reasons to be given, but the norm is that that is not the case. I am not aware of any ever having been given.

Senator LUDWIG—Is that separated on the basis of the later iterations of the treaties, the no-evidence model, or the old UK model? Or are there provisions that are written into them in any event? There are different models that have been used by Australia. There are some old—if I can use that word—or earlier versions which are UK type treaties. There are no-evidence

treaties which are used in civil law jurisdictions. Is it the iteration of those which provides for no reasons to be given by the minister and refusing or—

Ms Blackburn—No, there is no relationship to the particular treaty that it is. My recollection is that we have something in the order of 20-something bilateral treaties that are separate from the Commonwealth scheme. Approximately half of those include a requirement for reasons to be provided to the government if extradition is refused. About half of them do not include that requirement.

Senator LUDWIG—So, in this instance, there was no requirement.

Ms Blackburn—There is no requirement in the treaty between Australia and South Africa for reasons to be provided to South Africa. The decision to release Mr Dutton was communicated to South African officials.

Senator LUDWIG—I presume that, as you have indicated, he has been released.

Ms Blackburn—Mr Dutton has been released from custody.

Senator LUDWIG—On what date was he released?

Ms Blackburn—He was released on 4 May, which is the same date upon which the Attorney-General made the decision.

Senator LUDWIG—Does Mr Dutton have any available recourse for the period of detention?

Ms Blackburn—Mr Dutton was lawfully detained during the entire period of his detention.

Senator LUDWIG—Has there been any indication from Mr Dutton or his lawyers that they intend to take any legal action against the Commonwealth in respect of the detention?

Ms Blackburn—We have had no communication from Mr Dutton or his lawyers since the Attorney made the decision and that was communicated to Mr Dutton.

Senator LUDWIG—I think I have asked a couple of questions in this area before in relation to Mr Hannaford. Minister, I think we have gone through the appointment process in the past. I would like to come back to that. When did the Attorney-General's first become aware of Mr Hannaford's interest in the position of examiner at the Australian Crime Commission?

Senator Ellison—This is going back some time. It was dealt with by the former Attorney-General, Mr Daryl Williams. Ms Blackburn might be able to help us.

Ms Blackburn—I think all of these details were, in fact, provided to you, Senator Ludwig, in answer to a question on notice in May 2004.

Senator LUDWIG—I was not sure if that one of when the Attorney first became aware of Mr Hannaford's interest in the position was communicated in that response.

Ms Blackburn—My understanding is that we advised in that response that advertisements were placed in newspapers on 9 and 10 May and that 51 applications were received and one of those applicants was Mr Hannaford.

Senator LUDWIG—So that we do not traverse the same path again, my recollection is that one position was advertised—I am doing rather a short synopsis of it so correct me if I am wrong—there were, as you have indicated, a number of applicants and then, at some point, a second position was created and it was not readvertised; there was the one advertisement. I think Mr Cornall took me through some of this as well. From that point Mr Hannaford was successful in gaining that second position of examiner. Is that where we are up to?

Mr Cornall—As I recall, there was an advertisement for appointment to the position of examiner. I do not recall that the advertisement necessarily said that it was just one position.

Senator LUDWIG—I recollect that argument. I think it was not plural, though.

Mr Cornall—At that point we had lost the former National Crime Authority commissioner, who had gone back to being a prosecutor in New South Wales at the expiration of his term of appointment, so there was an immediate vacancy. But under the old National Crime Authority structure there were three commissioners and all of those commissioners could conduct hearings, whereas under the new structure only the examiners can conduct hearings. There was an issue about potential workload. We interviewed the short list of candidates and we came to the view that there were two eminently suitable candidates for appointment. We put those to the government and we consulted with the ACC as to the desirability of having three examiners, which would have given them the same number of people who could conduct investigations and examinations as the old National Crime Authority. As a result of that two appointments were made.

Senator LUDWIG—That was my recollection of what happened. If we can look at who was involved, did the officers of the department make any contact at any stage with members of the interview panel regarding the vacant position or positions of examiner at the Australian Crime Commission and, if they did, what was the substance of the contact?

Mr Cornall—My recollection is that I chaired that panel and there were a number of other people on the panel, including a member of the then Attorney-General's office. So I was very much aware of what was going on on the panel.

Senator LUDWIG—Did any officers of the department contact you or the panel of interviewers regarding the position? I am trying to find out when the decision was made and who made the decision to move it to two positions. Was that made by you, Minister, or by the Attorney-General at the time?

Mr Cornall—It is not uncommon in an interview process, if we find that we have two very suitable candidates for a position, to tell the minister or the Attorney-General that that has been the outcome. That enables them to make a consideration of those candidates and indeed anyone else that they may wish to consider. That was the process we followed in this case.

Senator LUDWIG—Would there have been any contact with you from the department about Mr Hannaford?

Mr Cornall—No. Somewhere in all of this there was a discussion about what were the needs of the Crime Commission in terms of the number of examiners and the extent of the workload for them. As a result of that I had a discussion with Mr Milroy as to the possibility

of accommodating three examiners into his structure. He said he felt that, if three were appointed, there would be adequate work for them.

Senator LUDWIG—Is there email traffic or correspondence about that contact that is available to the committee?

Mr Cornall—I do not think so. My recollection is that I telephoned him and discussed it on the telephone.

Senator LUDWIG—Can you recollect anyone from the Australian Crime Commission, you, the department or the Attorney-General providing Mr Hannaford with a referee?

Mr Cornall—Mr Hannaford would have had referees. I cannot recall who they were.

Senator LUDWIG—Would they be on the original applications?

Mr Cornall—Most likely, yes.

Senator LUDWIG—I wonder if you could have a look at that for us and advise us as to who were the referees for Mr Hannaford from the application. Are you aware of whether the minister made any contact with Mr Hannaford regarding the appointment prior to the decision being made to expand it to two positions?

Mr Cornall—The minister or the Attorney-General?

Senator LUDWIG—I guess both. The ACC is within your portfolio, Minister.

Senator Ellison—That is right. Just in relation to the two appointments, as I recall it—and I will certainly amend this if it needs to be amended—there was some discussion between the Attorney-General, me and the Chief Executive Officer of the Australian Crime Commission, Alastair Milroy, and that discussion was that the increased workload of the ACC required two additional examiners and the ACC was in a financial position to do that. You must remember that at that stage we were very much in a transition role of the ACC and there was a backlog of cases. In fact, the demand was very heavy at that stage, as I recall, for examinations and continues to be so. I might say that I believe that the decision to appoint two examiners has been vindicated by the workload. That is how that came about with the two. As to contact with Mr Hannaford, the first contact that I recall having with Mr Hannaford was when the Attorney-General and I interviewed him.

Senator LUDWIG—Subsequent to that was there any contact, in relation to the appointment of two examiners, by you or the Attorney-General or your office with the Prime Minister or the Prime Minister's office?

Senator Ellison—I do not specifically remember a letter being sent to the Prime Minister's office but that does not mean to say one was not. It is normal to consult with the Prime Minister's office on those sorts of appointments, especially when you have a situation where the decision was to appoint two. Certainly I understand there was a letter to the Prime Minister seeking his approval for me to consult with members of the inter-governmental committee on the Australian Crime Commission. That was required under the act. I can have a look and see whether there was a letter, but certainly it is normal to consult with the PMO, and especially in a case where there has been a decision to appoint two when initially one was considered.

Senator LUDWIG—Could you have a look at your records to see whether or not the Prime Minister's office or the Prime Minister was informed of that appointment for two and the appointment was subsequently made for two; or whether the names came before the position, whether there were two equal candidates and no decision could be made as to that by the panel and then the idea was to expand as a consequence, based on workload. If there is a time line that is available, that would be helpful. I should have asked for that originally.

Senator Ellison—I will take that on notice.

Senator LUDWIG—There is some confusion over the time line, at least in my mind, as to how it occurred and then the contact with the Prime Minister's office. If you can provide that, it would be helpful.

Senator Ellison—It was a cabinet appointment and so did go to cabinet through the normal process. I understand that Senator Ludwig is asking whether what came first was the decision of the two positions or the names.

CHAIR—You will come back to the committee on that as far as possible, Minister.

Senator Ellison—Yes.

CHAIR—Thank you. Did you have questions on document security, Senator Ludwig?

Mr Cornall—Madam Chair, just before we leave that area, the minister has drawn my attention to the members of the panel, which I had temporarily forgotten. On the selection panel were Mick Keelty from the AFP, Richard McCreadie from the Tasmania Police, Linda Reynolds from the minister's office—not from the Attorney's office; I thought there had been an Attorney's representative—and me.

CHAIR—Thank you.

Senator LUDWIG—The figure of \$5.9 million over two years is for two pilot programs associated with online document verification or DVS—is that the acronym we are going to use, Minister or Mr Jordana?

Mr Jordana—The prototype project that will be carried out in the document verification area is sometimes called the document verification service, so DVS is an appropriate acronym.

Senator LUDWIG—What does the identity security pilot program that was announced in the budget entail?

Mr Jordana—A certain proportion of the \$5.9 million will be dedicated to a project which will involve DFAT passports and DIMIA certificates of evidence of Australian citizenship. They will be the two operational agencies that will be in a sense asking questions about the identity information that is on documents of other agencies. So they will be linked through to DIMIA. DIMIA does not have to talk to DIMIA obviously but DFAT, in carrying out some checks, will be linked through to DIMIA and DIMIA will be linked through to DFAT, in asking questions of DFAT. The links will also be through to the births, deaths and marriages agencies of New South Wales, Victoria and the ACT and to Austroads, which manages a national driver's licence system.

Senator LUDWIG—Are they all the pilot programs?

Mr Jordana—The other pilot is considering the accuracy of personal identity information on government databases. That pilot is being run by the Australian Taxation Office and will be based on a certain sample of their tax file number databases. They will be checking the identity information on their tax file databases—nothing else, just the identity information—against the databases of DIMIA and DFAT; the state registries of births, deaths and marriages; the HIC; the AEC; Centrelink; and Austroads.

Senator LUDWIG—Will that involve personal information—are they real-time trials or are they—

Mr Jordana—I will give an example of the way the document verification system might work. It will give you a sense of how it operates. Someone might present at a passport office presenting a New South Wales driver's licence as evidence of their identity. The operator at the passport office would perhaps type in a few details that appear on the driver's licence—for example, their name, their date of birth, their gender or perhaps the driver's licence number. The message would be sent electronically through a routing system to the road and transport authority of, for example, New South Wales asking them whether or not they had issued a document with those details on them. Electronically, a message would come back yes or no. There is no exchange of information per se. The operator at the passport end would not have access to the road and transport authority database. There would simply be an electronic message sent asking: was a document with those details on it issued by your agency? The electronic message would come back yes or no.

Senator LUDWIG—That will still be stored somewhere.

Mr Jordana—No, there is no information stored as part of that exercise. There is no reason.

Senator LUDWIG—Let us walk through it. If I, as the operator, ask for a verification I get a response back that says no—or yes as the case may be—and you say that is not kept anywhere. If someone then disputes that in 12 to 18 months time if it is deemed to be fraudulent and they want to track back to determine what response they got, how will that be flagged?

Mr Jordana—I will have to check on that. You are reaching the boundaries very quickly of my technical expertise.

Senator LUDWIG—You see the problem though in that if you say it is not stored anywhere then it disappears into the ether. There is no record or log as to whether that response was yes or no if there is an alleged fraudulent activity subsequently. I imagine it has to be stored in some form.

Mr Jordana—There would certainly be an electronic record somewhere of that information.

Senator LUDWIG—For it to be useful it will have to be tagged as to what it relates to.

Mr Jordana—Both DIMIA and DFAT would have established procedures for follow-up and risk management procedures with respect to any doubts they would have had anyway over a document that is actually presented. So, if for example an electronic message came

back which said, 'No, we didn't issue such a document,' then they would set about using the established procedures that they have to follow through on that particular doubt.

Senator LUDWIG—I understand that. No would be the easiest answer but yes would mean that the document is then verified and it can be issued. Subsequent to that, if it is discovered that someone has defrauded the system or managed to change the system, how do you then check back if it is not kept somewhere or logged?

Mr Jordana—I have just been informed that I was correct when I said that the document verification system does not store the information or the exchange that has taken place, but the agency that has made the request would retain the information.

Senator LUDWIG—I would imagine that an agency making the request for their own protection would log the information as either a yes or a no response. They would log the date and time and attach it to the relevant record in some way to ensure they received a response from the agency from whom they requested the information. How is that going to be stored in terms of the personal information? Will the agency store that?

Mr Jordana—Those agencies already carry out checks on documents that are presented; indeed, as I understand it, some electronic checking is already done by those agencies. So they would be storing that kind of information, even under the current procedures that they have. This kind of information would be stored and handled in the same kind of way.

Senator LUDWIG—In developing the document verification service, do you have any concerns about how that information is stored? Are you going to put forward any criteria for, or ask the storing agency, how they store the log and what security arrangements they are going to put in place in respect of that?

Mr Jordana—The kind of procedure that would be involved in the document verification service is not dissimilar to checks that they would already be undertaking. What it aims to do and what it does do is provide an online real-time check rather than something which is a manual process. As I said, there is already some rudimentary electronic checking taking place, so there would be no particular reason why we would need further assurances about the way that these agencies handle the information that they have gained: they already have protocols in place to deal with that.

Senator LUDWIG—Would the storage be manual or automatic? You say it will be automatic and the agency will hold the log as to whether that has been communicated. What log will the Commonwealth hold to verify that that message has been sent—either affirmative or negative?

Mr Jordana—Any log would be held by the agency that asked the question. For example, if it is the DFAT passport office who asked the question, the question will be sent through a router which goes to the document-issuing agency and then the answer comes back through the router to DFAT with this answer, yes or no. So it is DFAT that would retain the record of that transaction taking place. Whether or not there is some electronic record, which sits on the router, of a question having been asked at a particular point in time—

Senator LUDWIG—There would probably be a server rather than a router, but we will not quibble!

Mr Jordana—You are stretching the very perimeters of my technical knowledge! I imagine there might be some electronic record of a question having been asked, but the real information would be handled by the agency that made the original request. I imagine there would also be a record of that transaction at the New South Wales end—that that question had been asked.

Senator LUDWIG—Citizenship is one that you are trialling?

Mr Jordana—That is right—the certificate of evidence of citizenship that is being operated by DIMIA.

Senator LUDWIG—So let us use that as an example. There might be a request to DIMIA by X state department, like New South Wales roads, for a verification of a citizenship document.

Mr Jordana—Let me just explain that with the prototype, as it is currently being developed, the agencies asking the questions would be only DFAT and DIMIA. Under the current prototype arrangement, they would be the only agencies capable of asking the questions. They would be asking questions of a range of other agencies, including Austroads, for example, representing the national drivers licence database. So, the prototype system as developed would not enable Austroads or the New South Wales Roads and Traffic Authority at this stage to ask the citizenship question of DIMIA back through this system. The concept of the document verification service could conceivably embrace the kind of two-way exchange that you are talking about, but that is not the way the prototype is going to work.

Senator LUDWIG—So where will the prototype go—for example, the AEC, to Commonwealth departments or to citizenship, if they want to establish that?

Mr Jordana—If someone goes into a DIMIA office wanting a certificate of evidence of their citizenship and they present some evidence to identify themselves—

Senator LUDWIG—Their drivers licence or something.

Mr Jordana—then DIMIA, as one of the two agencies who under the prototype will be asking questions, will be able to check against various document issuing agencies—for example, the Australian Electoral Commission against their electoral lists. I stand corrected. The AEC is not part of the document verification system. The AEC is part of the tax office data integrity system, which is a different project.

Senator LUDWIG—I hope there is not a race as to who is going to win—the AEC and the data integrity system or the DVS. That is rhetorical.

CHAIR—Mr Jordana and I are both very grateful.

Mr Jordana—I assumed that was the case.

Senator LUDWIG—I am still trying to understand. Surely a log will have to be kept by the two agencies—the agency providing the information and the agency receiving the information. The two logs will then have to be able to be married up. So there will have to be a mechanism to ensure you can check whether a yes or no response was asked for and received. If you simply rely on one agency to hold the log, there is no way for the first agency to say, ‘We didn’t send one.’ They can say, ‘We’ve got a computer record that says we did.’ So

you have to then have a log there as well. What information will that log provide? When it crosses the server through the routers, the server will then hold the information. It will also have to have a mechanism through an ISP, the internet service provider, depending on the service you use. They store, albeit temporarily, that information. I am sure you can ask the AFP but they tell me they can access those ISPs and gain information about emails and the like. So there will be identifiers in that information to marry up the logs, surely. What security are you going to attach to that?

Mr Jordana—It is true that the agency that asks the question will log the information as part of their ongoing activities and protocols. The agency of which the question is asked will no doubt have a record of the fact that the question was asked and what the answer was. The routing system—excuse me if I continue to use that term—for the purposes of the document verification system is going to be located with Centrelink. We are doing that for a range of reasons. They have a lot of expertise in this particular area. Because of the kinds of systems they already run, they have very strong security protocols in place to protect these systems. Also, there is a cost issue here. Using a place that already has a significant amount of expertise is a way of minimising the costs of the prototype. So the system that Centrelink is establishing, or the router that it is using, will be separate and distinct from other Centrelink activities and will have appropriate security protocols around it.

Senator LUDWIG—When will the detail of that be worked out? You are doing the trials at the moment. Do the trials include personal information?

Mr Jordana—We have just received the money for the prototype and for the tax office pilot project. So we will have to build it over the coming months. The details will be worked out as we build. As I have said before, there is no collection of personal information or storage of personal information—there is no visibility of the agency that asked the question of the database of the other agency and the operators have no insight into what is stored in terms of personal information by the other agencies. If I could put it this way, the beauty of this system is that it is completely privacy neutral—so long as you design it the right way. Indeed a lot of people, including myself, would say that it is privacy enhancing because it is a way of having people legitimately own their own identity rather than having their identity stolen.

Senator LUDWIG—Is it going to be an automatic or a manual system? Is there any scale of how many requests might be received?

Mr Jordana—The idea of the concept is that it be online real-time. Therefore the aim is to make it an automatic system whereby a question can be asked and a response can come back immediately. Whether or not during the prototype phase we are able to achieve that level of immediacy, I am not sure yet. There may have to be, for example, in certain circumstances, some batching of the questions that are asked—say, at the end of the day—and having the answers come back the next day. But the aim of the exercise is to have more or less instantaneous responses to the questions that are being asked.

Senator LUDWIG—In answer to question on notice No. 40(c) the answer was that the document verification service will provide a simple communication pathway to allow the data items recorded on those documents to be verified online against federal and state computer

records, including drivers licences, passports and birth certificates. Is that all that is envisaged or is there more as well?

Mr Jordana—As I said, the document verification prototype that we are going to be doing will have both DFAT and DIMIA able to ask questions of other agencies. The other agencies that they will be asking the electronic questions of will be DIMIA; DFAT; the births, deaths and marriages registrars of New South Wales, Victoria and the ACT; and Austroads, which has the drivers licence database. That is the extent of the document verification prototype.

Senator LUDWIG—So currently there are discussions going on with those state offices about how that process will work?

Mr Jordana—There have already been some preliminary discussions with the state and territory agencies concerned. Now that we have the money and we can press ahead, those discussions will be ongoing and will deepen in terms of the detail of how it is going to work.

Senator LUDWIG—Are there any consequential changes that are required of the states' methodology about how they hold data, issue data or issue certificates?

Mr Jordana—One of the issues certainly will be the computer interface question as to whether or not, for example, the way that the information that is recorded by the births, deaths and marriages agencies is the same and how that will interface with the prototype. Austroads, I gather, was an attempt to bring together drivers licence information into one national database. I imagine the issue there will be fairly straightforward.

Senator LUDWIG—What work is currently being undertaken by the states in preparing for the DVS?

Mr Jordana—I gather that New South Wales, Victoria and the ACT had independently been working together to be able to set up a certificate validation service. Our intention is to tap into that. That is not something that had been initiated in response to the proposal for a document verification service; it was being done prior to this proposal. But we hope to tap into that.

Senator LUDWIG—There were public statements from you, Minister, and the Attorney-General's. I will quote from a press release of 14 April 2005. It says, 'The government believes identity security is an issue of critical concern to all Australians.' It goes on to say:

Effective identity security measures are critically important for national security, law enforcement and the fair and efficient provision of government services and collection of revenue.

It goes on:

It is central to our security and economic interests that the identities of citizens, legitimate residents and visitors seeking access to government or commercial services, benefits, official documents and positions of trust, can be accurately verified.

It then indicates that the government 'plans to develop a national strategy as a matter of priority to enhance identification and verification processes'. Is there an urgency with establishing an identity security regime in Australia?

Senator Ellison—Yes, there is. There has been work ongoing in relation to this for some time now. The matter has been discussed at the Police Ministers Council. As Mr Jordana has pointed out, it is a matter that a number of jurisdictions have taken up. The fact is that fraud

costs this country \$1.1 billion a year directly, and that is largely identity fraud and identity theft. It is a pressing issue. Of course, there is also the question of security, so this is a high priority for the government.

Senator LUDWIG—You indicated the Police Ministers Council. Where they advised? When where they advised?

Senator Ellison—The matter of ID fraud and ID theft has been discussed in general terms at the Police Ministers Council over some time. I will have to taken it on notice and get you the dates of when that was raised. We have been working on this, from a Commonwealth point of view, for some time. It is a work in progress. It is going to be a very large measure indeed to achieve this nationally and to have all governments working together. It will take some time; it is not going to be something that happens overnight.

Senator LUDWIG—How long have you been working on this?

Senator Ellison—From the Commonwealth point of view, at least a couple of years that I know of. It was even before my time, I think.

Mr Jordana—I gather 2001 was the date in which the first scoping work on this issue took place.

Senator LUDWIG—How was that released? Was that advised in budget papers?

Ms Blackburn—I would like to add to that. The work that commenced in 2001 commenced within the Attorney-General's Department and within the division. The funding for that was provided from departmental funding.

Senator LUDWIG—So that was scoping work, was it?

Ms Blackburn—That was an initial scoping report which had then led to a series of further activities.

Senator LUDWIG—Was there originally an implementation date for that when you started the scoping work?

Ms Blackburn—No, the original scoping work was in response to clearly emerging concerns about identity security issues, so the department started working in 2001 by preparing a report that simply started to scope out the extent of the concerns and the extent of the problem and then started the work on developing the possible responses to that.

Senator LUDWIG—That was the work that you are talking about—the other activities: the scoping study and then the report. Or was there other work in addition?

Ms Blackburn—There has been a series of works going on within the department in consultation with a wide range of Commonwealth government agencies and also in consultation with state and territory agencies. It has simply been an ongoing responsibility within the Criminal Justice Division for at least the last four years as a piece of work, both as policy work and as developing specific project based activity that might be undertaken.

Senator LUDWIG—It seems it has been a very long gestation period, though. This is a matter of urgency. In 2001 there was the scoping study; then there was a report. We are now looking at 2005, so it is four years thence that we have a pilot program and money in the budget.

Ms Blackburn—The particular piece of work that is now being funded in the budget is a project that has been developed over about the last 12 months, from memory. July 2003 was the starting point of talking about the concept of a document verification service.

Senator LUDWIG—So from about that point onwards. Has any other pilot program been run since the 2001 or 2003 ones, outside of those that Mr Jordana mentioned?

Mr Jordana—Not of the kind that we have been describing. It is important to note that there have been efforts and there are efforts being undertaken by individual agencies at both the Commonwealth level and the state level to strengthen the identity security characteristics of the documents or processes that are run. It is not as though there has not been any activity at a governmental level on this issue, but the aim here is to bring a greater degree of national consistency to the effort than has been hitherto evidenced. The document verification system is only one element of work that we intend to undertake to strengthen identity security across the continuum of issues that are at play here. They are four other areas that we will be looking into as part of the exercise. I could go through them if you would like, but they were also outlined in the press release issued by the Attorney and the minister in April this year.

Senator Ellison—I might also point out that a couple of years ago, I think it was, I set up a ministerial advisory body to deal with credit card fraud and fraud in general. This group is made up of the financial sector. Things that we looked at were ghost web sites and credit card skimming. We have developed legislation as a result of that. That is just another part of the strategy in dealing with ID fraud and ID theft. As Mr Jordana said, there has been work ongoing elsewhere. So it has been a body of work which has been progressed over time. We have had legislation brought in in relation to credit card skimming. We have initiatives with the Australian High Tech Crime Centre working on this with the AFP. The banks have seconded people—at least five at last count—to that body. So there are various parts to this whole initiative.

CHAIR—Thank you for that detail, Minister. I think this committee has actually discussed some of this legislation before.

Senator LUDWIG—And there is more on the way by the look of it, Minister. This raises the question: what are the other four areas?

Mr Jordana—The areas that we intend to work in first of all relate to the documents that people use for verifying their identity. A significant amount of work has already been done on developing a framework, called a proof of identity framework, to identify the documents that can be used for particular purposes for identity verification. That is one area—the actual documents themselves that should be used and for what purposes. The second area relates to the security features that would attach to particular documents and the integrity of those security features. You are aware of the issues and debate around the use of biometrics on documents et cetera. That is an area of work that we will be undertaking. The third area is one that you have identified—the document verification area.

The fourth relates to the integrity of information on government databases. Part of that work will be the project that the tax office will be running. The fifth area relates to what is called authentication. Authentication is basically the process of ascertaining that the person who is presenting to access a certain service is in fact the person who originally enrolled for

that service. That is another area of activity that we will be looking into. They are the five areas of activity. Not all of those areas are of a document verification service nature. Much of the work we will be doing will be attempting to identify common standards, common benchmarks and best practice for some of these processes, that might be not only shared between Commonwealth agencies but also shared nationally through to the states and territories.

Senator Ellison—I mentioned the Police Ministers Council. On 17 November 2004 the Australasian Police Ministers Council resolved to refer a report on identity crime to the Council of Australian Governments and asked that it consider the need for a whole-of-government approach and provide strong leadership on this matter by establishing the necessary mechanisms to develop and implement that approach. That was a report, as I recall, of the Police Ministers Council which had been worked on for some time. I will get further information in relation to that. As to when it was first commissioned, I would need to check, but that was the resolution on 17 November last year where the Police Ministers Council resolved to refer it to COAG.

Senator LUDWIG—Are any other reports or discussion papers that have been completed in relation to the development of the DVS that are available to the committee?

Mr Jordana—The feasibility studies are still to be presented formally to government ministers. They have not been placed into the public domain. There is a booklet, I understand, which canvasses many of the issues that we have been discussing here this evening. It is a public document which was produced by the Attorney-General's Department in November 2001. We can certainly make that available. Not everything in that would be completely current, because things have moved on since then, but it will certainly give committee members a feeling for many of the issues that are around on the identity security front.

Senator LUDWIG—To summarise where we are at at the moment, it seems to be we have got early indications of a need for document verification, as outlined by Blackburn in 2001. Separate work was then commenced in 2003 and then some further work was done in 2004. We have got funding for a trial—a pilot study—

Mr Jordana—We are using the word 'prototype' for the document verification system and we are using the word 'pilot', I think, for the tax office. They are slightly different.

Senator LUDWIG—How much is the tax office initiative?

Mr Jordana—Of the \$5.9 million, the tax office will receive \$808,000 for their particular project.

Senator LUDWIG—So that is included within the \$5.9 million?

Mr Jordana—That is correct.

Senator LUDWIG—So in total, from 2001 to now, aside from internal departmental spending, there has been an allocation of \$5.9 million to deal with identity fraud by way of a document verification system. I go back to the press release of 14 April 2005. Where is the priority and the urgency that seems to be attached to this area? It is now being funded to the tune of \$5.9 million for a pilot study. If you go back to documents that we have seen which are cabinet-in-confidence, there was a proposal for \$376 million in the out years up to 2007-

08, commencing in 2004, for dealing with identity fraud more generally. I just wonder how the fact sits with you that it seems there has not been real work done or real outcomes achieved since 2001, when it was first highlighted. I do not get a sense of urgency from all of the work that you have just outlined.

Ms Blackburn—Can I make a comment on that, please?

Senator LUDWIG—It was directed to the minister, but—

Ms Blackburn—Sorry.

Senator Ellison—When you look at the body of work that has been going on, as we have just been going through, you can see that this has not been treated as an issue of low priority. It has been worked on. It is not something which you just put in place overnight. The Police Ministers Council itself took some time to get to a stage where it had a report which it could refer to COAG. You would not say that any of the jurisdictions in Australia are not treating this seriously. My sense of it is that all jurisdictions—state, territory and Commonwealth—have been working together well on this and recognise the seriousness of this. It is just not something that you do overnight.

There are privacy considerations, there are different jurisdictions and there is the issue of the discrete nature of the problem to the extent that you have got, as I have demonstrated, credit card fraud in one corner, high-tech crime being another part of it, and then you have got the standard of documents that are used in everyday life. We have a program with epassports, which is another area of work that you could talk about for some time just on its own. That alone has been a huge body of work in relation to increasing identity security. So I think to just take a snapshot of this and say, ‘Well, that doesn’t seem to have gone too quickly,’ and that no-one seems to be working on it is not an accurate observation.

We are gradually drawing it all in to where there will be a national approach at government level. We have also been engaging the private sector. That is the next step: the private sector. What bridge will we build between the private sector and government? Can the private sector key into government information? Can we key into the credit details of an individual? Those are very big questions indeed. We are taking it in bite-size chunks as we move along, and I would suggest that the states and territories are doing the same. This is work which you just cannot do on the basis of a knee-jerk reaction.

Senator LUDWIG—No, Minister, it is not knee jerk. There was a cabinet document proposed back in 2003—and developed in 2004 with out years to the tune of \$376 million—for a properly funded, whole-of-government identity fraud process. That seems to have fallen off the back of the wagon. We now have a pilot study to the tune of \$5.9 million. It just does not make sense to me. The original proposal included a proposal for a common set of key identified documents of integrity to be used by all Commonwealth agencies, a proposal to establish an online identity verification service and the development of proposals for more well-defined, cross-agency data matching. All those proposals were put to government, they were to be funded and costed and were to commence on 1 July 2004. Clearly, all of that did not go ahead. Now, in 2005, we have a proposal for a \$5.9 million pilot study. Taking that into account, you then say it is a matter of priority. It may have been in 2001, it may have been in 2003 and it may have been in 2004. It is my belief that it is still a matter of priority given the

statement you issued back on 14 April 2005. There are two issues to take into account: you had a proposal that was to commence on 1 July, which has disappeared, and you have now replaced it with \$5.9 million for a study.

Senator Ellison—I will not comment on what may or may not be a cabinet document and a cabinet submission. Obviously that is has not been the evidence of any officials here today or at any other estimates, nor will it be because matters for cabinet are not discussed at estimates. I will not accept or reject the proposal that Senator Ludwig is putting that it is a cabinet document or a cabinet submission. However, I can say that it is a wise course of action to take when you are embarking on an initiative this big to have a pilot program, and this sort of approach is not unusual for any government to adopt. That is something we are seeing in a range of initiatives. In relation to the states and territories, they are equally in the same position, and I would say they are doing much the same work that the Commonwealth is doing. We are moving forward together.

Senator LUDWIG—Chair, I am happy to table it. This is the document I have and the minister might like to have a look at it. That is the point in time at which it seemed to be going to go, and it just seems to have disappeared. If you do not want to comment on that, fair enough. It would be helpful if you could explain your press release of April because it says it is a matter of urgency and priority, whereas it seems to me from looking at the record that it is not. It certainly has not been and it is still only in an early stage of development, whereas there was an ability to drive this a lot further. For whatever reason, if you do not want to provide an explanation of why it fell off the back of the truck, we will move on.

Senator Ellison—It is a well-established principle that we do not discuss matters which are cabinet-in-confidence, and I am not going to comment on the authenticity or otherwise of this document. All I can say is that the government has accorded high priority to identity fraud and identity security, and we have been working on it consistently over a period of time. Whilst we have been doing that, there have been other achievements such as the legislation I mentioned a moment ago and a ministerial advisory body—which has major representatives from the financial sector on it—dealing with financial fraud. Those are all going towards the same thing, and that is the protection of a person's identity so that they are not defrauded—and also government, I might add.

CHAIR—I think the minister has made his position quite clear, Senator Ludwig. Shall we move on?

Senator LUDWIG—Only to the extent that it has been far too gradual. If the department has provided the evidence that it has known about the area since 2001, it has done some scoping studies and provided a report to government, we have had identity fraud being detected, reported on and talked about since then. It is a security risk which, it seems, this government has neglected or at least not done any recognised or decent work on since that time—notwithstanding the recognition, at least from what I see, that there has been a problem. The latest development is \$6 million to deal with it, where previously there was—at least from the information we have—a more whole-of-government approach. The issue for government is to explain to the committee why, if they recognised the problem back in 2001, the process appears to have stalled. That is what it looks like to me. The issue was known

about in 2001, there were scoping studies and reports done, and it has taken until now for a pilot program to be developed.

Senator Ellison—All I can say is that there is other work being done in relation to identity security across a range of issues, including legislation being passed. That is not inaction.

Senator LUDWIG—Can you provide an overview of how much identity fraud has gone undetected?

Senator Ellison—I can say that we commissioned a report to ascertain the size of it. That, as I recall, was carried out by AUSTRAC. That was in 2001-02—in fact, it would have to have been afterwards, because it estimated that in the year 2001-02 the cost of identity fraud in Australia was \$1.1 billion. So the report was provided after that and commissioned after that. We had to get an idea of the size of the problem. We had to look at who was being defrauded—whether it was individuals, companies or banks. As I recall, half of those who were defrauded were individuals. That requires different action from major fraud in two or three instances on a bank. We have had cases where fraud can involve in excess of \$100 million in one exercise. The sorts of fraud had to be looked at. That report was an essential requirement for us to begin work on identity security, and that is what we did. Once we got that report we could move forward. We also did that at the Police Ministers Council, we also did it in relation to legislation and we also did it in setting up an advisory body to me. We also did it in other areas such as SmartGate in Customs and ePassports in Foreign Affairs. There were a whole range of initiatives that were being developed over a period of time and are now coming to fruition. SmartGate is just one that was mentioned in the last budget.

Senator LUDWIG—I am sorry, I missed the date of the AUSTRAC report.

Senator Ellison—It was dealing with the cost of identity fraud in 2001 and 2002, so the report would have had to have been after that.

Mr Jordana—It was late 2003, I understand.

Senator LUDWIG—That was my recollection as well.

Senator Ellison—Late 2003.

Senator LUDWIG—It seems to me, at least, that you have dropped the ball between 2003 and now. AUSTRAC are telling you that there is a billion dollar identity fraud problem. If you developed a cabinet sub brief which outlined that the issue needed to be addressed and you put down figures in the order of \$378 million to deal with it in a whole-of-government comprehensive way, including a document verification service, that did not get the tick, by the look of it. It fell off the back of the lorry. You are now in a position where all you have is a pilot study. It seems to me that the short answer is that you do not have your eye on the ball, quite frankly.

Senator Ellison—Late 2003, which is when there was the report from AUSTRAC, was only 1½ years ago. In that time we had to look at what has happened. We had the announcement in April this year of this strategy—but that is only one part of it, as Mr Jordana said. The Australian Police Ministers Council, the APMC, itself only passed its resolution for a whole-of-government approach in November 2004, so all the governments of Australia only really passed that in November last year. In fact, it was in June 2003 that the Australasian

Police Ministers Council established a multi-agency task force to provide advice to the APMC on a range of matters relating to the prevention, detection and investigation of identity crime. If I remember correctly, I think it would have been around the time that I released the AUSTRAC report. Work has been ongoing since then; it has been continual and across the board. The Commonwealth has not stood still. In fact, it has provided a leadership role in the work on this. I just do not accept the proposal that, since 2003, nothing has been done.

Senator LUDWIG—Minister, do you have anything other than the \$5.9 million pilot study that demonstrates that in fact you are doing something about it? As you have indicated, it was up to November last year that the size and scope of the problem has been recognised. The AUSTRAC report is there. The other reports that you have mentioned are there. The budget has come and gone. Of the budget, you have \$5.9 million to do pilot studies. While we wait, the AUSTRAC report about how much has been lost in identity fraud remains valid. That continues to drain.

Senator Ellison—I think that money is not the only answer here. Let us look at the APMC. This is what you need to do, because the Commonwealth cannot beat this alone; there has to be across-the-board cooperation. The best system in the world at the federal level will count for nothing if we have states and territories which have no ID security systems. So you may as well forget it if you do not have all jurisdictions involved. You either do it all together or you do not do it at all, and that is really the answer to whether you are serious about it as a nation. That is why the APMC endorsed a national approach to identity security. It endorsed the need for national consistency. That need not cost a great deal of money, but it does require a good deal of work in achieving national consistency.

Each jurisdiction and each department has been working at the enhancement of the integrity of their documents. I have mentioned passports; I have mentioned Customs. We have mentioned the work that we are looking at in relation to citizenship certificates. They are the pillars on which we build a strategy. The states and territories are doing likewise with births and deaths and also with drivers licences. You have to get those right. Work is being done on those. They will be the pillars on which we rest, because what we are looking at is relying on those documents which are used by average Australians in their normal daily lives. I do not mean an Australia card—we have ruled that out—but a much more secure system where you can rely on two or three documents and have them crosschecked across jurisdictions, whether they be drivers licences, pensioners cards, citizenship certificates, birth certificates or indeed passports. That is what we are looking at.

What we are talking about here is one part of it, and that is the Commonwealth jurisdiction and the way it interrelates internally in relation to Commonwealth documents. As well as that, we have to reach out and interrelate with state and territory governments, and that is just what we are doing through the APMC initiative, which is now being referred to COAG because it does require heads of government to come together to put this into effect.

Mr Jordana—I can add to what the minister has been saying. I outlined to you the five areas of activity we have been undertaking over the last three months and indeed since the announcement. We have established or identified five Commonwealth working groups to investigate each of those areas actively and we have also just recently completed the first round of consultations with premiers' and chief ministers' departments in the states and

territories to explore with them the way in which we can not only have the states and territories participate in the work of those working groups but also establish a consultative Commonwealth, state and territory body that will overview the work and explore ways in which we can achieve higher levels of national consistency.

Senator LUDWIG—That is helpful. It comes back to the point I made at the outset, that a lot of that was indicated in the original cabinet sub report. It had AGD, ACC, AEC, ATO, ASIO, AUSTRAC, Centrelink, Customs and DIMIA—all of those agencies which were supposed to provide it—and an implementation date of 1 July 2004. It appears to me that the minister is standing still. But I am happy to move on.

CHAIR—To where?

Senator LUDWIG—Papua New Guinea.

CHAIR—That is still in 2.1.

Senator LUDWIG—I am sure you are aware of the PNG Supreme Court ruling in respect of removing prosecutorial immunity from the actions of the Australian Federal Police officers in Papua New Guinea, and as a consequence these officers were brought home. What was the effect of the PNG Supreme Court ruling on prosecutorial immunity of Australian personnel in PNG?

Mr Cornall—Personnel who are not police are able to stay in advisory roles but not in front-line roles. They can act as advisers to PNG officials discharging their duties. This is not overly dissimilar to many AusAID assistance projects in our region.

Senator LUDWIG—Has the Attorney-General's Department provided any advice to government in respect of the effect of the ruling on Australia's future involvement in PNG?

Mr Campbell—Obviously the decision has been looked at and advice has been sought on the effect of the decision.

Senator LUDWIG—It has not been provided as yet?

Mr Campbell—We do not generally state what advice has or has not been provided.

Senator LUDWIG—That was not the question, though. Have you provided advice?

Mr Campbell—That is the question I am answering.

Senator LUDWIG—I see. I thought you said you were not going to provide the information. I had not asked for it yet.

Mr Campbell—What I can say is that obviously the decision of the PNG Supreme Court has been considered by advisers to the government and they have provided views to the government about the effect of that decision, yes. I can tell you, without saying what advice has gone to the government, about what the effect of the decision is on the ECP program.

Senator LUDWIG—That would be helpful.

Mr Campbell—I am not sure whether you are aware of the detail of what was in the agreement between Papua New Guinea and Australia, which was actually given the force of law in Papua New Guinea by the PNG legislation.

Senator LUDWIG—Not in total, no.

Mr Campbell—Would it be helpful if I stated what was actually in the legislation?

Senator LUDWIG—It would be, thank you.

Mr Campbell—The bilateral agreement that was given the force of law in Papua New Guinea set out the legal relationship between what is known as the Australian Assisting Police and the Royal Papua New Guinea Constabulary. It stated that disciplinary matters were internal to the Australian Assisting Police; the Australian Assisting Police were subject to orders from the head of the Australian Assisting Police; the Australian Assisting Police were authorised to exercise functions, powers and authorities of the Royal Papua New Guinea Constabulary; and the Australian police were authorised to carry weapons.

Of course, the ECP was not confined to just the provision of police. There were other personnel appointed from government departments. The agreement that had been given the force of law said that they were able to be appointed to positions within the PNG public service and exercise the relevant powers and duties of such positions; those deployed were to respect the laws and regulations of Papua New Guinea; there were detailed provisions to ensure that deployed personnel would be subject to the Australian criminal jurisdiction; and deployed personnel were not to be subject to the jurisdiction of PNG courts in respect of matters in the course of their official duties—that is, civil jurisdiction. Many of those provisions have a similarity to so-called status-of-forces agreements, where the armed forces of one country are with those of another country. Will I move to the effect of the PNG Supreme Court's decision?

Senator LUDWIG—Yes, please.

Mr Campbell—The first thing that must be said is that not all of the PNG legislation which gave the agreement the force of law was held to be invalid, only certain parts of the treaty as given the force of law. Certain critical parts, it must be said, were challenged on the basis that they infringed the PNG constitution. As a result of the court decision, Australian Assisting Police personnel do not have any legal authority to exercise police powers in Papua New Guinea or the right to carry firearms. That was on the basis that they could potentially interfere with certain qualified rights established under the PNG constitution.

The second issue was the command structure—under which AAP personnel were subject ultimately to the command of the commander of the AAP—that was held to be invalid. The protections provided to deployed personnel in relation to the application of PNG criminal jurisdiction and also in relation to certain aspects of civil jurisdiction were held to be invalid. That is about it.

Senator LUDWIG—Are there still AFP personnel employed in an advisory capacity in PNG; how many remain there?

Ms Blackburn—Sorry, I need to take a raincheck on the number of police. I will confirm that one. There are other people remaining there who are from the law and justice program, including two policy officers, four prosecutors and two correctional service officers. They are presently in PNG undertaking an advisory role.

Mr Cornall—There were, I think, 124 police in PNG when the decision was handed down, and the bulk of them have come back to Australia. Those remaining are only there for minor

administrative tidying-up—they are not doing policing work—and then they will come home as well, as I understand it.

Senator LUDWIG—Yes. The question was only to do with how many remain there, what work they are doing and who is affording them protection. They would have been protecting themselves prior to the decision of the PNG court.

Mr Cornall—I understand it is a very small number. We will see if we can find the number for you.

Senator LUDWIG—How is their personal protection being handled? What arrangements have been put in place with the PNG government to ensure their personal protection?

Mr Jordana—Are you referring to the police and the—

Senator LUDWIG—The police first, and then I was going to ask about the bureaucrats next.

Mr Jordana—We are not sure about the numbers of police remaining. If, for example, we are talking about the public servants there, as you can imagine Australians are engaged in many aid projects that are taking place around the world. In a sense, the activities and work being undertaken by Australians in the setting of the ECP is no different for many of them, particularly if they are only involved in advisory roles, than that of people involved in aid projects. When you talk about their protection, I am not sure if you are talking about their legal protection or their physical protection.

Senator LUDWIG—I can deal with their protection in terms of both prosecutorial or diplomatic immunity and their personal protection.

Mr Jordana—My understanding of the situation as it currently stands, according to the advice that we have, is that people who are employed in aid type projects overseas are obliged to obey the laws of the land in which they are working.

Senator LUDWIG—I appreciate that. My question is about those bureaucrats whom Ms Blackburn has identified and the remaining police officers whom Mr Cornall has identified. I appreciate there are always aid people across the globe in various locations, but my interest lies with the more finite question. If you do not have the answer, I am happy for you to take it on notice.

Mr Cornall—I think Mr Jordana is saying that they do not have immunity from PNG law.

Senator LUDWIG—I thought that was where we were going, but we can get there a bit more quickly.

Mr Jordana—Sorry.

Senator LUDWIG—There is no immunity. Has there been no extension of diplomatic immunities for those bureaucrats or the remaining police either?

Mr Cornall—No, not at the present time.

Senator LUDWIG—Has any consideration been given to that?

Mr Campbell—I will take that notice. But I can say that PNG does have a say in according diplomatic privileges and immunities to persons who form part of the ECP and

could object, if it wanted to, to people being given immunity. The other thing I should say on that particular aspect is that there has been some suggestion that the laws relating to diplomatic privileges and immunities in PNG might be affected by the decision of the court because of the basis on which the court held the jurisdictional provisions of the ECP invalid. That is one issue that will have to be looked at.

Senator LUDWIG—Will both issues require a new heads of agreement, a new legislative response by PNG or a change to PNG's Constitution?

Mr Campbell—I mentioned that because you mentioned diplomatic privileges and immunities, and it has been mentioned in a newspaper article in PNG. In relation to the ECP, there will need to be discussions between Australia and PNG about where to from now in the light of the decision of the PNG Supreme Court. I understand it is suggested that the foreign ministers of the two countries will get together very soon to discuss that, as will officials from both countries.

Senator Ellison—I understand that today the foreign minister announced that the Minister for Internal Security, Bire Kimisopa, is coming to Canberra this week to hold talks with him about this issue. We heard that at question time.

Mr Cornall—On the question of physical security, my understanding is that the ECP personnel in Port Moresby were in a secure housing environment, and no doubt that is continuing while they are there.

Senator LUDWIG—What type of work are they doing?

Ms Blackburn—The two policy officers are placed in the justice department and are largely continuing to provide advice and assistance to PNG officials. The prosecutors have ceased court appearances and have assumed advisory roles providing advice and assistance to PNG prosecutions. The correctional services managers are undertaking what has been described as policy work. I do not know the details of that work. They are not, however, engaging in corrective services functions and are not working in the prisons.

Senator LUDWIG—And the remaining AFP officers?

Ms Blackburn—I am unable to provide details on AFP officers. Perhaps we can take that on notice or AFP can provide that detail.

Mr Cornall—It would be simpler to ask the AFP tomorrow.

Senator LUDWIG—Yes, I will. I have got enough questions for them already, thank you, Mr Cornall. Has the government—I guess this might be a question to the minister—examined whether or not that decision has had any effect on other regional deployments?

Senator Ellison—It is based on the constitution in New Guinea, as I understand it, so it would not have any applications to any other deployments. There is a court case in the Solomon Islands which is pending. The application there is, I think, on different grounds. So it really is a case-by-case basis, as I understand it.

Senator LUDWIG—So there has been no work to examine whether or not other constitutions of other countries might impede the work of regional deployment teams.

Senator Ellison—I think it is: is there an objection raised pursuant to a country's constitution saying, 'Look, we object to this because it is unconstitutional'? We have just seen that done in Papua New Guinea. In the Solomons there is a court proceeding which is pending. Unless there is an application brought on the basis that it is unconstitutional, we certainly work on the basis that our deployments are lawful and continue.

Senator LUDWIG—Is the funding for the Enhanced Cooperation Program being suspended? How much of that is remaining? Is it going to be redeployed elsewhere? How is it held within the department?

Senator Ellison—Madam Chair, that is really a foreign affairs question.

Senator LUDWIG—I see.

Senator Ellison—You could ask the Australian Federal Police as to the suspension of operations and how they are dealing with things in relation to their particular area, but I think this is a question for DFAT.

CHAIR—Which we can ask next week.

Ms Blackburn—I will just clarify: all of the funding comes from AusAID.

Senator LUDWIG—Yes, all of it. I will ask foreign affairs, defence and trade. In terms of the establishment of antiterror flying squads or regional engagement teams to be located in regional countries, as I understand it, the Malaysian PM during his visit was not interested in having one of these teams in his country. Have any other countries expressed this view about those regional engagement teams?

Senator Ellison—I think, Madam Chair, this is more a question to AFP.

Senator LUDWIG—Are you aware of any?

Senator Ellison—I am not aware of any other comment in relation to these AFP deployment teams, but I will check. If there is anything else I will add it to the record.

Senator LUDWIG—Minister, you are aware of the Malaysian PM's view.

Senator Ellison—I am aware of comments that he made.

Senator LUDWIG—In terms of the legalities of providing or placing these teams in regional areas has the Attorney-General's Department examined those issues or been asked to examine those issues?

Mr Cornall—Not that I am aware.

Senator LUDWIG—That is in respect of prosecutorial immunity in those sorts of issues; I guess we are on that topic.

Mr Cornall—Not that I am aware.

Senator LUDWIG—Is it envisaged that they will acquire arms or exercise powers of detention or exercise coercive force? What is their role, or should I ask the AFP that?

Mr Cornall—Sorry; could you repeat the question?

Senator LUDWIG—When those regional deployment teams are deployed in external countries, is there a view being worked out as to whether they can acquire arms or exercise powers of detention or exercise coercive force?

Senator Ellison—I think this is the nub of the question: where you have the ECP deployment in Papua New Guinea—and the one in the Solomons—you actually have Australian police officers exercising powers under the law of that country, and powers of detention and other coercive powers which police officers normally enjoy. Where we have our deployment by way of our liaison officers and counter-terrorism teams overseas, it is there on the basis of the invitation of the country concerned, of course, but the people are not there exercising the powers of a police officer in that country. They are there as liaison officers providing advice, assistance, capacity building, training—those sorts of things. So they have a very different role to the deployments that we have in the Solomons, Papua New Guinea, East Timor, and indeed in Cyprus, where there are policing functions carried out. So that is why you need different treatment in relation to immunity—because of the hands-on role, if you like, that they perform as police officers exercising police powers. Tomorrow the police commissioner will be here, so he can expand on that and correct me where I have got it wrong.

CHAIR—I am sure he will be keen to expand, Minister.

Senator LUDWIG—I do not think he will correct you, Minister.

CHAIR—I did make that subtle distinction.

Senator LUDWIG—Has any country indicated a preparedness to accept these regional engagement teams to date, Minister?

Senator Ellison—You are talking about the deployment teams, counter-terrorism teams?

Senator LUDWIG—The regional engagement teams.

Senator Ellison—I think that question is best answered by the Commissioner of Police when he attends tomorrow. We do have teams in the region, of course, who are assisting in a number of areas, as you know—in the Philippines and Indonesia. In relation to these particular ones, though, I think that question is best put to the commissioner.

Senator LUDWIG—The Prime Minister's *Fighting terrorism at its source* release indicated that the counter-terrorism regional engagement teams:

... will undertake investigative, technical and intelligence activities in support of day-to-day counter terrorism operations.

Each team will include counter terrorism investigators, intelligence analysts, financial investigators, high tech crime and technical specialists and a security officer.

So they will be able to gather and find evidence and otherwise provide it to the respective government. How does that accord with your earlier statement, Minister, that they will be support in that sense? If you investigate crime and gather evidence and you then want to use it, you will end up needing to be a witness in a prosecution if one is launched and the like. What immunities have been thought through for those team members?

Senator Ellison—I think that the Prime Minister's statement said that they would be working 'in support of'. I think that is the crucial part of it. It is not actually taking over the role or exercising the same powers; it is assisting them with investigatory skills, advice—supporting their operation but not in a situation where they are exercising police powers.

For instance, in relation to the Bali investigation, it is well known that we had investigators there in vast numbers, and they carried out roles which were supportive. But the exercise of police powers was carried out by the Indonesian National Police. We might have been there with forensics advice, technological backup—all sorts of assistance in relation to the investigation. But we did not have those police powers in the field that we do have in places like the Solomons. That is the difference.

Senator LUDWIG—I would invite you, Minister, to go back and have a look at the Prime Minister's press release. I could not find the word 'support' in there. That is another matter; I am certainly happy to table it and you can have a look at that in due course.

Senator Ellison—The police commissioner will be here tomorrow. We can deal with it then.

Senator LUDWIG—Yes, we might revisit that matter. I thought I would provide it now but we can certainly revisit it tomorrow with the AFP. The more central question is whether or not the Attorney-General's Department has looked at the issue of immunities for these regional deployment teams. The short answer seems to be no—is that correct?

Mr Cornall—That is correct. I should say that the issue has not arisen before, in the sense that it has not been seen to be an issue that they needed the sort of immunities that they clearly felt were needed in PNG.

Senator LUDWIG—Yes.

Mr Cornall—I think that is because of the distinction that the minister is drawing between the sorts of functions they were performing in PNG and the sorts of functions they are performing in these other countries where they are performing support roles.

Senator LUDWIG—I appreciate that. Thank you, Mr Cornall. When you look at the press release, however, and the work that is envisaged by it, I have a lot of difficulty trying to separate out policing operations and the role of the regional deployment teams. In other words, it does seem to me to be very similar to PNG, but I am happy to be corrected by someone who knows more than I.

CHAIR—Do you want to pursue that now, Senator Ludwig?

Senator LUDWIG—No. We will deal with it tomorrow when the Australian Federal Police appear before the committee. With respect to the Regional Assistance Mission to the Solomon Islands, \$5.2 million is allocated over four years to continue the program. How will this money be spent?

Senator Ellison—Again, I think that is a question for the AFP.

Senator LUDWIG—What about the role or capacity that the A-G's Department has in RAMSI? We can deal with that when we hear from the Australian Federal Police.

Senator Ellison—That is an AGD question—the role in RAMSI.

Ms Blackburn—The Attorney-General's Department, by way of the Criminal Justice Division, has provided mainstream Public Service participation in a variety of issues associated with the RAMSI mission. No staff from the Criminal Justice Division have been posted to the Solomon Islands, nor are there staff within the division specifically working on the issue.

Mr Campbell—There is one officer from the Office of International Law in the Attorney-General's Department who has a temporary position in the public defender's office, I think, as part of RAMSI, and that position is paid for by AusAID.

Senator LUDWIG—Thank you; that is helpful. I will certainly follow up the matter with AusAID and the Australian Federal Police.

Mr Cornall—In Budget Paper No. 2, at page 177, Mr Kennedy tells me that there is an error—the reference there to the Attorney-General's Department having those amounts of \$1.4 million, \$1.3 million, \$1.2 million, \$1.3 million over four years. It is not funding for this department; it is actually for Customs.

Senator LUDWIG—Was there an erratum produced in that regard?

Mr Cornall—I do not know the answer to that.

Senator LUDWIG—So I should ask Customs that question.

Mr Cornall—Yes.

Senator LUDWIG—I will see if I can remember to do so. The Attorney-General some time ago floated the idea of a new court to deal with terrorist offences. Has any work been done on that?

Mr Cornall—I do not think the Attorney floated it. I think someone else made the proposal and he said, 'If someone makes a proposal we could give it some consideration.' I do not think it was his idea.

Senator LUDWIG—I am happy to be corrected then. Is he looking at it?

Mr Cornall—Not actively that I know of, no.

Senator LUDWIG—In terms of e-crime and phishing—which is spelt with a 'ph' now—what work is being done on that, particularly e-crime, from the A-G's perspective?

Ms Blackburn—Good question.

Senator LUDWIG—We have had to become computer literate, so there is no reason why the Attorney-General's Department should not also follow.

Ms Blackburn—I could argue against that.

CHAIR—I suspect they are way ahead of us actually, Senator.

Mr Jordana—This is part of a number of issues obviously that are swept up within the identity security arena. But the identity security work that the Attorney-General's Department is doing is not aiming to address every element of the identity security problem. Clearly, the crimes that are committed as part of 'e-activity' are the responsibility of agencies that deal with crime. With respect to phishing or the Trojan problems or whatever, it is not something

which specifically this department is picking up, but I am sure there is activity taking place within other agencies such as the High Tech Crime Centre and more generally in the AFP.

Senator LUDWIG—Is the changing of the locks in Parliament House an area that comes under the Attorney-General's? Are you familiar with what is happening?

Mr Cornall—No.

CHAIR—That should be under the DPS in the Finance and Public Administration Legislation Committee, I imagine.

Senator LUDWIG—I will try there.

CHAIR—I think you may have missed Ms Penfold.

Senator LUDWIG—I understand about 9,000 locks are going to be changed because there is—my words—a security issue. I am getting a new lock and a new key, I suspect, so I am going to have to find my key. I will ask the Department of Finance and Administration about that one.

CHAIR—It is actually the DPS, Senator.

Senator LUDWIG—Is it?

CHAIR—It is for Ms Penfold, I would have thought. I suspect she is changing the locks.

Senator LUDWIG—Thank you, Chair. There was a press release back on 24 March 2005, if you are interested, Mr Cornall, which indicated that as many as 9,000 locks at Parliament House in Canberra will be replaced because ASIO fears their design is no longer secure.

Mr Cornall—Who issued the press release?

Senator LUDWIG—I am sorry. It was not a press release; it was in the *Australian*—so I am sure it is true! I guess I can ask ASIO as well. I will see if I can finish off on output 2.1. Is the Police Consultative Group on Missing Persons within 2.1?

Ms Blackburn—I would suspect it is an AFP body. It is not one that I am responsible for.

Senator LUDWIG—Minister, do we have an exposure draft for the Australian Commission for Law Enforcement Integrity?

Senator Ellison—No, we do not. I am in the process of consulting with the ministers on the intergovernmental committee for the Australian Crime Commission. I have written to them and we will be discussing it further at our meeting next week. That was part of the process, to consult with them. That is the next step in the process.

Senator LUDWIG—Is the Anti-Money Laundering Bill within 2.1?

Ms Blackburn—Yes.

Senator LUDWIG—It seems to have stalled—those are my words. Where are we up to?

Ms Blackburn—I can only assure you, from the amount of work being done, it has not stalled.

CHAIR—We discussed it in New Zealand, Senator Ludwig.

Senator Ellison—It is definitely not stalled.

Senator LUDWIG—When is it expected to be released? I have to say, I have been waiting for this for some time now.

Ms Blackburn—So have I.

CHAIR—You need to get out more, Senator Ludwig.

Senator LUDWIG—I know.

Senator Ellison—I think industry is hoping it will be a very long wait.

Senator LUDWIG—I am not going there, Minister. The real estate and jewellery stores are waiting for you, I suspect.

Senator Ellison—We will have enough to talk about when that is released, I can assure you. The work of this committee will be enhanced.

Senator LUDWIG—Is there a time line or a date for release?

Senator Ellison—It is before government at the moment. I am hoping to have a draft bill out very soon for public exposure and comment. I want to deal with it in the second half of the year, during the sittings between August and November.

Senator LUDWIG—The Paris group came and visited the government, I suspect, about the antimoney-laundering initiative.

Senator Ellison—That is FATF. They did an assessment of Australia's compliance.

Senator LUDWIG—Is that report available?

Ms Blackburn—The FATF mutual evaluation report is expected to be considered at the October plenary meeting of the Financial Action Task Force.

Senator LUDWIG—So they have finalised their report and they are going to provide it in October to that group.

Ms Blackburn—No. They have not finalised the report yet. They undertook the mutual evaluation on-site visit. Following that, the secretariat and the evaluators will prepare a draft report, which will be provided to Australia, and to the other evaluating countries, for comment. We will have discussions with them on the draft. The time line that FATF is working to is to have the final report available for presentation at the FATF plenary meeting. I should mention, in that context, though, that the mutual evaluation reports are considered in closed session at the FATF. Then, there is discussion of the membership of FATF. Following that, there is an agreed report, because it is a mutual evaluation, which will be published.

Senator LUDWIG—Minister, is it intended to have the legislative response and the antimoney laundering in place before that report is finalised then?

Senator Ellison—It is certainly intended to have the exposure bill out. As I understand it, they are going to be putting their report into the plenary session of FATF in October, so they will have an opportunity to see what our draft legislation looks like. That is certainly what I want to happen.

Senator LUDWIG—Then, if there is any outcome from that, there is the ability to have the exposure draft there and receive submissions. So the closing date would likely be post the plenary meeting and the revision.

Senator Ellison—No. It will be difficult. It is a two-way street. The thing is, FATF is doing the assessment of Australia's compliance, and part of that is that we want them to see what we are doing, and that is in our legislative response. As well as that, in their assessment of Australia's compliance, it may be necessary for us to address that report. So, it really is a two-way street as to which one comes first. We certainly want them to see what we are endeavouring to do. It would be unfair to judge Australia's position without seeing that. But, at the same time, if they have some response to the matters in parliament in October, then there will be the ability to take on board those matters.

Mr Jordana—Also—and Ms Blackburn will correct me if I am wrong—I gather that these assessment reports that are done of countries are not just one-offs; there

is a rolling program of assessments of countries. It will not be the last opportunity for Australia to demonstrate what it is doing in the antimoney-laundering field.

Proceedings suspended from 6.30 pm to 7.32 pm

CHAIR—When we adjourned for the dinner break we were still discussing output 2.1, and that is where we will resume. I understand that, before we do, Mr Govey has a response to offer on a previous question.

Mr Govey—This is in relation to the request for a copy of the letter that the president of the human rights commission wrote to the Attorney about its budgetary matters. We have consulted with the Attorney and the human rights commission and the position taken is that it would not be appropriate to release the letter. It is a letter written by a head of a portfolio agency to the Attorney-General concerning the operations of the agency. The letter includes how the commission proposes to ensure it operates within its budget allocation but also involves future ongoing budgetary issues, which will have to be considered both by the Attorney-General and in due course by the Minister for Finance and Administration. I should stress, however, that there would not be any difficulty with the commission talking about the issues that they are taking to operate within the budget. Our understanding is that the commission will be ready to do that tomorrow when they are before the committee.

CHAIR—Thank you very much. Senator Ludwig, did you want to pursue that now or will we take it up tomorrow?

Senator LUDWIG—I think we can deal with it tomorrow. It will probably be easier when the commissioner is here. I understand that there is currently a review of criminal penalties under way. When is that likely to be completed?

Ms Blackburn—The review of criminal penalties has not yet started. It will be conducted within the normal work of the Criminal Justice Division. It has not yet commenced. In light of the fact that it has not yet commenced, I do not think it would be appropriate for me to suggest an ending date.

Senator LUDWIG—We can always come back to it!

Ms Blackburn—Indeed.

Senator LUDWIG—I think there were a number of questions on notice about firearms policy. Where are we up to with the hand gun buyback scheme? Has that been finalised?

Ms Blackburn—To the extent that the buyback periods have closed in all jurisdictions, it is finished. However, we have not yet finalised the payments to all of the states. That is essentially just an accounting activity as the states are finalising their details of the payments that they have made which then of course trigger the Commonwealth obligation to reimburse two-thirds of those expenses.

Senator LUDWIG—The firearms policy development, which is about a nationally consistent regulation for firearms manufacture, was delayed, as I understand it—correct me if I am wrong—as a consequence of the buyback scheme or for other reasons. Where are we up to with that? Is that going to proceed?

Ms Blackburn—I think that, since we raised those issues, we have provided answers to a question on notice in which we indicated that work had recommenced. A discussion paper has been prepared which has been considered at least on one occasion by the firearms policy working group and is still under development by that group.

Senator LUDWIG—Is that discussion paper available?

Ms Blackburn—At the moment, it is a discussion paper which has been considered entirely within the firearms policy working group. That is a group which reports to the Australasian Police Ministers Council. I would expect that, whatever work is done on that will need to go in the first instance to the Police Ministers Council before it is released publicly.

Senator LUDWIG—Who is on the working group?

Ms Blackburn—The firearms policy working group is chaired by the Commonwealth Attorney-General's Department and has representatives from all state and territory police forces, primarily from the areas which are responsible for firearms policy. For those jurisdictions who have both police and justice departments, such as New South Wales, Victoria and the ACT, their justice departments are similarly represented. The Australian Institute of Criminology, the Australian Crime Commission and the Australian Customs Service also participate in meetings of the group.

Senator LUDWIG—In terms of the time line for completion, should I come back after they have reported to the ministerial council?

Ms Blackburn—Yes. Manufacture is just one of the issues that is being dealt with on the policy agenda in that group. I think we provided details of a number of specific activities. At the point at which there is anything to be announced as an outcome from that work, in the normal course, it would be announced as an outcome from the Police Ministers Council.

Senator LUDWIG—The review of the Extradition Act began in April 2005, so it is early days yet. What are the resources? Is a working group going to be established? Is there any idea of how that is going to be proceeded with and how the consultative processes are going to be handled?

Ms Blackburn—I will take that in two parts. I currently have a group of six staff who are funded for the purpose of conducting the extradition review, the review of mutual assistance as well as conducting bilateral treaty negotiations. They are the resources that are devoted to the task. In terms of consultation, we are in the process of considering the appropriate consultation mechanisms which would be undertaken.

Senator LUDWIG—Has any decision been made yet as to whether you intend to have a draft report or a working group with an open consultative process? What decisions, if any, have been made about the process and time lines?

Ms Blackburn—No decisions have been made on whether we will do particular reports and whether they will be made available. In the first instance, obviously we are preparing this review for the purposes of consideration by the government. That would be the first port of call. In terms of possible preparation of a discussion paper which might form the basis of consultation, that is an open question at this stage which we would come to on the basis that, if it provided an effective and efficient way to undertake the consultations, then it would be a course of action which would be open to us.

Senator LUDWIG—Thank you. As an aside, we went to the Financial Action Task Force in some detail earlier. You answered a number of questions where you referred us back to have a look at a particular web site, and we appreciate that; sometimes we might miss things. But in this instance, when was that last updated? That particular web site does not appear, at least from my examination, to have been updated since June last year. Sometimes it is difficult to see whether they change that date. So you refer us to a web site but effectively it is an old web site or it has not been updated. The information is quite old in that instance and there has been no more recent addition. Alternatively, it has been updated but the record of it being updated has not been done either.

Ms Blackburn—Is the URL reference you are looking at an OECD one?

Senator LUDWIG—No. It is www.ag.gov.au/aml.

Ms Blackburn—I will take on notice the date on which we last updated. However, it is our primary method of communicating to the very wide range of interest groups which are interested in progress on the implementation in Australia of the AML reforms, so we are fairly conscious of keeping it up to date with information which we have available for publication.

Senator LUDWIG—I accept that.

Ms Blackburn—But I will confirm back to the committee the date on which we in fact last updated.

Senator LUDWIG—Perhaps you could do the last five or six updates and when they were done, some time lines, and what material of significance might have been added, if that is possible.

Ms Blackburn—I will take that on notice.

Senator LUDWIG—In question on notice No. 139, it is a minor matter, but it does not finish the sentence.

Ms Blackburn—I noticed that as I was reading them yesterday and wondered what indeed had happened to that. I am sorry; there has been a glitch.

Senator LUDWIG—We have errors on our side as well. We are happy for you to update that record at some point so that we know what the ending was.

Ms Blackburn—We will update. I suspect the ending is that 27 March 2003 is the date on which the current system for issuing those permits came into force and that prior to that date there was no permit based system. But I will correct the answer to that question.

Senator LUDWIG—We asked a number of questions regarding incidents involving the use of tasers. Is the Taser X26 still the model used by the specialist response and security tactical response team?

Ms Blackburn—That is not my business.

Mr Cornall—That is probably for the AFP.

Senator LUDWIG—It is administered by A-G, though, in the sense that that is where—

Ms Blackburn—It is Customs input. Presumably you are talking about a system for importation of them but your question appeared to go to use.

Senator LUDWIG—I will deal with it with AFP. Sometimes a thing crosses a number of outputs and agencies. A-G's has earmarked moneys for the action plan to eradicate trafficking in persons. How much has been expended of the money that was earmarked in the action plan to eradicate trafficking in persons for A-G's?

Ms Blackburn—The amount of money that was used for putting out that action plan itself is expended but we have an ongoing awareness-raising project which my colleague Dr Heriot I think can answer the question on.

Dr Heriot—Alas, I do not have the expenditure to date. I am sorry, Senator.

Senator LUDWIG—That is all right. I am happy for you to take that on notice.

CHAIR—The best-laid plans.

Senator LUDWIG—It is really a case of how much has been spent in the department's portion of that plan and if there is any additional funding that is going to be sourced.

Ms Blackburn—The funding that AGD has is for the community awareness project, which is under way. No additional money has been provided for specific people-trafficking activities within the Criminal Justice Division. We undertake continuing work as the chair of the IDC charged with monitoring the implementation of the various parts of that package. We also have a general policy responding role on people-trafficking issues as well as contributing to the work that is being done internationally in, for example, the Bali ministerial process on people-trafficking. There are a range of official-level activities which are still conducted there which we contribute to. But there is no separate funding for that activity.

Senator LUDWIG—Is the mutual assistance in criminal matters legislation in this area?

Ms Blackburn—Yes.

Senator LUDWIG—Are you able to say how many requests have come in and gone out, which countries they involve and the nature of the requests?

Ms Blackburn—I doubt that we have that information with us, but we have provided details of it in the past. We have figures in our annual report. If you would like me to take that on notice—

Senator LUDWIG—There was a table that was provided—I forget whether it was at the last estimates or at the estimates before that—which indicated the number of assistance requests that were made and which countries they involved. I was wondering if you could have a look at that table and update it. I can find it if you need it through the committee to establish which question it was.

Ms Blackburn—It would be useful, because I do recall doing that in relation to extradition but I do not recall having done it in relation to mutual assistance.

Senator LUDWIG—I recall the extradition one. It may have been a lot earlier. I do not want to say; I looked at it some time ago.

Ms Blackburn—If we could clarify your question—you would like information about the number of MA requests and the countries they were received from and made to. Over which period? Could I just do them for the last year?

Senator LUDWIG—I thought three years, but it will depend on the size of information.

Ms Blackburn—We will take that question on notice and consider if we are able to respond to it.

Mr Cornall—A lot of this information is set out in the annual report on pages 239 to 244. I have a copy here if you would like to have a look at it.

Senator LUDWIG—It sets down the types of assistance but it does not link that up with which countries they were, whether there were reasons for refusal and, if so, what those reasons were.

Ms Blackburn—Part of the issue here is that there is a provision in the mutual assistance act which requires that the details of mutual assistance requests both made and received remain confidential unless the minister makes a decision to disclose them. We are all aware there have been some disclosures about the fact of mutual assistance requests being made and received, but the majority of them are dealt with in accordance with that legislative requirement. We do not disclose any details, even about the fact that a particular request has been made by a particular country. The statistics we publish in the annual report are designed to meet the requirements of the legislation by not engaging in any inappropriate disclosure.

Senator LUDWIG—So the statistics will still show where there has been a request or where there has been a request fulfilled or denied, even though the mutual assistance treaty might say that that information should not be disclosed?

Ms Blackburn—No. The Australian mutual assistance act imposes an obligation not to disclose details about the making of a mutual assistance request or the fact that a mutual assistance request has been received. The details in any particular case can be released only if the minister determines to make that information public.

Senator LUDWIG—So all of the requests will not appear in the annual report?

Ms Blackburn—To the extent that those tables purport to provide information about the number of requests and the types of requests covered, they are accurate.

Senator LUDWIG—There is a mutual assistance treaty in place with Indonesia, as I understand it. I think there was a regulation made in 1996 and there was a regulation made in 1999. Is that right?

Ms Blackburn—There is a mutual assistance treaty in place with Indonesia, yes. That is correct.

Senator LUDWIG—You have also got the mutual assistance act. Which one applies in terms of working out which provisions operate—the treaty, the regulation or the legislation—in terms of the grounds for refusal or mutual assistance? I can assist you in a broader sense. The mutual assistance act requires, under 81A and 81B—which were introduced under the 1996 reforms, which introduced the issue of an offence where the death penalty was imposed and then there were, as I read it, two triggers. The first trigger is where, prior to an offence—in other words, the prosecution or being charged—and after. So there are two situations which the minister would need to take into consideration when agreeing to a request or not. The Indonesian treaty—and I think others, such as the Greek one, are similar—with Australia does not follow the same lines as the mutual assistance act in respect of that issue that I have just raised. When you look at the regulation made in 1999, which was after the 1996 amendments which brought in 81A and 81B, you do not find that either. It is a ‘may give consideration to’ clause under clause 2, I think. In that situation, does the minister follow the act, the treaty or the regulation in deciding those issues?

Ms Blackburn—In the case of the sections of the act that you are referring to, we regard those sections as having the primary operation—the one that permits the minister to have discretion to refuse to provide the assistance at the point before charges are laid and then the section that provides that, post the laying of charges, the minister must refuse unless there are special circumstances. We treat those as the primary rules in relation to the provision of assistance in death penalty cases.

Senator LUDWIG—So in that instance the act takes precedence over the regulations and the terms of the treaty? It is a curious sort of provision in the act, because it seems to suggest the reverse.

Ms Blackburn—I cannot comment on that. Certainly, in our application of the mutual assistance act those provisions are the ones which govern the way we process requests for assistance.

Senator LUDWIG—That is helpful. In respect of requests made prior to prosecution, does subsection 8(1)(a) operate? In other words, is that where the minister may provide assistance?

Ms Blackburn—The minister has a discretion to refuse.

Senator LUDWIG—Then, once prosecution has started, or charges have been laid—in laymen’s terms and my terms—it appears subsection 8(1)(b) would operate, so it becomes—

Ms Blackburn—The minister must refuse unless there are special circumstances.

Senator LUDWIG—It is very unclear when you try to read those.

Ms Blackburn—It is very unclear when you try to read what?

Senator LUDWIG—Those three provisions together—how they operate. Do you have a manual or something?

Ms Blackburn—No.

Senator LUDWIG—Did you used to have a manual on how to interpret them?

Ms Blackburn—Not that I am aware of. We work from the primary sources.

Senator LUDWIG—I am aware of a manual.

Ms Blackburn—Are you?

Senator LUDWIG—Yes. There was a 2000 manual.

Ms Blackburn—I suspect we do not use it. I have been in this position since September 2001 and I can assure you no resources have been expended on updating said manual.

Senator LUDWIG—That was my next question—have you spent any money updating the manual!

Ms Blackburn—No. I am sorry; it is not a manual that I have seen, nor do we use it.

Senator LUDWIG—I can provide it to you if you want.

Ms Blackburn—Thank you; it is perhaps an historical artefact!

Senator LUDWIG—I will bring it tomorrow. I think I can move to output 2.2.

[7.57 pm]

CHAIR—Senator Ludwig has just advised we can now move to output 2.2, taking us to national leadership and coordination of legal and policy advice on national security and counter-terrorism laws, and critical infrastructure protection.

Senator LUDWIG—In 2004-05 the government allocated \$50 million to the protection of critical infrastructure. As part of this funding, the government also allocated \$8 million to the Computer Network Vulnerability Assessment Program that assesses the security of critical IT infrastructure. At what stage is that program now?

Mr Rothery—We are in the process of making the first offers of funding to applicants for this financial year, with an expectation that we will have 100 per cent acceptance. That is from discussions that have taken place with the applicants.

Senator LUDWIG—Who are the applicants?

Mr Rothery—The applicants represent a number of consortia, one of them being a consortium of participants in the energy sector in Tasmania. A number of players in the water sector—a number of different water authorities from different states—have formed a consortium to bid. The third successful bid was from Alinta, for the gas pipeline in Western Australia.

Senator LUDWIG—Is there an expected date of completion?

Mr Rothery—The process is that payment is only made upon the provision of a copy of the final report back to the Attorney-General's Department from the applicants. The normal expected time scale would be approximately six months from start to completion of that process.

Senator LUDWIG—Is phase 1 of the project on time or ahead of schedule?

Mr Rothery—We would have liked to have been slightly more advanced than we are. We have a number of applicants whose initial applications did not meet the criteria. We are working with those applicants to allow them to rebid in later rounds. We would have liked to have seen the first round of payments made this financial year, but that has not been possible.

Senator LUDWIG—When you say ‘applicants’ do you mean applicants to deliver the program or applicants in terms of industry participants?

Mr Rothery—We are talking about applications from owners of infrastructure who are applying for funding—they are effectively applying for a grant to pay for the costs of the network vulnerability assessment.

Senator LUDWIG—How many did you expect to get?

Mr Rothery—We did not have a figure. We were conscious of the fact that we did not know whether we were going to get a large number of small bids, a small number of large bids or some combination of the two. The latter is what we got. We got four applications in the first round. One of them was a very large application and three of them were of modest size. Had all four have been successful it would have fully utilised all allocated funds for the current financial year. As it turned out, the larger applicant did not meet all the criteria and we are providing them with assistance with putting in an application for a subsequent round.

Senator LUDWIG—What do you mean when you say they did not meet the criteria?

Mr Rothery—Not all the items that were in their application would fall under the description of computer network vulnerability assessment. There were stages in the bid which were mitigation stages. They were actually making the changes recommended by the vulnerability assessment, which we regarded as being out of scope for the project.

Senator LUDWIG—Can you tell me what that means in English?

Mr Rothery—Effectively, the computer network vulnerability assessment is a process whereby a company, either in house or through the engagement of a consultant, gets their computer systems tested to see whether they are vulnerable to a hacker. The next stage after that would be to take the recommendations of the consultant and implement them, whether that meant the purchase of new equipment, installation of new security measures or new software or upgrading. That is out of scope. One of the bids that we had included work that we would expect the owner of the infrastructure to do at their own cost once they had the benefit of the information of the vulnerability assessment.

Senator LUDWIG—What was that precisely?

Mr Rothery—I am not sure that I understand the question.

Senator LUDWIG—You say that you expected them to do the work themselves. What are you actually referring to? Can you give a more concrete outline?

Mr Rothery—The bid included a request for the Attorney-General’s Department to co-fund the remedial measures to their corporate computer systems to fix the problems they expected to be identified in advance of the assessment being done. We saw that as being out of the scope of the program.

Senator LUDWIG—Like what?

Mr Rothery—They were asking for money in advance of the results of the assessment. An analogy is that it is like someone offering you a free roof restoration but you want them to commit to fixing the roof, whatever problem they find, before you have actually had the assessment done. That is what we saw as outside the scope.

Senator LUDWIG—It sounds like an insurance contract to me. Can you give an example of what the deficiencies in that committee computer system were that they wanted you to fix? I am happy to stay in the computer area in terms of what the network vulnerability assessment program is going to achieve. If there are problems in trying to identify applicants and how much they are going to need and we can find some concrete examples of exactly the type of thing you are talking about, it might be helpful to the committee to understand the process involved.

Mr Rothery—This is not the only applicant where we have seen this. In the second round, we became aware of this as well. Effectively, what happens is that the owner of infrastructure goes to a consultant and gets a quote for what it would cost to do the network vulnerability assessment. In the process of preparing the quote, the consultant also includes a provision for taking some remedial action if they find a fault, a deficiency or a weakness. That is included in the quote. The quote is then used as the supporting document for the application for the grant. However, that is outside our published criteria for the application for the grant program.

Senator LUDWIG—That is helpful. Now I am following. I am sorry; I missed it. It is hard, let me tell you. In fact, what you are saying, then, is that it is an assessment that you are doing and what you want to continue to do is only the assessment. If there are deficiencies in the system, then the applicant needs to have them remediated themselves prior to submitting for an assessment. You do not intend to pay for the remedial work for the assessment.

Mr Rothery—That is correct.

Senator LUDWIG—How many of the applicants suffer this problem?

Mr Rothery—In the first round, one of the four.

Senator LUDWIG—Was that an open tender system where only four put their hand up?

Mr Rothery—That is correct. The way that the program is promoted is primarily through companies that participate in the Trusted Information Sharing Network. However, some of the participants are industry associations, which means that the promotional material that we have sent out has gone out, in some cases, through those industry associations to many hundreds of companies, some of which we have not have one-on-one dealings with before. In the first round, we received an application that was a cold application—in other words, we did not have a previous relationship with that company. We therefore had not had an opportunity to assist them with refining their application for the grant. That is what we are now doing, now that we have made contact with that company and they have put that application in. We believe there is merit in their application. There are aspects of it that do fit the intention of the program; therefore we are working with them to help them refine an application to be considered in later rounds.

Senator LUDWIG—So we are talking about those who have participated in the trusted information network. How many companies are in that?

Mr Rothery—In terms of direct representation, the number of companies and organisations that attend meetings is approximately 100, but some of those, as I said, are industry associations and so through those we know that we are communicating with in excess of 1,000 owners of infrastructure.

Senator LUDWIG—So you have four participants for the assessment, out of that pool of potentials?

Mr Rothery—As I said, we got four applicants in the first round, two of which were consortia, with several players from their sector collaborating. Because the basis of the program is that the Australian government does not meet 100 per cent of the costs and we expect a co-contribution by the owner, the feedback we got was that they needed notice of the program so that they could budget for their part of the activity. We commenced promoting the program just before the end of last year, around November, but some participants have told us that they would need considerably greater notice to be able to seek from within their own corporate funds the balance of the resources required to do the full activity. Therefore, we have a very solid expectation that the rate of interest in the program will increase rapidly as the program becomes known, and participants will have longer to bid within their own corporations for their contribution to the program.

Senator LUDWIG—So is phase 1 ongoing or will you do it again—try to get industry participants to be involved in the Computer Network Vulnerability Assessment Program?

Mr Rothery—We have promoted the fact that we have intended to run this program for four years. We have an increase in the funding available in the last three years of the program; that is, for 2005-06 and the subsequent two financial years we actually have an increase in the budget available for the activity. There was always an expectation that there would be a ramp-up phase, and we are out by a few months—no more than that.

Mr Jordana—Mr Rothery, I am sure, will correct me if I am wrong, but an important part of this exercise is not only the value that the exercise delivers to the companies who participate; obviously, the lessons learnt, which can be shared with other members of the industry, are also a key part. That is very much a central part of this exercise. It is not simply about addressing the computer vulnerabilities of the participating companies but also about having experiences that can be shared right across the industry concerned.

Senator LUDWIG—Have any reports on the Computer Network Vulnerability Assessment Program been prepared for the trusted information sharing network, for them to take heed of and use?

Mr Rothery—To date in the program we have not completed a cycle with a participating company. There have been promotional materials distributed within the consulting committees that make up the network. We have also taken a number of opportunities to address industry fora on the program. We also link the program to specific topics or activities that we cover. For example, we have just finished running workshops in four capital cities on a particular vulnerability for computers in the utility sector known as the SCADA systems—the Supervisory Control and Data Acquisition systems. They are effectively the control

systems that are used in water, gas and electricity. We used each of the four workshops, in Sydney, Brisbane, Melbourne and Perth, as an opportunity to promote the Computer Network Vulnerability Assessment Program as a way that participants, once we have raised their awareness of the vulnerability, can then go back to their own companies and see whether they might in fact have that vulnerability and what that might mean to their systems.

Senator LUDWIG—What do you call a full cycle?

Mr Rothery—We require the companies to deliver two reports to the Attorney-General's Department to be eligible to receive the grant. The first report is a detailed report on the conduct of the network vulnerability assessment, which is provided to us on a confidential basis because it includes details about the vulnerabilities that might exist in that corporation's computer systems. The second document is a broader document on lessons learned that is intended for circulation to other companies with similar systems in the same sector. One of the conditions of the grant is that the companies know that that document is a requirement because we want to be able to share the benefits of having the work done with other companies that have similar systems and face similar threats. So a complete cycle would be right through from bidding stage to companies accepting the funds, the companies delivering both reports, the Attorney-General's Department making the agreed payment and the distribution of the lessons learned report to other companies that may benefit from the lessons.

Senator LUDWIG—So no-one has gone through that cycle yet.

Mr Rothery—That is correct.

Senator LUDWIG—How close are the nearest participants?

Mr Rothery—We expect that within the next week the formal offers for the first round will be in the hands of the companies. That is effectively the green light for them to begin the tasks. The minute the tasks are completed, they can seek access to the grant.

Senator LUDWIG—Is that with the four you mentioned or the three?

Mr Rothery—That is the successful three of the four applicants in the first round. We have now closed a second round. We have applicants in the second round under consideration at this time.

Senator LUDWIG—So how many applicants are under consideration in the second round?

Mr Rothery—We had five in the second round. We have not put it through a recommendation to departmental management for approval, but the expectation is that four of them will be recommended.

Senator LUDWIG—I think you indicated earlier that one of them suffered the same problem as the first one in the first phase.

Mr Rothery—Correct. We are working with that applicant to see what aspects of that bid could be recast in subsequent rounds.

Senator LUDWIG—When is it envisaged that the third round will commence?

Mr Rothery—We are looking to do that fairly early in the new financial year. I would imagine that would be in the July-August time frame.

Senator LUDWIG—So is the \$8 million that has been allocated being absorbed by the first and second round or just the first round?

Mr Rothery—The \$8 million is over four years. There is roughly \$800,000 in year one, which is financial year 2004-05. That increases to approximately \$1.5 million for 2005-06.

Senator LUDWIG—So is the first \$800,000 being absorbed by these three successful applicants?

Mr Rothery—Our expectation is that the first two rounds should fully commit all of the year one funding.

Senator LUDWIG—For the co-contribution, which you mentioned was expected of industry, is there a model or percentage used?

Mr Rothery—We cap it at 50 per cent, but we do allow the applicants to offer an estimate of their in-house costs towards that 50 per cent—for example, the labour and time of their own personnel or any consumables that they have in-house.

Senator LUDWIG—Have any industry participants from the trusted network indicated that they do not want to be involved or expressed a negative view to you about it?

Mr Rothery—The area that requires a degree of explanation is the extent to which the detailed report on the company's vulnerabilities is made available to third parties. Our position on that has been quite firm—that is, the only document that is intended to be released outside of government is a very generic lessons learnt document. The detailed document that shows the action that has taken place under the network vulnerability assessment is seen by only Australian government agencies, partly to ensure that Australian government funds were used appropriately in the way that the applicant applied for the funds but also to allow us to look at the extent of the vulnerabilities to help us identify priorities for our other work, such as awareness raising.

Mr Jordana—One of the issues that runs across all our work on critical infrastructure is that companies are obviously loath to divulge either to the public or indeed to other companies particular vulnerabilities that they have in their security arrangements. To secure their agreement to participate in these types of projects in which an element that comes out of them is a shared element, there needs to be a lot of trust—that is where the word 'trusted' comes from—between the companies and the government about the way that the whole exercise is going to be managed.

Senator LUDWIG—How many industry participants in the trusted network have refused to participate or expressed a negative view to you about participating? There are not only individual participants but also industry heads in that network. Have any of the representative industry bodies expressed a view that the industry body and its members do not want to be part of it?

Mr Rothery—We have had no statements by individuals that they do not wish to participate. As I said, we have had this question raised quite often. That is the one area of concern. We are not aware of a particular applicant being unconvinced and therefore not

applying. But that is not necessarily something that we would become fully aware of. If someone chose not to apply for it, we would not necessarily know that they had made that decision.

Senator LUDWIG—If they vote with their feet and do not apply, you do not know that for certain?

Mr Rothery—The applicants today have been reasonably well spread across the sectors. We have not yet had an applicant from the banking sector.

Senator LUDWIG—How many sectors are there in total?

Mr Rothery—There are nine sectors.

Senator LUDWIG—There have been three and four in the two rounds so far?

Mr Rothery—We have had applicants from water, energy, health and transport. They are the ones that come to mind. Some of the groups are less dependent upon their information systems, and therefore we have a lower expectation of applicants from some of those sectors. For example, groups in the emergency services sector are mostly government agencies and, because this program is for the corporate sector, they are not eligible to apply for it. Therefore, that sector not applying is unremarkable. We have been reasonably impressed that in the areas of concern, such as SCADA security, there have been several applications for SCADA systems across three different sectors—water, electricity and gas. To us that is a good indicator that we have been quite effective with our awareness raising about that particular issue.

We approach the Computer Network Vulnerability Assessment Program as an integral part of our work to protect the information infrastructure; we do not see it as a program in isolation. We will be using this work to identify our priorities. We are using our other activities, such as our awareness raising activities, to promote the program as well as interest in specific vulnerabilities that we think there is a public interest in having addressed.

Senator LUDWIG—Which industry sectors, other than emergency services, have not expressed an interest?

Mr Rothery—As I have said, to date we have had no interest from the banking sector or the icons and public gatherings sector, which again is not a remarkable thing. Effectively, there we are talking about large buildings, sporting stadia, shopping centres and so forth. There is not a strong issue there about IT bringing about catastrophic failure and, therefore, that is unremarkable as well.

Senator LUDWIG—Are they the only three areas?

Mr Rothery—From memory, we have had no applications from emergency services, no applications from icons and public gatherings and nothing from banking. From the other five, from memory, we have had applications.

Senator LUDWIG—Emergency services, banking and icons and public gatherings. Are there five others?

Mr Rothery—I am just doing a quick calculation.

Senator LUDWIG—I lost one, I think. There are nine in the sector.

Mr Rothery—I do not have in front of me a full list of the applicants for the second round; I am sorry.

Senator LUDWIG—I am happy for you to take that on notice.

Mr Rothery—As I have said, at this stage they are only applicants. No decision has been made on the second round.

Senator LUDWIG—Is that second round on time or has it been brought forward?

Mr Rothery—It was brought forward.

Senator LUDWIG—By how long?

Mr Rothery—We were expecting to run only one round in 2004-05. We brought on the second round because we were informed by a number of companies that they were actively working on applications but had missed the deadline for the first round and, therefore, were not expecting to be able to apply until 2005-06. Because we were slightly undersubscribed for 2004-05, we brought forward a second round for consideration before the end of the financial year to allow us to use 2004-05 funds to respond to companies that were actively working on applications and had contacted us to let us know that they were intending to apply.

Senator LUDWIG—You have said you were undersubscribed. How many did you expect?

Mr Rothery—I mean undersubscribed in terms of fully allocating the funds available. As I said, there is no target for the number of applicants. Theoretically, we could have one applicant that could absorb all the funds available in any particular period. As it turned out, we had three successful applicants in the first round, but two of them were very modest in size and, therefore, we still had funds that were uncommitted.

Senator LUDWIG—What work is being done to engage the banking sector in this process? It seems to be a pretty important sector.

Mr Rothery—The interesting thing is that the area we saw as the target for the CNVA program was for industries that were not information based but were reliant upon their information systems as opposed to industries that were very strongly information based and had a very clear understanding at the senior levels of the corporation that they had those vulnerabilities and were taking steps to address them. Therefore, we had always seen that, if we ever had to prioritise applicants, we would be strongly inclined to allocate the funds to industries where IT security had a low profile, such as in the utilities sector—water, energy and transport. In fact, that is where we have had the applications from, and so we have been very pleased with where the applications are from.

The work that is under way by the owners of the banks to secure the banking system from intrusion is a very strong and very large investment. The scale of the CNVA program—\$800,000 in year one—would be less significant for the banking sector than it would be for some of the utility sectors. We have been quite happy with the direction of the program to date.

Mr Jordana—All the discussions we have had with the banking and finance sector would reveal that, as Mr Rothery has indicated, because a lot of their business is based increasingly on e-commerce et cetera, they already give a lot of attention to and spend a lot of money on

their security systems. It could be, as Mr Rothery suggests, that they do not have a need for the kinds of services that are being offered through this program. But they will probably make a liar of me by applying for the next round.

Senator LUDWIG—But, if they applied, I am sure that you would not knock them back just on the basis of the industry they came from.

Mr Rothery—That is correct. The selection criteria are publicly available; they form part of the application form. We make it clear what weighting we give to the various attributes of any application.

Senator LUDWIG—To date, how much money has been spent out of the \$800,000 allocated for 2004-05?

Mr Rothery—Nil.

Senator LUDWIG—What is expected to be spent prior to the end of this financial year?

Mr Rothery—The expectation is that, by the end of the financial year, we will have committed but not spent the funds.

Senator LUDWIG—Will that then be carried over into the next budget?

Mr Rothery—That is correct.

Senator LUDWIG—How much is expected to be carried over?

Mr Rothery—We would expect the entire \$800,000 to be carried over for expenditure before the end of the calendar year.

Senator LUDWIG—You will also have an additional \$1.5 million in that year to use.

Mr Rothery—Correct.

Senator LUDWIG—Has any decision been made about the program beyond 2007-08?

Mr Rothery—There has been no decision.

Senator LUDWIG—Does the National Institute of Forensic Science Explosive Precursor Project come under 2.2?

Mr Jordana—It comes under 2.1.

Mr Cornall—Ms Blackburn deals with that.

Senator LUDWIG—I will put my questions on notice. I am certainly not asking you to go and retrieve Ms Blackburn.

CHAIR—It is not immediately clear from the description of the outputs. Does that finish 2.2, Senator Ludwig?

Senator LUDWIG—I did not want to trouble Mr Holland this time around.

CHAIR—But he is here. He has been patient and has shown great commitment all day.

Senator LUDWIG—That is precisely when you do not want to ask them a question!

CHAIR—He is on top of his brief. There is nothing he cannot help you with.

Senator LUDWIG—Unfortunately, Mr Holland, critical infrastructure is what I want. If I had known I would have been able to—

CHAIR—What do you mean ‘if you’d known’? His presence is not a surprise.

Senator LUDWIG—I make that up. I know it is listed. I am happy.

CHAIR—You have made Senator Ludwig a very happy man, Mr Holland. Thank you very much. That concludes questions on output 2.2.

[8.35 pm]

CHAIR—We now move to output 2.3, Provide national leadership in the development of emergency management measures to reduce risk to communities and manage the consequences of disasters.

Senator LUDWIG—With regard to urban search and rescue, has any formal research been undertaken as to whether or not there is a greater need for urban search and rescue capabilities in Australia?

Mr Templeman—There has been a significant amount of research undertaken into USAR, or urban search and rescue. In one of the answers to your questions on notice I provided you with a copy of a lessons learned report which highlighted specific issues in relation to gaps in USAR capability in Australia. Since then, there has been a significant amount of work undertaken which has been acknowledged not only by the federal government but also by the state and territory governments about the need to address gaps which predominantly exist in the smaller jurisdictions. In the 2003-04 federal government budget, some money was set aside, which has yet to be utilised in a contingency reserve, to cost share an initiative with the states and territories that would address the gap in this capability. We are at a stage where most of the jurisdictions have now agreed to that cost-share principal and we expect in the next 12 months to have procured equipment which can then be rolled out to jurisdictions. It is our part of the initiative, and they will certainly be meeting their part of the initiative by recruiting additional people plus training people in the various categories of USAR training, such as categories 1, 2 and 3. I am confident that in 12 months time we will have an enhanced national USAR capability.

Senator LUDWIG—I note that volume 19 of the *Australian Journal of Emergency Management* from March last year stated that Western Australia, South Australia, Tasmania and the Northern Territory were classed as developing capabilities. Are you familiar with what they are doing?

Mr Templeman—Yes. They have taken steps to develop some minimal capability. They will need support in terms of the issues I have just outlined to you, primarily because they cannot undertake the necessary training or upskill people without having the standard interoperable equipment.

Senator LUDWIG—Have EMA been liaising with those with regard to developing their capability or providing assistance to develop the capability?

Mr Templeman—Very much so. We actually convene the National Urban Search and Rescue Working Group, which is internationally accredited so that we are operating with a full understanding of international needs in relation to USAR development. More importantly,

there is a very active consultative process which has gone on in the development of this USAR gap, because it is a critical gap which does need to be addressed. The other thing that I would mention to you is that this has also been addressed through the National Counter-Terrorism Committee and they are seeing it as a very high priority to be addressed as well.

Senator LUDWIG—In terms of the assistance that you have provided, have you provided resources or is it just expertise?

Mr Templeman—At this stage it has primarily been expertise. As I indicated before, the federal government has acknowledged that there is a requirement to address this problem and that there will be a joint cost-share initiative, with federal government money matched by the states and territories to address the total gap in capability that we have nationally—primarily to address the minimum national capability. The minimum national capability that we require in this country is to have a standing USAR rapid response task force arrangement in each capital city, and we do not have that at the moment.

Senator LUDWIG—In any capital city?

Mr Templeman—In any capital city.

Senator LUDWIG—How much money has been set aside and where is it? Is it expressed in the budget or expressed internally in your—

Mr Templeman—At the moment, the cost-share proposal is a total package of \$30 million, of which in the contingency reserve the federal government is willing to contribute \$15 million to get this initiative resolved. The priority being addressed in the first instance is to address the gaps that exist in South Australia, Northern Territory, ACT and Tasmania.

Senator LUDWIG—What are those gaps?

Mr Templeman—The gaps primarily come down to the fact that there is essentially no basic equipment to respond to an incident, should we have a structural collapse in one of those locations. It may be beneficial if I explain to you in a little bit more detail what the sort of equipment is.

Senator LUDWIG—Yes, please.

Mr Templeman—It is highly specialised, highly technical equipment which essentially you use with cameras and other detection devices to locate trapped persons. It is life-saving equipment which you predominantly would want to use in the first 36 hours of any form of collapse to extract any trapped people within a collapsed structure.

Senator LUDWIG—How far are we away from developing this capability?

Mr Templeman—At this stage it would probably be nine months at least before I think I would be confident of being able to say to you that I have got the equipment to be able to give you a full appreciation that we would have equipment installed in those locations that I mentioned where there is the greatest need. In Queensland, New South Wales and Victoria there is already a reasonable standing availability of USAR assets and trained personnel, but there are significant gaps in some of the other jurisdictions.

Senator LUDWIG—That funding that you spoke of, which was the contingency reserve of \$15 million—how is that to be spent? Is there a program or mechanism to distribute that money?

Mr Templeman—The initial program is being worked up at the moment with states and territories, and yet there are two states and territories still to respond positively that they will be willing to cost-share in this initiative. We need to make sure that we have got this developed with a national approach. In relation to your question about spending the money, my broad assessment is that the initial approach to address the minimum national capability from an equipment perspective will cost between \$9.5 million and \$10 million initially. There are other aspects that then need to be addressed in relation to training of personnel and other associated items, but the priority for the first two years is to install the equipment which is readily needed in the jurisdictions which I indicated have not got it at the moment. There is also a need to strategically locate caches of equipment to meet surge or sustainability issues, plus training requirements, in other locations.

Senator LUDWIG—Is the basis of your cost-sharing 50-50 or 75-25?

Mr Templeman—It depends on the jurisdiction. Some jurisdictions, based on population and based on predictability about what you might require for a particular USAR task force, may require less support than others. To give you an example, in the Northern Territory and Tasmania the formulation to develop a minimum national USAR capability is based on approximately half a task force, which is about 20 personnel, and half the associated equipment that is needed for them to operate. In other larger jurisdictions such as Western Australia, and also because of other priorities in the ACT, we are basing it on a full task force with a full cache of equipment. We are also talking about strategically locating equipment in places like Townsville so that, if we have a need to actually rapidly deploy personnel to that location, we could have people who could operate that equipment regardless of where they come from in Australia.

Senator LUDWIG—I take it you have not purchased this equipment yet.

Mr Templeman—No, Senator.

Senator LUDWIG—Was the nine months you earlier indicated for the location in all capitals?

Mr Templeman—In terms of addressing the minimum national capability, that is my conservative estimate at this stage. It also takes into account that this is equipment that is not readily sourced from Australian suppliers. Some of the highly technical, highly specialised sensing equipment, some of the drills and those sorts of things we need to use, will need to be procured from overseas sources.

Senator LUDWIG—When did this program start? We have got nine months to go as a conservative estimate.

Mr Templeman—The first report that I gave in addressing the gaps in terms of urban search and rescue was in December 2003 to the National Counter-Terrorism Committee. That followed that committee taking into account the *Lessons learned* report that you have read and the Attorney's release of that in May last year.

Senator LUDWIG—So the issue has been well recognised since 2003 and no work has been done.

Mr Templeman—We are predominantly talking here in terms of responsibility. The federal government has actually come to the plate and said, ‘Look, we want to help states and territories resolve principally what is an issue for them. It is an issue that relates to state and territory responsibilities for the protection of life and property. We want to work with them in a partnership to effectively get over this particular gap.’

Senator LUDWIG—What is the shelf life of some of this highly specialised equipment? You talk about buying it and then caching it.

Mr Templeman—Caching is actually logistics terminology in terms of being able to package it, distribute it and contain it effectively. In answer to your question about using this particular equipment, you have to break it and use it to train people to be effective. It has a fairly high usability rate when you are starting to use it in anger and when you are training on it as well. It just cannot sit in a storehouse and be actively called upon and used when needed; it has to be constantly used to ensure that we have that high standard, high calibre of people trained and readily available to use it.

Senator LUDWIG—Have any funds been set aside for ongoing usage of the specialised equipment once purchased—for training?

Mr Templeman—Essentially that will become a state and territory responsibility.

Senator LUDWIG—In terms of training emergency service volunteers and countrywide service volunteers in each of the states and territories in response to acts of terrorism, is that part of your role?

Mr Templeman—Training of volunteers is principally a role for states and territories.

Senator LUDWIG—That is even including acts of terrorism and the like.

Mr Templeman—On the training of volunteers or emergency services personnel, predominantly people involved in counter-terrorism are trained in an all hazards context and so terrorism is treated in that particular circumstance as one hazard that they might need to take into account in relation to their all hazards training.

Senator LUDWIG—Do you leave that to the states and territories to deal with?

Mr Templeman—Essentially, yes.

Senator LUDWIG—Do they call upon your expertise to assist?

Mr Templeman—Sometimes, yes, but first response and recovery are basically state and territory responsibilities.

Senator LUDWIG—Is there an overarching guide from the Commonwealth about what standards you require them to meet in their counterterrorism response or response to acts of terrorism and the like?

Mr Templeman—No. In relation to first response, within each jurisdiction there are basic standards of training which various emergency services, including police authorities, require

people to come up to. It is very similar to the urban search and rescue training that I outlined before.

Senator LUDWIG—When you say emergency—

Mr Templeman—I said emergency services.

Senator LUDWIG—Yes.

Mr Templeman—By that I mean first responders, which exist in the health area, specifically in the state emergency service and also in fire.

Senator LUDWIG—With regard to a tsunami or a disaster outside of Australia, are there trained people who can respond to that from within Australia already?

Mr Templeman—It depends on the specific instance that you wish to raise. If we are in a situation whereby we are asked to respond to a particular event overseas—say it was about responding to a structural collapse or something like that—then, yes, within New South Wales, Queensland and Victoria we do have people who are more than capable of being utilised in that circumstance, but I stress that that is only if asked to respond. With regard to the tsunami response recently, we coordinated the assistance with medical teams into the Maldives, Aceh and the like to ensure that they had an immediate medical capacity to deal with primary health care and urgency requirements at that stage. There are people who can respond but I emphasise that they have to be asked in the first place.

Senator LUDWIG—Do the EMA and the Commonwealth government provide any training guidelines, standards to meet or overarching responsibility with regard to that?

Mr Templeman—It is a bit different in that circumstance. With regard to the tsunami crisis, EMA did coordinate the Australian government civilian medical teams' and engineers' response into the Maldives. On behalf of the Australian international aid organisation, AusAID, we manage an Australian disaster assistance plan for overseas. We use that plan with effect in terms of the Attorney's approval to dispatch Australian government teams into those areas by drawing on jurisdictional resources to do so. In conjunction with state and territory emergency management authorities and health authorities, EMA set up and formed the teams, provided the necessary personnel and logistic support for the teams, deployed them into the area, managed them as Australian government teams whilst they were overseas, repatriated and debriefed them, handed them back to the jurisdiction and then picked up the bill.

Senator LUDWIG—That was my understanding. I want to extend my congratulations to the EMA team for that as well as to the workers that assisted you in that process. That is what I thought was the outcome so it surprised me when you did not indicate that earlier. Thank you.

Mr Templeman—Thank you. I will pass that on.

Senator LUDWIG—Is there a strategic direction for EMA to do more of that work? In other words, to do more of that coordination on behalf of states and territories.

Mr Templeman—We do what we are asked to do. We have met anything that has been put in front of us. Recently, we assisted UNDAC, or the United Nations disaster assessment

teams, to go to Tokelau in the Pacific following cyclone activity there. We have done that fairly regularly over the last three or four years.

More recently we have been asked by AusAID, following a joint commission in relation to the relationship between Indonesia and Australia, to start some work with our equivalent organisation in, BAKORNAS, Indonesia about strategic planning arrangements and the like. Unfortunately, given the nature of disasters and other sorts of impacts, we can probably expect to be involved in more things internationally than we have been in the past.

Senator LUDWIG—Thank you. Chair, I was going to move to output 2.4, dealing with protective security.

[8.57 pm]

CHAIR—Okay. Thank you very much, Mr Templeman. Thank you for your patience today. We now move to output 2.4, which in its updated variety is ‘Development and promotion of protective security policy advice and common standards and practices; the coordination of protective security services, including counter-terrorism and dignity protection; the provision of security for special events; the development of counter-terrorism capabilities; and the coordination of national security crises and information through the Watch Office and National Security Hotline’.

Senator LUDWIG—I am not going to cover all of that.

CHAIR—Oh, really? We have got so much time available!

Senator LUDWIG—We can all use it effectively, I am sure. For protective security measures, there was an allocation in the last two budgets—2004-05 and 2005-06—of a total of \$1.25 billion on current estimates. That is an increase in cost of at least \$62 for each and every person in Australia, and it is growing all the time. The dollar increase in just 2005 was in the order of \$522 million. Question on notice No. 699 asked about the outcomes of the review of protective security strategies for overseas Australian office holders and diplomatic missions. In response, Mr Ruddock said:

The report recommended that intelligence based risk assessments provide the basis for protective security strategies to facilitate the effective deployment of resources.

How much was spent—actuals—on increasing protective security in 2004-05?

Mr Tyrie—Do you mean overseas or in Australia?

Senator LUDWIG—We can split it up into both.

Mr Tyrie—Are you talking about diplomatic guarding?

Senator LUDWIG—It is allocated for overseas missions, diplomatic guarding, VIP guarding and privately owned critical infrastructure. They are the main areas, as I understand it, but I am happy to be corrected.

Mr Tyrie—In relation to guarding for diplomatic missions in Australia and for our high office holders, an amount of about \$23 million was expended in this financial year.

Senator LUDWIG—That is for VIP guarding in Australia or overseas?

Mr Tyrie—That is for guarding provided for Australian high office holders, diplomatic missions and official establishments. As for expenditure overseas, I cannot tell you; that is not within our portfolio.

Senator LUDWIG—Where would I look?

Mr Tyrie—The Department of Foreign Affairs and Trade.

Senator LUDWIG—What about privately owned critical infrastructure? Do you deal with any of that?

Mr Tyrie—Not in relation to purchase of protective security. It is a matter for the private sector itself to administer.

Mr Jordana—The main areas of protection that are provided by government to privately owned critical infrastructure are largely with the states and territories to the extent that there is activity, say, by the local police services et cetera. They would not be providing guarding per se anyway. As Mr Tyrie said, most of the responsibility for the protection of the private sector critical infrastructure lies with the companies themselves.

Senator LUDWIG—Has that been increasing?

Mr Tyrie—The cost of guarding?

Senator LUDWIG—Yes.

Mr Tyrie—Not in the last few years. It did exponentially after September 11 but it has evened out a bit now.

Senator LUDWIG—In terms of the intelligence or threat assessments that might have informed your decision as to where and how you spend your money, are there any current threat assessments or reports that are available that direct or inform you as to where you will spend your money?

Mr Tyrie—Certainly, they inform us as to how we spend our money. Our delivery of the service in relation to protection is risk based and part of the consideration of that risk assessment involves taking into account intelligence and threat assessments.

Senator LUDWIG—What reports are they?

Mr Tyrie—The threat assessments come from the Australian Security Intelligence Organisation. In relation to the delivery of guarding services, we would consider input from a range of agencies through a security coordination meeting. There are also measures put in place by the PSCC on the basis of their liaison with the intelligence organisations and state and territory police.

Senator LUDWIG—Could you give us a rundown in terms of the area of your responsibility. I need to recap on where you are spending your money and where the priorities are.

Mr Tyrie—I will give you an overview of the PSCC's role and responsibilities. In short, a description of our role is the delivery of protective security coordination from a whole-of-government perspective through the administration of the national counterterrorism arrangements on behalf of the National Counter-Terrorism Committee. This involves

dignitary protection, protection for Australian high office holders and visiting dignitaries, and a whole-of-government approach to special events such as the Commonwealth Games, the Olympics and the Rugby World Cup in the past—that type of thing. There is the management of the 24-hour-by-seven national coordination arrangements through the watch office and the national security hotline. There is the development, implementation and coordination of Australian government policy for protective security, the delivery of the Australian Security Vetting Service, the training centre for training in relation to the policy contained in the *Protective Security Manual*, and the coordination and development of the Security in Government Conference on an annual basis. At present we have two non-ongoing branches, one for the delivery of whole-of-government protective security for the Commonwealth Games and the other for the delivery of services for APEC in 2007. That is the broad range of the PSCC's work.

Senator LUDWIG—And the total output price.

Mr Tyrie—I would have to take it on notice for the total price. It cost roughly \$16 million a year to run the PSCC and about \$23 million for guarding, but that has transferred this financial year to the AFP. There is the particular new policy proposal money that comes to the running of the watch office, the hotline, the Commonwealth Games and APEC. I am not in a position to give you the total amount at the present time.

Mr Cornall—Senator, if you turn to page 40 of the portfolio budget statement you will find the relevant figures.

Senator LUDWIG—Of that, is there a breakdown available for each area you have just listed?

Mr Cornall—We could give you a breakdown. We could not do it on the spot.

Senator LUDWIG—No, I accept that. For the AFP APS announcement in the May 2005 budget, has output 2.5 had the same make-up since 2001?

Mr Cornall—Broadly speaking. It has got the hotline now involved in it.

Senator LUDWIG—Which was 2002, I think.

Mr Cornall—And the watch office has gone to 24-hour seven days a week operation and things like that, so the workload has expanded considerably but the underpinning workload of the output—

Mr Tyrie—Senator, you said 2.5 at the end. If you are talking about 2.5, that does not exist any more.

Senator LUDWIG—No, 2.4 and 2.5. The 2.5 functions which you mentioned earlier have been transferred to the AFP—the guarding.

Mr Tyrie—That is right.

Senator LUDWIG—And so 2.4 is the balance left between 2.4 and 2.5.

Mr Tyrie—That is correct.

Senator LUDWIG—That includes special events and security coordination, which is a new area, I think.

Mr Tyrie—The PSCC is still responsible for the coordination direction with regard to the delivery of the service that has been transferred to the AFP. The money for the guarding and the delivery of that guarding and service is with the AFP and the Australian Protective Service.

Senator LUDWIG—But the policy is still in this area.

Mr Tyrie—With the PSCC.

Senator LUDWIG—That was unclear.

Mr Cornall—Also, the decision about what services to provide is still made by the PSCC.

Senator LUDWIG—How is that communicated to the AFP then?

Mr Tyrie—We have in place well-trying arrangements. As I mentioned to you earlier, for instance, if a threat assessment says that the guarding has to be increased with regard to a particular entity then the AFP and the PSCC will work through that together to decide what it is to be put in place.

Senator LUDWIG—Is that then reduced to writing? How is it then communicated?

Mr Tyrie—Generally through a security coordination meeting, where it is put into the minutes of the meeting and communicated to the members of the meeting.

Senator LUDWIG—Coming back to the earlier part of the question which went to the situation from 2001 onwards, is there an ability to break that down in terms of the budget expenditure in those outputs?

Mr Tyrie—For the particular service with regard to guarding?

Senator LUDWIG—Yes. Do you call them subprograms?

Mr Tyrie—Yes.

Senator LUDWIG—For diplomatic guarding, dignitary protection or high office holders.

Mr Tyrie—So you would like that broken down?

Senator LUDWIG—Yes, if you can.

Mr Tyrie—I will have to take that on notice.

Senator LUDWIG—Thank you. The expenditure is obviously listed at page 40, but is the policy in this area developed by the PSCC? In terms of direction, is there a statement or a memo issued about the general direction that you intend to head towards which is made public—in other words, you might say, ‘These are the assessed threats. This is the advice we have received. This is the general direction we intend to head towards in terms of how we will coordinate our work and what we will focus on.’

Mr Tyrie—Your summary is right in terms of how we go about it, but we do not make it public.

Senator LUDWIG—I can imagine there are reasons why you may not make it public, but why wouldn’t you make part of it public even if it was sensitive so that the public were aware of the broad strategic direction your area was heading towards?

Mr Tyrie—The broad strategic direction is to provide protective security on behalf of the Commonwealth, whether that is in relation to international agreements, domestic relationships or meeting our requirements for the protection of Australian high office holders. We certainly would not make public how we were going to go about that, for obvious reasons in that broadcasting what we were putting in place would defeat the purpose.

Mr Cornall—These are operational and very day by day decisions. For example, if there was an incident which increased the likelihood of protest activity at a mission then it may well be that that the PSCC would decide that there should be better protection at that mission while that situation existed. That might only last for two days, and then it would be over and done with and we would have another issue to deal with. It is very much an operational, day by day activity.

Senator LUDWIG—That is helpful. The intelligence and threat assessments are not done in-house by your area?

Mr Tyrie—I originate the requests for them but ASIO conducts those threat assessments, seeking the information necessary to inform their decision from a broad range of sources.

Mr Cornall—Perhaps I should add that a lot of this is done on a day by day basis depending on the position in relation to diplomats or high office holders. The PSCC also has a very central role in preparing for the protective security demands for the whole 2007 year of APEC meetings. There is also an involvement in the security preparations for the Commonwealth Games. So they are long-term projects. The security aspects of those major functions are very much part of the PSCC's long-term responsibilities.

Senator LUDWIG—Yes, I think that is what I am just trying to depack in terms of your day-to-day operations, which are your diplomatic guarding, your response to issues which may occur at overseas missions and the like, and your second role, which might be considered more of a primary role, which is the overseeing of protective security more generally. I am trying to ascertain your strategic direction and where that is set, who sets it and how it is set. A singular amount of money can be spent in this area. Although it is not spent by you in your output, it can be spent. If you set a parameter that there is increased security risk in (a), (b), (c) or (d) then the flow-on effect of that is that other departments will need to spend money, I suspect—and private industry and the like. In that latter role, the information that you receive are threat assessments and the like from ASIO. How is that assimilated into the process for determining to head down that broad direction?

Mr Cornall—One of the most significant ways the PSCC contributes to that is through the Commonwealth Protective Security Manual, which is the protective security manual for all Commonwealth departments and agencies and the way they go about their business and deal with their departmental and agency security.

Mr Jordana—Also, there is another tranche of activity that does not fall directly within the PSCC's responsibility, and that relates to some of the critical infrastructure discussions we have been having before. ASIO does threat assessments on a range of things, not only for the major events or specific parts of PSCC's responsibility that relate to the safety of missions and so forth but also threat assessments relating to pieces of Australian critical infrastructure.

The handling of those threat assessments and the response to those threat assessments is quite a separate exercise to what we are describing for PSCC.

Senator LUDWIG—In terms of protective security, do you use private contractors at all?

Mr Tyrie—The answer is yes. The APS do not provide services in, from memory, Adelaide, Hobart or Brisbane. I am not sure about Darwin. In those particular circumstances, I would purchase the guarding from the state or territory police force or a private company.

Senator LUDWIG—Which contractors are used?

Mr Tyrie—It depends. We have used a range of companies.

Senator LUDWIG—Take this on notice, but are you able to give us an overview of which security companies you currently have a contract with—

Mr Tyrie—I do not have a particular contract with any company. If I am required to purchase the service on the day, then I purchase it on the day as best I can at the best price that is available to me for the delivery of that service.

Senator LUDWIG—Do you know in advance whether you will require contractors?

Mr Tyrie—Not always but sometimes.

Senator LUDWIG—Do you have a short list of contractors that you will turn to first?

Mr Tyrie—I think the truthful answer is that we would probably be advised by the local authorities if it were in the states and territories. Here in Canberra we have a better idea ourselves. I have used Chubb here in Canberra, but I have also used other companies too, depending on the service. But I do not have a particular contract with any provider for that service.

Senator LUDWIG—Is there a reason why you would not have a contract? I may have missed it but it seems to me that there would be a positive advantage, rather than buying it ad hoc on a day-to-day contingency basis where it might be more expensive as distinct from having a contract with a national group.

Mr Tyrie—The honest answer to that question is that I do not use it often enough to have a contract. Generally the state or territory police or the AFP are able to provide the service. For the number of times I use it, I do not think that it would be viable to have a contract with a national private contractor to deliver that service.

Senator LUDWIG—So there is not a significant call on the use of that service.

Mr Tyrie—Not significant, no.

Senator LUDWIG—Could you give an outline or a breakdown of what we are actually talking about, in terms of how much is expended on a per month basis on private contractors?

Mr Tyrie—I stand to be corrected, but in the last 12 months I have used a contractor on one occasion, I think. I would have to take it on notice in case I am wrong, but that is my recollection.

Senator LUDWIG—Are background checks carried out on contractors? If you purchase them on an ad hoc basis, how do you know whether or not there have been any background checks on the particular individuals used? Or do you require that?

Mr Tyrie—Ordinarily they are required to be licensed by the local state or territory authority to deliver the service. Background checks are carried out by them in that case. We generally do not have to put these people into a highly sensitive situation.

Senator LUDWIG—What was the cost of providing security for visiting dignitaries in 2003-04 and 2004-05? Do you have that available, or will you take it on notice?

Mr Tyrie—I do not have separate figures because I am funded to deliver that service on a year-by-year basis, so that is absorbed into the cost of running the PSCC. That is one of my primary functions.

Senator LUDWIG—Is there a breakdown of those costs?

Mr Tyrie—I can take it on notice and tell you, but a breakdown of the figures is difficult because I do not maintain a specific figure to deliver the service.

Mr Cornall—What about the purchasing of the guarding?

Senator LUDWIG—Mr Cornall is helping you. You must, otherwise you would not have the purchaser provider.

Mr Tyrie—I will take that on notice.

Senator LUDWIG—Otherwise we have got a new funding model that I have just discovered. Is there a breakdown of exactly the number of dignitaries? When you assess what you are going to provide, is there an assessment as to some dignitaries getting protection and some not, or does everybody get protection and it just depends on the level?

Mr Tyrie—It is on a risk assessment basis worked out as part of our normal day-to-day work.

Senator LUDWIG—Who does that?

Mr Tyrie—The PSCC does that in conjunction with the other agencies that are involved in the delivery of the service.

Senator LUDWIG—I will use as an example Crown Prince Frederick and Crown Princess Mary of Denmark. Was a risk assessment done in relation to their visit to Australia?

Mr Tyrie—Yes, there would have been a visit assessment made on that particular visit and the appropriate arrangements put in place in response to the risk. Their status as royal visitors would also have been taken into account, as guests of government.

Senator LUDWIG—Are you able to provide a breakdown of what expenditure was made in relation to providing security for their visit?

Mr Tyrie—It would be very difficult because it involved the states and territories as well as Commonwealth agencies.

Senator LUDWIG—So far as you are concerned.

Mr Tyrie—So far as the Commonwealth is concerned, I can take it on notice and try to give you the best we can in relation to that. As I say, we would absorb that into the price.

Senator LUDWIG—I move to the National Threat Assessment Centre. Is that within your area?

Mr Tyrie—No, it is within ASIO.

Senator LUDWIG—There are more agencies than ASIO represented within that, though. Is AGD represented?

Mr Tyrie—No.

Senator LUDWIG—Not that I could recollect. I think I have asked that before. There is a continuity of government plan for the Protective Security Coordination Centre, with \$6.6 million over four years to implement and maintain the continuity of government plan. It provides continuous executive government by delivering near normal resumption, whatever that might mean. Is the plan already in operation?

Mr Tyrie—The plan is being prepared. I would say it is in operation at the present time.

Senator LUDWIG—Sorry?

Mr Tyrie—The plan is being developed.

Senator LUDWIG—When is it likely to be completed?

Ms Mack—The plan is currently being implemented and we will have it largely in place by the end of this calendar year.

Senator LUDWIG—How much has been spent so far?

Ms Mack—So far the costs have been absorbed in the current financial year and the \$6.6 million figure will apply in the next financial year.

Senator LUDWIG—How much has already been absorbed? How much has been spent?

Ms Mack—Largely it is staffing costs that have been absorbed. I would have to take on notice the exact costs that we have absorbed. It would be difficult because—

Mr Cornall—We could not break down the staff costs, Senator. That is basically what we are talking about.

Senator LUDWIG—Perhaps you could let us know the number of staff involved, if that figure is available.

Mr Cornall—They would not necessarily have worked on this project for a set period of time. They would have worked on it from time to time and we would not have kept an hourly record of their work.

Senator LUDWIG—All right; I accept that.

Mr Cornall—This plan is quite simple. Departments are required to have continuity of business plans if, for example, they cannot operate in their current sites for whatever reason. Obviously, if something were to prevent the executive government from working as it presently does in Parliament House, it is important to know what alternative arrangements would be put in place. That is really what this plan is all about.

Senator LUDWIG—I accept that; that is the reason for the questions. What current arrangements are in place?

Mr Cornall—The plan has been written and the purpose of this funding is to enable us to make sure that all the necessary arrangements, alternative sites and so forth, are operational should they be required.

Senator LUDWIG—But if that is being developed now, what was in place?

Mr Cornall—The arrangements that were in place would have at best been ad hoc arrangements.

Senator LUDWIG—So there was not any plan in place?

Mr Cornall—Not a formal continuity of government plan as we have written over the last 12 months or so, no.

Mr Jordana—There have been quite detailed arrangements, for example, concerning the Prime Minister and the cabinet were something very bad to happen. But this plan has for the first time brought all the various threads together and enunciated them as an integrated plan. It would not be fair to say that there were not arrangements around before that would have dealt with a situation like that.

Senator LUDWIG—There were not any detailed arrangements other than an escape exit?

Mr Jordana—I suspect it was a little more sophisticated than that, but certainly it was not enunciated previously as a comprehensive, fully integrated kind of plan.

Senator LUDWIG—When will this be in place?

Ms Mack—By the end of this calendar year we will be in very good shape with the plan.

Senator LUDWIG—The money is to be spent over four years. What was the additional money for, if it is going to be in place by the end of this year?

Ms Mack—The money is to pay for staff and for any necessary equipment, which will largely be IT and communications equipment, to support the plan. That will be an ongoing role. The plan will need to be continually audited and exercised to make sure that it still works, that it is relevant, and that if locations need to change then that is foreseen, if that were to happen. So it is basically a matter of ongoing monitoring and management of the plan once it is in place.

Mr Tyrie—Once it is in place it will become an integrated part of the whole protective security coordination arrangements.

Senator LUDWIG—Were any consultants engaged in developing the plan?

Mr Jordana—The plan was largely developed in Prime Minister and Cabinet and coordinated by Prime Minister and Cabinet. It was done using part of PM&C's work force, through bringing people from other agencies to work on particular projects for particular periods of time. If I recall, there were some people who were dedicated to this task who were located in PM&C, but they were not outside consultants; they were Commonwealth government employees.

Senator LUDWIG—How far down the pecking order does it go? We have the PM, executive—

Ms Mack—It is a plan for executive government.

Senator LUDWIG—And it stops there.

Ms Mack—Other agencies or departments are required to put in place their own business continuity plans to enable their own business to continue.

Mr Jordana—It attempts to define in various circles of support those elements of the Public Service, for example, that would be required or that would be essential for the ongoing operation of executive government. It does not stop just at the principles involved; a whole bunch of support arrangements need to be put in place to ensure that executive government can continue. The idea behind this plan is to make sure that it is supported by individual departments ensuring that they can continue to deliver their essential product as well.

Senator LUDWIG—Couldn't it get quite large then?

Mr Jordana—You are quite right—it could get large. One of the tricks in developing the plan was to define the scope of it to make it manageable. It was really designed just to tackle the issue of what was the bare minimum, in a sense, to ensure that the functions of executive government could continue. It was confined to that. It then required that individual departments and agencies that are part of Commonwealth government would have their own continuity of business plans in place as well. But they did not define those other plans.

Senator LUDWIG—Is there a definition of what the bare minimum of executive government includes or does not include? Is it easier to deal with by exception or inclusion? It would not include me.

Mr Jordana—The plan certainly gives quite a specific definition of what it is attempting to do.

Senator LUDWIG—Is that available or is that a national security issue?

Mr Jordana—This would be a very confidential document.

Senator LUDWIG—I will not ask then. I would assume most of us are not in it.

CHAIR—I am not saying a word.

Senator LUDWIG—Have the contingency plans for the government departments been put in place? You mentioned that there was a requirement for them also to—

Mr Jordana—There has been for some time. It is not a new requirement.

Senator LUDWIG—So they are all in place and operational?

Mr Jordana—I have not checked all departments but I know that we have our business continuity plan in place and I am assuming all the others do as well.

Senator LUDWIG—I can chase that up and ask the individual departments how they are going. Were guidelines issued as to, for argument's sake, whether the AGD could develop these plans?

Mr Jordana—I was under the impression that some guidelines had been developed by ANAO that related to continuity of business operations for departments. I think those guidelines are often used by departments in the development of their continuity of business plans.

Senator LUDWIG—I wonder if you could take that on notice and see whether there is a whole-of-government guideline for each individual department to work up a contingency plan or whether it still remains ad hoc.

Mr Jordana—There is certainly a standing requirement for them to do so. I am confident of that, and I think there are audit plans for ANAO. But we can take that on notice and confirm that to you.

Senator LUDWIG—Thank you. Are counter-terrorism exercises within your area?

Mr Tyrie—Yes.

Senator LUDWIG—Do you get community complaints about the occurrence of these exercises?

Mr Tyrie—We have had some complaints in recent times about the noise and some damage that was done as the result of an exercise in Melbourne. My recollection is that we had complaints about some noise about two or three years ago. That is all to my knowledge. There is in place a procedure whereby before exercises are conducted at the federal level the Attorney-General writes to all ministers and senators within the constituencies where the exercise is going to be conducted. Also at the federal level the Attorney puts out a media release.

Senator LUDWIG—Is that prior to the exercise?

Mr Tyrie—Yes. As for the host jurisdiction, the recent one that you may be alluding to was Victoria, where Victoria did engage in a media campaign to warn residents that there was an exercise. They also did a letter drop in the local community. You might recall that in the week of the exercise we were overtaken by some significant international events—I am not quite sure whether it was then the death of the Pope or the election of the new Pope, and there was a marriage on the front page of the newspapers too. I think that our media for the exercise in Victoria was swamped, with the story left to about the fifth page, and we did not get much coverage at all.

Senator LUDWIG—I know how that feels!

Mr Tyrie—But normally in a local jurisdiction an exercise gets very broad media coverage—television, radio and print—and there are interviews conducted with the local deputy commissioner of police, who is generally the officer responsible. We know that some things went wrong with the one in Victoria; we have learnt from that. There were complaints about the noise and some damage—minor damage, I think—to local residences. They are being dealt with on a case-by-case basis, and we will engage in future with local governments to make sure that local residents receive far better notice with regard to the conduct of exercises.

Senator LUDWIG—Were those complaints only in relation to noise and damage? How many were received?

Mr Tyrie—To the best of my knowledge, they were about noise and some damage to residences in the local community. I am not talking about extensive damage; I am talking about windows breaking.

Senator LUDWIG—We should at least put on the record the type of damage we are talking about.

Mr Tyrie—Mr de Graaff might be able to fill us in, but my information is that it was local damage to windows and things like that—cracking.

Mr de Graaff—That is correct. Most of the damage was caused by the aftershock of some explosions which cracked or broke some windows in nearby residences.

Senator LUDWIG—I suspect all those residents made complaints.

Mr de Graaff—Certainly, they would have made complaints, and they have been compensated for the damage.

Mr Tyrie—They have been or they will be compensated for the damage.

Senator LUDWIG—What was the total cost of the compensation?

Mr Tyrie—I could not tell you at this stage.

Senator LUDWIG—Perhaps you could take that on notice and let us know when it becomes available, if that is still being collated.

Mr Tyrie—We will do that.

Mr de Graaff—That is something that would normally be handled on a jurisdictional basis and we would not normally have access to that information.

Senator LUDWIG—I am sorry; the money is not from the Commonwealth?

Mr de Graaff—No, not necessarily. It may be the case that Defence is responsible for some and the police are responsible for some, through their own insurance covers.

Senator LUDWIG—Perhaps you could provide information only in respect of that which might be directly attributable to you or that you are responsible for, then?

Mr de Graaff—That might even be a question for Defence.

Senator LUDWIG—Yes. We can certainly ask them next week, but if you can rule out how much you have had to fork out—

Mr Tyrie—We will do our best to answer your questions.

Senator LUDWIG—Is there a risk assessment now being done to manage those sorts of contingencies?

Mr de Graaff—A risk assessment has been done in each exercise in any case. In this case the explosions were a bit more forceful than expected.

Senator LUDWIG—Wasn't that foreseen?

Mr de Graaff—The extent of the explosion was not. It depends on a range of issues. In this case they were predominantly created by the Defence participants, and that is something that, whilst we look at the exercise from a risk management process overall, we cannot take into strict account ourselves.

Senator LUDWIG—During the exercises, do the state law enforcement agencies maintain full capacity? An exercise is obviously organised by you, Mr Tyrie—or how is it put in place?

Mr Tyrie—Generally we coordinate the exercise program and take part in the exercise writing. But in this case it was an exercise to test operational interoperability between state police and the ADF. We have no actual operational involvement in that. We are certainly part of the exercise management machine, but we do not take part in the exercise itself. That is between the jurisdiction and the ADF.

Senator LUDWIG—Do you liaise with the Department of Defence as to how the exercise will operate?

Mr Tyrie—Yes, we do.

Senator LUDWIG—What level of coordination is that?

Mr Tyrie—Sorry?

Senator LUDWIG—Do you then sit down with the Department of Defence and organise how the exercise is going to—

Mr Tyrie—Yes, we do.

Senator LUDWIG—That includes what outcomes, what roles—

Mr Tyrie—Yes.

Senator LUDWIG—who will be involved and what state bodies will be involved. Is that driven by you out of your area or is it driven by the Department of Defence or the AFP, as the case may be?

Mr Tyrie—I think the best way of answering that is to say that the exercise program is coordinated by the PSCC. The ADF, Victoria Police and any agency involved in the exercise appoint people to write the exercise, participate in the exercise and manage the exercise.

Senator LUDWIG—As a concrete example—and we have used the Victorian one—the objective was to do what?

Mr Tyrie—To test the interoperability and the tactical arrangements between the ADF and the Victoria Police. That was the principal reason for it.

Senator LUDWIG—That was then written by your area?

Mr Tyrie—It was part of an exercise plan, written by at least the three agencies involved.

Mr de Graaff—Perhaps I could amplify. The planning process for these activities usually takes about six months. We will coordinate with the PSCC a planning meeting involving all of the relevant agencies. As Mr Tyrie mentioned, this particular activity was designed around police-military interoperability as such, so it is predominantly the Victoria Police in this instance and the ADF that will be represented. In this case, a range of other participants also took part because of the nature of where the venues were at and so on. We will have a range of meetings in the lead-up to the actual exercise activity—maybe three separate planning meetings—with scenarios being written separately between those meetings. So what we have are a range of activities being coordinated by the PSCC with all relevant agencies. I should add that another key agency in this is ASIO in terms of pulling together the intelligence scenario for the exercise. So a writing team will be put together comprising every relevant agency.

Senator LUDWIG—Will each individual agency then do a risk assessment or will that be centralised with your agency?

Mr de Graaff—We will coordinate with those agencies a risk management process, which is separate from the actual writing but obviously takes that into account.

Senator LUDWIG—So Defence will do their own and then the AFP, if they are involved, will do their own, and then ASIO and so on and so forth?

Mr de Graaff—That is correct.

Senator LUDWIG—How many exercises are scheduled for 2005—and how many more are to come? Is that known?

Mr de Graaff—Yes.

Mr Tyrrie—We have had, I think, three—this is major exercises?

Senator LUDWIG—Yes.

Mr Tyrrie—We do a range of exercises. We have had three up to now and we have one to go in Queensland. So for major exercises I think that will be five for this year.

Mr de Graaff—We had an exercise in Victoria in early April, one in South Australia in late April and one in the Northern Territory a couple of weeks ago, in early May. We have another exercise coming up in Queensland in July and we have the multijurisdictional exercise Mercury 05 in October this year. That will involve Victoria, South Australia, Western Australia, New South Wales and the ACT as well as Commonwealth agencies.

Senator LUDWIG—Is there a plan for 2006 drawn up yet?

Mr de Graaff—There is, and that will involve a similar number of activities.

Mr Cornall—I think the Attorney-General will want to announce those at an appropriate time.

Senator LUDWIG—I thought I was going to get lucky!

CHAIR—Not in the MCR, Senator Ludwig!

Mr Jordana—It is also worth noting that, apart from the major exercises, there are other forms of exercise, which I have had the privilege to be involved in on several occasions. These can be just as useful in certain circumstances. They are desktop or discussion exercises, where people essentially sit around a table for quite a long period of time and talk through what their reactions would be to a particular scenario. There is a whole program of those types of exercises that the PSCC coordinates as well.

Mr Tyrrie—There are about 20 a year of those discussion exercises.

Mr de Graaff—One was actually held today in the ACT, which has prevented a couple of us from attending.

CHAIR—We have prevented you from attending? I am not sure that would be our interpretation!

Mr de Graaff—We delegated it to some—

CHAIR—But you are welcome to make it yourself! Mr Tyrie, just out of interest: in the exercise process is there any engagement amongst our regional neighbours, either as observers or as participants?

Mr Tyrie—Yes. MJEX 04, which was the major multijurisdictional exercise in 2004, had an observer program which involved international observers from across our major allies particularly. From memory, I do not think there was any regional participation on that occasion, but there is a program in place.

CHAIR—Do our major allies in this instance include New Zealand?

Mr Tyrie—Yes. I think New Zealand were involved. For 2005 we are in the process of putting together quite a major observer program from across internationally, through the region and again involving our major allies, including New Zealand.

CHAIR—Do we include their parliamentary representatives—their ministerial cabinet representatives—in any of that process or just officials?

Mr Tyrie—Officials at this stage.

Senator LUDWIG—You wanted to jump from a helicopter, did you, Chair?

CHAIR—I was referring to them.

Senator LUDWIG—Can you provide an update on Mercury 05?

Mr Tyrie—Mr de Graaff is the expert on Mercury 05.

Mr de Graaff—Before I start on Mercury 05, I might mention that we will be taking part in a discussion exercise coordination activity with the New Zealanders very shortly, which will in fact be a South Pacific regional activity. That will be later on this year. I cannot go into all the detail of Mercury 05. I mentioned the jurisdictions participating. But it will be a significant activity with a focus on support for the Melbourne Commonwealth Games.

Senator LUDWIG—Is that about the extent of what you can say?

Mr de Graaff—Pretty much.

Senator LUDWIG—Is the *National Counter-Terrorism Handbook* within your area?

Mr Tyrie—Yes, it is.

Senator LUDWIG—As I understand it, the answer to question on notice No. 493 indicated that industry was not consulted in developing the *National Counter-Terrorism Handbook*. Am I missing the point of that? Why wouldn't industry have been consulted about the development of a national counter-terrorism handbook or plan?

Mr Tyrie—The plan is a public document. The handbook is the document which sets out the principles and rules for people engaged in the national counterterrorism arrangements. It principally involves state, territory and Commonwealth agencies in the crisis management arrangements. That would not involve liaison or consultation with the private sector in the preparation of the handbook. It is a document that is restricted to the Commonwealth, state and territory agencies to which it is applicable.

Mr de Graaff—The plan is a procedural document for commanders, senior coordinating officials and emergency service controllers in how they would go about preventing,

responding to or recovering from an incident of terrorism. As part of the handbook, there are some details which are contained in another document on critical infrastructure protection, about which industry has had extensive consultation. That is already contained within the document but there has been prior consultation with industry. So there was no need to consult industry on that part of the handbook. The handbook is essentially about agencies' procedural arrangements.

Senator LUDWIG—What about the plan? Has industry been consulted in relation to the plan?

Mr de Graaff—Again, that is an unclassified document but industry was consulted on those elements through a prior process in developing guidelines for protecting critical infrastructure.

Mr Jordana—I alluded to this briefly before: a separate area of activity has focused on the private sector and its involvement in both the counterterrorism front and in some activity more broadly on an all-hazards approach that involves terrorist threats. One of the key overarching documents that is being used principally by the states and territories, because it is they who have principal responsibility for interaction with the private sector, was a set of guidelines for critical infrastructure and relating to counterterrorism that was developed in collaboration with the states and territories and through consultation with the private sector. Those documents are being used as we speak by the states and territories in their dialogue with the private sector.

Senator LUDWIG—With respect to the *National Counter-Terrorism Handbook*, who has possession of that? Where is that distributed?

Mr de Graaff—All the states and territories hold that through police agencies and government agencies, and all the Commonwealth agencies involved. We would print approximately 3,000 copies of the handbook, and we make it available on CD-ROM. So the states and territories might receive about 200 copies each, plus a number of CDs.

Senator LUDWIG—What security classification is it accorded?

Mr de Graaff—Security-in-confidence.

Senator LUDWIG—Do you keep a list of which organisations have been circulated with copies?

Mr de Graaff—We are provided with a central point of contact in each state and territory and they maintain a complete list of who has access to that. We also have a list of the Commonwealth agencies that hold copies.

Senator LUDWIG—How much was spent on developing the handbook?

Mr de Graaff—About \$75,000. That includes the cost of publishing, editing—that sort of thing.

Senator LUDWIG—Is there an ability to provide feedback as to the usefulness of the handbook?

Mr de Graaff—There is. Can I correct my previous answer: it was \$70,000. In relation to feedback, yes, there is feedback. We published the first version of the handbook in September

2003 and we have just gone out last month with the first revision to the handbook, which was a major rewrite following Mercury 04. Mercury 04 identified a number of areas that we would need to look at. Indeed, when we finalised the handbook in 2003 we knew there would be issues coming up that would be addressed in Mercury 04.

When Mercury 04 was conducted in March 2004, we formed a number of workgroups that looked at some specific areas. Following that, we amalgamated those into a complete revision of the handbook, which went to the NCTC in December 2004. It was agreed to at that point and then went through a process of editing and publishing. It was distributed to all the states and territories in early April or late March.

Senator LUDWIG—Has any feedback come in about the usefulness of it?

Mr de Graaff—Absolutely. There is overwhelming support for the document. Obviously it is a significant document, and our arrangements have been changing significantly since September 2001. They have been evolving ever since. This is going to be an evolving document as well. The next major review of the document will be in three years. There will be times when we go out with individual changes as minor things vary, but the next major review will be in three years time. At that point, we will take a complete stocktake of how the handbook is being used and how it should be modified to meet that usage.

Mr Jordana—This is a critical document, and it is recognised by all the players as being a critical document because it embodies and enunciates what the mechanisms are in particular not just for handling a terrorist incident in the country but also for the interaction between the states, the territories and the Commonwealth in such a situation. People certainly find it very useful and, indeed, an essential tool.

Senator LUDWIG—I asked elsewhere the questions about critical infrastructure. How does the handbook relate to that? I imagine that the National Counter-Terrorism Handbook would deal with issues surrounding critical infrastructure. As you said, it primarily has a distribution list of roughly 3,000. Would that include those areas of critical infrastructure?

Mr Jordana—Correct me if I am wrong, but the handbook is largely an expression of the way in which small 'g' state, territory and Commonwealth government agencies would interact in times of crisis. There has been an activity program taking place. 'Separate' is the wrong word but they are parallel, though not in the context of this particular plan, which has a specific purpose. That has been a process whereby, through collaboration with the states and territories and information that have they have provided, a database has been established which has identified critical infrastructure in Australia. The nationally vital pieces of critical infrastructure have been identified and ASIO has been conducting a series of threat assessments with respect to those pieces of critical infrastructure. There has been a process of discussion with the owners and operators of those pieces of critical infrastructure about the security arrangements that they have in place. There has been a whole set of parallel activity taking place with respect to critical infrastructure. I have not mentioned work that is being undertaken on a sectoral basis as well, which will involve the sectoral threat assessments being undertaken by ASIO and the work that will flow out of those sectoral threat assessments.

Senator LUDWIG—I am trying to establish the relationship between the two. You say that they are parallel or in tandem operations whereby one is critical infrastructure protection and the other is developing a handbook and usage thereof. Obviously, it is a live document which will have iterations of it into the future as it develops. Industry were not consulted about the handbook, as I understand it, but they are involved in critical infrastructure. At some point they must at least overlap or cross.

Mr Jordana—Yes.

Senator LUDWIG—When will that happen? You would imagine that critical infrastructure will require a national counter-terrorism response, and the handbook would seem to be a logical development of that.

Mr Jordana—The two issues are obviously handled within the context of the National Counter-Terrorism Committee, which brings all the threads of state, territory and Commonwealth activity on the counter-terrorism front together in one body. You can imagine, Senator, that, were there to be an incident—and the incident could take place in a number of settings which may or may not involve critical infrastructure—that would require a set of reactions from Commonwealth, state and territory government agencies of various kinds. The handbook is meant to describe the way that that arrangement will work. So the critical infrastructure element, as I say, could be an element of the crisis, but it may not be. That is why, in a sense, there has been parallel activity that has been taking place—but it has not been a fundamental part of the development of the handbook.

Mr de Graaff—I would like to amplify. At the last hearings in February a document called the *National Guidelines for Protecting Critical Infrastructure from Terrorism* was discussed. That particular document spells out for industry a lot of the arrangements—what would be expected of them in an incident, what they should do at various alert levels and so on. That is not a public document, you may recall—

Senator LUDWIG—Yes, I do.

Mr de Graaff—That document has largely been embodied in the handbook. So it is a separate document that we are discussing with industry, but we cannot make the whole document, such as the handbook, available to industry.

Senator LUDWIG—That makes a little more sense, thank you. In determining the policy, if we are talking about critical infrastructure, the model that is currently used is a ‘business pays the cost of security’ model, for want of a better way of putting it. Is there another name that you attach to that or is that about the nomenclature that you use to describe the model of funding?

Mr Jordana—That is a shorthand expression which does not really do full credit to the responsibilities that governments also take on. This government in particular has dedicated particular and substantial resources—for example, in the areas of intelligence, law enforcement and border protection. All of those areas are significant parts of what makes for a safer environment, including as it relates to industry and our economic security. When the expression is used that ‘industry bears the cost of its own security’, that relates specifically to industry. Security is but one part of an industry’s responsibilities. It is part of its own business

planning and therefore is recognised as something which ultimately the business itself must be responsible for.

Senator LUDWIG—*Insight* in January 2005 discussed this issue. I am not sure whether *Insight* went into this, but there are other models that could have been adopted. Has this area looked at other models, such as the stakeholders' approach, and considered whether or not they might be models worth considering in terms of how the interaction and funding would be organised for national security or counter-terrorism measures?

Mr Jordana—I am not certain which particular models you might be talking about.

Senator LUDWIG—There is the stakeholders approach model where costs are not simply borne by business. There is in fact an alternative methodology used in funding critical infrastructure protection and the like.

Mr Jordana—Certainly different countries have taken different approaches to the question and different countries have taken different approaches to what areas of critical infrastructure protection they are willing to fund. For example, in our own situation where we have as a country determined that there should be regulation affecting the security of critical infrastructure—and that has been particularly evident in the transport sector—the government has on occasion decided that it would be appropriate for the government to bear some costs in relation to that regulation. Different countries have taken different approaches and have decided to provide funding in different circumstances.

Senator LUDWIG—So you do not have any consideration of any alternative funding model other than the one that you have currently got.

Mr Jordana—Not for the time being. We are always looking at the different experiences of overseas countries, and a lot of dialogue takes place between us and countries who are in similar situations. We are not loath, I can assure you, to pick up good ideas that other countries have and to recommend them for the government's attention.

Senator LUDWIG—Are you looking at any at the moment?

Mr Jordana—You are talking about funding models.

Senator LUDWIG—Yes.

Mr Jordana—We are not looking at funding models per se but, as I said, it tends to be more on an issue by issue basis that we are looking at the experience of other countries.

Senator LUDWIG—What are you looking at then?

Mr Jordana—That might be pre-empting some of the decisions yet to be taken by government. I do not think it would be fair for me to speculate about what particular areas—

Senator LUDWIG—I thought you had already been doing that. If you would like to give it any concrete—

CHAIR—It is wishful thinking, I think, Senator Ludwig.

Senator LUDWIG—The security vetting service—is that within this area?

Mr Tyrie—Yes.

Senator LUDWIG—We got this one a bit wrong. We managed to achieve most of our areas.

CHAIR—You are doing very well.

Senator LUDWIG—How many staff are employed in this area?

Mr Tyrie—If you give me a minute I think I can answer the question. I think the answer to your question is 16 in the Australian Security Vetting Service.

Senator LUDWIG—Sixteen or 60?

Mr Tyrie—Sixteen.

Senator LUDWIG—Can you do a workflow for me so I can understand how that system currently operates.

Mr Tyrie—The vetting service provides a personnel vetting service for Commonwealth agencies across the range of security clearance levels.

Senator LUDWIG—How many requests would you receive per annum?

Mr Tyrie—The answer to your question for this financial year so far is about 3,500.

Senator LUDWIG—In terms of resources, what APS level are the 16 staff?

Mr Tyrie—The people employed in the vetting service are APS personnel. We also employ contractors outside of the vetting service, but they are contractors of the vetting service to carry out the vetting inquiries, and that is around the country. We do some internally but we employ contractors as well to do inquiries for us.

Senator LUDWIG—How many resources are allocated to the ASVS?

Mr Tyrie—There are 16 personnel in the ASVS.

Senator LUDWIG—And the price of that?

Mr Tyrie—The total price?

Senator LUDWIG—Yes.

Ms Williams—The price for the year to date?

Senator LUDWIG—What has been allocated and how much has been spent, and the estimate for 2004-05.

Mr Tyrie—I do not think I can give you the actual answer right now—

Senator LUDWIG—You are quite welcome to take it on notice.

Mr Tyrie—I will take on notice the actual cost of the 16 staff, or is it the total vetting service?

Senator LUDWIG—Yes, the vetting service. You mentioned the contractors. Are they performing the vetting service?

Mr Tyrie—They carry out the vetting inquiries on a contract basis for the Australian Security Vetting Service. So we use contractors in some cases to carry out those inquiries, particularly outside of Canberra.

Senator LUDWIG—Who might those contractors be?

Mr Tyrie—A range of people who are selected through a selection process to work on behalf of the vetting service.

Senator LUDWIG—Can you give me an example? Is it a local contractor, an individual? Are they security cleared?

Mr Tyrie—They could be ex police, ex defence personnel. They are persons who apply for the position as a contractor through a process.

Senator LUDWIG—Is there a tender process for that or is it individual contracts? How are they paid?

Mr Tyrie—Individual contracts. They tender for the work, we go through a process of selecting them and they are paid so much for each clearance that they undertake.

Senator LUDWIG—Per clearance. How much is that? Is it a standard fee?

Mr Tyrie—I cannot tell you how much the contractor is paid. The fees are set for a particular clearance level. I would have to take on notice how much we actually pay a contractor to carry it out. It would vary on what clearance was being conducted.

Senator LUDWIG—So there is a scale that relates to the clearance level and the contract that is paid for checking that level.

Mr Tyrie—Yes.

Senator LUDWIG—If you can provide that detail, that would be helpful.

Mr Tyrie—I will give you that. You asked me earlier how many clearances this year. It is 3,262 as of 16 May.

Senator LUDWIG—Thank you. You had a major review of the protective security for holders of high office. I think it was outlined in your annual report at page 112. What were the results of that?

Mr Tyrie—This was a review of protective security—

Senator LUDWIG—The one mentioned on page 112 of the annual report.

Mr Tyrie—That was the review conducted in 2003-04 that was ordered by government. The outcome of that was that the review proposed a reduction in the reliance on static guarding with an increase in the use of electronic technology supported by a rapid response capability. That is built into the budget process this year with allocation of funds to the AFP for the national operations centre. The APS is the organisation on behalf of the AFP that is putting that in place. The PSCC was allocated money in 2003-04 for implementation of phase 1 of that stage and money in this budget for the application and institution of phase 2.

Senator LUDWIG—I know you have taken those figures on notice in terms of the price of those particular outputs. Have they been increasing or have they remained fairly static for the last three years?

Mr Tyrie—The delivery of the guarding service?

Senator LUDWIG—Yes.

Mr Tyrie—I think I said earlier that they have remained relatively static. There was a surge of course after September 11 and in response to various other incidents where we had to put in place a security response to various diplomatic premises, but they have gradually levelled out now.

Senator LUDWIG—Since then has there been any other review?

Mr Tyrie—Since the review we have just been discussing? No, there has not. We are just implementing the recommendations of that review now.

Senator LUDWIG—Are all the recommendations being implemented?

Mr Tyrie—I cannot tell you the truthful answer to all the recommendations. I would have to take it on notice.

Senator LUDWIG—That would be fine. Thank you.

Mr Tyrie—Certainly the principal recommendations have been put in place.

Senator LUDWIG—Is the report available to the committee?

Mr Tyrie—No. It is a confidential document. It deals with our security response.

Senator LUDWIG—I was going to ask: how confidential?

Mr Tyrie—Very confidential.

Senator LUDWIG—Is a summary available of the recommendations or outcomes?

Mr Tyrie—I am told it is a classified document.

Senator LUDWIG—Does that mean a summary is not available?

Mr Tyrie—That means a summary is not available, yes.

CHAIR—The summary is classified, unfortunately.

Senator LUDWIG—You need to check these things, Chair. You never know.

CHAIR—Indeed you are assiduous; I will give you that.

Senator LUDWIG—Sometimes things fall on your table, I must say. Who oversees the effectiveness of it?

Mr Tyrie—The oversight of the delivery of the service?

Senator LUDWIG—Yes. If you deliver the service—that is right.

Mr Tyrie—The delivery of the service and the money for guarding has been transferred to the AFP.

Senator LUDWIG—But the policy still remains with you—

Mr Tyrie—The policy remains with the PSCC.

Senator LUDWIG—and where the money is going to be spent and where you expect the AFP to do the work.

Mr Tyrie—Yes. We still have the policy direction for that service.

Senator LUDWIG—And effectively the management of it.

Mr Tyrrie—Yes.

Senator LUDWIG—The AFP is the deliverer.

Mr Tyrrie—Yes, but we do it in partnership with the PSCC.

Senator LUDWIG—How do you determine whether the program has been effective—that it is achieving its outcomes? You set outcomes, I assume. It must say it must be delivered to a certain standard.

Mr Tyrrie—I guess the ultimate performance measure is the fact that there is no breach of security in relation to wherever we have put in place the delivery of that service. But there would be a range of performance measures around the delivery of this service in terms of the transfer of it to the AFP. I mentioned the fact that we will have electronic technology supported by a rapid response. They will be expected to respond within a period of time. I do not know what that time is at the moment but they will be expected to respond within a particular period of time. They get feedback from the diplomatic and consular establishments. Our relationships with those diplomatic, consular and high office holder establishments are such that they provide feedback as to whether the service is being delivered.

Senator LUDWIG—How do you then determine whether or not the recommendations of the report that is confidential—classified—have been implemented effectively? Who does that work? Given that it is classified, I struggle to find a concrete way of expressing this. If it calls for X to be done or for X to be achieved or for X to be delivered in a certain way or a certain manner, who then checks on whether or not those outcomes are picked up and done?

Mr Tyrrie—The AFP is responsible for the delivery of its services and performance measures. We have a relationship with the AFP where we audit against certain measures—whether they have delivered those services. We actually interview, and have in the past conducted performance relationship interviews, to make sure that performance is being delivered. We actually audit the delivery of the service.

Senator LUDWIG—Is that audit available?

Mr Jordana—My colleague to my right informs me that the implementation of this is the subject of a plan that has been submitted to a cabinet implementation unit that resides within PM&C. That implementation plan sets out the steps through which the decided courses of action will be implemented.

Senator LUDWIG—That is in relation to the report proper and the recommendations it makes?

Ms Mack—That is correct.

Senator LUDWIG—How is that assessed?

Ms Mack—We have to provide quarterly reports to the implementation team. I manage a team where we have a project plan. We work in consultation with the other affected parties, like the AFP and other agencies, to put that plan into place. We monitor it; there is a project officer who is tasked with a range of activities but is primarily driving that project plan. There are milestones that we are meeting and we report against those on a quarterly basis to the implementation unit in Prime Minister and Cabinet.

Senator LUDWIG—That audit that you do and that I just came back to—is that available?

Ms Mack—The report to Prime Minister and Cabinet?

Senator LUDWIG—No, the audit.

Mr Tyrie—No, the audit. The audit we previously did with the AFP is not a confidential document.

Senator LUDWIG—Is the National Security Hotline within your area?

Mr Tyrie—Yes.

Senator LUDWIG—The 2005-06 budget provides \$12.2 million over two years to the NSH. I have asked a number of these questions before, if my recollection serves me well, but we will try again. How many calls, emails and letters has the National Security Hotline received in each of the following years, as an update on when we last asked?

Mr Tyrie—The latest figures I have are that there have been 48,000 calls, emails et cetera to date.

Senator LUDWIG—Is that broken down?

Mr Tyrie—Yes. There were 20,700 comments on the campaign, 3,600 requests for information and 24,000 for the provision of information.

Senator LUDWIG—What about hoax calls and the like?

Mr Tyrie—I do not have a breakdown of hoax calls. I could do that if you wish me to.

Senator LUDWIG—Only so we can balance those figures.

Mr Tyrie—It is not substantial, but, yes, I can do it.

Senator LUDWIG—In terms of the provision of information, do those figures include calls, emails and letters?

Mr Tyrie—I do not have the break-up of emails and letters. Twenty-four thousand is the total number. I can probably get that number broken down for you into emails.

Senator LUDWIG—Only if it is readily available. Can that information go back to the commencement?

Mr Tyrie—That 24,000 includes both, but I can probably break it down further for you. I think that is possible.

Ms Moss—The vast majority of the 48,000 communications that we have received have been phone calls. The emails and letters are a very small percentage.

Senator LUDWIG—Thank you. And you can provide the breakdown from the commencement of the hotline in 2002? I think we have already asked for that.

Mr Tyrie—Yes, you have. We will do our best to get you the information.

Senator LUDWIG—It is a question of picking up from where we last left off, if you would not mind. Does the current level of funding include a component for the public awareness campaign? Sorry, am I getting faint?

Mr Tyrie—Yes. I could not hear you, I am sorry.

Senator LUDWIG—It is getting late!

Mr Tyrrie—So does the \$12.2 million over two years include—

Senator LUDWIG—The public awareness campaign.

Mr Tyrrie—My understanding is that it does.

Senator LUDWIG—Could you check that to make sure?

Mr Tyrrie—Yes, I will.

Ms Moss—It does, Senator.

Senator LUDWIG—How much of that \$12.2 million has been allocated to that public awareness campaign?

Ms Moss—I might pass that to my colleague from Public Affairs.

Senator LUDWIG—The budget seems to suggest there is \$1.5 million for a public awareness campaign. Is that all going to be expended on radio and other media?

Ms van den Heuvel—It will cover low-scale advertising in trade journals, we expect, and ongoing public affairs and public relations activity.

Senator LUDWIG—How much is that?

Ms van den Heuvel—It is \$1.64 million, which includes the National Security web site as well. So it is \$1.5 million for the actual communications.

Senator LUDWIG—So in 2004-05 the NSH was allocated \$6.2 million, including \$1.5 million for a public awareness campaign, and then \$4.7 million was allocated for the delivery. But I missed the figure of \$1.6 million—is the difference from the \$1.5 million the balance for the web site?

Ms van den Heuvel—For the web site.

Senator LUDWIG—How much was the web site?

Ms van den Heuvel—A sum of \$160,000 is allocated for that.

Senator LUDWIG—And then?

Ms van den Heuvel—There was additional funding last financial year for an advertising component, but this year it is back to the 1.64, which has been constant.

Senator LUDWIG—No mention was made in the budget of money for a public awareness campaign, as I understand it. Do you have question on notice No. 489 available?

Ms van den Heuvel—I do not seem to have that. Could you refresh my mind.

Senator LUDWIG—I understood there was an allocation of \$5.8 million for the 2003-04 year, and \$4.4 million was spent and \$1.4 million was rolled over to 2004-05 for advertising. I am trying to track whether that money for a public awareness campaign is the money that has been rolled over or carried forward. So there was no money allocated for the budget year that was not rolled over from the previous year?

Ms van den Heuvel—There was money rolled over from the previous year to last year—there was 1.64 in 2003-04 and then there was 1.64 in 2004-05. Then in June last year there was an additional allocation for advertising.

Senator LUDWIG—Of?

Ms van den Heuvel—There was an additional \$6.075 million for a specific advertising campaign.

Senator LUDWIG—Was all of that then expended?

Ms van den Heuvel—Yes.

Senator LUDWIG—Was there any money carried over that was unspent?

Ms van den Heuvel—Not into 2005-06, no.

Senator LUDWIG—What was the total spent on the NSH last year?

Ms van den Heuvel—The campaign we ran over two years because we rolled it over from one year to the other—it was \$8.26 million.

Senator LUDWIG—How much has been allocated for this year?

Ms van den Heuvel—A sum of 1.64.

Senator LUDWIG—And the difference is?

Ms van den Heuvel—Television advertising and radio advertising—a larger scale advertising component.

Senator LUDWIG—So there has been a significant reduction in the media spend, the media purchase, between last year and this year?

Ms van den Heuvel—Last year we were allocated 1.64 but after the Madrid bombings and the Jakarta bombings it was decided that we would have a relaunch of the advertising campaign. We did that in September, and we have been running low-scale maintenance advertising from December which will go through until the end of this financial year. For the next financial year we will go back to the sustained public relations and low-scale campaign activity.

Senator LUDWIG—Has the actual money that has been spent on the national security hotline been maintained at the same level or has it dropped as a consequence?

Mr Tyrie—It is basically the same.

Mr Cornall—The basis of the decision was that it would continue at the same level for the next two years.

Senator LUDWIG—That figure is where? I am trying to get a comparison between last year's and this year's spend, when you take out the advertising and the public awareness campaign, on the actual running of the operation of the hotline. Are there two figures on that between 2004 and 2005?

Mr Cornall—I am not sure if we would find that in the budget papers.

Senator LUDWIG—That is why I am trying to unpack this a little bit. I am happy for you to take that on notice.

Mr Cornall—I think that would be the better way to give you the information.

Senator LUDWIG—Effectively I am seeking a comparison for 2003, 2004 and 2005 of the hotline cost and how the public awareness campaign or the funding has been taken into consideration.

Ms Moss—The operational funding for the running of the hotline for 2003-04 was \$3.5 million. There was an underspend in that of \$1.5 million. Approximately the same amount was allocated for this current financial year.

Senator LUDWIG—Does that amount include the \$1.5 million underspend or is it less the underspend?

Ms Moss—It is the total of \$3.5 million. The underspend is basically centred around contingency funding. We would hope not to call upon contingency funding because that would imply there had been a major incident that we were responding to. We hold that money in reserve just in case.

Senator LUDWIG—Thank you; that is helpful. Is the number of calls per year now trending upwards or downwards?

Ms Moss—The number of calls tends to be about 40 to 50 a day. This would surge to around 150 a day if there was a major incident like, say, the Madrid or the Jakarta bombings or if there was a major national security campaign running.

Senator LUDWIG—What has been the trend in the last three or four months?

Ms Moss—In the last three or four months it has been fairly steady at around 40 to 50 calls a day.

Senator LUDWIG—What about over the last year?

Ms Moss—As I say, the security campaign was last run in September 2004 and the numbers surged up considerably at that stage. But since then they have settled down.

Senator LUDWIG—The underspend is not so much an underspend as a certain amount that has been set aside for a contingency. Is that a better way of expressing it?

Ms Moss—It is indeed. If you are looking at it in financial terms it is called an underspend, but if you are looking at it in the way we budget it we call it contingency funding.

Senator LUDWIG—All departments might want to use that one. We have established that there was a significant increase in the public campaign and that that has been wound back—is that right?

Ms van den Heuvel—The public awareness campaign has been at \$1.64 million apart from the additional \$6 million that was allocated last June for the additional advertising component.

Senator LUDWIG—Do calls surge after an advertising blitz?

Mr Tyrie—Yes.

Senator LUDWIG—All the witnesses nodded. Is the contingency for the surge the \$1.4 million or do you have an advertising contingency fund as well?

Ms van den Heuvel—No, we do not.

Ms Moss—No, that is for the surges.

Senator LUDWIG—Do you require a set number of annual staff?

Ms Moss—Currently the hotline is staffed with about 30 people. The majority of those are non-ongoing staff and would work a limited number of hours per week.

Senator LUDWIG—Has that been stable over the last 12 months?

Ms Moss—It has, except for call surges resulting from the campaign or incidents like the Jakarta or the Madrid bombings.

Senator LUDWIG—Do you have the facility to call in extra staff?

Ms Moss—We do.

Senator LUDWIG—Does it work in this fashion: if you spend money on advertising you get an increase in calls?

Ms Moss—Generally, because the issue of national security is at the forefront of the public's awareness after having seen or heard public awareness campaigns, they become more attentive.

Senator LUDWIG—Of that, do you then require additional staff to deal with that surge?

Ms Moss—We do.

Senator LUDWIG—So you can then employ them on a non-ongoing basis or additional staff can be brought in on a non-ongoing basis.

Ms Moss—That is right.

Senator LUDWIG—If you recall, we broke down the calls in terms of the types of calls that are received. Is there a particular type of call that has increased or did they all increase?

Ms Moss—They tend to be a combination of people, because of their greater awareness, giving us more information that they might think is more relevant as they go about their daily business and also a relatively large number of people seeking assurance on how the situation is running, seeing as how the campaign is operational again.

Senator LUDWIG—What sort of training do the staff that are brought on receive? These are the surge capacity staff.

Ms Moss—In a sense, we have two categories of non-ongoing operators that we use on the hotline. One category gets about 20 to 25 hours worth of work a week and another category, which we could possibly call more casual casuals, would be called on for a fewer number of hours a week to keep their skills up and then as required after that.

Senator LUDWIG—Where do they come from?

Ms Moss—They come from all walks of life. We advertise as required, interview people and then train them. We have a large range of people, from students to retired people, and anything in the middle.

Senator LUDWIG—The Attorney-General's budget fact sheet states that funding beyond 2006 and 2007 is subject to review. Is there a review that is being foreshadowed?

Ms Moss—Prime Minister and Cabinet has foreshadowed that there will be, during this calendar year, a review of all Australian government watch offices and call centres.

Senator LUDWIG—When will this area be reviewed? Has it been scheduled?

Ms Moss—There is not a set date.

Senator LUDWIG—Are there guidelines on what areas will be reviewed? What type of review is envisaged?

Ms Moss—There has only been a general statement made at this stage that it will be a review of Australian government watch offices and call centres. There has been nothing more particular at this stage.

Mr Jordana—I think the general purpose of such a review would be to assure government that the watch office arrangements that we have at the Commonwealth level are efficiently delivering what is being asked of them.

Senator LUDWIG—Will there be any terms of reference issued for the review?

Mr Jordana—Because the review has not taken form yet, I cannot really answer that question.

Senator LUDWIG—In what way are the calls received actioned? I think we have gone through this before. Are they forwarded to the AFP or is there some vetting of how they are then passed on to the AFP, ASIO, the local police or the local fire or emergency services?

Mr Tyrie—When the calls are received, generally they are about specific activity concerning terrorism. They are all passed to ASIO, the jurisdiction affected by the call or from which it originates and the AFP. Those three types of agencies have in place coordination mechanisms for the follow-up of the investigation.

Senator LUDWIG—How many calls in each year of its operation have been referred?

Mr Tyrie—To each agency?

Senator LUDWIG—Yes.

Mr Tyrie—I cannot tell you that off hand. I will take it on notice.

Ms Moss—What we could say is that, since inception, we have had some 24,000 calls reporting that sort of information. They would have all been passed on.

Mr Tyrie—That is the figure I mentioned originally but I cannot break that down now for you into jurisdictions. I will have to take that on notice.

Senator LUDWIG—So 24,000 have been passed on. Do you get any feedback as to the outcomes of those?

Mr Tyrie—Yes. I can tell you publicly that the AFP have stated that they have followed up 532 that led to an investigation. I am aware that there is informal feedback to the effect that about 800 have led to further investigations and that a smaller number have led to significant investigations, but I cannot go into the detail of that.

Senator LUDWIG—Is that because it is not available or because it is security classified?

Mr Tyrrie—The ASIO annual report does not mention a particular number—I am not sure about that, but I do not know the actual number that have led to significant investigations.

Ms Moss—There are no formal feedback mechanisms to us from the agencies.

Senator LUDWIG—Are there any formal arrangements to advise you about the quality, the type, what remedial action might be taken to improve the communication process between the call centres and the referral mechanism—to make sure that it is better targeted or ensure the quality of information?

Ms Moss—There are no formal mechanisms, no. We may receive follow-up calls seeking further detail or further information for a specific course, but there are no formal mechanisms.

Mr Tyrrie—If I could add to that: over the period since the hotline has been in place, there has been feedback from the agencies—both ASIO and the AFP—in order to improve the service that we are providing and to enable the hotline operators to work better. In the case of hoaxes, for instance, they are required to make statements as part of the police prosecution brief.

Senator LUDWIG—How many of those are referred?

Mr Tyrrie—I said I would take that on notice—the number of hoax calls.

Senator LUDWIG—And the number of referrals. Are they all referred?

Mr Tyrrie—Even the hoaxes, yes, they are referred.

Senator LUDWIG—Thank you. I do not have any further questions in this area.

CHAIR—That concludes questions in output 2.4 and, as I understand it, that concludes questions for this evening.

Mr Jordana—Could I add one piece of information that was part of a discussion earlier, before you close for this evening?

CHAIR—Certainly.

Mr Jordana—Senator, you were talking about business continuity arrangements and the guidelines that departments might use for those arrangements. I am told that a better practice guide is located on the ANAO web site. It is entitled *Business continuity management—keeping the wheels in motion*. Even though my memory is a little bit rusty in this area, I do recall that this is an essential document that is used by agencies and departments at the Commonwealth level, and perhaps elsewhere as well, for setting up their business continuity plans. As we undertook, we will advise you if there are any other guidelines around for departments and agencies.

Senator LUDWIG—Thank you. That is helpful.

CHAIR—Thanks very much, Mr Jordana. I would like to thank all the officers who appeared before the committee today, and I thank the secretary and the minister. The committee will resume tomorrow morning at 9 am, commencing with consideration of the Australian Federal Police.

Committee adjourned at 10.43 pm