



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION  
COMMITTEE

**Consideration of Budget Estimates**

WEDNESDAY, 29 MAY 2002

CANBERRA

BY AUTHORITY OF THE SENATE

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**SENATE**

**LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE**

**Wednesday, 29 May 2002**

**Members:** Senator Payne (*Chair*), Senator McKiernan (*Deputy Chair*), Senators Cooney, Greig, Mason and Scullion.

**Senators in attendance:** Senators Allison, Bartlett, Carr, Cooney, Collins, Crossin, Faulkner, Ludwig, McKiernan, Murphy, Payne, Ray and Scullion

**Committee met at 9.06 a.m.**

**IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS  
PORTFOLIO**

**In Attendance**

Senator Ellison, Minister for Justice and Customs

**Department of Immigration and Multicultural and Indigenous Affairs**

**Departmental Executive**

Mr Bill Farmer, Secretary

Mr Andrew Metcalfe, Deputy Secretary

Mr Ed Killesteyn, Deputy Secretary

Mr Peter Vaughan, Executive Coordinator, Office of Aboriginal and Torres Strait Islander Affairs

**General Questions – Indigenous Affairs**

**Indigenous Business Australia**

Mr Ron Morony, General Manager

Mr Ian Myers, Deputy General Manager

Ms Christine Dragisic, Finance Manager

**Aboriginal and Torres Strait Islander Commission**

Mr Geoff Scott, Acting Chief Executive Officer

Mr Mick Gooda, Acting Deputy Chief Executive Officer

Mr Jim Ramsay, Manager, Corporate and Commission Support Office

Mr Paul Barrett, Acting Chief Finance Officer

Mr Peter Taylor, Acting National Policy Manager

Mr Les Turner, National Program Manager

Mr Mike O’Ryan, Acting Manager, Government Relations Team

Ms Colleen Murray, Acting Policy Manager, National Policy Office

Mr Rod Alfredson, Director, Office of Evaluation and Audit

Mr Joe Mastrolembro, Acting Registrar of Aboriginal Corporations

**Outcome 3: Sound and well-coordinated policies, programs and decision-making processes in relation to indigenous affairs and reconciliation (formerly DORATSIA)**

Output 3.1—Indigenous Policy

Mr Peter Vaughan, Executive Coordinator, Office of Aboriginal and Torres Strait Islander Affairs

**Internal Products:**

Mr Steve Davis, First Assistant Secretary, Corporate Governance Division  
Ms Louise Gray, Chief Financial Officer, Resource Management Branch  
Mr Douglas Walker, Assistant Secretary, Visa Framework Branch  
Mr Matt Kennedy, Assistant Secretary, Ministerial and Communications Branch  
Ms Cheryl Hannah, Chief Information Officer, Business Solutions Group

**General Questions - Immigration and Multicultural Affairs****Migration Review Tribunal**

Mr Steve Karas, Principal Member  
Mr Noel Barnsley, Registrar

**Refugee Review Tribunal**

Mr Steve Karas, Principal Member  
Ms Kerry Boland, Acting Deputy Principal Member  
Ms Jill Toohey, Registrar

**Migration Agents Registration Authority**

Ms Laurette Chao, Chairman  
Mr Andrew Cope, Vice Chairman  
Mr Len Holt, Queensland Director  
Mr David Mawson, Executive Officer

**Department of Immigration and Multicultural and Indigenous Affairs****Outcome 1: Contributing to Australia's society and its economic advancement through the lawful and orderly entry and stay of people.**

Output 1.1—Non-humanitarian entry and stay  
Output 1.2—Refugee and humanitarian entry and stay  
Output 1.3—Enforcement of immigration law  
Output 1.4—Safe Haven  
Output 1.5—Offshore asylum seeker management  
Mr Abul Rizvi, First Assistant Secretary, Migration and Temporary Entry Division  
Mr Phil Thurbon, Acting Assistant Secretary, Temporary Entry Branch  
Mr Bernie Waters, Assistant Secretary, Business Branch  
Mr Chris Smith, Assistant Secretary, Migration Branch  
Mr Peter Hughes, First Assistant Secretary, Refugee and Humanitarian Division  
Mr Robert Illingworth, Assistant Secretary, Onshore Protection Branch  
Ms Robyn Bicket, Assistant Secretary, Humanitarian Branch  
Mr John Okely, Assistant Secretary, International Cooperation Branch  
Ms Philippa Godwin, First Assistant Secretary, Unauthorised Arrivals and Detention Division  
Ms Kate Pope, Assistant Secretary, Unauthorised Arrivals and Detention Services Branch  
Ms Rosemary Greaves, Assistant Secretary, Detention Policy Branch  
Mr Vince McMahon PSM, First Assistant Secretary, Offshore Centre Management and Infrastructure Division  
Ms Mary-Anne Ellis, Assistant Secretary, Detention Infrastructure Branch  
Ms Lesley Daw, Acting Assistant Secretary, Detention Strategy Branch  
Ms Yole Daniels, Assistant Secretary, Offshore Asylum Seeker Management Branch

Mr David Knight, Director, Offshore Centres Policy and Procedures Section  
Mr John Moorhouse, First Assistant Secretary, Border Control and Compliance Division  
Ms Nelly Siegmund, Assistant Secretary, Border Protection Branch  
Ms Christine Sykes, Assistant Secretary, Entry Branch  
Mr Des Storer, First Assistant Secretary, Parliamentary and Legal Division  
Mr John Eyers, Acting Assistant Secretary, Legal Services and Litigation Branch

**Outcome 2: A society which values Australian citizenship, appreciates cultural diversity and enables migrants to participate equitably**

Output 2.1—Settlement services  
Output 2.2—Translating and interpreting services  
Output 2.3—Australian citizenship  
Output 2.4—Appreciation of cultural diversity

Mr Peter Vardos PSM, First Assistant Secretary, Citizenship and Multicultural Affairs Division  
Mr David Doherty, Assistant Secretary, Citizenship and Language Services Branch  
Dr Thu Nguyen-Hoan PSM, Assistant Secretary, Multicultural Affairs Branch

**CHAIR**—The committee will now resume this public hearing of the Senate Legal and Constitutional Legislation Committee with the examination of proposed expenditure for the Immigration and Multicultural and Indigenous Affairs portfolio, beginning with the Indigenous affairs area.

**Senator Ellison**—Good morning, Madam Chair. I was detained with the secretary attending to some matters which I think the committee expressed an interest in last night. I advise the committee that we are still working on those matters. We will perhaps deal with that at a later stage.

**CHAIR**—On 14 May 2002, the Senate referred to the committee the particulars of proposed budget expenditure for 2002-03 for the Attorney-General's and Immigration and Multicultural and Indigenous Affairs portfolios. The committee will consider the portfolio in the order in which it appears on the circulated agenda. 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 5 July 2002 for receipt of answers to questions taken on notice and any additional information.

I welcome Senator the Hon. Chris Ellison, the Minister for Justice and Customs and Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, Mr Farmer 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 a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. I draw to the attention of witnesses the resolutions agreed to by the Senate on 25 February 1988 relating to procedures to be observed by Senate committees for the protection of witnesses and, in particular, to resolution 1(10) 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.

Resolution 1(16) states:

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

While the Finance and Public Administration Legislation Committee oversees the monitoring of the format of the PBS, I remind you that the Legal and Constitutional Committee is also continuing to monitor the format of the PBS presented to it. That is in accordance with the Finance and Public Administration Committee's recommendation in its third report on the format of the PBS that legislation committees report in each budget estimates report on the adequacy of the PBS that is provided for their use. Witnesses are reminded that the 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.

I would like to take this opportunity to note that there are no answers to questions outstanding. The committee thanks the departmental officers and the minister for the improvement made by the department and the agencies in providing responses within shorter time frames. We are very grateful for that assistance. Minister, do you or Mr Farmer wish to make an opening statement?

**Senator Ellison**—I do not have an opening statement, Madam Chair.

**Mr Farmer**—No, Madam Chair.

**CHAIR**—Thank you, Minister; thank you, Mr Farmer. We will begin with general questions in the Indigenous affairs area.

**Senator LUDWIG**—Good morning, Mr Farmer. I see that you have found the 'r' word now in outcome 3. It is very pleasing to find that it is now called 'Indigenous affairs and reconciliation', although perhaps 'Reconciliation and indigenous affairs' may have been better, but there we go. On page 99 of the PBS, is that the extent of how the performance information is generally expressed? In table 2.2.3: Performance information for outcome 3, there are columns headed 'Key tasks' and 'Quality'. Then there are ostensibly two boxes: one states 'Compensation and legal expenses' and another, output 3.1, 'Indigenous Policy'. When you compare that with the information on immigration and multicultural affairs, it does not seem to provide a whole range of performance measures or information that can help us to better assess or quantify what the expenditure is on. Is there a way you can unpack that and provide just a little bit more information? As I understand it—correct me if I am wrong—the agencies or you can determine the amount of information you wish to put in the portfolio budget statements and whether you compress it or whether you spread it out—my terms are certainly not accounting terms—you then provide the information to us. Is that is right?

**Mr Farmer**—Senator, I think that the answer to your question is that, taken together, the PBS will provide you with much more information than is available on that page which, of course, relates to the department. The PBS elsewhere goes through performance information for the other agencies in the portfolio. Just to elaborate on that remark, in the Indigenous area, generally speaking, the department does not administer programs. Its function at the core is to offer policy advice to the minister. That is why the tasks and the performance information is as set out there. It is not related to the broad sweep of functions of the portfolio. It is a much narrower range of activity and performance, namely, the policy advice function undertaken by the relatively small Office of Aboriginal and Torres Strait Islander Affairs within the department.

**Senator LUDWIG**—In terms of performance information, you have got ‘Quality’ on the right-hand side. Are there any other measures that you would normally utilise to be able to ascertain whether the policy advice is timely, accurate and relevant and within expense or budget?

**Mr Farmer**—I would not say that that is not possible, Senator, because many departments go through a process of trying to basically pin down how they can measure the quality of their policy advice. It is, of course, rather easier to have a measurement of things that you produce, of activities that you do. It is easier to have a measurement with a program that you are administering where you are, say, issuing visas or—in other bits of the indigenous parts of the portfolio—engaging in particular functions relating to housing or land acquisition. So I would say that, to the extent that there is an issue here relating to policy advice, it is an issue that extends to this portfolio and to other portfolios when we are talking about performance measurement of policy advice. But I would just say that the core of OATSIA’s function is providing advice to the minister.

**Senator LUDWIG**—Turning to the statement *Indigenous affairs*, by the Hon. Philip Ruddock, I want to go through some of appendix B, which talks about identifiable Commonwealth expenditure on Indigenous affairs. As I understand it, the government refers to something like \$2.5 billion of specific Indigenous funding, but generally that appears to be more of a grab bag from various different agencies and departments, lumped together as a total sum which you then have to unpack into its various components. That is my understanding of how it seems to have been put together. As an example, under the Communications, Information Technology and the Arts portfolio heading, we find the Australian Sports Commission, where there is a pot of money. I assume that the total of that is then added up to make that whole amount I outlined.

According to the minister’s release, under the Agriculture, Fisheries and Forestry portfolio, \$2.2 million was provided for the Northern Australian Quarantine Strategy, which has 23 Indigenous staff, as I understand it, providing a service to remote Indigenous communities. If we look at page 34 of the *Indigenous affairs* statement, perhaps we can go through the figures sequentially. On page 34 of that statement, against the item Northern Australia Quarantine Strategy—pest and disease monitoring and surveillance and public awareness activities—Torres Strait and Cape York, that amount of \$2.2 million is shown. Relating to that, note 5 says:

Indigenous agencies reflect their total price of outputs which may include capital use charges.

What is that spent on, effectively? How is it identified as being a total amount which is in Indigenous affairs?

**Mr Farmer**—I will first make a general comment. You talked about a grab bag of information from portfolios; I would put it rather differently. I think what the government is trying to do is to give the parliament an understanding of the totality of expenditure on matters relating to Aboriginal and Torres Strait Islander people. That is important, because a number of major functions which specifically deal with Aboriginal and Torres Strait Islander people are administered by other portfolios. That has been a changing feast. The previous government, for example, changed the arrangements so that, where health used to be administered within ATSIC, it moved that function to Health. That, of course, is a function which involves very substantial expenditure. As part of an attempt to bring a whole-of-government focus to expenditure and programs in this area, the budget documents tried to bring together the totality of expenditure. So it is not really a grab bag; I think there is an attempt to give the parliament and others who are interested as comprehensive a picture as

possible of the totality of government operations in the area. That is just a general comment. On the specific point, I defer to my colleague Mr Vaughan.

**Mr Vaughan**—Some of the information in this publication, as the secretary just indicated, refers to other departments. I shall attempt, insofar as I understand the operations of those departments, to explain what I understand those figures to mean, but if we do get to a certain level of detail it will be necessary to refer such questions to those departments. Apropos this publication, I should say that it does replace or succeed a similar publication that used to be produced by ATSIC after the event—in the following financial year. I think ATSIC discontinued that publication about four or five years ago in view of this publication, so there is a history of government putting out this sort of publication and trying to draw together the strands of expenditure on Indigenous affairs.

In the specific instance you have mentioned, the Northern Australia Quarantine Strategy, I understand that that \$2.2 million is for the salaries of 23 Indigenous staff who provide services to remote Indigenous communities, often on Indigenous owned land. That is alluded to in specific terms in footnote 6.

**Senator LUDWIG**—Are you telling me that you can only tell me what I have already read to you anyway? Forgive me if I am a little new to this area, but now you seem to be explaining to me that it is not a grab bag but that over this week and next week I have to go to at least eight committees—I have not counted up how many agencies are involved—and ask specific questions at specific times in the relevant outputs to determine whether or not the moneys for Indigenous affairs are being spent well on Indigenous affairs. Is it not part of your responsibility to ensure that they do that? I am happy to follow you along to those places as well and ask those questions, if that is what has to happen.

**Mr Vaughan**—We can take questions on notice to obtain answers from those departments, but the fundamental problem you are alluding to is a structural and systemic one. When you have a thematic issue like Indigenous affairs which—much like women's affairs or a number of issues—spans a range of portfolios, how do you dovetail that and reconcile it with a parliamentary committee structure which is portfolio specific? The issue arises because parliamentary committees of this kind do not generally deal with issues thematically; they deal with them by portfolio. So we have a familiar accountability issue here. It is a bit like the role of the minister for aboriginal affairs. The minister for aboriginal affairs is, in a sense, responsible indirectly for the activities of a lot of other ministers, but he is not directly responsible.

**Senator LUDWIG**—How do you ensure that that money is spent well in those areas or is that not part of your responsibility? We can start at the higher plane first: what responsibility do the Office of Indigenous Affairs and Reconciliation in DIMIA have to ensure that that money in that different department is spent effectively and efficiently on a program for Indigenous affairs? Do you have a responsibility for that?

**Mr Farmer**—We have a number of responsibilities. One of them, for example, is advising the minister on the budget proposals from other portfolios, insofar as they relate to Indigenous affairs. That is where we should and do make comments for the use of our minister in the consideration of budget requests and other matters from portfolios. But, if you take the specific example of the matter you just mentioned, I am not able—and frankly I do not think I should be able—to say that the Office of Aboriginal and Torres Strait Islander Affairs is monitoring expenditure of that sort down to that level. That is clearly a program matter administered by another portfolio.



**Senator LUDWIG**—So, when we look at the program called Agriculture Advancing Australia in the minister's *Indigenous affairs* statement, also under the Agriculture, Fisheries and Forestry portfolio, if we go to the item called AAA-FarmBis funding for Indigenous sponsorship, your answer really is the same. Perhaps I should make sure that the Rural and Regional Affairs and Transport Legislation Committee is still sitting so that I can duck around there and ask them how they are spending that money. I am not being facetious, but is that basically how we are going to have to run this program to determine whether the money is being spent effectively and efficiently?

**Mr Farmer**—When you are talking about that particular question, that is the case, I think. I am not being facetious, but I would also make the comment that, if you can think of ways in which this form of reporting—I am not talking about the portfolio budget statement but the attempts that we make to report in a whole-of-government way on the responsibility across government for Aboriginal and Torres Strait Islander related matters—could be improved to be more helpful, I think you would find that we would be very receptive to your suggestions.

**Senator LUDWIG**—I will certainly take it on notice and go away and think about it.

**Mr Farmer**—Thank you, Senator. That is the first time that it has gone the other way.

**CHAIR**—Do not make a habit of it, Senator.

**Senator LUDWIG**—I may; I quite enjoyed that. The difficulty I have is trying to disavow myself of my statement that it is a grab bag just for that purpose. This is not directed at you specifically, but when I look at the various portfolios and try to ascertain what makes that \$2.5 billion so I can then come to a conclusion about whether it is being spent on Indigenous affairs as claimed, when I unpack it, I cannot quite confirm that that is the case. I can confirm with you your specific area of responsibility under DIMIA, and that is as good as it gets, by the look of it, unless I then traipse around to all these other areas as well to find the relevant people in those places. If that is the way it is going to have to be, then that is the way it is going to have to be, but I will certainly give it some thought for the future.

Looking particularly at the agriculture, fisheries and forests area, perhaps you might be able to take a question on notice and let me know whether or not those funds are available to all Australian citizens, including non-Indigenous persons, or whether those are specific grants for Indigenous persons only? Could you take a similar question on notice relating to the Australian Institute of Sport and the funds I mentioned in that area. More broadly, I would like to know whether or not the amounts of money are, in the old terminology, tied or not tied to various areas or whether the money is given just to encourage them to provide programs. You can see how it could really detract from the original claim of \$2.5 billion if we found that there was a certain amount of money allotted to the Australian Institute of Sport for Indigenous programs but that money was not tied or made specific to Indigenous persons, if it was just an amount of money to encourage them. I am saying that hypothetically; I do not know whether they are doing that or not. That is the problem. If the money is not then spent in that area, the \$2.5 billion reduces by a certain amount in my view. But we will continue, unless you want to make any comments in relation to that.

The same would go for the Environment and Heritage portfolio I assume. Could you take on notice a question in terms of that portfolio. On page 36 of the *Indigenous affairs* statement, where the list includes an Indigenous land management facilitators' network, Indigenous protected areas, the Waterwatch program and the National Wetlands Program, could you find out whether the funds for those items are tied or not tied—whether or not they are spent on

Indigenous affairs or Indigenous persons or whether they are just provided as a lump sum payment.

**Mr Farmer**—We will take that on notice, Senator. Obviously, we may need to have another agency answer these questions, but we will ensure that process happens.

**Senator LUDWIG**—I was trying to explore with you, for the benefit of the committee and Indigenous Affairs, how we can unpack some of this material without both of us traipsing around all the committees or, at least, without different questions coming backwards and forwards from other departments through you to the committee. But, in the interim, we will do it this way and see how it works.

**Mr Farmer**—Yes. I would not like to end the discussion without re-emphasising the point made by Mr Vaughan that this is not a phenomenon limited to this particular area. When we do have matters which relate to, for example, the position of women or employment of handicapped or non-English-speaking background people in the Public Service, there are a number of areas where the government aggregates activities across portfolios and reports on them. That practice has gone on for many years. I do not think that we are alone in this area in that respect.

**Senator LUDWIG**—No. I got that distinct feeling. I refer to page 98 of the PBS. There are administered expenses of what looks like \$1 million out of a budget of \$3.3 million. There is a little note under that about total administered expenses. It looks like L1, but I do not seem to be able to find where the notation for L1 is. I assume if I keep looking I will find it, but if you can find it before I can that would be helpful. It seems to suggest that about a third of the total funding is in litigation. Is that how I read it? Is that allocated for litigation against Indigenous peoples' interests?

**Mr Vaughan**—It is about a quarter, I think. It is \$1 million out of \$4.3 million.

**Senator LUDWIG**—That is the \$4.3 million down the bottom. Why I say it is a bit higher is that if you take out the administrative expenses that would be the pot of money. But I will accept a quarter. Is that spent on litigation against Indigenous peoples?

**Mr Vaughan**—It is spent on a mixture of forms of litigation. I will give you three examples. On one side we have the Gunner and Cabillo litigation, which is against the Commonwealth for compensation from Aboriginal people. I will give you some actual figures for this year. So far we have spent about \$565,000 in total on litigation this year. About \$100,000 of that is on the Gunner and Cabillo case. At the opposite end of the spectrum, if you like, we have litigation against the Commonwealth, which we are defending, from the Chapmans, who are the developers of the Hindmarsh Island bridge. This is litigation against former Minister Tickner and others over the decision to ban the Hindmarsh Island bridge. I guess some people would regard that as litigation by non-Aboriginal people against an Indigenous interest. So far this year we have spent \$376,000 on that.

In between, we have the cases like certain former native title representative bodies that are dissatisfied with the minister's decision to appoint other organisations as the representative body for that area. They have taken issue with that and the Commonwealth has become involved in that litigation. In a sense, that is Indigenous versus Indigenous litigation. An example of that would be the action by the Foundation for Aboriginal and Islander Research Action. We spent \$63,000 defending the minister's decision on that—\$565 this year. So, within that category, there is a range of litigation, and it is a matter of judgment whether you regard the individual case as pro- or anti-Indigenous.

**Senator LUDWIG**—Is there a place where that is broken down in the way you have described—and perhaps you can take it on notice—so that it is a little clearer on what may be regarded as those moneys spent out of the budget on litigation for Indigenous affairs or issues and those moneys spent out of the budget which are not? At the very least, could a file note be attached if there is some doubt as to whether or not it is either/or?

**Mr Vaughan**—I can break it down by case, but I think it is a matter of judgment as to whether a particular case is pro- or anti-Indigenous. The Foundation for Aboriginal and Islander Research Action, in challenging the minister's decision not to recognise it as a representative body for that area, would regard that as anti-Indigenous, but the representative body that was approved for that area would regard the minister's defence of the action as pro-Indigenous.

**Senator LUDWIG**—Perhaps a file note or a case note to go with it would be helpful, if we do not want to go that far. You have put it in the Indigenous affairs litigation, but that does not help me. If it is Indigenous affairs litigation, then I need to be able to ascertain where it has been spent. A significant amount of money out of the budget is being spent on litigation. You would agree with me on that, wouldn't you?

**Mr Farmer**—We can give you a breakdown of the expenditure and the cases. We just do not characterise things in the way that you have suggested, and I would not do that either in general or in preparing an answer. I just do not think it is the way we do things.

**Senator LUDWIG**—Then a case note explaining what the case is about would be helpful.

**Mr Farmer**—Yes, we could do that.

**Ms Gray**—Could I just clarify that note (11) on page 98 refers to table 1.1 on page 37. Table 1.1 on page 37 seeks to show all the appropriations and other revenue by administered and departmental, so it links to table 2.1.3, where that note appears.

**Senator LUDWIG**—Thank you, that was a good find.

**Mr Farmer**—I have looked at it, Senator, and if it is more helpful to you than it is to me then you are a better reader of tables. It looks like algebra.

**Senator LUDWIG**—I will not go into algebra now. In that answer that I have asked for on a breakdown of Indigenous affairs litigation, can you also provide a breakdown of the Cubillo and Gunner stolen generation case in terms of the money spent out of that area? Do you also keep track of how much money is spent over other Commonwealth government agencies in relation to that matter or do you only keep track of that spent out of your area?

**Mr Vaughan**—The other major agency incurring expenditure would be the Australian Government Solicitor, but they bill us for their costs. So our total costs capture their costs. I do not think there are any other agencies that have had significant costs incurred in the course of the case.

**Senator LUDWIG**—I was trying not to go to the Australian Government Solicitor in relation to that matter. The minister may understand that. If you can provide a breakdown of those costs, it would be helpful. I think we have the agency primarily responsible for it.

**CHAIR**—I think it is a little early to scare everybody, Senator Ludwig!

**Senator COONEY**—On the Cubillo and Gunner case, didn't Holding Redlich in Melbourne make a big contribution? I think there was a big contribution made by solicitors in Melbourne doing almost pro bono work on that, wasn't there?

**Mr Vaughan**—The figures I am citing are those incurred by the Commonwealth in defending the case. There were costs incurred by ATSIC in funding the claimants, and I think Holding Redlich did some of that work pro bono, and their costs obviously would not be reflecting government accounts anywhere.

**Senator COONEY**—I just want on this occasion to acknowledge Holdings—I think Michael Schaeffer did great work—especially when they are up against the limitless funds of the Commonwealth in fighting these cases. I just want to put that on record. That was apropos Senator Ludwig wanting a bit of time to gather his thoughts again.

**Senator LUDWIG**—I am wondering whether you could provide the statistics not only for the current year but for the duration. Do you keep the statistics for that? It would then cross a number of financial years, I suspect.

**Mr Vaughan**—I can give you that part.

**Senator LUDWIG**—Just so we can get a total cost. Is the amount of money that you have expended on it complete or is there a tail still to be expended?

**Mr Vaughan**—I would think it is about 99-point-something per cent spent. The last hearing was the handing down of the High Court decision a couple of weeks ago denying special leave for the appeal, and obviously there would be some minor costs associated with that. But our expenditure to date excluding that is approximately \$9.4 million over the course of the case, over the past four years or more.

**Senator LUDWIG**—I was wondering whether you could provide an update of where we are at with Reconciliation Place, which I raised at the last estimates.

**Mr Vaughan**—Much of the construction work has been completed. The installation of the initial group of slivers has not been done yet. The issues are currently the subject of consultation between the minister and representatives of the National Sorry Day Committee concerning aspects of the design, and those consultations, I understand, are continuing. The government expects that Reconciliation Place will be open soon.

**Senator LUDWIG**—You have sparked my interest. What seems to be the problem? Perhaps you could outline it. Is there communication or correspondence between the minister and the Sorry Day Committee in relation to this matter? If there is, I wonder if the committee could have that correspondence. Perhaps you could outline the nub of the issue which seems to be holding it up.

**Mr Vaughan**—I think the press reports have described the matter extensively—

**Senator LUDWIG**—I do not want to interrupt you, but the difficulty is that, in other committees and in fact in this committee where the Attorney-General appears, they complain that the press do not always get it right and that my citing of press reports should not be done because it is incorrect, and I have been pulled up on that—fairly, I think. So what I am asking you is: what is the position? I think that is a fair question. I have not referred to the press releases and do not intend to. Perhaps you can tell me from your perspective and from the information you have what the true position is.

**Mr Vaughan**—The current position is that there are consultations, as I indicated, between the minister and representatives of the National Sorry Day Committee concerning the initial group of slivers to be put on site. I could take it on notice and check what correspondence there has been between the committee and the minister, but I think that in recent times there have mainly been face-to-face consultations.

**Senator LUDWIG**—What seems to be the issue then?

**Mr Vaughan**—The composition of the initial group of slivers.

**Senator LUDWIG**—Can you expand on that a little and tell me what the nub of the issue is? Is it about the slivers themselves? Is it the composition of them? Is it the colour of them?

**Mr Vaughan**—I understand it is about one of the slivers in particular, to do with separated children.

**Senator LUDWIG**—Is it lack of consultation? You seem to be reticent to explain to me what is going on. I do not think that is something you would be deliberately doing, but perhaps you could be a bit more forthcoming in what is actually holding it up.

**Senator McKIERNAN**—On top of that, there have been conflicting press reports. As you refer us to press reports to get to the truth of the matter, we then will have to make a judgment of which press report is accurate, which only contains half the truth and which is completely inaccurate. We have some difficulty with that, and that is why we are going back to the minister to see if we can get something either through the minister or through the department. Mr Farmer understands that.

**Mr Farmer**—This is a process that has gone on for some time and the minister met only very recently with the committee—I think it was a matter of a week ago. At that meeting there was discussion essentially, as Mr Vaughan said, about the sliver relating to the separated children. There has been specific discussion between the minister and the members of the committee relating to that general issue of whether there should be a sliver, whether there should be more than one sliver, whether there should be another form of recognition in the general context of Reconciliation Place or whether there should be a sliver and another form of recognition in Reconciliation Place. That is the nature of the discussion that has been going on. It is true to say that there has been a greater confluence of views about how the matter might be progressed, but I do not believe that it has been, as yet, agreed. I think that there is a confluence of views to the point where there is a measure of agreement between the minister and the committee that the Reconciliation Place launch can happen soon. How the question of the separated children will be reflected in that opening is not yet settled. That is my understanding.

**Senator CROSSIN**—Is there an intention not to proceed with the opening of Reconciliation Place until this matter is resolved?

**Mr Farmer**—I believe that the minister wants to march in step with the committee on this matter, so he is continuing with his consultations.

**Senator CROSSIN**—Any opening of Reconciliation Place may not proceed until there is an agreement with the National Sorry Day Committee about outstanding issues?

**Mr Farmer**—I do not think that issue has been addressed in those terms. We are in the middle of a process now and we have tried to give you an idea of the dynamics that are at play in that process.

**Senator SCULLION**—The issues associated with the slivers—the issues before the press today—probably go back a little bit. In the original consultation process I understand that you had a group of people whom you consulted with. Did that group of people include someone from the separated children group or the National Sorry Day representative sector?

**Mr Vaughan**—There were two processes or mechanisms that involved public consultation concerning the development of Reconciliation Place. In the first instance, there was a steering

committee for the project which was co-chaired by Evelyn Scott, the former Chairman of the Reconciliation Council, and Ian Spicer, and which included a number of other indigenous representatives: Matilda House, Vic McGrath, Cassandra Gibbs and Richard Walley.

In addition, subsequently at the design phase an indigenous reference group was appointed to assist. That comprised a number of indigenous people: Agnes Shea, Sharon Payne, Margot O'Neill. Margot O'Neill is the director of the First Australians gallery at the National Museum. Sharon Payne, who was one of the parties in the winning design, has subsequently revealed that her own family experience involved separation.

So, in addition to that, the images that are on the sliver that is in contention were drawn in significant part from a National Archives exhibition that was mounted several years ago and has still been touring the country recently, which itself was based on consultation and expert advice from representatives of the children affected by that experience. So in a sense there has been a continuum of indigenous input into the project from the outset, including from people who were part of the separated children experience.

**Senator COONEY**—Does the Commonwealth have an action against the Yorta Yorta people going at the High Court at the moment?

**Mr Vaughan**—The Yorta Yorta native title claim has reached the stage, having gone through the Federal Court, of appeal to the High Court.

**Senator COONEY**—Didn't it start in the High Court? I thought it started in the High Court just recently.

**Mr Vaughan**—That is the appeal.

**Senator COONEY**—That is right. That is the one I am talking about. That is the progress. It has come from a hearing in Melbourne originally.

**Mr Vaughan**—Initial judge, then full Federal Court, and now High Court.

**Senator COONEY**—Can you give the committee an account of what that has cost the Commonwealth? I want the names of the lawyers who appeared and what they charged and the amount of money you paid. What solicitor did you instruct? Was it the Australian Government Solicitor?

**Mr Vaughan**—In this case the Commonwealth is one of several respondents to a claim—

**Senator COONEY**—Not the other ones—I am just asking about the Commonwealth.

**Mr Vaughan**—The Commonwealth litigation is handled by the native title unit within the Attorney-General's Department. It is not handled by our office so we do not have the specifics of what those costs are. We could seek to obtain them from Attorney-General's.

**Senator COONEY**—No. I will ask Attorney-General's. I was going to put it this way—

**CHAIR**—I thought it was very generous of Mr Vaughan to indicate he would try to obtain them, Senator, and I would have taken up that opportunity had I been you. Best of British!

**Senator COONEY**—I want to make the point because when he takes it up with the Attorney-General's Department the answer might come back: no.

**CHAIR**—How would you imagine that, Senator Cooney!

**Senator COONEY**—I am now going to put it to Senator Ellison. He has the same reaction as my colleagues up here. They all rolled their eyes as if to say: 'You are not going to do that to us, are you?' I am going to ask for all those costs that I have put to Mr Vaughan—that is,

the Commonwealth costs for the Yorta Yorta case from the time it started off in the Federal Court in Law Court Place in Melbourne, through the full court and up to the High Court, as it is now. To bring relief to everybody, Minister, can I adopt the arguments I put yesterday—

**Senator Ellison**—I think I can recite them!

**Senator COONEY**—I do not know whether I gave enough emphasis—

**Senator Ellison**—If you put everything in?

**Senator COONEY**—I do not know whether I gave enough emphasis yesterday to a seminal report that Anne Lynch has given me, written in May 1991, *Aboriginal Development Commission—legal costs in relation to Senate privileges matter*, in which this matter was very brilliantly discussed. The members of the committee were myself as chair, Senator Vanstone, Senator Giles, a senator from Western Australia, Senator Rod Kemp, who has gone on to great things, Senator Chris Schacht, who is still here, Senator Sid Spindler—were you here when Sid Spindler was here?

**Senator Ellison**—Yes, indeed.

**Senator COONEY**—And there was another Western Australian, Senator the Hon. Peter Walsh. Western Australians are well represented. I simply ask that question, and I adopt all the arguments put so succinctly over the last two days.

**Senator Ellison**—I will take that on notice and see if we can obtain those costs, either via the Attorney-General's Department or this department.

**CHAIR**—Thank you. Your assistance is gratefully received by the committee.

**Senator SCULLION**—Just in terms of completeness, I wonder if you could also examine the costs supplied to the applicants through the legal aid provisions of the native title process.

**Senator Ellison**—Legal aid for which applicants?

**Senator SCULLION**—The actual funding and the cost of the legal process for the applicants in the case of the Yorta Yorta.

**Senator Ellison**—The Yorta Yorta matter.

**Senator SCULLION**—Yes. It will give a balance on either side.

**Mr Vaughan**—The claimants' costs would probably come under ATSIC through the native title representative body, so we would have to take that part of the question on notice for this side of the portfolio. But the Commonwealth is funding both sides of the matter.

**Senator SCULLION**—I just felt that if you are going to go down that road we should have a look at both sides. It would be an interesting process.

**Senator Ellison**—ATSIC can answer that question.

**Senator SCULLION**—Thank you. I will put that to them.

**Senator LUDWIG**—I do not mean to jump on this bandwagon, but could that be done for the Cubillo and Gunner matter as well? I asked for the legal breakdown but, just to be sure that we are also following the same pattern, could we also have a breakdown in relation to that case?

**Senator Ellison**—Both sides?

**Senator LUDWIG**—Yes, so we can get a clear perspective on what is going on. Returning to page 98 of the portfolio budget statements: is there a way that the total administered

expenses can be expressed in a less compacted way? Do you have a statement that explains how all those expenses are spent?

**Mr Farmer**—We have already undertaken to give that, haven't we?

**Senator LUDWIG**—I was not sure. We spoke about the litigation and the administrative expenses.

**Mr Vaughan**—All of the administered item relates to legal expenses.

**Senator LUDWIG**—I see. I am with you. So nothing comes back through the department in that area?

**Mr Vaughan**—The department's own staff costs are covered under departmental expenses.

**Senator LUDWIG**—All right. That is helpful. Last week in the *Canberra Times*—not that I wish to go to newspaper articles, but perhaps you can help me clarify a point—it seems that there was some suggestion that former ministers Wooldridge and Reith would be conducting a review of ATSIC. Could you provide some information about that which would dispel that terrible situation?

**Mr Farmer**—Which terrible situation, Senator?

**Senator Ellison**—Exactly.

**Senator LUDWIG**—Perhaps you could explain whether or not the *Canberra Times* article is correct.

**Mr Farmer**—By 'terrible situation' do you mean putting you in the position of relying on information in the *Canberra Times*?

**Senator LUDWIG**—That is right.

**Mr Vaughan**—The minister was asked about that report on Radio National at the time, and whether he could confirm that Peter Reith or Michael Wooldridge were being considered, and he said: 'No, I cannot confirm that. What I can confirm is that I will have discussions with ATSIC about not only the terms of reference but the sorts of people who might be suitable to conduct such a review.'

**Senator LUDWIG**—So a review is going to be conducted, is that right?

**Mr Vaughan**—Yes, that was flagged in the election platform.

**Senator LUDWIG**—What information can you give me about that review? Have you commenced work on the terms of reference? Have you consulted with ATSIC about it? What can you explain that has happened to date?

**Mr Vaughan**—The minister has had personal, informal consultations with the chairman of ATSIC and, at official levels, we have had consultations with ATSIC about the scope of the review.

**Senator LUDWIG**—When will the review and the chair or deputy chair—or however they are expressed—be announced?

**Mr Vaughan**—That depends on those consultations now in progress. I cannot give you a date as to how soon that would be.

**Senator LUDWIG**—Can you tell me about the scope of the review or what it will encompass?



**Mr Farmer**—The terms of reference have not yet been addressed. In the normal course of events they would, I imagine, be approved by cabinet. We are not at that point yet.

**Senator LUDWIG**—I was just hoping. So you cannot tell me at this point in time whether or not it will be headed by a single person or a team or who the persons will be? You are still waiting for the minister to inform the department what the direction will be—is that a fair statement?

**Mr Farmer**—There are no decisions on issues like that.

**Senator CROSSIN**—What is the intention of the review?

**Mr Vaughan**—The intention, as expressed in the government's election platform, is to explore opportunities for more effective arrangements for ATSIIC at the regional and national levels.

**Senator CROSSIN**—It is as broad as that, is it? That has not been redefined to be any more specific since last November?

**Mr Vaughan**—Obviously, the eventual terms of reference will give more specificity to that, but at this stage there is no further detail available.

**Senator CROSSIN**—Are there draft terms of reference being considered by ATSIIC?

**Mr Vaughan**—Yes, there are.

**Senator CROSSIN**—And they have not been agreed to as yet—is that the situation?

**Mr Vaughan**—Not as yet.

**Senator CROSSIN**—Has a decision been made to get an external person to conduct this review, as opposed to ATSIIC reviewing itself through an internal process?

**Mr Farmer**—The intention is that it should be an independent review.

**Senator CROSSIN**—Right. Is this with a view to perhaps hiring a consultant to do this?

**Mr Farmer**—I do not mean to be unhelpful, but I just do not think we are at the point where that sort of issue is being addressed. That would depend in part on decisions about which person or persons will do the review.

**Senator CROSSIN**—One would assume that if ATSIIC are not doing their own internal review—and I am assuming your department is not doing it—it would have to be done by an external person or consultant. Is the intention that whoever is appointed would be appointed with the agreement of ATSIIC?

**Mr Farmer**—The minister has made it clear he is consulting ATSIIC on this matter.

**Senator CROSSIN**—But there is not necessarily an intention to get ATSIIC's agreement as to who might conduct this review?

**Mr Farmer**—I do not know how that will finally resolve itself. The minister is, as I say, consulting ATSIIC. We want this to be an independent review but one that will have widespread stakeholder support. Can I just say—and you might want to ask ATSIIC about this later—that I believe there is the view within ATSIIC that there are areas of the current operations that could be improved.

**Senator LUDWIG**—I was just going through the indigenous affairs statement by the Hon. Philip Ruddock. I do not know whether you can help me in this area but I will ask, and we will see how we go. I am referring to page 14 of that document—and forgive me if we jump

around a little bit in this document for a while. Next time around, I might be able to put the questions on notice to the various departments if we can get the gist of where they are heading. It says in the last sentence of the third paragraph:

A condition of the additional funds is improved accountability for all Commonwealth Indigenous-specific funding, focused on outcomes.

What would that condition be? I take it that is not a motherhood statement.

**Mr Vaughan**—The \$75 million is spread between ATSIC and the Department of Family and Community Services.

**Senator LUDWIG**—I understand that. My question may have been more directed to ATSIC and the Department of Family and Community Services. I understand that in relation to the expenditure of the \$75 million, but I do not want to go to them and be told that the condition is within your purview. That is the difficulty I sometimes face. This is but one area where I bounce between departments, and it is not a pretty sight.

**Mr Vaughan**—It is not a pretty position to be in, Senator. It was a condition of the funding that an improved accountability framework be developed. That framework went to issues about the management and maintenance of the assets, about the priorities for locations and those sorts of things and about the transparency of the program. That accountability framework was developed jointly between FACS and ATSIC at the time.

**Senator LUDWIG**—How do you come to know about it? Do they send you a copy? Do they communicate with you?

**Mr Vaughan**—We were involved in consultations and dialogue at the time the framework was being developed.

**Senator LUDWIG**—When was that done?

**Mr Vaughan**—That was just over a year ago, at the time that the budget decision about the \$75 million was taken.

**Senator LUDWIG**—And that is to be spent during the 2002-03 year. Is that right?

**Mr Vaughan**—It will be spent over four years.

**Senator LUDWIG**—Yes, but it is \$23 million during the 2002-03 year. Is it the case that it was announced last time, that this is not a new initiative?

**Mr Vaughan**—No. The \$75 million was announced as part of last year's budget, with the money flowing over four years in an escalating pattern. Last year there was \$3 million of the \$75 million; this year there is \$23 million of the \$75 million.

**Senator LUDWIG**—Do you have a copy of the new accountability framework that you can provide to the committee? Should I go to FACS and ATSIC and ask for it?

**Mr Vaughan**—I think that between us and ATSIC, as ATSIC is party to it, we can certainly assist the committee with that.

**Senator LUDWIG**—That would be helpful. Beneath the heading on page 13 entitled 'Housing and infrastructure', it talks about spending 'approximately \$350 million on Indigenous-specific housing'. Is there a new budget initiative there?

**Mr Vaughan**—That \$350 million includes this year's \$23 million of the \$75 million. So the new component of the money is part of the \$350 million.

**Senator LUDWIG**—Perhaps I expressed myself badly, so I will try again in another way. Was a new initiative in this area, which would be included in the \$350 million, announced this year as part of the budget statement?

**Mr Scott**—The \$350 million refers to two major program items: one is the Commonwealth-state funding administered by FACS, which is about \$100 million; the other is the funding under the ATSIC community housing infrastructure program, which is \$255 million. This includes the announcements in last year's budget initiatives, of which there is \$23 million in additional funds this year. That is broken up, with \$11 million being administered by ATSIC for infrastructure projects and \$12 million being added to the Commonwealth-state housing agreement resources.

**Senator LUDWIG**—So there is not a new program, or new money, introduced in that area?

**Mr Vaughan**—There was no decision in this year's budget to add further to that amount—that is correct.

**Senator LUDWIG**—In terms of the statement on Indigenous affairs, is there any new statement or new expenditure of moneys in here? It is a broad question—we could go area by area—but it would be helpful. The fact sheets I get from the Attorney-General's, for example *A Safe and More Secure Australia*—I did not really want to read their press release—detail a new initiative and then they provide, for argument's sake, a counter-terrorism measure, such as 'The Government is committed to protecting Australia. It has committed \$426.6 million over the next four years.' So it is a new measure. It is not a measure that was introduced last year and that is reflected as an budgetary expenditure that is continuing. Do you have fact sheets which detail new expenditure in this area?

**Mr Vaughan**—Across the Commonwealth there has been an additional real increase of about \$68 million this year. But the majority of that is the consequences of last year's budget decisions. I can give you an idea of that \$68 million—

**Senator LUDWIG**—Perhaps you could take it on notice, if you can, and break it down in terms of where it is being spent and whether or not it is a new initiative. But continue with the overview, please.

**Mr Farmer**—I think there are some instances of new expenditure. If you look on page 1 in the overview section, there is a reference to an additional \$8.3 million over three years to improve telecommunications for remote Indigenous communities.

**Senator LUDWIG**—Yes, I was going to go to that next and ask about that one, too, but I was not sure whether I should ask you or the telecommunications area. I am not making a habit of saying that, but there we go.

**Mr Scott**—There is one other initiative included in this booklet. That is the one listed under the Australian Greenhouse Office—the renewable energy projects.

**CHAIR**—Which page is that?

**Mr Scott**—That is in the booklet itself on page 14, in the second last paragraph, if you want to refer to that. That is about \$2 million this year.

**Senator LUDWIG**—So there is a couple of million dollars for new projects. Is that a fair statement?

**Mr Vaughan**—Most of the \$68 million, as I indicated, is a consequence of last year's budget decisions. In terms of new and additional decisions this year, there is the telecommunications decision, which the secretary mentioned, and the one that Mr Scott mentioned. They would be the only significant ones. Other decisions—like the \$11 million for the primary health care access program, the \$20 million increase over last year for housing and infrastructure or the \$11 million for the Australians Working Together community participation agreements et cetera—are decisions that were taken last year. Those figures that I have just quoted are the additional money flowing this year as a result of those decisions taken last year.

**Senator LUDWIG**—You then say that the \$8.3 million over three years to improve telecommunications is new money. Is it new money that has been expended in Indigenous affairs or is it redirected money within the telecommunications portfolio? I was wondering whether you could take that on notice and check that out. Sometimes it may not be additional expenditure—I forget the accounting term that the various agencies use, but in my terms they shuffle it from one area to another—it has simply been redirected. Perhaps you could help me with that.

**Mr Vaughan**—I will take that on notice. Obviously, where money that was not previously being directed specifically to Indigenous people is now being directed specifically to Indigenous people, the extra money overall is still, I think, relevant for our discussions.

**Senator LUDWIG**—I am not debating that; I am simply trying to ascertain where the new money is.

**Mr Vaughan**—We will take that on notice.

**Senator CROSSIN**—Mr Vaughan, you may or may not be able to help me here. I refer you to page 33 of the Indigenous affairs statement, *Indigenous Affairs 2002-03*. Are you able to explain to me the difference in expenditure from 2001-02 to 2002-03 that appears under the economic development heading under ATSIIC, including CDEP?

**Mr Scott**—That is probably a question that ATSIIC should respond to. You will notice quite a few changes in the output statements for ATSIIC across the five output areas themselves. In past years, the CDEP program, which is ATSIIC's largest program, has been quantified in the output statements in employment and training outcomes only. It is ATSIIC's view and the view of the board that the outcomes from CDEP are much broader than that and range across a whole range of output areas. What you see expressed in the portfolio statements is a reflection of the first estimate of the range of outputs where that is. At the moment, it leaves only about 30 per cent of outputs under the economic area. The money expended in the rest of the outputs is apportioned across the other range of ATSIIC's programs.

**Senator CROSSIN**—Are you saying that ATSIIC now believes that CDEP provides more than employment and training outputs?

**Mr Scott**—I think that has been an ongoing contentious point between ATSIIC, the government and a lot of agencies and communities. There has been a position put that the CDEP program was there just to provide employment and training outputs in figures, and that is how the program was being assessed. We thought that was not only unfair but misleading. What we have tried to do in the output statements here is provide a much fairer view of what the outcomes actually being achieved are.

**Senator CROSSIN**—What other outcomes have been identified by ATSIC? Mr Scott, I am assuming that you are saying that you have spread the expenditure across those outputs. Is that right?

**Mr Scott**—We have. If you go to page 132 of the agency budget statements, there is an explanation of what the differences were and why there are differences. I could provide a more comprehensive response if you wish me to, going into the areas of exactly where those moneys are apportioned and what sorts of activities were included under each item.

**Senator CROSSIN**—So there is not actually a reduction in the money allocated to CDEP?

**Mr Scott**—No, there has actually been an increase, which we receive each year in line with the CPI.

**Senator CROSSIN**—I refer you to page 12 of this particular Indigenous affairs statement, *Indigenous Affairs 2002-03*. Is ATSIC working with Centrelink to identify where the 12 new remote area servicing centres will be located under the Australians Working Together package?

**Mr Scott**—I think Centrelink have taken the lead role in that. We have some communication, but we are not in a decision making process with them.

**Senator CROSSIN**—So they are questions better asked of Centrelink?

**Mr Scott**—Yes, they are.

**Senator COONEY**—I have a question that is not particularly relevant, but I want to raise it.

**CHAIR**—If we operated on the basis that questions needed to be strictly relevant, we would have much briefer meetings.

**Senator COONEY**—I think it was Senator Ludwig who said that we are new to this area, and therefore we might be a little gauche.

**CHAIR**—Are you speaking for all of us?

**Senator COONEY**—No, just for myself. When you look at me like that, Madam Chair, it is definitely only for myself!

**CHAIR**—You would not want to offend me this early in the day, would you, Senator Cooney?

**Senator COONEY**—In this area I know one person who used to be at the Melbourne bar with Michael Dodson, who I think has been very prominent in this area, if I can say so to the minister and certainly to you, Mr Farmer. You would know that. I note that in March this year he suffered what could only be called the most grievous loss of his son. I would like to take this occasion to note the death of Minnira Michael Dodson, who was born on 30 January 1981 and died on 6 March 2002, and to extend my sympathy to his father, Michael, and to the family generally. Michael has done outstanding work in this field and it is tragic to see the loss he has suffered.

**CHAIR**—Thank you for making that statement, Senator Cooney.

**Senator LUDWIG**—When I went back and had a look to try to identify another new measure, there was one that perhaps you could help me with: the enhanced training of directors of indigenous organisations. Is that identified as a new measure and, if so, what are the funds allocated to it or where will the funds come from?

**Mr Farmer**—Can you give us a reference, please?

**Senator LUDWIG**—That is a lot harder than it seems. So no-one has heard of the enhanced training of directors of Indigenous organisations?

**Mr Farmer**—Yes, just the financial aspect of it.

**Senator LUDWIG**—That is what I am trying to find. I do not seem to be able to see how much money is allocated to it. So we are both looking for it.

**Mr Scott**—I can probably answer that question. There is no allocation for the initiative.

**Senator LUDWIG**—So I spent a lot of time looking for it for nothing.

**Mr Scott**—There is not one.

**Senator LUDWIG**—So there is no money?

**Mr Scott**—What we are doing internally at the moment between ATSIC and other agencies is identifying what resources should go to this very important area. The focus, from a COAG perspective, from MCATSI, which is the ministerial council, from ATSIC itself and from the government is about governance and looking at the organisations themselves, how they are structured and how they are actually working. The highlight is a priority both from the government and from the community perspective, and we are working with other agencies to identify sufficient resources to carry out that program.

**Senator LUDWIG**—How many years will it run over?

**Mr Scott**—To be honest, I think it is a program which needs to have a long-term perspective. It has its origin in the fact that ATSIC some years ago commenced the development of an Indigenous organisation training package, which was focused through the office of the Registrar of Aboriginal Corporations—the Aboriginal Councils and Associations Act. It was trying to improve the government structures and the accountabilities in the organisations that were funded. That issue has been developed and now the package has been presented. We are negotiating now with the training bodies in each of the states and the Commonwealth to roll that program out.

**Senator LUDWIG**—So where has the money come from?

**Mr Scott**—I think that, in the end, ATSIC will find it internally from current allocations.

**Senator LUDWIG**—Let me get this right: it is a new budget measure that the minister announced that ATSIC will fund. Do I have that right?

**Mr Farmer**—Yes. On page 134 of the PBS document it says:

The cost of this measure is being fully absorbed within the existing resourcing of the Immigration and Multicultural and Indigenous Affairs portfolio.

**Senator LUDWIG**—If it is going to be a long-term project and the money is going to be fully absorbed into the ATSIC budget, have ATSIC been consulted about it?

**Mr Farmer**—This is part of the ATSIC contribution to the portfolio budget statements.

**Senator LUDWIG**—Wouldn't ATSIC announce it? Do they announce and develop their own programs?

**Mr Farmer**—Quite often, if there is a budget measure that is agreed, it would not be announced by the agency; it would be announced as part of the budget, and I imagine that to be the case here. There are measures—and this applies across portfolios on lots of issues—where

the government will essentially say, 'Here is a particular item of expenditure or a program that is regarded as a priority,' and an agency will propose that. The government says, 'That is of such priority it should be implemented.' The question of whether additional funds—

**Senator LUDWIG**—That is the point I was getting to, I guess. I know the capable minister before us today announces initiatives on behalf of the AFP, but usually with a sum of money attached to allow AFP to do the work. That is really the nub of the question, isn't it? What you are saying is that the minister announces a program and does not say in the by-line, 'I expect ATSI to fund it.'

**Mr Farmer**—I believe that is what the budget statement is saying. The cost is being fully absorbed. It has been announced in those terms.

**Senator LUDWIG**—Thank you.

**Mr Vaughan**—The question of the training and development of leadership in Indigenous organisations is dealt with on pages 6 and 7 of the minister's budget statement where he lists a range of related initiatives or developments including the review of the Aboriginal Councils and Associations Act, the training package that was launched by ATSI in Melbourne in March this year, and the Indigenous leadership program which was developed by IATSI. On page 19 it is mentioned that some \$400,000 has been committed to that program from the Stronger Families and Communities Strategy. In other words, ATSI's contribution to this is part of a larger mosaic of developments and measures related to community capacity building and leadership development.

**Senator LUDWIG**—Thank you, that is helpful. I am just more familiar with the ordered affairs of the Attorney-General's Department than this area. Having a look at that telecommunications area again, it appears—perhaps you could check whether I am right about this—that the initiative is simply shifting from one Indigenous program in the telecommunications budget to another Indigenous program in the telecommunications area. It is a new initiative but it is not new funding. I was trying to identify, when we started earlier this morning, new money that was announced. I do not mind where from. The program we have just been talking about is not new money because it is absorbed in ATSI's budget, so it is out of an existing budget. I am still trying to identify new initiatives which attract new money. That is what started this off discussion some time earlier.

**Mr Farmer**—We will try to clarify that when we come back to you, as already undertaken. I would like to reiterate that in talking about new money there are a variety of ways of looking at it. As Mr Vaughan pointed out, there can be new money allocated within an increased budget or money reallocated within existing budgets of departments. For example, if, within a portfolio, more money is allocated than in a previous year to programs specifically relating to Aboriginal and Torres Strait Islanders, that is worthy of note because it reflects a decision that there is a need which should be met through increased funding.

**Senator LUDWIG**—Thank you.

**Senator CROSSIN**—I want to turn now to the Northern Territory land rights act and the discussion paper the minister recently released. The land rights act is founded on the principle, Mr Vaughan, of ensuring that traditional owners make informed decisions about what happens on their land. The House of Representatives Aboriginal and Torres Strait Islander report into the Reeves review of that act upheld that principle in a majority statement—I am sure you have read it many times, as some of us have—and recommended that there be no change to the land rights act without the informed consent of traditional

owners and affected Aboriginal people. Are you able to tell me whether this government or this minister supports and upholds the principle?

**Mr Vaughan**—The principle of informed consent in the act refers most often to the mining veto which the government indicated in its original 1996 election platform was sacrosanct. The concept of informed consent has also been used by people to apply to any changes to the act itself. That would be an unusual concept to apply since it would effectively say that parliament's hands were fettered and that parliament could not amend the act without the approval of third parties. I doubt that that would be accepted by parliament.

**Senator CROSSIN**—The first recommendation in the HORSCATSIA report is that there be no changes to the act without the informed consent of traditional owners and affected people. Are you saying to us that this government would not abide by that recommendation in pursuing changes to the land rights act?

**Mr Vaughan**—The government has not responded to that recommendation or to the report. What I am saying is that it is a novel constitutional concept that any stakeholder, other than the head of state nominally, could have a veto over parliament's legislation.

**Senator CROSSIN**—It is not exactly suggesting that it would veto the legislation; it is suggesting that changes would not be signed off by this government unless traditional owners agreed. Are you now telling me that this is something this government is going to step back from?

**Mr Vaughan**—The minister has indicated in his public statements that in the course of his consultations he is trying to find common ground and a consensus so that, in effect, there would be support for changes. There are differing stakeholders and interests in this. There are three principal stakeholders: the Indigenous interests, the Northern Territory government's interests, and the commercial interests in the Northern Territory. The government's challenge is to find common ground between those three groups of stakeholders. Some of their interests are conflicting and it is not easy to find common ground, but the minister has indicated that that would be his first preference.

**Senator CROSSIN**—Does this government actually support the fact that this act was put in place to actually ensure traditional owners had a say over their land? Is that an object of this act that this government still supports?

**Mr Vaughan**—The government has indicated that the veto is something it does not intend to revisit or change. That was part of its election platform.

**Senator CROSSIN**—Is there any guarantee to traditional owners that proposed amendments to the land rights act will not proceed unless there is an agreement by the traditional owners?

**Mr Vaughan**—The minister has indicated that his first preference is to find agreement between the stakeholders. He has not indicated the strategy he might pursue if he cannot pursue agreement. That is what he is trying to obtain at the moment.

**Senator CROSSIN**—Does this government hold a view that the principal stakeholder in this is the traditional owner?

**Mr Vaughan**—I think it has taken the view that there are three stakeholders. It is not for me to rank the priority of the stakeholders. There are obviously three stakeholders: the NT government, commercial interests and Indigenous interests.



**Senator CROSSIN**—You have mentioned of course that this government is yet to respond to the Reeves report or the report from the HORSCATSIA. Is there an intention that a response will be forthcoming?

**Mr Vaughan**—The response to the Reeves report and the HORSCATSIA report would be in the form of the legislation that the government ultimately decides to introduce.

**Senator CROSSIN**—So there will not be a formal response to either of those reports prior to that legislation being changed?

**Mr Vaughan**—No, because to do so would pre-empt the current consultations. The consultations with the stakeholders deal with the issues and recommendations, in a sense, and the principles that came out of the Reeves report and the HORSCATSIA report. So it would be inappropriate to give a decisive government position on those proposals while consultations relating to those proposals are still under way.

**Senator CROSSIN**—In a sense, you are responding to at least the first recommendation of the HORSCATSIA report, aren't you? You have just said to me that the preferred option is to get agreement between all stakeholders, whereas the HORSCATSIA report actually recommends that there be no changes to the land rights act without the informed consent of the Aboriginal people. So the government, de facto, has in a sense responded to that first recommendation, hasn't it?

**Mr Farmer**—Senator, I think we are still in the middle of a process—at what point in the process we are, I should not utter—so I do not think you could characterise it in that way.

**Senator CROSSIN**—So this government has not taken, as a cornerstone to proposed changes to the act, an underlying principle that no changes would occur unless traditional owners agreed to it?

**Mr Vaughan**—The minister indicated that he is after consensus. I doubt whether any government would give one stakeholder a veto over legislation.

**Senator CROSSIN**—Even though the act was formulated to protect the interests specifically of those people, even though we have had a House of Representatives report that suggests that no changes should occur without the informed consent of those people, this government is walking away from those recommendations and that objective at this time; is that right?

**Mr Farmer**—No, I think that is not right. You are characterising it in a particular way and, as we tried to explain, I do not think that that is an accurate characterisation.

**Senator CROSSIN**—You are not willing to be able to say to me that this government has made a decision to not make any changes to that act unless Aboriginal people agree to it? If the Northern Territory government does not agree and commercial stakeholders do not agree, Aboriginal people's views will not be taken as the first form of an indication as to where this act ought to proceed.

**Mr Vaughan**—The concept of informed consent, as articulated in the act, relates to the mining veto. The government has made it very clear that it does not intend to change the mining veto, that the veto—the consent to mining provision—would continue. The concept of informed consent by one stakeholder for any change to the act at all would be an unusual one, but the minister has said that he is, in the first instance, seeking consensus between the various stakeholders. Often there are technical changes to the act that are required. There may be changes to the way the ABA operates. The act has been changed from time to time.

**Senator CROSSIN**—What does this government intend to do if there is an agreement from commercial stakeholders but not from traditional owners to some aspects of change?

**Mr Vaughan**—The minister is involved in consultations with those various stakeholders at the moment to try to identify the common ground, with the hope that we can have a consensus package.

**Senator CROSSIN**—So which stakeholders are being consulted by this government and the minister?

**Mr Vaughan**—The land councils, the Northern Territory government and commercial interests, including the Northern Territory Minerals Council and the professional and amateur fishermen's associations.

**Senator CROSSIN**—Only those three?

**Mr Vaughan**—There are possibly one or two others—I cannot recollect, off the top of my head.

**Senator CROSSIN**—Would you be able to provide for me a comprehensive list of what you may well define as commercial interests?

**Mr Vaughan**—I can provide you with a list of the parties to whom the options paper was sent and the parties that we have had meetings with.

**Senator CROSSIN**—That would be useful, thank you.

**Mr Vaughan**—Officials did attempt to meet with the land councils recently, but they declined to meet with us. They subsequently had a meeting with the minister. Officials did meet with NT government officials and with the commercial interests but, unfortunately, our attempts to meet with the land councils were cancelled at the last minute.

**Senator CROSSIN**—So you have not brought along with you today the names of other parties you would specify as commercial stakeholders. You cannot provide for me right now the names of other people you would define as commercial stakeholders.

**Mr Vaughan**—I think the three I mentioned, the mining interests and the amateur and professional fisherman, are the three main ones. I am not sure about the tourism industry; I would have to check that. But I will provide you with a list of the parties to whom the options paper was sent and whom we have met with.

**Senator CROSSIN**—You may also be aware that the ANAO performance audit of the NT Land Council is under way; is that correct?

**Mr Vaughan**—Yes, that is correct.

**Senator CROSSIN**—Also, consultations are taking place with regard to the options paper that the minister has distributed. Has there been any consideration given to deferring any changes to the land rights act until the audit performance is completed by the Audit Office?

**Mr Vaughan**—The two land councils have written to the minister, suggesting that consideration of changes to the act should be deferred pending the performance audit report. The minister has not yet responded to that correspondence. It may be that the performance audit, to the extent that it deals with the way the land councils internally organise themselves and manage their business, is not an issue that the legislation needs to address. That is more a management issue for the land councils. So it does not necessarily follow that the performance audit would have a bearing on the sorts of legislative changes to the act that are needed.

**Senator CROSSIN**—But the performance audit has got a very wide brief to look at a number of aspects of the land councils. Would it not make sense to wait and put forward any changes based on what might come out of this audit?

**Mr Vaughan**—That depends on whether the changes that come out of the audit go to the way the legislation is framed or simply to the way that land councils manage their business.

**Senator CROSSIN**—It may well do either or both of those. So has there not been a decision by this government to actually wait and use the outcome of that audit as another process to inform possible changes to the act?

**Mr Vaughan**—The minister still has that correspondence, but it would not be necessary, I would have thought, to suspend all consultations and all deliberations about the act solely because of the performance audit.

**Senator CROSSIN**—That is not the question I am asking, Mr Vaughan. I am not aware of any correspondence in which the land councils have written to the minister about the performance audit. My question to you is not whether you would suspend consultations but whether you would not proceed with any definitive changes or proposed changes to the act until the outcome of the performance audit was known.

**Mr Vaughan**—I cannot give you an answer to that question. I would imagine that some of the factors that would feed into the answer, though, would be when the performance audit report is expected—for instance, if it is expected in the new few months it would presumably dovetail with the current consultations. If the consultations are protracted to the end of the year, it is likely that we would have the performance audit report before then anyway. So there may not be a conflict between the timing and receipt of the performance report and the timing of government decisions on the legislation.

**Senator CROSSIN**—Are you not aware of the timing of the audit report and when it is expected?

**Mr Vaughan**—No, we do not know what the ANAO's current expectation is.

**Senator CROSSIN**—Have you asked them?

**Mr Vaughan**—We met with the ANAO earlier in the process, and they were expecting to complete the exercise this calendar year, but they were not very specific as to when this year.

**Senator CROSSIN**—So you are saying that, following your consultation, there has been no decision to defer any proposed amendments to the land rights act until the audit report is completed and that you are going to pursue your consultations and proposed changes regardless of when the audit report is finished?

**Mr Vaughan**—There has not been a decision either way on whether the government's decision would be deferred, but there is already an implicit decision to continue with consultations while the audit is afoot.

**Senator CROSSIN**—Have the Central and Northern Land Councils responded to the options paper?

**Mr Vaughan**—They declined to meet with officials when we went to talk to them about it. The Central Land Council indicated before we went to Darwin that they would not be available. The Northern Land Council cancelled the meeting when the officers were in Darwin, on the day they were due to hold the meeting. However, the minister met last week with both the land councils and canvassed some of the issues in the options paper.

**Senator CROSSIN**—You have not had any response in writing from the land councils?

**Mr Vaughan**—Not specifically addressing the options paper, no.

**Senator CROSSIN**—Who attended the meeting of the land councils and the minister last week?

**Mr Vaughan**—When I say the land councils have not responded to the options paper, they have not responded to the content of the options paper. They have said that they think we should wait for things like the performance report before going further.

**Senator CROSSIN**—And the minister has not yet provided a response to that request?

**Mr Vaughan**—No, but he did meet with them last week, subsequent to that letter.

**Senator CROSSIN**—Following the minister's meeting in the Northern Territory last week, the media reports arising from that visit suggested that your planned amendments to the land rights act needed to be made in particular because it was preventing economic development. Are you aware of those reports?

**Mr Vaughan**—Yes. The minister gave one or two media interviews where he indicated that he thought the act as currently structured, and its institutional arrangements, were acting as an unintended barrier to economic development on indigenous land.

**Senator CROSSIN**—Can you explain exactly how you believe the act is holding up economic development? On what basis are those comments made? Do you have any concrete evidence that that is a fact?

**Mr Vaughan**—It is reflected in the quantum of exploration licence agreements that have been entered into by the land councils over the years.

**Senator CROSSIN**—So, just to be a bit more explicit about that, you are suggesting that there has not been enough agreement in mining exploration agreements; there have not been enough of them agreed to?

**Mr Vaughan**—Very few of them have been agreed to. I am talking about agreements under the land rights act; I am not talking about indigenous land use agreements under the Native Title Act.

**Senator CROSSIN**—How many exploration licences have been sought?

**Mr Vaughan**—I do not have the actual numbers with me. They are a matter of public record. We could provide you with the numbers as we understand them—the numbers of consent to negotiate that have been issued by the Northern Territory government and the number of consequent exploration licence agreements that have been concluded.

**Senator CROSSIN**—Who holds the initial requests for an exploration licence?

**Mr Vaughan**—A mining company obtains a consent to negotiate from the Northern Territory government and it then enters into negotiations with either of the land councils. From there it is up to the two principal parties as to whether they reach agreement or not.

**Senator CROSSIN**—Prior to the Northern Territory election last August, how many mining companies had been given consent from the previous Northern Territory government to negotiate?

**Mr Vaughan**—As I indicated, Senator, I would have to get back to you on that. Those stats are available.

**Senator CROSSIN**—Thank you. Are you aware of the fact that a number of requests for mining applications—in fact, up to 900—were being held by the previous Northern Territory government?

**Mr Vaughan**—Are you referring to the ones they were holding because they applied in respect of native title land?

**Senator CROSSIN**—My understanding is that they were across both acts. I am trying to get to the basis for the minister's comment that economic development has been held up when, you say, it is because not enough mining exploration agreements have been agreed to with the NLC. Do you know the number the NLC had been given to deal with in that time, compared with the number they had been working on and had sought agreement with?

**Mr Vaughan**—The main comparison is between the number of approvals to negotiate given to mining companies by the NT government and the number of agreements that have ultimately been concluded. Separate to that, there are applications from mining companies that relate to land on which native title may exist. They were being withheld; they did not get to the consent to negotiate stage. We are not talking about those; we are talking about the ones where there was a consent to negotiate but there was no ultimate closure.

**Senator CROSSIN**—Under the NT land rights act, how many applications had been made that you were aware of?

**Mr Vaughan**—I would have to get those numbers for you.

**Senator CROSSIN**—Considering that generated considerable media attention last week in the Territory, you did not think to bring those numbers along with you? Given that hour after hour your minister was saying, 'I need to change this act because there has been a lack of economic development,' are you telling me this morning that it is based on the small number of agreements that the land councils have generated in requests for mining explorations? You cannot tell me today what the total number of requests for mining explorations are?

**Mr Vaughan**—I do not have the figures with me, Senator. I apologise for that.

**Senator CROSSIN**—Given the minister's comments, does this government or the minister believe that economic development overrides the interests and the rights of the traditional owners?

**Mr Vaughan**—I think the government has made its position on the veto quite clear. The minister has said that he believes the nature of the processes and institutional arrangements in the act at the moment act as unintended barriers to economic development on Aboriginal land.

**Senator CROSSIN**—And that is based solely on what you say is an analysis of the number of agreements that the NLC have dealt with in requests for mining explorations?

**Mr Vaughan**—You can also look at the number of new mines on Indigenous land since 1976—which you can count on one hand.

**Senator CROSSIN**—You have said previously that you do not intend to change their absolute right to veto mining, so why do you believe the changes to the land rights act may lead to an increased number of mines being established?

**Mr Vaughan**—Because of the processes under the act. For example, when the parties enter into negotiations—the land councils and a mining company with a consent to negotiate—there is no mechanism under the act that guarantees a timely conclusion to that process. These

things can drag on for years and years in an inconclusive manner. That is one way in which the mechanisms of the act act unintentionally as a barrier.

**Senator CROSSIN**—Mr Vaughan, that may be so, but even if you shorten that time line there is still no guarantee that by changing the act you will have additional mines operating in the Northern Territory if you maintain the right of veto to Aboriginal people over mining on their land. Is that correct?

**Mr Vaughan**—That is right. But the aim would be to remove unintended barriers. Another perceived barrier is the fact that quite often the views of local traditional owners do not necessarily influence decisions as much as they should. Hence the question has arisen as to whether some of the powers of the land councils could, for example, be devolved to regional or local level.

**Senator CROSSIN**—You talk about the delay in dealing with some of these applications. Are you suggesting that the length of time is a barrier in proceeding with this sort of process?

**Mr Vaughan**—No. The processes under the act lead to very lengthy time periods, which themselves by definition constitute a barrier. It is not that the veto is exercised; it is that they do not even reach the point of the veto being exercised.

**Senator CROSSIN**—Given that the land councils have had very little increase in their funding over the last 10 years or so—my understanding is that they have had no CPI increases—do you take a view that some of the work that could be proceeded by the land councils would be better dealt with if they had an adequate amount of funding in order to employ the staff to deal with this?

**Mr Vaughan**—I am not seeking to avoid a question, but the decision on the funding of land councils via the ABA arrangements is administratively handled by ATSIC. The decision rests with the minister, and I am not in a position to offer you an informed view of the matter as much as, say, ATSIC would because they handle the matter.

**Senator CROSSIN**—That might be true, but whether or not you should proceed with any changes to the act once you know the outcome of the audit may be closely related. For example, if the land councils are actually feeling fairly stretched for funds in employing the staff needed to deal with this large number of applications that you are suggesting are there, then surely some sort of audit review may well show that it is the understaffing of the land councils as opposed to the barriers in the act that are restricting such progress.

**Mr Vaughan**—I think the ANAO's performance audit process might throw some light on that question.

**Senator CROSSIN**—Do you therefore believe that it is probably better for all parties concerned that consultations could proceed but changes to the act should wait until the audit report is completed?

**Mr Vaughan**—While the processes for the funding that goes to the land councils in a sense are regulated by the act, the quantum of funding is not regulated by the act. So changes to the act would not necessarily alter the quantum of funds available to the land councils.

**Senator CROSSIN**—I understand, but you can see where I am coming from. You are actually saying that the act needs to be changed because it is preventing economic development. When I ask you for your definition of that, you are saying to me that you base that on the small number of mining exploration agreements that are being ticked off by the land councils?

**Mr Vaughan**—Yes.

**Senator CROSSIN**—There is no suggestion from this government that perhaps that is not due to the barriers in the act but may well be due to the understaffing or underresourcing of the land councils?

**Mr Vaughan**—It could be that that is a factor. It could be the way the land councils organise their priorities and their business within their existing funding is a barrier, too.

**Senator CROSSIN**—That may well be the case. Again, that may well be another reason to wait for the outcome of the audit report until any proposed changes are proceeded with.

**Senator Ellison**—Yes, although we have obviously already consulted with the ANAO about the work it is doing in relation to the audit report, and that sort of consultation remains open to us in ways that are satisfactory to the ANAO.

**Senator CROSSIN**—The minister's option paper states that the act has not kept pace with changes in the way in which Aboriginal people manage land in the Northern Territory or moves to increase participation by Aboriginal land-holders. Can you explain or provide me with examples of how it has not kept pace in that way?

**Mr Vaughan**—Which part of the options paper are you referring to?

**Senator CROSSIN**—I have only got a quote here, I am sorry.

**Mr Vaughan**—Could you give me the quote again.

**Senator CROSSIN**—It says that the act has not kept pace with changes in the way in which Aboriginal people manage land in the Northern Territory.

**Mr Vaughan**—That is out of the introduction to the options paper.

**Senator CROSSIN**—Can you provide me with examples or demonstrate or explain on what basis such a statement is made?

**Mr Vaughan**—One of the factors that has come along since the act was last amended in 1987 is native title and its provisions for management, if you like, of Indigenous land. It has introduced very different concepts to those embedded in the land rights act. That would be one example.

**Senator CROSSIN**—What is a concrete example of that? Other than just citing the intent of the native title act, what is an example of the way in which people manage their land perhaps differently now, as you would put it?

**Mr Vaughan**—It has introduced new forms of interaction between local community groups and mining companies who wish to undertake development on Indigenous land. That is a much more locally based form of decision making than the way the land rights act is structured, even though it is ultimately traditional owner consent. Local people have much more direct engagement under the provisions of the Native Title Act than they do under the provisions of the land rights act.

**Senator CROSSIN**—You would be aware, of course, of the way in which the Northern Land Council has structured the use of the Aboriginal Benefits Account. Would you be aware of that?

**Mr Vaughan**—The way who has structured it?

**Senator CROSSIN**—The Northern Land Council have restructured the use of the Aboriginal Benefits Account, the ABA account, in the way it is allocated.

**Mr Vaughan**—Which way specifically do you mean?

**Senator CROSSIN**—There has been a change in the way in which the Northern Land Council allocates the ABA, in that it is now actually set aside for land and sea country management purposes. Are you aware of that?

**Mr Vaughan**—I am not exactly sure what is meant by that. I am not with you on that.

**Senator CROSSIN**—They are now actually operating the ABA account in a different way to the way it was operated previously.

**Mr Vaughan**—They may be talking about their proceeds from the ABA. The land councils per se do not actually control the ABA account.

**Senator CROSSIN**—That is right. They are actually talking about setting it aside for land and sea management, basically. Those sorts of changes are occurring despite changes to the land rights act. I am assuming that land and sea management in consultation with the NLC and Indigenous people is happening at the local level. So why do you believe that changes to the NT land rights act need to occur for that sort of change to occur at a local level?

**Mr Vaughan**—Because there are limits to the flexibility under the act—the example I quoted earlier about the inconclusiveness of the negotiating process, the perception that local TO interests are not necessarily speedily and clearly translated into decision making through the land councils. I have had personal experience with the Northern Land Council in negotiating mining matters. I am speaking with some first-hand knowledge of this matter. I know it is an extremely cumbersome and time-consuming process that eats up considerable resources. I have been involved over the past five years in renegotiation of the Ranger uranium mine agreement with the Northern Land Council. I can tell you first-hand examples of the inefficiencies of that process and the disjuncture between the land council's statements of the negotiating remit they had from the TOs and what the TOs had to say when we finally got to talk to them.

**Senator CROSSIN**—I do not want to go into the specifics of a particular case because I think it depends on who assesses it, who the TOs are and who the people are that have absolute veto on that particular parcel of land. We know that in that area of Kakadu there is—and always will be, I guess—some disagreement between this government and the land council about that. But that is one example. We are talking about the whole of the Northern Territory. You have gone through the time issue, but I still have not had from you concrete examples of where you believe that Aboriginal land-holders are not having a full and complete right to participate in the current processes of the act through the land council. You have talked about time constraints, but you have not actually given me examples of where traditional owners are not being able to participate fully.

**Mr Vaughan**—The specific example I mentioned of Ranger is not insignificant. It has probably been the single biggest mine and source of revenue to the ABA over the course of the act; so it is pretty iconic and extremely complex for historical and other reasons, as we are all aware. By way of illustration, I think if you go to the Reeves report you will find evidence and submissions cited of poor communication—let me put it that way—between the land councils and the traditional owners.

**Senator CROSSIN**—In the options paper the minister also states:

There is a perception of uncertainty about the application of NT laws on Aboriginal Land.



What has led to that statement being produced by the minister? Why does the minister think there is uncertainty?

**Mr Vaughan**—The Northern Territory government believes it is unsure of the way in which some of its laws operate or the extent to which they operate on Indigenous land.

**Senator CROSSIN**—Which laws are you referring to, Mr Vaughan?

**Mr Vaughan**—Environmental protection and conservation, public health and safety, supply of essential services, aspects of the maintenance of law and order and the administration of justice.

**Senator CROSSIN**—Is this advice you have received from the current Northern Territory government?

**Mr Vaughan**—That was information provided previously by the Northern Territory government. The current Northern Territory government has not given us another view as yet.

**Senator CROSSIN**—Mr Vaughan, you have written an options paper that has just been released in the last month based on a view of a previous Northern Territory government.

**Mr Vaughan**—The options paper is based on the views of everyone who raised issues—the land councils, commercial interests and the Northern Territory government.

**Senator CROSSIN**—A previous Northern Territory government.

**Mr Vaughan**—Yes. We have since met with officials from the current Northern Territory government, but we have not as yet obtained a differing view from them.

**Senator CROSSIN**—Did you ask them if they held the same view as the previous Northern Territory government?

**Mr Vaughan**—They indicated that they were still awaiting instructions from the new government and so they were not in a position to offer us an alternative or a new view at that stage.

**Senator CROSSIN**—Do you think, then, that that was a fair way to represent the situation—by taking the views of a previous government and not the current government into account when you produced this options paper so recently?

**Mr Vaughan**—We did not think that the views that were expressed by the previous government in respect of things like the application of Northern Territory laws such as environment and conservation were matters of policy of either government but, rather, matters of ambiguity in the law.

**Senator CROSSIN**—In the laws of the Northern Territory government?

**Mr Vaughan**—And the way the NT land rights act intersects with those laws.

**Senator CROSSIN**—It would seem fairly strange to me that you would put in a recent options paper views of a previous Northern Territory government that do not reflect the existing government's views.

**Mr Farmer**—We do not know that.

**Senator CROSSIN**—But you do not know otherwise.

**Mr Farmer**—That is right, and the paper is presented on the basis of what we know. It is an options paper for discussion.

**Senator CROSSIN**—You did not seek to update that information prior to putting out this options paper and after a change of government in the Northern Territory either.

**Mr Farmer**—I think Mr Vaughan has already answered that question. This was not a matter of policy; it is an expression of view about the operations of law and where there are doubts and ambiguities.

**Senator CROSSIN**—I mentioned earlier that the land council has actually changed the way in which the Aboriginal Benefits Account is allocated. It is now operating to focus on ceremonies, land and sea management and economic development. Did the minister have any say or did the minister direct the land councils in any way to change the way the ABA grants program was operating?

**Mr Vaughan**—I cannot help you with that question because that goes to the day-to-day administration of the act, which ATSIC handles. Our office is involved in the possible changes to the act but not in the day-to-day ongoing administration of the act.

**Senator CROSSIN**—So neither this department nor the minister were aware of changes to the way in which this account was being administered?

**Mr Vaughan**—I cannot speak for whether or not the minister was aware. I personally have not been involved in the changes that you are referring to. But the issues that are raised in the options paper concerning the benefits account go to the 30:40:30 provisions and how the current mining royalty equivalents are split.

**Senator CROSSIN**—I understand that as part of the process the ABA advisory committee agreed to other changes which would allow the land council to manage the program under rigorous guidelines. Have these guidelines been submitted to the minister for approval?

**Mr Vaughan**—Again, Senator, that goes to the day-to-day ongoing administration. Perhaps Mr Scott can help you with that.

**Senator CROSSIN**—If we want to move off the general area, are these questions better asked of ATSIC at a later stage?

**Mr Scott**—Yes.

**Senator SCULLION**—Mr Vaughan, I tend to support Senator Crossin's view that some of the principal stakeholders, specifically in the consultation process, should be the Indigenous people. I note that this options paper has been circulated to stakeholders. Can you let me know who those stakeholders were again?

**Mr Vaughan**—They comprised, among others, the Northern Territory government, the existing land councils, the Northern Territory Minerals Council, the Commercial Fishermen's Association and the Amateur Fishermen's Association.

**Senator SCULLION**—Is there an expectation that Indigenous people below the land councils will be having a say in this? I am talking about communities, families and individuals within the wider Indigenous community.

**Mr Vaughan**—There has in the past been an extensive process of consultation allowing everyone who is interested in doing so to put forward their views. That was initially conducted through the Reeves process, which had extensive on-the-ground consultations. When the House of Representatives committee held its inquiry into Reeves, it also conducted public hearings. The government knows the range of views and interests; it is now talking to some of the key institutional stakeholders to try to build a consensus among them based on

what we know of community views as a result of the earlier consultation processes through the committee and Reeves.

**Senator SCULLION**—I do know that a number of people, certainly traditional owners in the community, are very keen to see some amendments, for a number of different reasons. I have read the options paper and I think it provides some very good options. I would like to see them trickle down beyond the land council level. You intend to consult in the Northern Territory, for example, with traditional owners. If you wanted to get them a letter each, how would you facilitate that? Would you send it to the Northern Territory government or to the land councils? How would you deal with that?

**Mr Vaughan**—If you wished to engage directly with the traditional owners?

**Senator SCULLION**—Say you were to send a message, if you like. For example, I think it would be very valuable if they could have a look at this options paper.

**Mr Vaughan**—I would imagine the most reliable way to do so would be to publicly advertise it in some way.

**Senator SCULLION**—So there are no expectations that communicating this very important options paper, perhaps to a number of individuals, would be necessarily passed on to the traditional owners themselves?

**Mr Vaughan**—One would expect that the land councils would be communicating with their constituencies about this and that they are speaking with the voice of their constituencies, but sometimes there can be communication breakdowns. I should add that ATSIIC has also been involved in expressing views on the issues too, and it has its own direct linkages to the community.

**Senator SCULLION**—As to the other issue associated with stakeholders, I understood you responded to a request from Senator Crossin about who is actually consulted in a business sense. I think there were three groups: the recreational fishermen, the professional fishermen and the mining council. The Northern Territory government has a responsibility to represent a whole range of constituencies. Is it your intention that those specific people that you met with are not the only people that you expect a response from, that you expect some sort of response from the Northern Territory government on behalf of other businesses? For example, the tourist industry is a vast industry in the Northern Territory, and no doubt they would have some issues here. Are you expecting the Northern Territory government to make representations on behalf of those other people?

**Mr Vaughan**—I think the Commonwealth would expect that the Northern Territory government, when it expresses its views about the act, is taking into account the totality of its constituency, yes.

**Senator SCULLION**—Okay. I would like to touch briefly on the reference to an impediment to development that came up in a number of questions from Senator Crossin. You say the act may be an impediment to development. I have been approached by traditional owners who I know met with the minister and they reflected a number of frustrations with regard to the act and their own development. Is the scope of this looking at not only impediments to the act in terms of mining companies and commercial development but also traditional owners and their frustration about developing their own land?

**Mr Vaughan**—Yes. The sorts of issues canvassed in the options paper include two possible changes or options that would increase the voice of traditional owners in the process.

One would be to correct the current provision in the act concerning the formation of smaller land councils. The current provision in the act is essentially inoperative. By the way it is phrased it is impossible to actually prove to a court that its provisions are being observed. The other change that is canvassed is for land council functions to be delegated by the land councils to local groups. Either or both of those mechanisms would provide a more direct voice for local traditional owners and affected people in terms of decision making under the act.

**Senator SCULLION**—Can I confirm that one of the options in the options paper is that everything remain the same?

**Mr Vaughan**—I am not sure that that is put as an explicit option, but it is certainly an implicit option—that there be no changes.

**Senator SCULLION**—My recollection certainly is that that was an option. It was perhaps suggested in previous evidence that the options paper is somehow prefacing change. I want to confirm that that is not the case and that this is a genuine options paper so that people can consider a range of options, including perhaps not changing it but considering where they are at the moment is quite okay.

**Mr Vaughan**—The option of the status quo is identified, yes.

**Senator SCULLION**—There was an interesting observation about land council funding—we spoke about that in earlier evidence. If, for example, more agreements are brought forward, would that have an impact on the land councils' financial capacity?

**Mr Vaughan**—It should do, as a matter of logic and arithmetic. One of the points the minister has made in his public statements is that, unless there is more development, the financial flow that is the lifeblood of the councils, the traditional owners and the individuals affected will dry up in due course; it will become a financial desert.

**Senator SCULLION**—That is clearly an impact. I would like to move very quickly to your suggestion that this scoping paper can also look at issues associated with the capacity, under the Northern Territory law, to administer certain things and how movements within the Aboriginal land rights act may not make that very easy or make it impossible. Certainly, one of the areas in the Northern Territory that has had a lot of focus on it is the intertidal zone and the management of the fisheries that flow within that area. As I understand it, the issue is this: if there is a grant of native title over the intertidal zone, whilst there are some clear understandings, it will come under Aboriginal control and there is no mechanism for the Northern Territory government—in place at the moment, in any effect—to be able to extend their management arrangements over that area. Are those issues being canvassed in the options document?

**Mr Vaughan**—The question of the intertidal zone is adverted insofar as at the moment there are test cases arising from the act for the courts to decide as to whether in fact the definition of Aboriginal land under the act comprises the intertidal zone. If the courts uphold that view, then it would have some of the consequences that you mentioned which might be issues that have to be addressed. If, however, the courts hold that Aboriginal land under this act does not comprise the intertidal zone, then the issue does not arise. In a sense, all the parties are waiting to see which way the courts jump on that one.

**Senator SCULLION**—Thank you, Mr Vaughan. In the interests of brevity, I hand over some 21 questions on processing that the land councils may wish to address.

**CHAIR**—Senator Scullion is tabling questions on notice for the Northern Land Council and the Central Land Council.

**Senator LUDWIG**—I want to come back to two short issues before we move out of the general area. Senator Crossin was eliciting information in respect of Aboriginal land in the Northern Territory. The laws in particular concern me. One of the issues the minister raised in one of his press releases is that there is a perception of uncertainty about the application of NT laws on Aboriginal land. I think that was the area Senator Crossin was speaking about. Have you sought advice from A-Gs or the Solicitor on that area? If you have, could you make it available to the committee. I am curious about the uncertainty of a perception. Is it a perception or is there uncertainty, and is it backed by a legal view?

**Mr Vaughan**—Our understanding of the intent of the act was that these sorts of NT laws should apply on Aboriginal land. The NT government had or have a view that this was by no means clear and that if they did seek to enforce some of these laws on Aboriginal land then they could be challenged in the court. Which way the courts would jump on that, who knows. What they previously put to us was, if the intent of the act was that these laws should apply to Aboriginal land, if there was scope for ambiguity or uncertainty, why not amend the act to make that unambiguously clear. As far as the land councils are concerned, they do not dispute that these sorts of laws apply on Aboriginal land. There does not seem any difference in view among the parties as to the question of whether they ought to. It is only a question of whether, because of the way the act is framed, if challenged in law by an individual or a party they might be frustrated. Hence the suggestion, if everyone agrees they should and if there is a worry that because of the way the act is framed they might not, of why not fix the act so it is unambiguous.

**Senator LUDWIG**—What is your view? Is it the government's view that it is unambiguous or is it the government's view that there is uncertainty and does require change?

**Mr Vaughan**—We think the intent of the act is clear enough. If there is room for doubt, there is no real certainty as to which way the courts might jump.

**Senator LUDWIG**—Have you sought any legal advice in respect of it to assist the parties with the resolution of the matter or at least to provide them with your view?

**Mr Vaughan**—We could seek legal advice, but the legal advice would not necessarily settle the question. Which way the courts decided to interpret it would still be up in the air.

**Senator LUDWIG**—So you have not?

**Senator COONEY**—That is an interesting proposition: you are not going to get legal advice because the court might refuse the argument. That usually happens in any court case. If there are two parties to the case, by definition one is going to be wrong. It is a very interesting proposition that you are not going to take advice in respect of a matter because it might be found to be wrong by a court.

**Senator LUDWIG**—I was a bit floored by it, too. Perhaps the government does not take advice on anything then. To clear up one other point I had in relation to the review of ATSI—*and perhaps I may not have heard it correctly*—you went to a Radio National broadcast wherein you stated the minister, Mr Ruddock, said something. To shortcut the circuit rather than go through the media again, can you rule out for me that Dr Wooldridge or Mr Reith will not be one of the reviewers?

**Mr Farmer**—I cannot rule in or rule out anyone.

[11.31 a.m.]

### **Indigenous Business Australia**

**CHAIR**—It is my intention to move into consideration of Indigenous Business Australia unless there is some demur from that. Then ATSIC follows from that, logically, in the program. As most of the four members of this committee have said, this is our first comprehensive opportunity to consider matters pertaining to the Indigenous affairs portfolio and budget estimates. I welcome Mr Morony and officers from Indigenous Business Australia. I hope that all the officers present will bear with members of the committee as we wend our way through the PBS and make sure we are heading in the right direction. Mr Morony, I understand that IBA reports somewhat differently from other agencies because, for example, it does not receive an annual appropriation, so you report against your corporate plan.

**Mr Morony**—That is correct. We originally received our allocations from government and, subsequent to that, we operate off the profits that we generate from our investments. We report to government on our performance based on, mostly, the Commonwealth Authorities and Companies Act, which requires us to report against our corporate goals, aims and objectives.

**CHAIR**—Your corporate plan for the three-year period 1998-2001 was launched at the end of 1998?

**Mr Morony**—That is correct.

**CHAIR**—You indicated in your annual report 2000-01 that it will be reviewed in the first six months of the new financial year—that means, I assume, the 2001-02 financial year.

**Mr Morony**—We have redrafted a new corporate plan. It has been with the minister's office. It has been cleared by my board. It is being printed as we speak.

**CHAIR**—When will that become a public document, so to speak?

**Mr Morony**—It needs to be tabled in both houses of parliament. Once the printing has concluded, it will be tabled and then will become a public document.

**CHAIR**—Obviously, with the plan not being public, you probably cannot take us through any of the detail, but can you at least give us an overall indication of whether there are significant changes in the new corporate plan from the existing one? For example, the portfolio work of the IBA had three segments in the current plan: the secure low risk ventures, the commercial ventures that offered sound commercial returns and the higher risk ventures. Is there a significant change there?

**Mr Morony**—There are four objectives in the corporate plan. I think the new corporate plan reflects a number of changes that have emerged over the past few years. Our role, while it is primarily governed by our enabling legislation, which is the ATSIC Act, requires that we focus on commerciality.

Over the past three or four years, we have focused on employment and training outcomes from our activities. That includes not only our investments but also our activities when we interact with the private sector. That is becoming an increasing role for us, because we are finding that we speak the same language with corporate Australia. We talk to people about business opportunities with Indigenous Australians, so our role of facilitation is now better reflected, I believe, in the new corporate plan. It is much broader, it much better reflects the changes that have happened to us and it also reflects the fact that we are focusing on

establishing relationships with the larger corporate entities in the country and the fact that they are very interested in doing business with Aboriginal people and there is a facility that enables that to happen.

**CHAIR**—Some of those relationships are clear from your last annual report already. In terms, though, of the corporate plan that you have been working to since 1998, how would you describe IBA's performance in accordance with those sorts of objectives that I referred to before?

**Mr Morony**—Each year we report in our annual report against those objectives—for example, take goal 2, which is about a well-balanced investment portfolio. This is a matter that we discussed quite a bit, particularly with our board. If I go back within the report to, for example, the geographical distribution of our investments, Western Australia, for example, has been an area to which we have been keen to provide quite an extensive spread of investments. But I have to say that good commercial opportunities in remote Australia do not come along every day, so my board will indicate to me that it wants me to focus on areas where we are not represented, and that may take time. It might not be done in a year or so. We believe that we are doing the best we can within the constraints of commercial analysis that we do on business investments. In Western Australia we now have additional businesses. We have just concluded a resort acquisition in Western Australia, the Monkey Mia resort, which is the one with the dolphins. Indigenous interests now have 50 per cent equity in that, of which IBA holds 25 per cent; and in Fitzroy Crossing, with the local indigenous group there, we are partners in the Fitzroy River Lodge and the motel.

My board has wanted to get a good spread in Western Australia and talks to me often about that, but it has taken some time for it to happen. When we are reporting against our corporate objectives, we have a very clear view of what we would like, but the commercial world is not always going to fit neatly into those boxes because, as I say, good business opportunities do not come along every day.

**CHAIR**—One of the things that you say on page 119 of the PBS at the end of the overview paragraph is that the IBA also provides a framework to promote greater involvement by indigenous Australians in small business. The concept of small business does not really leap out at me in the goals and the general portfolio profile that we have been discussing. How does that fit against the corporate plan?

**Mr Morony**—We have some very exciting and large developments within our portfolio but we also have a couple of smaller ones. For example, in Blayney in New South Wales—

**CHAIR**—I am familiar with Blayney.

**Mr Morony**—we have a small industrial laundry, and we have also acquired another very similar one in Victoria. The other element is that we look for other, spin-off opportunities from our investments. So in the larger ones there might be tourist operator opportunities for our bigger businesses. In addition to that, we are constantly talking to ATSIC about its economic programs and its small business programs, which it tends to focus on. If we get, for example, what we believe is a very good opportunity but one which is probably a bit too small for us, we pass that information on to ATSIC or vice versa. So we are able to share important commercial information.

**CHAIR**—So that happens in a way which is perhaps best described as slightly over and above the fundamentals of the standing corporate plan and you take that extra step?

**Mr Morony**—I believe that that is where we add value.

**CHAIR**—I appreciate the point.

**Mr Morony**—We have recently been talking to the banks about doing a lot more in this area as well, because we believe that there are commercial opportunities that they could be working with us on and responding to. So our job is becoming more and more one of facilitation between industry, community and indigenous groups.

**CHAIR**—We look forward to seeing that new corporate plan when it becomes public. In the PBS on page 201, under ‘Evaluations’, it says:

IBA commissions external reviews of its individual investments on a cyclical basis.

What are the sorts of external reviews that you are talking about, and what is the specific cyclical approach that you are talking about?

**Mr Morony**—For the internal review arrangements we have our own auditors. We have an audit committee—

**CHAIR**—I was just asking about the external reviews.

**Mr Morony**—For the external reviews our own auditors, who look at our books, also look at our activities in relation to our investments. In addition to that, we do performance analyses either internally or externally, depending on the nature of the business. If we believe we have the expertise within our organisation we conduct our own due diligence on the performance of businesses, but where they are very specialised—for example, we have an interest in a coalmine in Queensland and at some point we will be conducting a review of that; we do not believe that we have the necessary expertise in coal to conduct that review—we would obviously go outside. Our company secretary has established a review agenda, which is approved by me and then taken to our audit committee. Those reviews are done on a regular basis on all of our businesses.

**CHAIR**—So that is what you mean by cyclical? They just roll.

**Mr Morony**—Yes.

**CHAIR**—You have indicated that major new investments and those with a higher perceived risk factor are subject to external due diligence before they come to your board. Are you able to indicate to the committee how those risk ratings have been done since you have been operating—I understand you might need to take this on notice—and whether the risk ratings have been proven in fact as the investments have proceeded? The question is whether they have been accurate, basically.

**Mr Morony**—I can start to answer; Mr Myers manages this area. We have our own internal expertise which is made up mostly of persons with economic and accounting skills. When we are looking at a new investment, because we range across a number of commercial activities—for example, oyster leases, coalmines, tourism, mining, and more recently property—we do not have the in-house expertise from an industry perspective—

**CHAIR**—To risk rate those investment propositions?

**Mr Morony**—We would do a commercial analysis desktop which would indicate to us whether we thought that the proposition was good or not so good. By way of example, you could say in very broad terms that, for every 100 propositions that come in to us, we would quickly whittle them down to about 10 that we think would be worthwhile looking at. Out of that 10, which we would conduct a full and thorough due diligence on, we may only take two to the board because of the due diligence process.



In respect of industry, for example, at the moment we are looking at a new industry: the fishing aquaculture industry. We are conducting a fairly significant research program into the way in which we can influence that industry and provide expertise back to Aboriginal people. We do not have that expertise internally so we are seeking external expertise. We are also talking to bankers about coming in and supporting us, and they themselves would conduct their own due diligences if they came in with us.

**CHAIR**—If you can give us some idea of those external reviews, that would be helpful to the committee. There is a lot packed into the ‘Evaluations’ paragraph. You also indicate:

The Board’s Audit Committee also directs a program of functional reviews on an annual basis to be conducted by externally contracted internal auditors.

I assume they are the same auditors that we talked about before, doing the cyclical rolling audit process.

**Mr Myers**—The way our act is set up, IBA does not actually have its own internal auditors; we are required to use the Office of Evaluation and Audit, which is an independent body set up under ATSIIC. They are, technically, our auditors and they outsource the audit program. Our audit committee, which comprises a number of directors from our board, set the audit program and sign off on the program for the year. The Office of Evaluation and Audit, ourselves and the ANAO are all either members of the audit committee or participate in the audit committee meetings and an external company actually conducts the audit program.

**CHAIR**—And that is outsourced by OEA not by you?

**Mr Myers**—We pay the bill, but OEA outsources it.

**CHAIR**—Thank you. In terms of the functional reviews that you referred to, are they what we all know to be basic annual audits?

**Mr Myers**—That is part of the audit program. We will have the normal what I would call ‘tick and flick’ type audits of payroll and those types of thing, but we also complement that by having the auditors conduct reviews of processes—in other words, how we go about certain things. For example, we had one conducted recently which looked at the level of risk that IBA is exposed to in terms of its staff participating as directors in the joint ventures which we are involved in. It looked at how we are managing that, what are the risks and what we can do to manage those risks better.

**CHAIR**—Mr Myers, can you provide the committee with a list of what falls under the functional review heading, please—inquiries such as that one?

**Mr Myers**—Yes.

**CHAIR**—Under the ‘Competitive Tendering and Contracting’ item you say:

IBA will maintain current arrangements for contracted activities.

So that must mean that you are happy with the contractors who are providing your legal advice, your contract preparation, your IT maintenance and, of course, your internal audit services?

**Mr Myers**—With the internal audit services the contract is for three years. That has run out at the moment so we are going through a new tender process for internal auditors. In terms of our IT outsourcing, what happens there is that a few years ago we purchased a range of new PCs and the supplier of those PCs was contracted to do the maintenance of them and the systems that are associated with that. So we basically go through that process. We are too

small an organisation to try to maintain in-house expertise of that type in house and we do not attempt to.

**CHAIR**—I understand that. When is that tender process for the new internal auditors to be completed?

**Mr Myers**—That will be going out to selective tender, I think, probably within the next few weeks. Again, the outcome of that tender process will go back to an audit committee meeting. The audit committee meeting will look at that. OEA will be part of that process and a selection will be made.

**CHAIR**—And OEA makes that selection.

**Mr Myers**—Technically, OEA engaged the auditors so, while the audit committee would have a view, I believe that OEA would have to be totally satisfied with that view because, at the end of the day, they are legally responsible for the audit program.

**CHAIR**—In relation to your resourcing, in the table at the bottom of page 203 of the PBS you have a staffing change in the period 2002-03; a reduction in numbers. Where has that change been made within the IBA?

**Mr Myers**—We had a consultancy business operating out of Brisbane. The business has not proved to be as commercially successful as we had hoped; in fact, the decision has already been made to shut the business down.

**CHAIR**—Was that consultancy business established on some sort of feasibility plan?

**Mr Myers**—An external consultant was commissioned to have a look at the market strength in the consultancy area some years ago. That study was considered by a workshop which comprised senior staff from IBA, an external accountant and an external legal practitioner. We did a SWOT analysis of that report and looked at the strengths and weaknesses of the consultancy business. As a result of that, a paper was put to our board for consideration and the board decided to support the recommendation, subject to a review that if it did not prove commercially viable we should cease that activity.

**CHAIR**—How long did it operate before it was decided that it was not proving itself commercially?

**Mr Myers**—Just short of two years.

**CHAIR**—That would have been a reasonable investment of time and money, I would imagine. Is there a view as to why it did not work?

**Mr Myers**—I think there was a combination of reasons. The market penetration was not as good as we had hoped. We felt that the industry sectors that were strong would probably be in the native title area, consulting to Aboriginal organisations. We had targeted a range of areas. The business did not get into those areas as much as we had hoped, and there could be any number of reasons for that—for example, in a lot of the smaller consultancies you are dealing with people who are single operators, who operate out of a home and who have much lower overheads. In some ways our price structure was probably somewhere between smaller operators and some of the big consulting firms. The market out there is tough and we just did not get the market penetration we had hoped for.

**CHAIR**—I appreciate that but, given the description you gave me of how the plan was put together and how it progressed, wouldn't that have shown up in the assessment process, the feasibility planning process?

**Mr Myers**—As I recall, the SWOT analysis certainly talked about the risks. One of the risks was in fact the ability to penetrate the market.

**CHAIR**—Under W and T they were outweighed by S and O, were they?

**Mr Myers**—At the end of the day.

**CHAIR**—Is there a plan to perhaps change the way you look at making those sorts of business assessments if it did not work on this occasion in reasonably spectacular fashion?

**Mr Morony**—The consultancy arm was a greenfields development—brand new. It was very difficult to project potential profits. You go through a significant consultation analysis process but, at the end of the day, you have to make a judgment. We in the administration put a proposal to the board and the board considered it. The board felt that the potential returns in terms of the value that we might add to Indigenous Australians by providing a service like this would be of great benefit to Aboriginal people; therefore, we embarked on it. But the board was very specific in saying to me, ‘There is a finite amount of money that we will put into this.’ I interpreted that to be a two-year time span. We conducted a review at about 18 months and then more fully at two years. That told me that it was going to take at least another couple of years to start to break even and to generate the sorts of profits we wanted. This was outside of the board’s decision. I took that back to the board and they made a decision.

On your question about our procedures, the board and IBA are very careful with greenfields developments. We tend to like to look at businesses that have an established cash flow; where we can look at a business and say, ‘Okay, we know what we are heading for.’ When we look at a new development, we are treading in new territory—

**CHAIR**—By definition?

**Mr Morony**—Any investor will say that that is fraught with risks, so you have to weigh up the benefits versus the risks. Our board is not a great risk taker in this area and has said that any new greenfields developments will be scrutinised very thoroughly.

**CHAIR**—What was the financial cost to IBA over the two years of the consulting services?

**Mr Myers**—Approximately \$500,000.

**CHAIR**—On page 204 of the PBS is the heading ‘Performance information for outcome 1’. The statements there match each of the indicators: to ‘Participate in sound investments’, you look at the ‘Reduction in number of investments which no longer meet objectives’; to ‘Maintain a balanced investment portfolio’, you obviously look at the ‘Number and spread of sound investments’; and to ‘Fulfil IBA’s Community Service Obligations’, you look at the ‘Level of support and expenditure’ on CSOs. I do not want to take up much more of the committee’s time, so could you please take on notice an outline of the activities and changes you have made that meet each of those statements? On page 206 of the PBS, where you have ‘Sales of goods and services’, can you indicate why the current year’s sales are higher than the projection you made?

**Mr Myers**—That is Bonner House.

**CHAIR**—That is here in Woden, isn’t it?

**Mr Myers**—Yes. Towards the end of last calendar year we sold that business, which meant we brought cash back in but the income levels coming off that changed.

**CHAIR**—I understand. And of what is the entry marked ‘Other’ of \$1.295 million comprised?

**Mr Myers**—Because of accounting standards, we changed the value of Bonner House over the years, depending on improvements et cetera. When we sold it, some of the sale price went through the balance sheet and some went through the profit and loss account. It is basically a combination of the total amount of money, which was \$8.6 million.

**CHAIR**—It is just to make it harder for us, isn’t it, Mr Myers?

**Mr Myers**—I do not write the accounting standards.

**CHAIR**—Trust me, neither do I. Further down on page 206, under ‘Suppliers’ you have indicated a drop from \$2.666 million to \$2.213 million. What is the basis for that decrease in suppliers’ expenses?

**Mr Myers**—There are a couple of businesses in which we have been reducing our exposure. Some of those represent the losses that we will have to deal with in reducing our exposure to those businesses.

**CHAIR**—Okay, so that kind of comes back to line 1 of the performance indicators that we were talking about. You are writing down \$204,000 of assets. Does that also relate to Bonner House?

**Mr Myers**—Again, that is insurance. That is one of the businesses we are stepping out of.

**CHAIR**—Insurance?

**Mr Myers**—Insurance was another business we were involved in. Given the insurance industry, we decided to withdraw from that one and sold our equity in that business.

**CHAIR**—Right. You might want to take this on notice. Across the page, under ‘Investments’ in the first column, you have \$59.641 million to \$68.006 million next year. Could you provide me with some details on that increase in investments against the risk categories that I asked about at the beginning of this discussion?

**Mr Morony**—Yes, Chair.

**CHAIR**—In relation to infrastructure, you have a budget estimate of planned expenditure of \$137,000 and you employ 18 people at the moment. Where do you spend that infrastructure money around the employment of 18 people? Is that what that relates to or have I got that wrong?

**Mr Myers**—It is an additional \$37,000.

**CHAIR**—Yes, that is true. Sorry.

**Mr Myers**—It is going to our board at its next meeting, but it is basically for an upgrade of our IT systems.

**CHAIR**—I see. In terms of sale of investments on page 208, can you indicate what equity instruments were sold there? Would you take that on notice?

**Mr Myers**—Certainly.

**CHAIR**—To complete this, can you explain to me again, as part of the new process that this committee is engaging in, what the relationship is between IBA and ATSIIC when investments are dealt with? Do they move between one and the other? Is there an agreement between organisations as to what investments are undertaken and in what way?

**Mr Myers**—We work very closely with ATSIC. The main separation tends to be the size of the business. In other words, ATSIC would normally look at the smaller businesses; IBA tends to look at the larger businesses. Where ATSIC and IBA work very closely together is if we develop or identify a good business opportunity. We will talk to ATSIC about it potentially providing financial support to the local community to come into that business as a business partner. There have been many examples where ATSIC has supported the local community to join IBA and mainstream industry in joint ventures.

**CHAIR**—Thank you all very much for that. I appreciate your assistance. You have taken some questions from me on notice. I also appreciate the committee's indulgence. It is not often that I walk down the path of asking questions, so I am very grateful.

**Senator LUDWIG**—If we take a look at the portfolio budget statements for 2001-02, total resourcing for IBA—if you look at map 3 on page 202—is expressed as \$7.69 million. At the bottom of page 203, under total resources for outcome 1, the estimated actual is \$9.829 million and the budget estimate is \$7.695 million. Can you explain that expenditure against the budget estimate and whether those moneys will be recaptured in future years?

**Mr Myers**—Again, it is the way we provide our input into these budget statements. That figure is the gross income that IBA is receiving from its investments. It shows that, between the preparation of last year's estimates and the actual outcomes, we are forecasting a change in the gross income we will receive from our investments. The change is largely attributed to two areas. The main one is in respect of a mine that we have a significant shareholding in. The income levels are based on overseas sale prices. The prices are set in US dollars and through exchange rates. The year we are currently in has been a very good year, with low US dollar exchange rates and very high commodity prices. As we are already seeing, the dollar is strengthening. There has been a six per cent reduction in that particular commodity price.

**Senator LUDWIG**—So it is not a goldmine?

**Mr Myers**—It is still doing very well, but it is not gold.

**Senator LUDWIG**—I see in the portfolio budget statements that around \$2.9 million is allocated to output 1.1—project development—but expenditure was \$3.7 million.

**Mr Myers**—Again, that represents the variation between what was originally forecast and what we now expect the outcome to be.

**Senator LUDWIG**—Is this an expressive way of detailing your business activity, by utilising this process?

**Mr Myers**—I would have to say that this format does not really suit a business organisation of the nature of IBA. I think the reporting is, to a degree, a compromise. It is trying to present a gross expenditure figure, which, I think, is probably where the Senate is interested—in other words, if we earn a certain amount of money, what are we going to do with that. We cannot really talk about which businesses we are going to invest in because, firstly, we don't know at this stage; and, secondly, we then run into commercial and confidential type situations when we start saying, 'We are going to put this much into that one', or whatever. What we are trying to do is fit into the standard budget format to explain what our gross earnings are, or the gross income which is forecast, and how that is going to be divided.

In terms of looking at the outcomes, under project development we try and separate how much we would expect to spend on the various processes we go through, the due diligence

processes, the investment costs and those sorts of things. Under project management we try and look at the cost of participating in business, additional funds that might be required for those businesses and our various associated running costs across the program. This is talking about a cash position.

**Senator LUDWIG**—Yes, because the same thing happens in output 2, which is project management—the estimated actual is \$6 million in round figures and the budget estimate is \$4.7 million. Can you tell me what the additional or extra expenditure is for?

**Mr Myers**—Again, as I was saying, this is merely a presentation. You need to look at the global figures. The global figures are that this year we expect to gross \$9.8 million in income and next year we expect to gross \$7.6 million in income. As I said, the difference is largely attributed to exchange rates and commodity prices on one of our investments.

**Senator LUDWIG**—And that is similar for project development?

**Mr Myers**—Yes.

**Senator LUDWIG**—So what are the two different areas? Is there a way of expressing it or, at least, unpacking those figures to assist the committee in understanding how your business is going? Earlier this morning I heard that a number of businesses were not doing very well. I have to say that it does not paint a pretty picture. It must be balanced, given these figures, and you must also have significant investments that are doing reasonably well.

**Mr Myers**—It certainly is.

**Senator LUDWIG**—That bright side is not reflected in the portfolio budget statements.

**Mr Myers**—Perhaps we could offer to provide you with a separate briefing which actually provides you with an overview of our investments and where they are going.

**Senator LUDWIG**—There were 50 projects considered per year, with 65 projects considered in the next financial year. This year's PBS delays this performance indicator by a year so that it aims for 50 projects in the next financial year—again, aiming for 65. Can you tell me what has then caused the delays? I would not mind having a breakdown of your business entities, but I would also like to know how you then decide that you will have 50 or 65, and then settle for 50.

**Mr Myers**—We are driven by two things: one is the amount of business proposals that come before us, which we cannot necessarily influence; and the other is the amount of money that we would have available within any one year to invest in new businesses. The benchmark was derived from historical averages and we have used that as the starting point. As you would see, our capital base is growing progressively each year, therefore our capacity to enter into new investments each year—additional investments—should be enhanced. On that basis we expect to be able to deal with more applications. But, again, we are in the hands of the industry out there in terms of what might come before us.

**Mr Morony**—Our forecasting is very complex. For example, last year we had the events of September 11 and the Ansett collapse. At that time, we thought that there were going to be major impacts across a number of our tourism ventures. We have been quite surprised at the performance of a number of our ventures that have not suffered as badly as we might have anticipated. When the Ansett collapse happened, we were very concerned about potential returns across a number of investments. Forecasting is very difficult for us and so we tend to operate within the constraints of returns. A lot is based on end of the year calculations that emerge from the businesses that we are joint venture partners in.

**Senator LUDWIG**—I understand, I think. So the same thing can be said in relation to output 1.2, Project management, on page 204, where it says:

20 business investments

(30 investments monitored per year for 2003-04 onwards)

Are those guesstimates?

**Mr Myers**—When we drafted that, as I said, that was based on historic trends. We are already involved in 25 investments now, so again it depends on what comes before us and what our board agrees to. But our expectation is based on the fact that over the last few years we have had around about 20 to 22 investments. We go into one and then sell one. We seem to be up to about 25 and we seem to be sitting fairly stably at that. As our capital base grows, we can become involved in more businesses. We would reasonably expect that in the foreseeable future we will be up to 30.

**Senator LUDWIG**—Perhaps if it is not too much trouble you could tell me what new projects you have entered into in the past financial year and which ones you have exited?

**Mr Myers**—In this financial year, we have entered Monkey Mia, which we spoke about earlier. It is a tourist resort in Western Australia.

**Senator LUDWIG**—I am happy for you to take that as a question on notice. Then you will be able to write a little detail about the amount of the investment and the type of investment for each one and to give other general financial information that might be helpful to the committee. You can tell us then how many have been exited. You mentioned the consultancy—please tell us if there were any others and whether they showed a loss or a profit when you exited them as well and what that loss or profit was. That information would be helpful, but if the amount of detail I have asked for is too onerous for your size of organisation, please come back to the committee and we can negotiate it up or down.

**Mr Myers**—There is probably no concern about the amount of the information requested. However, where we were involved in small businesses with what I would call family partnerships, if we disclosed too much information, it could cause those businesses some problems.

**Senator LUDWIG**—In those areas, you can be less specific. Could you include in that whether there is a financial minimum that you seek before you invest? I understand you go through quite a significant methodology, which Mr Morony detailed, when approaching projects, but is there a flat internal rate of return that you seek before you will tick it or are there other financial management tools you utilise to determine whether or not something is a goer or not?

**Mr Myers**—Our board's view is that we should seek the rate of return that is appropriate to the industry sector in which we are investing, rather than applying a flat benchmark, so there is a significant variation in industry type, and that is the return we seek. They are also of the view that as a minimum we should be looking at the long-term bond rate .

**Senator LUDWIG**—In relation to project investments, is there a particular type you look for each year? Does the board set a view about the area in which it is interested now, given the market?

**Mr Myers**—No, the view the board has is that it is necessary to apply a proper merit principle to applications that come before us. Obviously, certain industries perform better than others, and they view those things, but each application coming in is considered on its merits,

and we deal with and look at each one. Some industry sectors might not perform as well as others in terms of pure rate of return, but they might provide more employment opportunities, so we just look at each application as it comes in and deal with it.

**Senator LUDWIG**—It sparked my interest when you talked about exiting the insurance industry. Does the same apply? Do you decide which industry businesses you no longer want to be in because of the state of the market or for other reasons?

**Mr Morony**—The bottom line tends to be a significant factor. In most instances we sell out of businesses because we want to pass on our equity to our Indigenous partners. Our whole purpose in going into these businesses is to bring Aboriginal partners in with us, to build them up to the stage where they are capable of running the businesses with the non-Indigenous partner themselves. Then we move our money into a new venture. But there are instances where commercial performance becomes an issue, and we have found that you have to make a decision about whether to inject more capital in or to get out. In a couple of businesses recently—the insurance business and the consultancy business—we have talked to our board and we have decided that the risks of staying in are too high and that we are better off exiting.

**Senator LUDWIG**—I did not want to get into that area. Do you have a plan for small business investment over the next financial year? I suspect you do, so I will qualify that question: do you have an area of interest that you intend to pursue in that area?

**Mr Myers**—There are no prescribed areas. What I can tell you is that at the moment we have something like 27 detailed business proposals under active consideration within the organisation and the industry split on those is quite varied. They cover just about every industry sector from accommodation through to manufacturing, agriculture and contracting. Within the Indigenous community, there is certainly a strong interest in tourism related projects. They tend to feature fairly heavily in the sorts of applications that come before us.

**Senator LUDWIG**—Do you provide case studies or a booklet detailing your success stories—those businesses which you set up, which perform well and which you then exit in a positive way?

**Mr Myers**—No. We certainly report in our annual report on the ones we have downsold, but we have not used or thought of or developed the concept of using those as case studies for wider use. It is certainly something we could take on notice and have a look at.

**Senator LUDWIG**—I am not making the suggestion; I am simply asking the question. Thank you.

**Senator SCULLION**—Mr Morony, could you help me by telling me whether you have any predetermined policy for how you allocate funds in a national sense? Do you say, ‘We need to be equitable about this’? Do you give a certain amount to areas that have higher populations of Indigenous people, for example, or is this principally population indexed or done on a project by project basis? In other words, do the projects you look at have any connection with population base and those sorts of things?

**Mr Morony**—Certainly our corporate goals express a desire to have a good geographical distribution, but we are very much driven by the applications we receive and the commerciality of the proposals. So there are areas where we would like to do more business but we are waiting for the right opportunity to emerge. For example, for almost two years now we have been in consultation with the ATSIC regional council in Darwin about a commercial proposition that might emerge. We have been looking around and we are working on a



proposal at the moment, but it has taken us a considerable amount of time to bring forward something that in our view we could recommend.

Also, we have traditionally received applications from communities, individuals or Aboriginal organisations, but what we are now finding is that industry and the banking and commercial sectors are coming to us with development proposals, and so we are able to take those to the community. We respond by considering all proposals that come forward and doing a proper due diligence, which sometimes comprises just an initial thing, on those—and I have to say 90 per cent of them are usually pretty average and you would not touch them. Then we treat seriously the ones that offer good commercial prospects and talk to the community about whether they really want to be involved. Unless it relates to providing us with an administrative base, we do not go into any business unless there is an Indigenous group coming in with us.

**Senator SCULLION**—I am going to follow with a series of questions. My first question relates to the nature of many of the communities that do not have any real development or opportunities for employment, and clearly we need to associate the two. Senator Crossin and I enjoy a constituency whereby some 82 per cent of the coastline is Aboriginal land or is claimed to be Aboriginal land; there is no real reason why that would not be. In a normal sense we see a terrestrial estate. I think you mentioned that you are just starting to get into fisheries and aquaculture. Traditionally, looking at an Indigenous terrestrial estate, it is something that they have actually owned and occupied since time immemorial. Many Indigenous people see the lack of focus on their marine estates adjacent to their traditional estates. It is those areas in which we need to seek the greatest economic opportunities. You said you have just started to get into marine and aquaculture and fisheries. What percentage of your portfolio now would reflect—in a general sense, as against tourism and mining—that sort of area?

**Mr Myers**—At this stage we have one aquaculture investment out of the 25. As Mr Morony indicated earlier, we are currently examining the prospect of investing in fishing quota as a long-term asset for communities. If they were not actually using the quota, they would derive a potential income stream off the quota and then, hopefully, capital gain off the quota. But we are very much in the early days of looking at that. I have to say that some of the prices are a bit frightening, given our limited capital base. We are not sure how far we will be able to get into that.

**Senator SCULLION**—It is effectively very small, but you are hoping to grow that area?

**Mr Myers**—Yes.

**Senator SCULLION**—I was going to talk to you about access rights and property rights and the nature of those rights. In a previous incarnation I was able to experience just how complicated that issue is. This is clearly a development area. Have you got any in-house expertise in these areas at all?

**Mr Myers**—No, we would tend to look to ATSIIC for advice on issues relating to sea rights and those types of things. We would only become involved, consistent with our legislation, on the purely commercial exercises.

**Senator SCULLION**—Sorry, perhaps I did not phrase the question well enough. I was referring to the nature of property rights and quota as a negotiable right.

**Mr Myers**—No, we do not have in-house expertise. What we are doing at the moment is basic research and then we will probably commission external advice. There are some good

industry groups around the place that could provide us with advice on perhaps which areas to target, both in terms of geography and species.

**Senator SCULLION**—The reason I make that point is that, whilst there is a quota over high value fisheries, the vast majority of fisheries still operate under an input control. I understand, on a commercial basis, you want to buy something that is transferable, that you can get in and out of. There are many fisheries in north Australia that are affected by a property right that is, in a sense, mortgagable and you can register third-party interests against it, but it is not quota. My advice is that you do not look only towards those areas.

My concerns in terms of development and the correct investment in these areas is not only that you make wise investments but also that those investments are made in a way that can maximise opportunities for Aboriginal communities. Quotas are usually what we call the big end of the market. The opportunities for Indigenous communities, certainly within my constituency, are probably at the smaller end of the market but offer much greater employment opportunities. You were talking about investment in some of your outputs. You were talking about making wise investments. In the Northern Territory there is around about a 45 per cent increase in the capital value annually and a return of between 11 and 17 per cent. I am not sure whether you can reflect to me what your return on your portfolio would be at the moment.

**Mr Myers**—Our rate of return on our investments across the board would be about 14 per cent gross. Some are obviously very high; some are not very high.

**Senator SCULLION**—When you are making these decisions, would you actually factor in opportunities for Indigenous employment? Is that a factor you would take into consideration?

**Mr Myers**—That is one of the conditions that our board requires us to look at, and when we report we look at what the employment opportunities are. When you talk about remote communities, the other issue that arises is that some of the communities, not particularly the ones you are referring to, really do not have any commercial prospects within their area. We are also considering investments which you might call external to their communities where they can hold positions in perhaps passive investments but at least start to build an asset base. We are very conscious of what an investment might do for the local community.

**Senator SCULLION**—I am just trying to get a feel for this. I understand from your portfolio that you are very interested in joint ventures, which I think is a very wise approach in a business sense, but you are also interested in investment. How do you weight those? For example, say there was no opportunity for a joint venture but you knew that the investment would be guaranteed because of the capacity it had—for example, for a fishing licence you could dictate who you leased it to, how many people it employed and those sorts of flexibilities. Do you have that capacity or do you generally tend to weight them and say, 'We're really looking for joint venture partners in this and we'll make our investments through that totality'? Can you help me with how you go about assessing that?

**Mr Morony**—We are currently looking at an investment very much like that. We have a preference to do joint ventures where the non-Indigenous partner provides us with the expertise in a particular industry. We bring Aboriginal groups to the table with them, and we all grow from that. At the moment, we are looking at a resort at the tip of Cape York where an Indigenous group is inviting us in to improve the performance of this investment. We do not believe that it is an investment that would suit another joint venture partner, but we would probably not go into it unless we could be satisfied that a suitable manager, preferably one in

the area—and we are talking to another at the moment—would come in and provide us with the expertise and the management support for that resort. We are always looking to bring together industry and the community in various forms, and joint venturing has been our strong preference because we believe that that results in an exchange and skills transfer between the various parties.

**Senator SCULLION**—I think there is a general comment in Australia, which I would certainly adhere to, that there is probably more money chasing good ideas than the other way around. How do you get the idea out into Indigenous communities that there is this opportunity for investment and the opportunity to come up with some ideas to perhaps capitalise on that?

**Mr Morony**—We are a small organisation but we spend a lot of our time in areas talking to various groups about what we do. We have also found it difficult to get out into the public arena more information about what we believe are very successful joint ventures and to get some good news in the press for once about some of these things. We have just recently produced a newsletter, which we encourage industry and Aboriginal groups to contribute towards, and that tells people about what we are doing but, more importantly, about the views of industry and the things that they are doing. We are engaged in a fairly active program now of saying, ‘We think that industry and community need to come together in a more comprehensive way.’

We recently had a fairly significant banking and finance conference in Sydney. We brought the commercial world, Indigenous groups and government together, and we talked about the need for improved servicing in Aboriginal communities. We also talked to them about the fact that access to capital is becoming an issue for us to develop industry in Indigenous communities. I have to say that the response from that has been very positive, and I have a number of meetings lined up with bankers in the next few months. The chairman and I will be talking to a number of people who are very keen to participate and work with us on these issues. So, even though we are small, we believe that in the marketplace there is an interest in our facilitating the interaction between communities and business and encouraging people to believe that doing business with Aboriginal people is good business.

**Senator SCULLION**—What sort of relationship do you have with the Industry Training Advisory Board? I would have thought that there is a lot of advice in those areas. Do you have a very good relationship with them?

**Mr Morony**—We have two staff engaged within the organisation who focus on employment and training issues. Their primary role is to create employment and training opportunities within the investments. For example, within Kakadu National Park we have two investments: the Crocodile Motel and Coinda. We have used those facilities for employment and training outcomes. We have taken three groups of 20 young Aboriginal people in there not only to participate in the asset that we have an interest in but also to provide training for opportunities in Darwin and other locations. Those staff interact with the Territory based training authorities, the local community, the Commonwealth departments and ANTA. There are a large number of different players to bring about a training program. That is why we have a particular emphasis on that within our organisation.

**Senator SCULLION**—My last question relates to the board’s capacity to be able to put a caveat on the sale of any of the assets and investments they make. I ask this question in the context of, for example, investing in a 60-pot crab or crayfish licence because that is the unit they come in. Fisheries managers generally think that breaking these licences up stands to

come back and bite them in some way and they are very reluctant to do it. However, my discussions with Indigenous communities and leaders have suggested that that capacity would certainly make them more appropriate in a cultural sense. It has been suggested to me that if an investor—particularly in your case because you will be in the unique situation of owning them—had the capacity within the board, for example, to say that they would place a caveat on it that if the units were separated they would not be sold, would the board have the capacity to say, ‘We would not sell these as independent units, but we could use them’?

**Mr Morony**—We are currently looking at a proposal which involves crayfishing and licensing. Just by way of example, the cost of the boat is in the order of \$240,000, working capital is about \$100,000, but the cost of the pots is about 1.3. We have talked to ATSIC about such a project and said why would they not consider assisting this group to finance a boat and to finance the working capital, but if IBA were to own the licence and the Aboriginal group were to engage in the actual industry, if they failed our fall-back position would be that we still own the licence and we could pass that on to them if they were very successful. We initially might take the brunt of the capital cost and expect a return from that, which the industry might determine to be 10 per cent plus capital gains. We have not gone into that in sufficient detail. The sort of thinking that has taken us that step further is that there are large numbers of Aboriginal groups that have an interest in particular areas: can this be applied on a broader scale? While we are doing an analysis on that small project, our interest now is much bigger.

**Senator SCULLION**—I am very impressed, we are clearly singing off the same song sheet.

**CHAIR**—If there are no further questions of the IBA, I thank Mr Morony, Mr Myers and Ms Dragisic very much for their assistance. I am sure the committee will be seeing them again.

[12.35 p.m.]

#### **Aboriginal and Torres Strait Islander Commission**

**CHAIR**—We begin consideration of the estimates for the Aboriginal and Torres Strait Islander Commission.

**Senator LUDWIG**—Perhaps we can start with a more general question.

**Senator Ellison**—Madam Chair, Mr Scott has an opening statement to make.

**Senator LUDWIG**—By all means.

**CHAIR**—Yes, of course, Mr Scott.

**Mr Scott**—If I could just make an opening statement—that might take us to lunch!

**CHAIR**—Really!

**Mr Scott**—No, I will break this up. The board of ATSIC have asked me to try to clarify what the issues are from ATSIC’s perspective, what the issues are from the board and what the board’s view on the budget is. This is just to clarify and assist the process. With the ATSIC chairman’s permission, I would like to make a short statement in relation to the budget for the Aboriginal and Torres Strait Islander Commission for the 2002-03 financial year. I need to note that this has been done at the specific request of the chairman. He has asked this be done, and his fellow commissioners also asked for this, because they believe it is imperative that we

do everything we can to address the systemic ignorance in the general community of ATSIC's budget, of ATSIC's role and its capacity and its responsibilities to provide services.

The much quoted figure of \$2.3 billion is generally viewed in the public as ATSIC's responsibility and we are responsible for most things that happen. I need to clarify these points. That is not the case. The chairman made it clear in his budget night press release that the current government holds the line of funding for Indigenous Australians. He acknowledged in that press release that, of the \$2.3 billion, half was administered by ATSIC. He also acknowledged there was \$28.3 million in budget flows from the initiatives announced last year. He described these payments as a down payment on Aboriginal and Torres Strait Islander people's issues. He made it very clear that, despite the lack of any new ATSIC specific funding initiatives in the budget, the commission would continue to work with the federal, state and territory governments to improve economic and social outcomes for Indigenous people. He pointed out that it was important for our constituents to understand that the ATSIC board continues to work within financial constraints and is essentially seeking to do more with less. ATSIC this year will operate with a recurrent budget of about \$1.1 billion. In that we fund some 3,300 grants to about 1,050 organisations. That gives you an idea of the breadth of the programs.

He also wished to make it clear that this is not to be seen as an attempt to score political points but is part of an ongoing campaign to start educating people about what ATSIC's budget, role and responsibilities are. The financial constraints mean we must seek out new ways of using our existing resources in finding partnerships with government and non-government bodies and must continue to refine our major programs.

ATSIC's major program, the Community Employment Development Program, which is in the estimates at about \$485 million, represents about 48 per cent of our total program outlays. It provides work experience and training for over 34,000 Indigenous people in more than 270 communities around the country. I would like later in the estimates to explain what the outputs are on those on which a question was asked this morning.

**CHAIR**—Yes, Mr Scott.

**Mr Scott**—The CEDP provides for about a quarter of all the Indigenous employment in the country, and without the CDEP scheme Indigenous unemployment would be over 50 per cent. In saying that, we are trying to work on better links with Indigenous employment programs and Indigenous employment centres which are operated by DEWR, which are seen as trying to increase the transition from CDEP workers into real jobs.

The second major program is CHIP, our Community Housing Infrastructure Program. It will absorb about \$255 million of our outlays this year, which is about 25 per cent of our program. From that you can see that the two major programs are about three-quarters of the total ATSIC budget.

It is anticipated that the level of outputs we will receive this year will benefit more than 40,000 people in 600 communities. This would include 500 new and replacement dwellings, more than 1,000 housing upgrades, and new or upgraded power, water and sewerage services and other related infrastructure in 300 communities. It also includes the maintenance of over 1,500 infrastructure developments. In short, infrastructure for Aboriginal communities in the more remote rural communities is maintained from this program and not through the line agencies or local government.

We also pursue many innovative approaches in community programs—in native title and land rights, legal aid and prevention and diversion, commercial development and the self-funding home loans scheme. We are seeking new partnerships to ensure the Indigenous voice is heard in program development and program implementation. The board feels it has an important advocacy role to play in this regard. It is indeed one of the functional responsibilities of ATSIC. I think the point was made this morning about what the review was looking at and where we are going to with that. It is one of those fundamentals.

I will try and keep this short. What we would like to do in this process is to provide the Senate with more information about what ATSIC's budget is, what the spread of our programs is and what outputs we are actually receiving.

**Senator McKIERNAN**—You said you wanted to keep it short. How much longer are you going to be?

**Mr Scott**—Ten seconds. I was saying this would help to combat the misinformation about ATSIC itself. And that is it!

**CHAIR**—Thank you, Mr Scott. I had invited Mr Scott to make that statement and I think it is important in this new part of the process for this committee that, as the acting CEO of ATSIC and at the request, clearly, of his chairman, Mr Scott have the opportunity to do that. I was hoping he would keep it as brief as he did. I did not believe his threat to take us all the way to one o'clock. Senator McKiernan, Mr Deputy Chair, I hope that that met with your approval.

**Senator McKIERNAN**—I am not in any way questioning your ruling or your invitation for him to speak. I actually think this is a very good innovation where an agency will come to the estimates committee and perhaps give an explanation of how they consider the expenditures are going to be expended in the coming 12 months. I think it is a good innovation that could possibly be built on. However, we might be better served if that were provided to the committee beforehand so that we can press on. The intent in estimates is for the parliament to scrutinise expenditures. I think we can incorporate what Mr Scott has just done into the system as well, but I would not want to be spending a tremendous amount of time in giving the various agencies this opportunity. We have a multiplicity of agencies not only in this portfolio but in the portfolio we have been scrutinising over the last two days. Were they all to adopt the same methodology with an opening statement, it would reduce dramatically the time available for senators to address questions to representatives of the agencies. That is the only point I am trying to make.

**CHAIR**—I agree broadly. This is ATSIC's first major presentation to this committee in budget estimates. I was very pleased to accept Mr Scott's proposal. Now I might move to Senator Ludwig for questions. Thank you, Mr Scott.

**Senator LUDWIG**—Welcome, Mr Scott. Perhaps we can pick up on some of those issues that you raised during your opening remarks. As I understand it, the budget of ATSIC is quarantined. That is a phrase that appears in a number of places. Can you explain what this means and what items in the budget are quarantined. I am happy for you to take that on notice. I was trying to get down to some of the specifics of what funds are quarantined and what funds are available to ATSIC itself on programs that are untied. That is a phrase I am more familiar with.

**Mr Scott**—That is one question we are trying to clarify with them as well. There are a number of quarantines in the ATSIC budget. The two major programs I mentioned, the

Community Housing Infrastructure Program budget and the CDEP budget, 75 per cent of our budget, are effectively quarantined. They are to be spent on those outcomes.

**Senator LUDWIG**—How much are they?

**Mr Scott**—The native title program is also in effect a quarantine issue as well. In total they come to about \$790 million.

**Senator LUDWIG**—And that percentage is?

**Mr Scott**—Eighty-two per cent.

**Senator LUDWIG**—So 82 per cent of your budget is quarantined?

**Mr Scott**—Yes.

**Senator LUDWIG**—You do not get to spend that in specific programs that the board decides to pursue? Correct me if I am not getting the point.

**Mr Scott**—The discretion inside the program is for regional councils of the board to decide on which projects and in which locations they pursue, but under those programs themselves. I probably need to qualify that to some extent: we had a process this year where we went to regional councils and the commission asking how much they wanted to spend on the Community Housing Infrastructure Program or how much they saw there was a need to spend on it. What came back from councils and their planning processes was in excess of the quarantined allocations. Even though the quarantines are there, it does not allow flexibility to move outside that. When we went out and got some feedback on discretion, what came back was a similar figure.

**Senator LUDWIG**—So you have got movement within some of the programs?

**Mr Scott**—Yes, movement within projects within the programs.

**Senator LUDWIG**—But that is the extent that you have got?

**Mr Scott**—Yes. It leaves a discretionary budget of about \$165 million.

**Senator LUDWIG**—Yes, that is what I was coming to in terms of what you can then decide strategically to expend your moneys on.

**Mr Scott**—In reality the bulk of that is committed to recurrent projects.

**Senator LUDWIG**—If there are longer term projects, programs that might take over two or three or four years of strategic aims, how much money can you expend on those or is most of your money absorbed in recurrent spending?

**Mr Scott**—A great proportion of the CHIP budget is capital, and one of the best targeted programs noted in the Commonwealth Grants Commission report was the National Aboriginal Health Strategy—a program run by ATSIC. That enables us to target that program over three or four years and have infrastructure programs put in place. We do have a facility where councils and the board are able to make decisions on projects giving approvals over a three-year time frame.

**Senator LUDWIG**—If you want to spend money on the devolution of regional councils, how much discretionary funding do you have available in that area?

**Mr Scott**—About \$58 million.

**Senator LUDWIG**—Representing what percentage of your total budget?

**Mr Scott**—The rationale the board uses for determining what allocations go down to the regional council is that if the programs are recurrent and operating within a regional council area they are to be allocated to the regional council budget for the council to make decisions on them. In that process over the last few years the regional council budget is now \$625 million, which is about 55 per cent of the ATSIIC budget.

**Senator LUDWIG**—How do you allocate your expenditure within the regional councils referred to earlier?

**Mr Scott**—Within the regional council budgets the quarantines imposed are for the Community Development Employment Program and for the Community Housing Infrastructure Program.

**Senator LUDWIG**—A lot of that is already quarantined in a sense?

**Mr Scott**—Yes, 90 per cent of it.

**Senator LUDWIG**—The 10 per cent is the tail you get to spend on developmental projects or projects that the community might decide. Is that a better way of putting it?

**Mr Scott**—Yes, that is a better way of putting it. A lot of that is already tied up in recurrent commitments.

**Senator LUDWIG**—That is the next issue. That 10 per cent could also be tied up in maintaining existing programs or existing commitments or part of capital. Is that right?

**Mr Scott**—That is correct.

**Senator LUDWIG**—At the end of the day it is even less than 10 per cent, significantly less than 10 per cent?

**Mr Scott**—It is.

**Senator LUDWIG**—The portfolio budget statement details a change in the outputs for CDEP from output 1 to 3. Do you see where that has changed? What I was trying to ascertain was the total funding allocated to CDEP across all three outputs. Is there an expression of the total funding across the three outputs for CDEP?

**Mr Scott**—It is probably not expressed in the output statements here, but I have the figures in our budget which I can provide.

**Senator LUDWIG**—I am happy for you to take that on notice.

**Mr Scott**—It is \$485 million across all outputs.

**Senator CROSSIN**—Have you got a report on the number of CDEP recipients that you are able to move into employment?

**Mr Scott**—We do. We target and keep records on those issues. The figure we are looking at now is about seven per cent of the participants. We have tried to provide the outputs from CDEP in a more representative process about what they actually achieve in those issues. There has been a perception that CDEPs across the country will produce employment and training outcomes when, clearly, there is not a labour market we can target. That provides expectations and serves to misinform people about the program outcomes.

**Senator CROSSIN**—That is right.

**Mr Scott**—Our estimates are that, currently, about 15 per cent of the CDEP outputs are focused on employment and training outcomes that do produce jobs. There is a whole range



of other issues that you need to take into account when discussing those. I made the point before that we are working very actively with the Department of Employment and Workplace Relations as to where there are those viable Indigenous labour markets, if I can clarify them, and about having Indigenous employment centres where we can work on accessing their programs as well.

**Senator LUDWIG**—While we are continuing on general questions, I understand that Dr Wooldridge or Mr Reith have not been ruled out of conducting the ATSIC review. Do you have a view about ATSIC being reviewed? Have you been consulted about the review process and how much money will be expended on this review?

**Mr Scott**—Taking the first question, it was a part of the election platform of the government and ATSIC knew well in advance that the review was planned. It has not been taken as something that is negative but as an opportunity to look at a whole range of ATSIC's functions and objectively assess why we at times do not achieve what we set to do. ATSIC has a range of functions that require the intimate cooperation of all levels of government to achieve them. We hope this review will target those issues and provide the opportunity for ATSIC and the Indigenous community to put the issues in the public arena and have them discussed objectively.

The terms of reference are still being put to the ATSIC board for discussion. Ultimately that will go to cabinet. As to who is doing the review, a number of names have been mentioned informally but nothing more than that. I think comments were in the paper quoting the chairman about two certain people. His comment to the paper was that he has had good working relationships with both men in the past. That was it; that was the end of it. Anything further was pure speculation on behalf of the media.

**Senator LUDWIG**—Has any discussion been had with ATSIC in relation to who is going to fund the review?

**Mr Scott**—I am not speaking about that, but probably ATSIC will probably foot the cost.

**Senator LUDWIG**—How much will that be?

**Mr Scott**—We do not know at this stage. It will depend on what strategies are pursued in the review, what time frame is involved and what the overall scope is.

**Senator LUDWIG**—Has a ballpark figure been suggested to you or been negotiated?

**Mr Scott**—Not at this stage, no.

**Senator LUDWIG**—Are you concerned about that? Are you concerned that you do not know how much a review that you are interested in is going to cost your organisation?

**Mr Scott**—We have contingency funds set aside which are used for those sorts of things, and priorities change if it moves there. One example of that was the debate this morning about the Indigenous organisational training issue. The board sees that as a priority and wants it funded. Funds have yet to be identified. The task for the administrative arm of ATSIC is to deal with other agencies about whether they can source the resources and source the funds, and to use the budget to their best advantage.

**Senator LUDWIG**—Do you have a view about the enhanced training of directors of Indigenous organisations, which I asked about earlier, being funded out of the ATSIC budget? Have you had discussions with the department about it?

**Mr Scott**—Discussions have been had with ANTA, with some other training authorities around the country at the moment and with various state agencies. I made the point before about people not being aware of ATSIC's roles and responsibilities, but part of the brief for ATSIC is to get other line agencies to pick up their responsibilities, when and if they are due. This is one example of the strategy we will pursue to try to resource this initiative.

**Senator LUDWIG**—Do you anticipate how many years it will run over? Do you have a program in mind with any framework about how it is going to be dealt with or is it still in the early developmental stage?

**Mr Scott**—It is still in the early developmental stage. We are looking at three to five years minimum.

**Senator LUDWIG**—Will that come out of your budget?

**Mr Scott**—Unless we can source it from the training authorities.

**Senator LUDWIG**—Is that what you are trying to do at the moment?

**Mr Scott**—We talk to those authorities all the time about it. They have actually produced a blueprint for Indigenous Australia about how they are going to provide resources in vocational training and training of this nature.

**Senator LUDWIG**—This was an initiative by the Liberal Party as part of their election platform that you are then going to fund out of your budget. Will it impact upon other areas or do you have the money spare, so to speak? Will other programs suffer as a consequence?

**Mr Scott**—I think, with every decision the board makes, it juggles its priorities. So the answer is yes.

**Senator CROSSIN**—Mr Scott, given that this government announced during the election as part of its policy that it would undertake a review of ATSIC, has there been an increase in any particular line item in the budget for you to accommodate this cost?

**Mr Scott**—No, there has not been. ATSIC gets an appropriation and the board makes decisions on what the priorities are.

**Senator CROSSIN**—Can you give me an indication as to how much of your total funding is allocated to administrative expenses?

**Mr Scott**—The total allocation to administrative expenses is about \$154 million.

**Senator CROSSIN**—What is the total number of employees at ATSIC these days?

**Mr Scott**—I think the PBS quotes 1,217. It moves up and down, but it is around that figure.

**Senator CROSSIN**—What percentage of that would be Indigenous employees?

**Mr Scott**—Indigenous employment is running slightly under 50 per cent. It is a policy of ATSIC to watch that issue and get it to the most appropriate level we can.

**Senator CROSSIN**—Of the senior executive people in ATSIC, how many would be Indigenous Australians?

**Mr Scott**—Of the senior executive, 60 per cent are Indigenous. I am talking about the SES, the Senior Executive Service.

**Senator CROSSIN**—Sixty per cent of those in senior positions are Indigenous?

**Mr Scott**—Yes.

**Senator LUDWIG**—Where is Reconciliation Place up to, from your perspective as the acting CEO of ATSIC?

**Mr Scott**—I suppose my job here is also to try to convey the board's view. The board has made some statements about reconciliation. They are concerned about the ongoing process, where it has been a lost opportunity and is causing conflict. They do not have a view on it at the moment. They have received advice from the Sorry Day Committee and from the various people who were involved in the initial consultations and the reviews. The board has not had the opportunity at this stage to consider what has happened in the last month.

**Proceedings suspended from 12.59 p.m. to 2.03 p.m.**

**Senator LUDWIG**—I want to clarify something from earlier in the proceedings in relation to the quarantined area. My maths is not all that good sometimes, unfortunately, and I was trying to work out the percentages as against the amounts and then the income. I got \$165 million out of discretionary and \$790 million out of quarantine, which is \$955 million—I think.

**Mr Scott**—That is \$154 million operational and a further \$16.2 million in the capital use charge.

**Senator LUDWIG**—And that should all add up. What were those additional areas?

**Mr Scott**—Operational costs and capital use charge.

**Senator LUDWIG**—What are those last two items used for? How are they expended?

**Mr Scott**—The capital use charge is a cost which each agency pays back to the government in terms of its assets at the end of the year. It is about 1.4 per cent. The operational costs are just ATSIC's costs of operations both for the elected arm and for the administration.

**Senator LUDWIG**—Can you tell me how many community participation agreements have been started? Perhaps you could explain how the program has developed so far. What I really want is an update, if you can provide that.

**Mr Scott**—Under this program there is \$31.5 million provided over four years. What we have done with those allocations at the moment is to have a fairly in-depth study done into Mutitjulu to identify what the issues are. At the moment, we have commenced negotiations with three or four other communities about being involved in community participation agreements. What we have found, from these studies and from talking with communities, is that the real issue, the underlying issue, is a governance one; for these agreements to work, it requires a strong governance structure in the community itself. That is about where we are with it.

**Senator LUDWIG**—How much has been expended to date? As I understand it, there was \$30.5 million to provide capacity building and strengthen governance in remote communities over four years. So \$1 million of that has been provided in the first year and only \$4.5 million in the second year. Is that sufficient to meet the program expectations?

**Mr Scott**—We will be coming back to government and discussing just what the expectations are of those programs in due course. What has become clear is that a lot of effort in these areas is going to have to be focused on how strong the governance is in the communities themselves.

**Senator LUDWIG**—Do you do an audit of the program to see whether or not it is meeting your needs?

**Mr Scott**—Whether the agreements are meeting our needs?

**Senator LUDWIG**—Yes.

**Mr Scott**—The agreements themselves are part of the welfare reform approach where communities actually agree to participate in the process itself. The community actually identifies work programs and provides a degree of influence on community members to undertake activities which will then satisfy the participation test.

**Senator LUDWIG**—On page 144 of the portfolio budget statements under the heading ‘Welfare reform—Participation’, it says:

Negotiations begun with up to 20 communities, capacity building arrangements and participation agreements in place with 15 communities.

Could you detail how far the negotiations have proceeded and what types of capacity building there are? I am happy for you to take this question on notice. What I am actually trying to find out from you is the style and type of these arrangements. You have told me a bit, but perhaps you could be a bit more helpful by fleshing it out a little for us.

**Mr Scott**—If you want me to flesh it out more, I will take the question on notice.

**Senator LUDWIG**—That would be great. Could we get a copy of the style or types of agreements that they are? Are they a single type of agreement, as in one template that is modelled, or do you renegotiate each agreement as it comes up with a blank bit of paper?

**Mr Scott**—There are some models around, but it is renegotiation really.

**Senator LUDWIG**—If you have a couple of models, it would be helpful if you could provide them to the committee to help the committee understand what they are. Is that a yes?

**Mr Scott**—Yes.

**Senator LUDWIG**—I come back to my bad arithmetic again. Are those last two amounts quarantined or discretionary?

**Mr Scott**—They are discretionary.

**Senator LUDWIG**—So they sit in with the \$165 million?

**Mr Scott**—Yes.

**Senator LUDWIG**—Thank you. In the PBS it states that the aim is to establish 20 such agreements that we have been talking about in the next year and the funding allocation is, as I have said earlier, \$4.5 million. Will that be enough to establish the 20?

**Mr Scott**—That would be enough to establish 20, but I think the target is 94.

**Senator LUDWIG**—Have I missed that? What is the target?

**Mr Scott**—If we go back to the initiative that was announced in the budget measures last year, that is what the target was.

**Senator LUDWIG**—Was that the total?

**Mr Scott**—That is the total for the four-year period.

**Senator LUDWIG**—That is the total. How many have been finalised now?

**Mr Scott**—None have been finalised to date.

**Senator LUDWIG**—And the total is again?

**Mr Scott**—In the initial budget measures the target was 94 communities.

**Senator LUDWIG**—And one year in we have none of the 94?

**Mr Scott**—True.

**Senator LUDWIG**—Are we still on track?

**Mr Scott**—The first year virtually involved going through the program itself and working out the issues that we have to address in trying to get these agreements in place. We expect that we will have a significant number of agreements in place at the end of this year.

**Senator LUDWIG**—Are there problems you are facing with developing them?

**Mr Scott**—It is a new concept. It is another facility we can actually use to assist communities. We are working through the mechanics of how that is put in place now. The initial ones identified a number of major issues we have to deal with and we are working through those with other communities as we speak.

**Senator LUDWIG**—I am happy for you to take this on notice if you are not directly familiar with some of the detail. I understand that. From where we sit, it happens to us often. I am trying to ascertain whether the impediments were simply the machinery aspects of developing it or, hypothetically, the government not cooperating.

**Mr Scott**—The cooperation from Centrelink is there and it is not an issue. It is more about getting the concepts across and working out the mechanics from the point of view of the communities and a deep understanding of the requirements for implementing the program.

**Senator LUDWIG**—In response to *Bringing them home* the government's last budget announced, as you are aware, further funding for the program. The first package of \$63 million as a response to *Bringing them home* ends in July 2002. The new funding of \$53 million begins from July 2002, does it?

**Mr Vaughan**—The first four years of funding, the \$63 million, runs out at the end of June this year. The four-year extension therefore commences in July with an additional \$53 million over that four years.

**Senator LUDWIG**—Where is that money residing?

**Mr Vaughan**—It is essentially the same collection of programs as existed before their continuation with three basic changes. One is that the National Library oral history project, which was worth \$1.6 million over the four years, will be completed at the end of this year. The National Archives indexing project, which was \$2 million over the last four years, will also have been largely completed. The balance of \$9 million over three years from ATSIC for language programs has not been added into the \$54 million. We did not know whether ATSIC's intention was to continue those programs or not. That is the large part of the difference between \$63 million and \$54 million.

**Senator LUDWIG**—Can you help us with that, Mr Scott?

**Mr Scott**—ATSIC's contribution to those programs was twofold. One was a languages program worth \$9 million. That has not been maintained at the same level. It is about \$6 million now. A lot of those projects were terminating. They involved developing language packages and putting them together. We can provide details of that if the Senate wishes. It is down to \$6 million now. Access to effective family tracing reunion services of about \$4 million remains and continues.

**Senator LUDWIG**—Will all the moneys in the first package be expended by then? I am not sure whom I am directing this to, but it seems that it is a cooperative effort, so I am happy for Mr Vaughan to take the lead—

**Mr Scott**—In terms of the ATSIIC budget, it will be completed.

**Senator CROSSIN**—Are you able to provide us with a breakdown in each of those eight areas of what the total amount of expenditure to date has been?

**Mr Scott**—In each of the eight areas?

**Senator CROSSIN**—Were there not eight areas under the original—

**Mr Scott**—There are only two areas that are within ATSIIC. The rest were funding to the Department of Health and Ageing.

**Senator CROSSIN**—Perhaps I will ask the question of you both at the same time. Perhaps you could provide us with the total amount of funds that have been expended and are still outstanding to be expended under the \$63 million for the two programs in ATSIIC and for the other programs under ATSIIC.

**Mr Vaughan**—We will refer the question to the other agencies—to the Department of Family and Community Services and to the Department of Health and Ageing and so forth—to get some figures on their expenditure from their component of the original \$63 million.

**Senator CROSSIN**—Has there been any assessment or evaluation of each of the program areas to date?

**Mr Vaughan**—There has been a periodic progress report done by the Ministerial Council for Aboriginal and Torres Strait Islander Affairs covering both Commonwealth and state initiatives. Separate to that the Commonwealth has periodically produced a report on the implementation of its initiatives. At the moment, as a result of a decision taken at the ministerial council meeting earlier this year, there is to be an independent evaluation of government and non-government responses to the report. A consultant has been engaged for that purpose, and we would expect that that report would be available in about six or eight months time.

**CHAIR**—Could I get some clarification from committee members on how you would prefer to proceed. I have been trying to enable Senator Ludwig, and other senators in turn, to finish the particular components of their questions, deal with those areas and then move on to a new area. That usually facilitates getting through everything. I know that Senator Scullion has questions for ATSIIC, as does Senator Crossin. I would like some guidance from the committee as to how you wish to proceed so that we do this in the most efficient manner possible. We can just go in over each other until everybody is satisfied, but I have a real disinclination to be here still next Wednesday dealing with ATSIIC. So I seek some guidance from my colleagues.

**Senator LUDWIG**—I have got about another 10 minutes or so on ATSIIC, then I am happy for Senator Crossin to come in.

**CHAIR**—Is that all right?

**Senator SCULLION**—I would prefer to deal with the issues as they evolve, rather than waiting 30 minutes and then coming back to the same issue. I would like an opportunity to talk about the quarantined issues and perhaps the community participation agreements at some stage in between; otherwise it becomes too far away.

**Senator LUDWIG**—As I cover an area, like community participation agreements, I am happy to pause if there is any issue that Senator Scullion wants to deal with during that period. I do not have a difficulty with wrapping up an area and then moving on.

**Senator McKIERNAN**—I am working in tag with Senator Ludwig, playing the silent partner.

**CHAIR**—That is very helpful of you, Senator McKiernan; I am very grateful. Have we finished with *Bringing them home*?

**Senator LUDWIG**—Not as yet.

**CHAIR**—Let us finish with that, and then we will go back to the point that Senator Scullion wanted to pursue.

**Senator CROSSIN**—Has the new \$53 million package been allocated in the same way as the previous funds have been allocated? There will not be eight designated areas, I suppose; some have been completed. How will that be broken up and spent?

**Mr Vaughan**—It is a continuation of the previous programs, with the exception of the National Library program and the National Archives program—which were concluding programs, so the projects have finished—and with the partial continuation of the ATSI languages program, which is being reduced, as Mr Scott indicated.

**Senator CROSSIN**—Can you provide us with a breakdown of the \$53 million over the four-year period? You can take that on notice, if you like.

**Mr Vaughan**—I can give it to you in rounded terms, based on the original \$63 million. About \$11 million is for link-up services.

**Senator CROSSIN**—Are we talking about the new \$53 million?

**Mr Vaughan**—These are the figures from the original \$63 million. The amounts over the periods concerned are much the same. They have just been adjusted.

**Senator CROSSIN**—So you are giving me the \$63 million and \$53 million?

**Mr Vaughan**—No. I have given you the \$63 million equivalent of the \$53 million. I can take it on notice and give you the exact figures or I can give you a pretty close approximation now.

**Senator CROSSIN**—If you take it on notice and give us the exact figures, that will be fine.

**Mr Vaughan**—Okay.

**Senator CROSSIN**—Can you also provide us with a breakdown of funding to the individual program deliverers in each state and territory?

**Mr Vaughan**—Most of the program deliverers are community organisations, so it would be a breakdown of which community organisation—whether it be an Aboriginal medical service or an Aboriginal community link-up organisation—got the funding. We could ask the other departments if they could give us a breakdown in as much detail as they can, according to recipient.

**Senator CROSSIN**—All right. Page 138 of the PBS—output 1.7—states that 3,000 persons were assisted in Australia, with eight families traced and a 60 per cent client satisfaction rating. Can someone explain this output to us and why only eight families were traced?

**Mr Scott**—They are the details from the program deliverers. I can take the question on notice and come back to you with details on why the number appears to be so low.

**Senator CROSSIN**—To assist you in that, we want to know if normal procedures would lead to only eight families being traced and why it obtained a 60 per cent client satisfaction rating.

**Mr Scott**—I will take that on notice.

**CHAIR**—Are there further questions on *Bringing them home*?

**Senator LUDWIG**—No.

**Senator SCULLION**—I would like some clarification, Mr Scott. For the committee's benefit, I was lucky enough just recently to travel with Mr Scott to Urupunga and to participate in handing some land back. The time I spent with Mr Scott gave me a deep sense of appreciation about some of the administrative processes of ATSIC and Indigenous affairs. It was most illuminating. Perhaps it is my problem with arithmetic, but I came in with an assumption that some of the quarantined money figures were not quite right. I am trying to work out where I made the error—and I am sure it is me. Do the CDEP—which is the employment program—CHIP and the native title program total \$955 million? I think you said that that accounted for 82 per cent of ATSIC's program budget. I am assuming that that did not include your administrative costs from ATSIC?

**Mr Scott**—No, it did not. I could provide the details to the committee, if it would assist in clarifying the matter. The issue is that there is \$793 million which is tied up in CDEP, CHIP and native title. Over and above that, there is \$165 million for discretionary programs, giving a total program allocation of \$959 million, with operational costs at \$165 million and a capital use charge at \$16.154 million.

**Senator SCULLION**—You must have had some administrative costs in that. Can you tell me how much your administrative costs were in those three programs—CHIP, CDEP and native title?

**Mr Scott**—I have not apportioned the administrative costs across those programs. I kept them separate from that process, to clarify it.

**Senator SCULLION**—Can I confirm that, when you talk about CHIP, CDEP and native title, native title was about \$50 million?

**Mr Scott**—It was \$52.2 million.

**Senator SCULLION**—Okay, that was the right figure. Was that quarantined by government as part of native title?

**Mr Scott**—There is not a precise quarantining of native title. There is an allocation provided for native title; we have to be able to meet the costs of the native title rep bodies. There was an initial budget allocation, which the board has added to since then.

**Senator SCULLION**—I was just getting to the differences between specifically what the government has quarantined and specifically what was a determination of the board. That was where I was going. So the \$50 million was a determination.

**Mr Scott**—Yes. But, even at that level, we are finding that we are struggling to actually meet the requirements of the native title rep bodies within that allocation.



**Senator SCULLION**—Perhaps you can help me with what is left over. How much do the CDEP and CHIP programs cost in total? What is that as a percentage of ATSIC's total budget, including the administrative costs?

**Mr Scott**—I can get it to you in a few minutes—

**Senator SCULLION**—Perhaps you can refute it or otherwise, because I originally thought the discretionary issues, if you like, were around about 30 per cent of the budget. When you said earlier that it was a lot less than that—we were talking about 10 or 12 per cent—I was just a bit concerned that perhaps I did not include the administrative costs. Would that be right: the discretionary area is about \$350 million, which would be about 30 per cent of the budget? Would they be about the ballpark figures?

**Mr Scott**—It would be a bit less than that—but ballpark, yes.

**Senator SCULLION**—There has been a lot of discussion in the media, not in regard to ATSIC particularly but on issues associated with ATSIC—and they are not only within Indigenous communities but broadly across all the communities. One of those issues is family and domestic violence. As part of the discretionary funding, have you allocated any sort of funding towards trying to address that issue specifically through ATSIC?

**Mr Scott**—ATSIC has specific allocations for acute interventions in family violence. It funds a number of centres around the country. We found that, by starting to quote those figures, it was the only figure that was picked up by the media. What we are trying to promote here is that, if we keep just treating the symptoms of these problems and issues in Aboriginal communities, we only see a very narrow view of it and we do not actually get to the core of the problem. One of the reasons why we try to spread the outputs to CDEP is to give you an idea of exactly what they are covering. CDEPs themselves fund a number of night patrols around the country, a number of child-care centres, a number of women's programs, a number of cultural programs. Their breadth is as wide as that and the CDEP is trying to address, if you like, the causes of the issues in those communities. But that program alone cannot do that. To give you an example of that, under the CDEP output in the allocated statement, for prevention, diversion and rehabilitation there is some \$27 million apportioned. For care and community support services, there is about \$55 million, which involves CDEP participants undertaking activities specifically for family support and social wellbeing programs. There are specific allocations of about \$10 million made for programs including those for women and acute intervention.

**Senator SCULLION**—So you are saying it is pretty difficult to sort out one particular area. Because of the nature of service delivery they tend to cross over one another. Obviously, two or three of those programs you have talked about would have an impact on that. Have you allocated specifically any budget line to addressing the issues of family violence, for example? Do you have something which you identified and where you decided it was an issue so you would actually put that number down?

**Mr Scott**—I was not going to mention it, but yes: about \$4.9 million.

**Senator SCULLION**—About \$4.9 million out of the discretionary budget of about \$300 million or so?

**Mr Scott**—I suppose this is what I am trying to get to here. If we take a discretionary budget, do you think we have discretion not to employ staff and discretion not to maintain the councils and discretion not to run the legal centres?

**Senator SCULLION**—I am sorry, Mr Scott, I was just implying the discretionary as in quarantined. It is the discretion of the board, and I respect that. I am just trying to get to perhaps how you would prioritise some of the issues that are emerging in all our communities and how you are dealing with some of those. If it is \$4.9 million or \$5 million out of the budget, how do you come to that sort of number? Is that flexible within certain priorities? Do you review your priorities annually on those sorts of issues? How do you go about that?

**Mr Scott**—The priorities are reviewed by the board annually. There are adjustments at the margins throughout the year, but that sets the general trend on those.

**Senator SCULLION**—Do you get a sense of that \$4.9 million? Do you think the capacity for that \$5 million out of the \$350 million to adjust that would be something that you would be looking at?

**Mr Scott**—I think there is always capacity to do it. I think the board is placed in a catch-22 situation. If the board moves to start putting resources into these programs, which are properly the responsibility of other agencies, you then relieve that agency of responsibility. It is a catch-22 issue. The debate the board is trying to have here—one which is yet to be had—is about the difference between aid and intervention and development not just in Aboriginal communities but in society. We tend to err on the side of intervention to solve problems. It does not produce a stable result. That approach has been adopted in the Cape York report—the Fitzgerald report. It identifies the real dilemma between those two different approaches from government.

**Senator SCULLION**—Did you take that into consideration as well? Do you say, ‘There are other programs that should be delivering that, not us, so we wouldn’t allocate money to it’? Would that be part of the process?

**Mr Scott**—That is part of the process. ATSIC also tries to have a process where it provides seed funding, or source funding, in accordance with what money we do have where a greater amount of resources are directed, yes.

**Senator SCULLION**—I will go on to the community participation agreements. If I duplicate a question, tell me if you have already answered Senator Ludwig on this. I understand from the *Hansard* of the Senate estimates hearings in May 2001 you were saying you were setting yourselves up to be in position, and I understand from evidence given by Mr Sullivan there would be about four plans in place. I was not sure from the questions of Senator Ludwig just how far you got with those plans. Before we get to the plan, I understand also that there had been some undertaking to have some guidelines developed to assist in the development, so I would probably rather go to the guidelines first. Have the guidelines been completed? How are you going with that?

**Mr Scott**—No, the guidelines have not been completed. We are still working through those. In the communities we started working with, we now find a number of major problems in trying to get these agreements in place. What came out in the end was, again, how strong the community is. We worked with Mutitjulu originally and know that that did not prove to be the case. What underlies the sustainability of all programs we run is whether the community itself has the capacity to sustain and implement the programs we put in place. So we do not have those guidelines in place, but they are not too far off.

**Senator SCULLION**—In case I did not quite catch it, I understand you said Mutitjulu was not successful. Have you completed a plan at this stage?

**Mr Scott**—No, plans have not been completed as yet.

**Senator SCULLION**—Have you identified some other areas where a community has shown some interest and has the capacity?

**Mr Scott**—There are a number of communities around the country—in Cape York and a few in the north-west of WA. We are negotiating with them now as to whether they actually want to be involved in that. I hesitate to name them, given that they have not yet agreed.

**CHAIR**—I appreciate that.

**Senator SCULLION**—That is fine. As I understood Mr Sullivan, with regard to your previous undertaking, we were to expect by now to have the plans in place—and I respect some of the challenges you have had. We have got the guidelines in place. That was for the four plans. We were going to move the following year to 20, as I understand it, and then within four years to 100 of those plans. I guess once your guidelines are in place that will make that easier. Because of the evident lack of progress between May and now, how would you like to try to reset that agenda?

**Mr Scott**—I think I tried to preface some comments to Senator Ludwig that we need to come back and be rational and, if you like, adjust the expectation in the program itself.

**Senator SCULLION**—You alluded to some challenges in place in the communities in a cultural sense. Are you starting to get a feel for what those principal impediments are?

**Mr Scott**—In terms of getting these agreements in place?

**Senator SCULLION**—The guidelines and the agreements. It seems like a great opportunity but it is taking a long time to see a lot of effort. I just wonder whether you have identified some principal impediments, because there are clearly impediments we did not see in May last year.

**Mr Gooda**—Some of the impediments we are finding go to the heart of the problems we find generally in Aboriginal communities. One is the governance issue—the capacity of people to actually make decisions for their communities. That is where we are starting to focus the CPA process now: trying to identify and improve governance capacity in the community. If we had to nominate one issue at the moment, it would be the internal capacity of communities to make decisions that affect them.

**Mr Scott**—A lot of tension is created in the communities. Effectively the community becomes the breaching agent and will determine which community members breach the—

**CHAIR**—‘Breaching agent’, did you say?

**Mr Scott**—Yes. They will then be the persons responsible for breaching each of the participants. That creates its own internal tensions. A very strong mechanism to handle that is required.

**Senator SCULLION**—I have visited a number of communities where I can certainly see this program being very valuable. In fact, many of the activities you are looking at formalising are already being carried out—not under that scheme. I certainly look forward to the next set of estimates to get an update on that because I think it is a very valuable program. It is a bit disappointing that we have not moved further than we have.

**Senator CROSSIN**—Mr Scott, the fact the community participation agreement did not quite work at Mutitjulu would have very little to do with the fact that the previous CLP Northern Territory government took its rights to be a community council away from it?

**Mr Scott**—There were a number of contributing factors. We have yet to determine the crucial one.

**Senator CROSSIN**—Going back to substance abuse and family violence, the total amount of spending in that area is \$4.9 million?

**Mr Scott**—In terms of a specific program allocation, yes. That leaves out of the equation, which so often happens when people report on such an issue which is across all programs—

**Senator CROSSIN**—Are you able to give us a breakdown of different programs within that area?

**Mr Scott**—Yes.

**Senator CROSSIN**—I am also interested to know how much ATSIC spends on assisting people with legal aid and the allocation you put against night patrols.

**Mr Scott**—We do not have a specific allocation for night patrols. There are some specific programs, but a lot of them are run through the CDEPs themselves. We could try to get some data for you.

**Senator CROSSIN**—A night patrol program might actually be classified in your books as a CDEP?

**Mr Scott**—The CDEPs carry out a number of functions and there is a number of night patrols which CDEPs sponsor and actively support. Your previous question, Senator, was about the amount of money we spend on legal aid and law and justice advocacy. It is \$48 million—that is direct funding to Aboriginal legal services and advocacy organisations.

**Senator CROSSIN**—Would a significant amount of that contribute to people who might be taking action as victims of domestic violence?

**Mr Scott**—Some as victims, but also for the people who are brought before the courts to answer those charges.

**Senator CROSSIN**—What arrangements are in place with the Office for Aboriginal and Torres Strait Islander Health, particularly with regard to Indigenous substance abuse programs?

**Mr Scott**—ATSIC participates on the Indigenous Health Council. It has an MOU with the health department and OATSIH itself about aligning programs and generally coordinating our program efforts.

**Senator CROSSIN**—Do you have the same arrangement with the Department of the Prime Minister and Cabinet, particularly with regard to family violence projects?

**Mr Scott**—No, we do not.

**Senator CROSSIN**—Do you pool funding with OATSIH for those projects?

**Mr Scott**—No, we do not pool funding. We do not have resources in funding for substance abuse or health programs. They are more properly the responsibility of the Department of Health and Ageing, and we leave it there. There are some initiatives in terms of when ATSIC staff or ATSIC councillors get involved, and assist in those processes with resources going that way.

**Senator CROSSIN**—A number of issues came up earlier this week before the Department of the Prime Minister and Cabinet estimates in relation to the Partnerships Against Domestic Violence. Those funds for Indigenous family violence were actually cut from \$2 million last

year to only \$1.4 million this year. Were ATSIC involved in consultations on those funding cuts?

**Mr Scott**—Not really, no. There is a separate consultation process for determining where the PADV grants are allocated.

**Senator CROSSIN**—Did you, at any stage, advocate that there should be increased funding in that particular area when it comes to domestic violence in Indigenous communities?

**Mr Scott**—Yes, in our involvement in communities we have been advocating constantly for an increased effort in that area.

**Senator CROSSIN**—Are there any particular instances during the last 12 months or in the lead-up to this budget when you might have done that?

**Mr Scott**—No, I could not identify them.

**Senator CROSSIN**—They are too numerous to identify?

**Mr Scott**—Yes.

**Senator CROSSIN**—Is the \$4.9 million that you allocate to against domestic violence programs an annual budget?

**Mr Scott**—Yes, it is.

**Senator CROSSIN**—You are able to expend those funds on a yearly basis?

**Mr Scott**—Yes, the demand is much greater than that.

**Senator CROSSIN**—The Office of the Status of Women, in particular, yesterday morning were able to reveal to us they were not able to expend all of their funds in domestic violence in the last 12 months. Would that come as a surprise to you?

**Mr Scott**—Yes, mildly.

**Senator CROSSIN**—There was an underspend of \$4.3 million in Partnerships Against Domestic Violence by the Office of the Status of Women. Do you believe that, if you had been given an additional \$4.3 million in the previous 12 months, you would have been able to have spent that money?

**Mr Scott**—I am sure if we had an additional allocation we could spend the money. I am not aware of the circumstances that are facing the PADV program.

**Senator CROSSIN**—In other words, if you had been given an additional \$4.3 million, over and above any other funds, on top of your \$5 million, you might have been able to easily expend \$9 million in a 12-month period on against domestic violence programs?

**Mr Scott**—Yes, but it probably needs a comment about the responses of both Commonwealth and the states in terms of these programs and where ATSIC fits in that whole process. It is safe to say that each level of government operates on a pilot process for PADV and for these types of programs. Each level identifies the other level of government as having responsibility in running pilot programs, asking the other level to pick it up, and ATSIC is getting caught in the middle. It is happening continually.

**Senator CROSSIN**—My colleague Senator Scullion was asking you before whether perhaps you might have allocated only \$4.9 million from your funds to domestic violence programs—

**Mr Scott**—I tried to clarify that question from Senator Scullion. They are specific acute response family violence programs. That is not the range of programs that actually address the issue.

**Senator CROSSIN**—On the other hand, we find another department under this government actually underspends domestic violence programs by \$4.3 million, which you reassure me you would have been able to expend if you had had that money.

**Mr Scott**—ATSIC would have been able to expend it but, as I pointed out, I am not sure of the constraints that PADV are under.

**Senator CROSSIN**—There is a note that there has been \$470,000 allocated to Indigenous substance abuse programs through a petrol sniffing diversion pilot project. Do you have any involvement in that fund or is that again under the auspices of the Department of Health and Ageing without your involvement?

**Mr Scott**—Is this the one in the Pit lands? I am just trying to find it.

**Senator CROSSIN**—I do not have a page reference with me.

**Senator Ellison**—Where is it in the document?

**Senator CROSSIN**—I will have to find that for you. It will be in the blue—

**Senator Ellison**—That is the Ruddock statement of 14 May.

**Mr Scott**—That is the Health and Aged Care petrol sniffing diversion pilot program. There is some ongoing coordination and consultation on those programs. That is all we are involved in at the moment.

**Senator CROSSIN**—So you are involved in a consultative way, as opposed to direct expenditure?

**Mr Scott**—There is no joint funding.

**Senator CROSSIN**—So you do not control any of the programs or have direct access to the funds in those areas?

**Mr Scott**—No. Health and Aged Care have their separate consultative process to determine the allocation of those funds. They have the Aboriginal Health Council and the National Aboriginal and Islander Health Organisation.

**Senator CROSSIN**—The minister recently stated that about \$20 million will be spent each year to support 65 Indigenous substance misuse services. Again, do you have any arrangements or say in this funding?

**Mr Scott**—We are consulted in some of the areas where that funding is directed. That is through our involvement on the Aboriginal Health Council and our MOU with the Department of Health and Ageing.

**Senator CROSSIN**—But, again, you do not have any direct line responsibility for that funding?

**Mr Scott**—No, we do not.

**Senator CROSSIN**—Do you have any idea where those 65 services are based or what those 65 services are?

**Mr Scott**—The commission has knowledge of where they are. I could not tell you what they are at the moment, no.

**Senator CROSSIN**—Is that a question better asked of Health and Ageing?

**Mr Scott**—Yes.

**Senator CROSSIN**—Are you represented on the Alcohol Education and Rehabilitation Foundation?

**Mr Scott**—Not to my knowledge, no, we are not.

**Senator CROSSIN**—Do you know whether that foundation has an Indigenous representation?

**Mr Scott**—I would have to take it on notice; I do not know.

**Senator CROSSIN**—Thank you. We understand it is required to spend at least \$23 million over four years on alcohol and other illicit substance abuse projects targeting Indigenous Australians. Does ATSIC have any input into these projects or any arrangements with this foundation?

**Mr Scott**—I do not have specific knowledge of what our input to that one is. I will have to take it on notice and get back to you.

**Senator CROSSIN**—Thank you.

**CHAIR**—Thank you very much.

**Mr Farmer**—Madam Chair, may I just make a footnote on one of the issues that Senator Crossin mentioned.

**CHAIR**—Yes.

**Mr Farmer**—It is about the Prime Minister and Cabinet portfolio expenditure on the Partnership Against Domestic Violence Indigenous grants line. I am not sure—I just do not know, because it is not our portfolio—that it is accurate to say that there was underexpenditure against that item. In last year's budget papers, the budget estimate for 2001-02 on that item was \$2 million. But the estimated outcome for 2001-02 is \$3.3 million. So the estimated outcome is substantially greater than what appears to have been budgeted for last year. Footnote 38 on page 47 of that 14 May 2002 document talks about some rescheduling of the amounts. I am just pointing that out, because I am just not sure whether it is an underexpenditure.

**Senator CROSSIN**—There are a number of project areas under the DIMIA Partnership Against Domestic Violence. One is in the Indigenous family violence area, where we believe funds were cut by some \$600,000 last year. The second area is Partnership Against Domestic Violence 2, where the total funding in the previous 12 months has been underspent by \$4.3 million.

**Mr Farmer**—I will not press the matter. It was really the PM&C estimates.

**Senator CROSSIN**—That is accurate. We ascertained that yesterday. The \$4.3 million underspend has been rolled over for the coming years.

**CHAIR**—Thank you, Mr Farmer. There is one more question in this area from Senator Ludwig, but before I call on Senator Ludwig I want to acknowledge that we have a political delegation from New Zealand in the main committee room inspecting budget estimates—which, for a unicameral parliament, must be a fascinating experience. I welcome the delegation leader, Chris Carter, and members of the delegation. Thank you very much for spending some time in the estimates committee this afternoon.

**Senator LUDWIG**—Given this is our first meeting since the budget and we had only a brief experience at additional estimates I wanted to try to draw a map for the committee of the areas you look after. The portfolio budget statements do not give me a good snapshot, I have to say, although I know we are constrained by them. I accept that. They are a valuable tool in examining the accounts and outputs. Can I have a list of the programs and the way they are funded or the amount of funding provided broken down by state and region, if possible—providing of course it does not put you to task too much. That would be extremely helpful for the committee in terms of understanding the length and breadth of your operation. I am happy for you to take that on notice.

**Mr Scott**—We could provide the information fairly quickly.

**Senator LUDWIG**—Thank you very much.

**Senator SCULLION**—Mr Scott, unfortunately I was not around in the last estimates so I am not able to be right across these issues. There are a number of organisations that I am trying to get a structural understanding about. At the last hearings there were some discussions about the National Indigenous Development Alliance. Could you give me a brief update of exactly what that does?

**Mr Scott**—That organisation was established in Queensland and has NIS representation. It is an indigenous organisation; the board is indigenous. It was established for the purpose of creating an indigenous insurance network focusing on general insurance and funeral funded workers compensation and to develop alliances with the pastoral industry from an indigenous point of view. It has quite a broad mandate. It is only in its early developmental stages. ATSIC has provided some funding to date to get the organisation up and going.

**Senator SCULLION**—What other arrangements does ATSIC have with that organisation? What other support does it give it? For example, do you have members on the board?

**Mr Scott**—There are some members of the elected arm of ATSIC on the board. They are not there as members of ATSIC but as individuals from the community.

**Senator SCULLION**—So no ATSIC commissioners are actually on the board of NIDA?

**Mr Scott**—Three ATSIC commissioners are on the board of NIDA. When decisions are taken in respect of the organisation those commissioners are required to vacate the meeting.

**Senator SCULLION**—Who are those board members?

**Mr Scott**—Those commissioners are: the Deputy Chair of ATSIC, Ray Robinson; the commissioner for the Torres Strait, Elia Doolah; and commissioner Steve Gordon from western New South Wales.

**Senator SCULLION**—So the Deputy Chairman of ATSIC is on the board of NIDA, is that right?

**Mr Scott**—He is the chairperson.

**Senator SCULLION**—Are there subsidiaries or committees of NIDA?

**Mr Scott**—Yes. It has a subsidiary which is the investment arm. Ray Robinson is the chairperson of the subsidiary company.

**Senator SCULLION**—You said that they gave some financial support, grants, loans and that sort of thing. What form do the grants and loans take and where are we up to with that?

**Mr Scott**—There were a mixture of grants and loans provided in the vicinity of about—



**Senator SCULLION**—Perhaps you could take that number on notice.

**Mr Scott**—I will take it on notice and I will give you the exact figures. I am hesitant about this. This organisation is funded as a business. I would not want to do compromise or reveal any commercial issues.

**Senator SCULLION**—The issue of commercial interest has actually been discussed in this place. Could you tell me on notice how much money the company has made or would that not be appropriate?

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

**Senator SCULLION**—You say these are business loans. You say you cannot provide to me even ballpark figures on what sort of money ATSIC would have provided NIDA.

**Mr Scott**—I am not saying I cannot provide that. I just need to make sure.

**Senator SCULLION**—Today, I understand that. Roughly, a few million?

**Mr Scott**—About \$6 million.

**Senator SCULLION**—What is the process? Normally if you go to somebody for a loan you say, ‘You can have my house if I don’t pay it.’ What sort of security did you obtain for those loans?

**Mr Scott**—The security on these loans—and that is why it has taken a bit of time to actually get to terms with whether we should be promoting these issues—is over the insurance businesses that are to be acquired. I can get details back to you; I will take it on notice.

**Senator SCULLION**—You said that ATSIC commissioners are actually making decisions to fund or otherwise fund companies. When they are possibly themselves directors clearly there would be some conflict of interest issue. You alluded to some process where they stepped aside.

**Mr Scott**—ATSIC has, at both its regional council and board level, a fairly stringent governance process. Where there is any matter that a commissioner has an interest in they must vacate the room. That is strictly followed, but even more so in the case of these commercial dealings. The board does not make decisions on these; those decisions are made by officers as delegates of the board.

**Senator SCULLION**—When you are making an assessment, like any bank or loan institution, how do you go about assessing the viability of these NIDA things?

**Mr Scott**—We pursue the same processes as any commercial institution does. Other factors are brought into this. One strategic one here is: what Indigenous organisations around the country find an inability to acquire insurance cover? Part of these issues is trying to be strategic about how to get into those markets as well.

**Senator SCULLION**—Okay. Did you have some sort of report or did you ask somebody to provide some advice on that?

**Mr Scott**—One of the major accounting firms was engaged to do the due diligence testing and to do the financials on the firm itself.

**Senator SCULLION**—Who prepared that report?

**Mr Scott**—Deloitte.

**Senator SCULLION**—Is it possible to provide that to the committee?

**Mr Scott**—I would like to take that on notice and I will come back to you.

**Senator SCULLION**—Certainly. I do not need it now. Are you considering providing any further support to NIDA at the moment? How are they travelling?

**Mr Scott**—There are a number of submissions in for future development. We are considering those in the light of their current performance. It is the same for any business we would be supporting.

**Senator SCULLION**—I might just move on. Just to clarify in a general sense, is there some sort of policy that prevents ATSIC commissioners—I am talking about conflict of interest—being actually paid to be a part of other boards?

**Mr Scott**—No. ATSIC commissioners are full time. There are rules governing engagement in other businesses.

**Senator SCULLION**—Would they be paid, for example, to be members of the board of NIDA and NIDA subsidiaries?

**Mr Scott**—I am not aware that they are paid positions.

**Senator SCULLION**—Would you be able to find that out for me?

**Mr Scott**—Yes.

**Senator SCULLION**—I have one last issue, and perhaps it is a bit parochial as it is on the Northern Territory. Whilst we continue to cringe from advice from the newspapers, it has been widely reported there that the North Australian Aboriginal Legal Aid Service, NAALAS, made a decision to make an unsuccessful challenge on the appointment of the Chief Magistrate, Mr Hugh Bradley. Is that correct?

**Mr Scott**—It has been a long and involved process. Yes, that is correct.

**Senator SCULLION**—Did you actually approve that NAALAS would go and do those things? Is it the process that they would do that independently or that they would come to ATSIC and say, ‘Should we do it or shouldn’t we?’

**Mr Scott**—No. They were assessed in terms of ATSIC’s test case funding guidelines for supporting cases of this nature. They were supported at various times going through that process itself. ATSIC did endorse the approach.

**Senator SCULLION**—I guess the issue now is that NAALAS owes, as I understand, some \$500,000 in court costs to the Northern Territory government as a result of the challenge being unsuccessful. Will those funds be provided by ATSIC?

**Mr Scott**—ATSIC gave no commitment to look at those funds, but we have to negotiate with both NAALAS and the Northern Territory government about those issues. I understand there are negotiations happening at the moment.

**Senator SCULLION**—I don’t think it is appropriate that I inquire into those at the moment.

**Mr Scott**—No.

**Senator SCULLION**—It has been put to me that that is possibly not the best use of those funds. We have been talking about the values and qualities—a whole range of issues—associated with the expenditure of ATSIC’s funds. We have talked about domestic violence and those sorts of things. It has been put to me by individuals that there is going to be a negative effect on NAALAS when this is paid or when these sorts of proceedings are entered into. They believe that, if they wish to take the government on about the appointment of the

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believe that, if they wish to take the government on about the appointment of the chief magistrate, potentially at the end of the day Aboriginal people may not be represented as a consequence of that loss or those moneys being expended. What would you say to that?

**Mr Scott**—NAALAS made that decision in full light of what the implications were. We have ongoing discussions with the organisation itself about the impact that cost could have on their service. We would be interested in not diminishing in any way the service provided to Indigenous people in the Northern Territory.

**Senator SCULLION**—Indeed. So you are just reiterating that—

**Mr Scott**—That is why we are negotiating with the Northern Territory government.

**Senator SCULLION**—You did not have anything to do with the decision to proceed with that, in any event.

**Mr Scott**—There are test case funding guidelines, which are issues about setting precedents where there are issues of national significance or significance to Indigenous people. This was assessed as one of those which should be supported.

**Senator SCULLION**—Thank you, Mr Scott.

**Senator COONEY**—Senator McKiernan and I won't be here next time. It is a pity we didn't have an opportunity to discuss matters with the Indigenous affairs department and ATSIC prior to this, but we both remember that ATSIC has been a most successful organisation. We would both well remember when it was set up by Gerry Hand. I would like to congratulate ATSIC on the way it has worked over the years and developed to where it has got to, and its leadership. You would remember all this, Mr Storer. You are in the department now, but you would remember Gerry Hand and how he got this going. I would like to pass on my admiration for the work done by the Aboriginal and Torres Strait Islander Commission over the years, and its head, including the present head, Geoff Clark, who is a good Victorian, may I say.

**Senator McKIERNAN**—Senator Cooney's remarks make particular mention of Gerry Hand, who was minister in both portfolio areas when he served in government. I wish he were back because we could do with his advice in a number of areas at the moment.

**CHAIR**—Mr Scott, I thank you and your officers very much for your assistance to the committee today. You have taken a number of issues as questions on notice. As I indicated this morning, the committee has a return date of 5 July 2002. If you could assist us with responses, we would be grateful.

We come to outcome 3, Sound and well-coordinated policies, programs and decision-making processes in relation to Indigenous affairs and reconciliation (formerly DORATSIA) and output 3.1, Indigenous policy. As there are no questions, it would seem, Mr Vaughan and Mr Farmer, that the wants and desires of committee members in this area have been completely sated by this morning's discussions in the general area and in the last hour or so with ATSIC. Mr Vaughan, thank you very much for your assistance to the committee today. I do not specifically recall whether you did take any questions on notice this morning—you did; you look at me regretfully. If you would assist the committee by returning those responses by 5 July, we would be grateful.

[3.06 p.m.]

**Department of Immigration and Multicultural and Indigenous Affairs**

**CHAIR**—The committee moves with astonishing speed to consideration of the immigration and multicultural affairs component of this portfolio area. As indicated, the committee will be relocating its deliberations to committee room 1S4 tomorrow morning. We are meeting with the tribunals tomorrow—MRT, RRT and the MARA—so we will move straight to outcome 1, Contributing to Australia's society and its economic advancement through the lawful and orderly entry and stay of people.

I also note that I understand this week there is a number of representatives from the New South Wales Legislative Council in the parliament observing the estimates process with a view to applying aspects of our estimates process to the New South Wales Legislative Council. I would like to acknowledge the Hon. John Jobling MLC, opposition whip in the New South Wales Legislative Council, here in the committee room today as part of that process. I hope that watching our estimates proves to be illuminating for you, Mr Jobling.

**Senator McKIERNAN**—Come and see us at 11 o'clock on Friday night.

**CHAIR**—It is a very pretty picture then!

**Senator McKIERNAN**—Not a pretty picture, speaking for myself!

**CHAIR**—Senator McKiernan, are you commencing in this area?

**Senator McKIERNAN**—Thank you. I notice we have also in the room the distinguished former director of the immigration department from Western Australia, Mr John Williams. I am almost inclined to invite Mr Williams to the table and direct some questions to him. Mr Williams is currently the distinguished director in Victoria, and I thank him, on the record, for all the assistance he has given me and my office in Western Australia, and I wish him all the very best for the future.

**CHAIR**—Thank you, Senator McKiernan.

**Senator McKIERNAN**—Mr Farmer, one of the individuals who is no longer with us in front of the table today whose company we have enjoyed over the years when questioning aspects of the department's work is Ms Jenny Bedlington. Ms Bedlington was a former first assistant secretary of the department. I am given to understand that Ms Bedlington retired from the department in recent times and there was some form of farewell function for Ms Bedlington on that day but, in order to save money, that function also served as a welcoming function. Ms Bedlington was engaged on that day as a consultant to the department. Can you give the committee some details of that—or confirm or refute the assertions that I have put on the table?

**Mr Farmer**—Could I just make a general statement about the Public Service and departmental practice in this area. Part of the demographics of the Australian Public Service in this current period—for a few years past and I suspect a few years in the future—is that a number of officers are leaving the Public Service essentially because the old Commonwealth Superannuation Scheme presents them with choices which are quite difficult choices. In a nutshell, it is that, because of what many people would regard as anomalies, officers who retire at 54 and a little bit will receive a larger pension at the age of 55 than they would if they worked through to the age of 60 and, in some cases, beyond.

This is a phenomenon known in every Public Service department, because there has been some exodus of senior and experienced officers who are of great value to the service. Such officers are able to re-enter the service as less than full-time public servants after retiring. They are paid as public servants. That happens in a number of cases. There are a number of

such instances in DIMIA; there are many instances throughout the Public Service. In Ms Bedlington's case, she has been re-engaged as a part-time public servant—not as a consultant—and I have the benefit of her continuing service.

**Senator McKIERNAN**—I was not particularly picking on Ms Bedlington. In actual fact I was attempting to recognise her contribution to the work of the department and the assistance that she has given to the committee over quite a large number of years now and to recognise that we are still going to have that body of information and knowledge that she has accumulated over the years. Nonetheless, it is odd, and it is odd from the community's perspective, that a senior public servant can so retire. I do not want to talk to you particularly about Ms Bedlington. You mentioned that there are a number of such individuals within the department of immigration. How many would that be?

**Mr Farmer**—I could get the figures for you, Senator. I can think of half-a-dozen or so, but I could take that on notice, if you would like.

**Senator McKIERNAN**—Yes, please do so. At the senior level within the department, how many would there be and how far down the departmental chain of command would these provisions of the Commonwealth Superannuation Scheme provide benefit to the individuals? Does it go right down to the bottom level?

**Mr Farmer**—Yes. Superannuation matters are very complicated but, essentially, the old Commonwealth Superannuation Scheme delivers different results for different people. It is quite a complicated formula that does that. Essentially, it means that, while I turn 55 on 10 June, the scheme does not work for me. So, in other words, I am chained to the desk.

**Senator McKIERNAN**—You are actually younger than me, Mr Farmer?

**Mr Farmer**—Yes, but you are better preserved, Senator. I think healthy living and clean thinking is your success.

**CHAIR**—I am not going there.

**Mr Farmer**—It does apply differently for different people. Typically, it will deliver that particular anomalous but attractive result for people who have long periods of service, including long periods at senior levels. When I talk about senior levels, that includes people at the executive levels as well as those in the SES.

**Senator McKIERNAN**—Because of the train of discussion and dialogue we have got into, I am regretting mentioning Ms Bedlington's name now. Can I try to even up the picture by mentioning my own. In recent times, I have made inquiries about my own superannuation package and what that will provide to me. I have only done that in very recent times and I have not signed the forms yet, because superannuation is not something that has been at the forefront of my mind throughout my career or even in these latter stages of my career. But one of the things I have been informed about is that, were I to take on public office at the conclusion of my parliamentary term, the pension I would receive from my superannuation would be reduced proportionate to the amount of income I might or might not earn in another office where public money is expended on me. Do these same provisions apply within the Public Service?

**Mr Farmer**—The schemes are very different. That is the starting point, so it is very hard to compare them.

**Senator McKIERNAN**—I accept that. I was not making a direct comparison but just trying to depersonalise the argument that I—

**Mr Farmer**—Yes. Many officers—I do not know what proportion—would defer their pension for a period.

**Senator McKIERNAN**—Would a person joining on a part-time basis be paid according to the remuneration in the agreement within that department that is applicable to the Public Service regulations or are there special provisions to make arrangements for persons employed on a part-time basis as opposed to a consultancy?

**Mr Farmer**—That is right. It will vary from case to case. As with every Public Service appointment, you can appoint under the certified agreement; you can appoint with an Australian workplace agreement; and, outside the employment as a public servant category, you can employ as a consultant. So there are at least those three options available.

**Senator McKIERNAN**—Thank you very much. Before I leave this theme, are there any former senior employees of the department currently engaged on a consultancy basis?

**Mr Farmer**—There is at least one.

**Senator McKIERNAN**—And are those consultancies noted in the department's annual report at the end of each year?

**Mr Farmer**—I would very much hope so, yes.

**Senator McKIERNAN**—Is the individual identified as an individual or as a company whose identity might not be revealed through that process?

**Mr Farmer**—I will have to check. The person I refer to is an individual, and I believe they work as an individual and not as a company, but I will have to check that.

**Senator McKIERNAN**—Thank you. I should be grateful if you would. I am not exactly sure where this fits, and there may be nothing in it, and I am not using any names, but I have received some disturbing information regarding some unreceipted cheques, amounting, I am told, to the value of some \$20,000, being found at the Parramatta office of the department. I have been told that some investigations have gone on into this matter, and I would like to have further information about it—either confirmation or refutation of the allegation.

**Mr Farmer**—Certainly, the colleagues I have here tell me that they are not aware of this allegation.

**Senator McKIERNAN**—I have been informed that contact was made with the Commonwealth Ombudsman to investigate not so much the finding of the cheques but the order for the individual who found the cheques, which were unreceipted, to shred them. Would that knowledge help?

**Ms Gray**—If I could respond, I have not heard anything about that situation, but I know that there is an extensive audit program, both internal and external, looking specifically at financial assurance and the issue of receipting cheques and that sort of thing. I am surprised that I have not heard of it, but we can certainly look into getting more detail on it.

**Senator McKIERNAN**—Thank you. Would what you have described be the normal processes within the department and not something special to deal with an allegation like this?

**Ms Gray**—That is right.

**Senator McKIERNAN**—I am pleased that I have not used names. Can I go back to my source and could you possibly come back during the course of today or tomorrow if we can get some more information in regard to that?

**Mr Farmer**—We would be very happy to do that, Senator. Even if you are not able to do that, you have said ‘cheques, \$20,000, destroyed, not entered, Parramatta office’—given us that range of detail. ‘Parramatta office’ alone is enough for us to make inquiries.

**CHAIR**—Thank you, Mr Farmer.

**Senator McKIERNAN**—I am put in a difficult position with things such as this. If information is given to me I feel that I have a responsibility to bring these things forward in as open a manner as possible. Some names have been mentioned to me but I have a habit, as most people would be aware, of not using names in a public forum until allegations are proved or not proved. In any case, the role for that is with the law enforcement authorities rather than with parliamentarians such as me. The allegations go on to involve the Rockdale office and the issuing—it is alleged—of some 19 visas to foreign nationals who were studying in Australia in contravention of section 5 of the act. I have been informed that they had been diagnosed by the commonwealth medical officers as having tuberculosis and that in fact they should not have been given student visas in the first instance. But they were given visas. I am also informed that inquiries are proceeding about the issuing of these visas.

**Mr Farmer**—This is a separate matter.

**Senator McKIERNAN**—This is in relation to the Rockdale office but the allegations come in the same form of correspondence.

**Mr Farmer**—We will check that. Can I make a statement? I would expect any officer of the department who has any information of this sort to make that information available to the department. We have an internal investigations process which looks at exactly this sort of matter. It is a process which finds that in a number of cases—and I am sorry to say this—there are people who have done the wrong thing. We take that very seriously and take appropriate action. Equally, in a number of cases it finds that there is nothing to substantiate an allegation. But the central fact is that if there are allegations, and if people have information, then it is important that the existing departmental procedures are followed.

**Senator McKIERNAN**—Thank you for that assurance. It is as much as I expected on this matter. Somebody in the room has a mobile phone; I can smell them from a long way away. We have a receptacle here full of water which will stop the ringing very promptly. It can be very distracting when mobile phones go off, as we realised last evening on one particular occasion. We again plead for them to be turned off.

Thank you, Mr Farmer, for that information. It is in fact what I expected. Part of my reasons for bringing it here—apart from those obligations that I mentioned earlier—is that the person has indicated that they have raised it with a number of my parliamentary colleagues, including some I will not name and who might have previously instituted inquiries in these areas.

On overseas posts, the matter of Moscow has been raised with me regarding possible breaches of the charter of service on the issuance of visas by officers in the post in Moscow. Have there been any inquiries or investigations of untoward activity with DIMIA personnel either A-based or locally engaged staff in Moscow?

**Mr Metcalfe**—There have been inquiries from time to time about the activities of, as I recall, locally engaged staff at the Australian embassy in Moscow. As the secretary has indicated we have an active, well-resourced internal investigations program that has looked at that particular issue. From what you have said I am not sure whether you are referring to a current matter or something from the past.

**Senator McKIERNAN**—It is something in the relatively recent past.

**Mr Metcalfe**—I will have to check as to whether there is anything in the relatively recent past. From memory, there was an employee dismissed in the last 12 months or so. If there are any further details you might be able to give me privately I could follow it up and either advise you on the record or off the record, depending on the particular issue you are raising.

**Senator McKIERNAN**—It was in the last 12 months. I would appreciate your coming back to the committee with some details on this. I will not be around next time to chase the matter through. It can be relayed through to other colleagues who have asked me to press further.

**Mr Metcalfe**—If it is possible for me to return to you on this issue while we are before the committee, I will. I will ask for some checks to be made while we are here. If it is an ongoing matter I may have to say that and I will not be able to go into much more detail than that. I will provide what I can. I am conscious of your timetable, Senator.

**Senator McKIERNAN**—Thank you for your assistance. I was recently in the fair city of Dublin. What is happening with the issuing of migration and working holiday visas in Dublin? I preface my question with one of the things I claim to have achieved during my albeit brief parliamentary career. One of the things I noticed when first entering this place is how migrant figures used to be recorded. It got up my nose to see that persons who were born in the Republic of Ireland were recorded in years gone by as being from the United Kingdom of Great Britain and the Republic of Ireland. I asked why those figures could not be separated. For a number of years past it has been recorded. The distinction of the two countries is now clearly recognised by the immigration department; however, I wonder if that distinction is going to be blurred in the future by the closure of the immigration visa issuing office in Dublin. Is that the case?

**Mr Farmer**—I will just make a couple of introductory comments. As Irish nationals are now captured by the ETA—the Electronic Travel Authority—scheme, those who want to travel to Australia for tourism purposes do not need to go to the embassy for a visa. They are able to get their ETA with their airline ticket. Similarly, we are moving to expand the range of electronic services that would be available to a number of nationalities, including the Irish. I am going to ask Mr Rizvi to face up to the fast ball, but that is an introductory remark to let you know that basically the need for full-time officers servicing a visa load in Ireland has gone down very dramatically in past years. If anything, that will continue and increase because of the way in which we are carrying out much of the workload now.

**Mr Rizvi**—You are right to point out that in the past we did report the United Kingdom and Ireland in that way.

**Senator McKIERNAN**—I was right to have it corrected as well, wasn't I?

**Mr Rizvi**—Quite right, Senator. That reporting related to a desire to maintain statistical data in a series for as long as we could. Clearly we could not continue in that way, and you are quite right in saying that we changed it. Most of the visa issuing reports that we put out—for example, in our document 'Population flows', which is quite comprehensive on visa data—are done on the basis of the citizenship of the person who is granted the visa. That will be unaffected by any changes in the way visa issuing is done overseas. We will continue through our systems to be able to report on visas issued by citizenship.



**Senator McKIERNAN**—Just to clarify, that means that, if somebody in the fair country of Ireland wanted to get a visa to come to Australia, that application would be made electronically to the travel agent. Working holiday visas are not electronic yet, are they?

**Mr Rizvi**—They are not electronic yet. We have plans afoot to enable electronic issuing of working holiday visas from 1 July 2002, when we will be starting to test. Those visas will be issued via a person logging on to the Internet and that interaction takes place with our systems here. That would have nothing to do with any other overseas post.

**Senator McKIERNAN**—Things will not have to be vetted in London, in The Strand?

**Mr Rizvi**—No, certainly not for working holiday visas. A narrow range of visa types may be done in London, but the vast majority of visas will not go through London.

**Mr Metcalfe**—This is all part of some extensive work that we are engaged in to modernise the way that we manage applications to try to provide benefits for clients while at the same time keeping a very close eye on the integrity of the overall system. Increasingly, as we have discussed on previous occasions, the old paradigm that work was done where work was lodged is no longer applicable. For example, with migration applications in the independent category, people now apply to our office in Adelaide and the office processes the work and as necessary involves overseas posts in that processing. The electronic travel authority has been with us for 5½ years now and it has obviously revolutionised the way that visitor visas are provided for in the high-volume, low-risk countries which make up over 80 per cent of all our visitor visas. Those changes are now reaching into other visa categories, such as working holiday-makers.

In answer to your original question as to our presence in Dublin, my recollection is that we have not had a A-based officer—an Australian migration officer—present in Dublin for some years. We currently have around four locally engaged employees who are supervised by foreign affairs staff and less directly by our post in London. The issue as to our continued presence in Dublin is a matter that is currently receiving consideration but no decisions have been made.

**Senator McKIERNAN**—I was recently in Dublin so I am aware of some of this. I might make the comment, though, that with the A-based staff in Dublin there are no language difficulties. It is very easy to understand those people when you are talking with them. That concludes my general questions. Obviously, I have a range of questions that span the other outputs of the department which we will be coming to in the next two days.

**Senator CARR**—It has been brought to my attention that a diary of multicultural events for 2002 is published by the department. On the date of Wednesday, 10 April, Croatian Independence Day is listed. I am told that that is not in fact Croatian Independence Day. It is the day that the Ustashi were successful in seizing power in the 1940s. Croatian Independence Day is, in fact, 30 May. I am wondering if that is true, and how we would get a situation where the wrong dates are being published in the diary of multicultural events?

**Mr Vardos**—My understanding is that that date was selected after a community consultation process with the Croatian community. It has been pointed out that it is perhaps an inappropriate date. The minister is aware of it. We are taking those issues into account in the printing of next year's diary. But I emphasise that that date emerged as a consequence of a community consultation process.

**Senator CARR**—Who made up this community consultation? You have indicated that you think it might well be an inappropriate date. I would have thought that 10 April is regarded in

other quarters as being a date more to do with World War II than with the Ustashi. The official date, as I understand it, is 30 May but you can tell me if I am wrong on that score.

**Mr Vardos**—I am not an expert on modern or post-World War II Croatian history but I do note that the community has emphasised that there are concerns with that date. We have noted it and we will deal with it in the next printing of the diary.

**Senator CARR**—I appreciate that you are going to correct the error. My question goes to the nature of the consultations that led you to make the error in the first place.

**Mr Vardos**—I cannot give you a direct answer to that as I was not involved at the time. The officer who would be able to help is not here yet. I will certainly try to answer the question before the end of these hearings.

**Senator Ellison**—We can deal with it when we get to that output and the officer is here.

**Senator CARR**—Perhaps you could be advised that I would be interested to know who made up the community consultations that produced the wrong date.

**Mr Vardos**—Yes, that is noted.

**Senator COONEY**—I will just follow on from what Senator McKiernan was raising with you, Mr Farmer, about the position of Ms Bedlington—who, I might say, bore the burden of what some might say was excessive examination when she was in the department. I cannot see anything wrong with the process, given, as you say, that 55 seems to be the age that the superannuation system is set up to encourage people to retire at. I just want to make a comment which may throw some light on my examination later on. I am going to ask, particularly when we get to outsourcing, how much people are paid and what people get under those contracts. Mr Metcalfe and you, yourself, Mr Farmer, will say ‘We would like to give you help there but this is going to be commercial-in-confidence.’

What strikes me about the system is this: you, as public servants, stand up for people from the private sector who do not have to bear the burden of examination in the way that Ms Bedlington did and in the way that you, Mr Metcalfe, have on occasion—indeed, in the way that other people at the table have on occasions. If I ask you what her superannuation is, how much she will get and what the processes are you will tell me because she is a public servant. It just seems to me most unfortunate and most unfair that public servants can be, at times, badgered—not that people like Senator Carr and me would badger anybody, but other people might—

**Mr Farmer**—I think more of sharks than badgers.

**Senator CARR**—That is quite a compliment coming from you, Mr Farmer.

**Senator COONEY**—This is sort of a farewell speech in lots of ways, I suppose, but I do think that this system is set up to, as it were, put public servants under pressure. We have them come along here and be subjected to all sorts of questions and have their wages revealed. If I ask you what your wages are, you have to tell me. If I ask where you have been and you say, ‘Yes, I have been overseas,’ then I ask how much it cost and you have to tell me. But when I ask questions in reference to the private sector, which is using public money in the same way as you are, there is a defence put up. I just think it is very poor, and when I come to ask questions later on about contracts with Australasian Correctional Management and other topics like that, I hope something is said.

I think it is time that the way estimates committees are conducted, and the people who are examined before them, changed. I see no reason why we should not start to get major

contractors in, at least, to ask them questions. I hope when we come to ask about these things later on that you will be ready to give some answers about contracts, what moneys are paid and how they are conducted. I really do not see why people like Ms Bedlington should have to defend what is, in fact, the work of private contractors using public money entirely.

**CHAIR**—There is a mobile phone ringing.

**Senator CARR**—That is Senator McKiernan, isn't it? Senator McKiernan has got a phone.

**CHAIR**—I do not have a jug of water that big. Could you please turn mobile phones down or off.

**Senator ROBERT RAY**—I just had a couple of general questions. But firstly, Chair, I am seeking an indulgence from you. Senator Faulkner is at a funeral and will not be back here for this committee until five o'clock. I was wondering whether you could return to general questions for half an hour then—he did have half an hour's worth. I did not want to pad out by inventing a whole range of questions to keep general questions going until then. I thought it would be a much better arrangement, with your indulgence and with the committee's indulgence, if that could be so ordered.

**CHAIR**—Thank you, Senator Ray. I appreciate your raising that. I have discussed it with the Deputy Chair and we will do that when Senator Faulkner arrives—and we appreciate you not padding.

**Senator ROBERT RAY**—I have only got a couple of general questions. I have a broad question on asylum seekers and it may be more suitable for a specific program. If you do not have the information, Minister and secretary, you might like to take it on notice. In this financial year, from 1 July up until now, I want to know how many asylum seekers coming to this country by way of boat have come directly from the country that they are seeking asylum from. I suspect the answer is nought—that is, that they have spent some time in another country before then embarking for Australia. Have you any idea of that—ballpark and then accurate figures?

**Mr Farmer**—I can give you a ballpark answer, which is that a small number of people have arrived directly. Just offhand, I think it would be in the low three figures—it might not even reach three figures. I believe we have had some direct arrivals from Sri Lanka and Vietnam, if I remember correctly.

**Senator ROBERT RAY**—But I take it that that, as a percentage, is an extremely low figure.

**Mr Farmer**—It is a low figure. We can get you the precise figures.

**Senator ROBERT RAY**—Yes, if you could. It seems to me that the philosophy of border protection is very much dominated by that figure. Is there any thought being given to what might happen if that very low figure suddenly explodes? I think there is quite a different philosophy to be applied to people coming directly as opposed to those that come via somewhere else. Even though there is no threat at the moment of a large number of people coming directly, has the department any plans to deal with that, in a philosophical sense?

**Mr Farmer**—In a philosophical sense, yes, we do think about that, without perhaps talking about particular countries.

**Senator ROBERT RAY**—I have not mentioned a country deliberately.

**Mr Farmer**—One of the issues we have thought about in connection with, for example, the possible construction of a centre in Darwin is that we may at some stage receive direct arrivals, and they could be people who have transited other countries or people coming directly from their own country who may need to be processed in Australia. As you know, we have been thinking about a long-term strategy to deliver to the department what we have not had, which is purpose-designed and built centres which make it easier for us to manage the centres in the way we would want. For the last few years we have been developing centres very much on the run because of the very steep rise in numbers since the latter half of 1999. In thinking about that strategy one of the things we have had in mind is that, notwithstanding the other steps that are being taken offshore and on Christmas Island and so on, there might be needs onshore in the future.

**Senator ROBERT RAY**—The other great distinction, if you were getting people directly and processing them, is that normally you look for a third country for resettlement, not necessarily Australia. At least that has happened in many other countries that have received asylum seekers first off. They are processed and then third-country resettlement is sought—rather than being a massive magnet. I do not suppose you can start talking to other countries about this because it has not happened, but have you given thought to how you would deal with that?

**Mr Farmer**—Again, without wanting to talk about a particular country—we can have our own understandings on that—in our recent history we have not had significant numbers of direct arrivals. We had numbers of East Timorese who were given temporary safe haven a couple of years ago and accommodated in Australia and then returned. In terms of a significant influx running into thousands of people on direct arrival, those people would, as usual, be processed and if they had claims that raised protection issues we would go into those. We are a bit different from one of the countries in Africa or in, say, the subcontinent or South-West Asia which have received massive inflows of people. We have had inflows which are large by our standards but not large by that sort of standard. If you did have that large influx of direct arrivals who raised protection issues and who were found to warrant protection, what would we do? Would we do what we have traditionally done—that is, resettle people in Australia—or would we look for some broader settlement? I do not think that particular issue has been addressed as a live issue in any detailed way.

**Mr Metcalfe**—I can give you the precise statistics that you were after at the beginning, if that would help bear out what the secretary said. There have been a total of 3,648 boat arrivals this financial year.

**Senator ROBERT RAY**—Sorry, I should have made my question more specific: boat arrivals that have been processed in Australia or relocated to Nauru or Manus.

**Mr Metcalfe**—This is the total of people who either came to mainland Australia or, since the arrival of the *Tampa*, have not reached the mainland but have been processed in Nauru, Manus, Christmas Island or Cocos Island: 3,648 arrivals. The only people who I think we would regard as having come directly from a country of origin were on two vessels from Sri Lanka. The first had 65 passengers and six crew. The second had 62 passengers and six crew. That is a total of 139 persons. One vessel from Vietnam had 29 persons and two crew—a total of 31. So it is a small percentage of the total. The others would have come to Australia via Indonesia. There is the issue with the Vietnamese boat in that I suspect it probably would have touched land along the way, but it was a continuous voyage. It may have stopped for refuelling or reprovisioning in Indonesia on the way to Australia.

**Senator ROBERT RAY**—Thanks.

[3.51 p.m.]

**CHAIR**—We will go to outcome 1.1, which was the previous discussion under outcome 1.

**Senator CARR**—I will begin with the student visa regulations. Can the officers please indicate to me what the number of or percentage increase in student grants was in the last 12 months? Do we have that information available?

**Mr Rizvi**—We can give you a year to date figure for this financial year.

**Senator CARR**—If you can.

**Mr Rizvi**—In terms of the figures year to date, in the period from 1 July through to the end of March 2002, the number of visa grants offshore—that is, at our overseas posts—was 71,306.

**Senator CARR**—Do you have that in percentage terms? What sort of an increase is that?

**Mr Rizvi**—Compared to the same period the previous year, that is an increase of approximately 10 per cent.

**Senator CARR**—Would you have the figure for the year before that? Could we get a trend line on that?

**Mr Rizvi**—For that exact period, I would have to take that on notice.

**Senator CARR**—Take that on notice, just to give me an accurate figure. Could I put it to you in general terms: in the period 2000-01, I understood that the increase was some 23 per cent.

**Mr Rizvi**—That figure rings a bell for the 12-month period.

**Senator CARR**—Can you confirm that the figure was 23 per cent?

**Mr Rizvi**—That is comparing 1999-2000 with 2000-01?

**Senator CARR**—Yes.

**Mr Rizvi**—Yes.

**Senator CARR**—You can confirm that?

**Mr Rizvi**—I have a piece of paper here which suggest it was 22 per cent. That is not necessarily comparing like with like, because that increase relates to the total global increase. It includes onshore visas.

**Senator CARR**—I want a comparison. I want to know if we have an increase in the number of overseas students in the country compared to the previous year, and what is the rate of increase. I would like a trend line on it. It was put to me that we may well be entering a period where there has been a saturation of the overseas student market. That is, the number of students coming to Australia may not be growing as fast as it has in previous years. The industry may well be reaching a plateau in terms of its development. Do you have any figures on the growth rates over a period of time to give me an indication of whether or not that is true?

**Mr Rizvi**—I do not have all those figures here right now, but we can certainly provide those. As a general observation, I would say that over the last four years there has been very steady growth in the number of student visas granted offshore and that growth has continued this financial year.

**Senator CARR**—Is the rate of growth at the same level as in previous years or is there a decline in that growth rate?

**Mr Rizvi**—If you averaged the previous four years we would be on the trend line.

**Mr Farmer**—Senator, why don't we give you the figures for the last four years.

**Senator CARR**—Thank you. I do need to establish that. Can you give me any figures on the number of student visa cancellations?

**Mr Rizvi**—As you are aware, on 1 July 2001 we moved to a somewhat different system of visa cancellations. It was a more comprehensive system in terms of visa cancellations. As a result, if you compare straight visa cancellation numbers this year with numbers in previous years you are not necessarily comparing like with like. I can say that the total number of visa cancellations for the financial year to date is substantially higher than for past years.

**Senator CARR**—Can you give me the absolute figure and the percentage figure?

**Mr Rizvi**—I will give it to you right now, but I would like to reinforce the caveat that we are not necessarily comparing like with like. The totals for cancellations by the various powers we have there were: 3,308 for 1999-2000, and 3,990 for 2000-01. Projecting from the figure for the period until 30 April 2002, the figure for the rest of the financial year—this program year—is 6,286.

**Senator CARR**—So you are saying the figure has almost doubled?

**Mr Rizvi**—It has almost doubled.

**Senator CARR**—You say that it is not comparing like with like but, whatever you indicate, that is a fairly substantial increase.

**Mr Rizvi**—It is a substantial increase, but we need to remember that the new automatic cancellation power was introduced on 1 July. As a result of that, the cancellation processes are much more streamlined and, leading from that, we are getting a much higher level of cancellation. If you look at some other indicators in that area, you can get a better feel for what is actually happening.

**Senator CARR**—You seem extraordinarily defensive about this.

**Mr Rizvi**—I am simply trying to make sure that I communicate the right picture of what is actually happening.

**Senator CARR**—Doesn't this indicate to you either that the number of students in breach of their visas has increased dramatically or that your detection of them has increased dramatically?

**Mr Farmer**—I think the point Mr Rizvi was making was that the changes on 1 July introduced a new system which is, if you like, bouncing more people.

**Senator CARR**—Mr Farmer, that is my point: either there has been an increase in the number of people breaching their student visas, or you are catching more of them. It is one or the other, or it is a bit of both. Which of those is it? You had better not both answer at once or you might give different answers.

**CHAIR**—And wouldn't that be confusing, Senator Carr.

**Senator CARR**—That is right.

**Mr Farmer**—I would say—

**CHAIR**—I am sure Mr Rizvi will too, after that.

**Mr Farmer**—Mr Rizvi has a long foot and he will kick me. Of course, to some extent you cannot say what the equivalent figure would have been the year before had the new provisions been in force.

**Senator CARR**—I understand the point; that is a beautifully semantic point. As I see it, you are now saying that there are 6,286 people who are in breach of their visas and the previous year there were 3,990 people in breach of their visas, according to your statistics.

**Mr Farmer**—Yes. I would put it on the front foot by saying that our systems are working better.

**Senator CARR**—It may well be a point that we agree upon; it may not be. But in your view you are now detecting a higher level of breaches. Would that be a fair conclusion to what you are saying?

**Mr Farmer**—I would agree with that entirely.

**Senator CARR**—You have been good enough to provide information to me in other quarters so I will cite it. This is your data. In the past you have said that the number of onshore student visa cancellations in 1999-2000 was a 36 per cent increase and in 2000-01 it increased by a further 32 per cent. It has now gone to 100 per cent, on these latest figures.

**Mr Rizvi**—If I might just correct that: that is both onshore and offshore cancellations; it is combined.

**Senator CARR**—So in terms of the letter that Senator Patterson wrote to the various vice-chancellors—or their representatives, the international student coordinators at universities for want of a better term—you are saying that those figures can now be updated and that there has been a dramatic increase in the number of persons found to be in breach of their visas?

**Mr Rizvi**—Yes.

**Senator CARR**—Does this reflect that you have improved the quality assurance in the regime or is this a reflection of increased levels of inappropriate behaviour?

**Mr Rizvi**—I would tend to put the weight on the former.

**Senator CARR**—Does it not also indicate that there may well be serious levels of visa breaches within the program?

**Mr Farmer**—I think the number of cancellations indicates that that is the case. We are, of course, very concerned to make sure that we do what we can to establish which people are breaking their visa conditions and to take appropriate action.

**Senator CARR**—As you know, my interest in this is actually to protect the quality of the program.

**Mr Farmer**—Yes.

**Senator CARR**—We have had a long argument about whether or not these are the faults of individuals or the faults of the people that organise these programs and what responsibilities the educational providers have in these affairs. I want to come back to that point in a moment, but I will just go back to the point about the growth rate in the system. You have suggested that, if you average it over four years, there is no dramatic change; that is the point that you were trying to make.

**Mr Rizvi**—On my best recollection of the four-year data, yes, we are still growing at about the same rate as we have been.

**Senator CARR**—That, of course, includes the period when there was an economic downturn throughout Asia. So would it be fair to average it across that particular four-year period, given the change in the economic circumstances within Asia over that four-year period?

**Mr Rizvi**—I think the downturn was in 1997-98; would that be right?

**Senator CARR**—It was in 1998-99. There are two questions here. I am trying to establish whether or not the industry is still growing the way that it said it was going to grow, and, if it is not growing, whether or not this can be accounted for by the fact that you now have a tougher regime in terms of the visa program or whether there are economic factors at work. Because this could be measured also in terms of the exchange rate and a whole lot of other factors; I appreciate that. I am trying to establish what component of the growth or the contraction, whichever way you want to look at it, the change in the industry, can be attributed to the changes in the visa regime.

**Mr Farmer**—When you are looking at the overseas student case load and industry, there have been very significant changes, for example, in the composition of the case load in the last few years. There has been very significant growth in numbers of students from Scandinavia, North America and the Gulf countries. The composition is changing and substantial new markets are being developed.

**Senator CARR**—That is the point we were coming to before. We need to establish where that growth has been. Can you give me a breakdown on the country changes and what the percentage changes are in regional terms? Is that available?

**Mr Rizvi**—Yes. I will highlight some of the major countries where significant change has occurred in the period July to March this year compared to July to March of the previous year. The big changes include: China, up 55 per cent; Malaysia, up 25 per cent; Hong Kong, up 23 per cent; and Japan, up 19 per cent.

**Senator CARR**—Some of these are off very small bases, aren't they?

**Mr Rizvi**—No. All of those are off very large bases.

**Senator CARR**—Did we have a high number of Japanese students here?

**Mr Rizvi**—In the period July to March 2000-01, we issued 3,910 student visas overseas to persons of Japanese citizenship. That rose for the same period in this financial year to 4,651.

**Senator CARR**—What percentage of the total are Japanese students now? Three thousand does not seem to me like a very big number.

**Mr Rizvi**—There were 3,000 in the year before. The total number of visas issued overseas in that year was 65,000.

**Senator CARR**—Okay. Keep going.

**Mr Rizvi**—The big declines have been: India, down 24 per cent; Colombia, down 15 per cent; Vietnam, down 11 per cent; Bangladesh, down 36 per cent; and Sri Lanka, down 25 per cent.

**Senator CARR**—Are they large or small base numbers?

**Mr Rizvi**—I would put them as medium sized.



**Senator CARR**—How much was Sri Lanka?

**Mr Rizvi**—Sri Lanka fell 25 per cent.

**Senator CARR**—Are you still finding, for instance, in the case of India that up to 50 per cent of the applications are fraudulent?

**Mr Rizvi**—I would need to take that on notice. I do not know about the fraud rate out of India right now.

**Senator CARR**—But do you know the figure I am talking about? There is very strong evidence that there have been serious fraud operations in some countries.

**Mr Rizvi**—Yes.

**Senator CARR**—Could I get a breakdown on the refusal rates, please?

**Mr Farmer**—While those rates are being found, I will make a point which Mr Rizvi might want to elaborate on. Refusal rates for the period since 1 July will have reflected not only conditions in the particular country and the propensity for fraudulent or misleading applications to be lodged but also the changes that were made in the student provisions from 1 July.

**Senator CARR**—So you are taking a much tougher attitude to applications from some countries?

**Mr Farmer**—The new regime looks at risk ratings and establishes a different manner and criteria for assessing applications.

**Senator CARR**—I understand that, Mr Farmer. I am interested to know what the changes have been. Perhaps we can talk about the reasons when we have a look at those.

**Senator COONEY**—I thought it was said at the beginning that there were a lot more from Scandinavian countries and America. That did not seem to be correct, from the figures given.

**Mr Rizvi**—There have been large increases out of those countries—that is, Norway, Sweden and the United States. Unfortunately, the figures I have here only include visas issued to students from those countries where a paper visa was involved. In those countries we have moved to an electronic visa as a trial and I do not have the electronic figures to put together with these figures. As a result, if I gave you these figures, I would be giving you a distorted picture. But certainly, out of those three countries, the numbers have gone up.

**Senator CARR**—The numbers are not particularly great, though, are they?

**Mr Rizvi**—The numbers from the United States are quite large.

**Senator CARR**—How many?

**Mr Rizvi**—As I said, I only have the paper visas here and I need to put them together with the electronic visas.

**Senator COONEY**—Sorry, Mr Rizvi, I should not have interrupted, but following what you were saying in the discussion between you and Senator Carr the impression I got was that the people from America and the Scandinavian countries were coming in droves. It just does not appear that way from what you have been saying.

**Mr Rizvi**—I have the figures for the previous year, for the period 1 July through to March 2001. For the United States the figure is 4,772—and, I recollect, if I add in the electronic

visas, the figures for this year would be higher than that; for Norway, it is 1,208; and Sweden, 916.

**Senator CARR**—I do not regard them as large numbers.

**Mr Rizvi**—The United States last year was the second largest source country for overseas students to Australia.

**Senator CARR**—I can see how you would see that in those terms. But I do not see 4,000 out of a program of 65,000 as being necessarily large and certainly not 900, and certainly not just over a thousand in the case of Norway. But that is by the by and it is not the point I am particularly pursuing. Can you give me the refusal rates, please?

**Mr Rizvi**—The refusal rate in New Delhi—and I emphasise that we are talking about a mixed caseload here; there would be visas that would have been granted on applications lodged before 1 July, before the changeover—is 48 per cent.

**Senator CARR**—Was that 48 per cent for refusals?

**Mr Rizvi**—Yes. Beijing was 39 per cent; Colombo, 35 per cent; and Dakar, 34 per cent. They are the highest.

**Senator CARR**—Can you give me any categorisation of the reasons for refusal? Do you have a process of analysis that would say how many were refused on document fraud or how many because you thought they might be here for non-genuine student purposes?

**Mr Rizvi**—There would be a variety of reasons, but I suspect the three main reasons would be (1) that the person did not meet the financial requirements for a student visa, (2) that they did not meet the English language requirements for a student visa and (3) that there was an element of fraud in the application.

**Senator CARR**—Do you have any idea of the breakdown of those groups?

**Mr Rizvi**—I do not have that with me.

**Senator CARR**—Can you give me that on notice?

**Mr Rizvi**—Yes.

**Senator CARR**—Thank you. I want to go to some of these matters, and my colleagues are obviously anxious to press on, but there is a great deal here that needs to be looked at. I notice in the PBS that you say there will be a review of the new program. Can you tell me when that review will commence?

**Mr Rizvi**—When the changes on 1 July were introduced, Senator Patterson indicated to the industry that we would do a review 12 months later. The review will be split into two parts. One will be a review related to risk assessments and risk ratings—that is, we will run the ruler over every country and every sector again, using the risk ratings to see if the risk ratings for any of the countries should be altered. The second part of the review will relate to the evidentiary requirements and the processes associated with that. We are in the process of putting together a discussion paper which draws on issues that have been raised with us by industry and by other government departments. We will be putting the discussion paper for consultation and, based on the feedback we receive from that, we will produce a report for the minister's consideration.

**Senator CARR**—Will that report be made public?

**Mr Rizvi**—That would be a matter for the minister.

**Senator CARR**—Could you take it as a standing request that the report be made available to the committee once it is completed?

**Mr Rizvi**—Yes.

**Senator CARR**—A prepublication report if it is available. I do not want to wait for the government printer before I get to look at it. I would like it as soon as it is available, if the minister is in agreement. Do you think the national code of conduct is working in the new ESOS arrangements?

**Mr Rizvi**—Over the last 12 to 18 months, particularly in New South Wales, we have been working much more closely with ITAB and with DEST on the issue of providers who may not be meeting the code of conduct. In conjunction with those other two bodies, we have conducted extensive investigations which have led to some providers being suspended, some being cancelled and others continuing to be under notice.

**Senator CARR**—Can I have the number that have been suspended?

**Mr Rizvi**—Those suspensions and cancellations are undertaken by DEST under the ESOS Act. It may be best to seek that data from them.

**Senator CARR**—I will, as you know. I want, nevertheless, to establish just what the level of coordination is between departments. Are you now able to tell me the number that have been suspended?

**Mr Rizvi**—We have numbers here which may not be the most up to date.

**Senator CARR**—According to you, how many have been suspended?

**Mr Farmer**—I think Mr Rizvi's caveat is an important one, and if we are passing information that we have obtained from another agency possibly some time ago—

**Senator CARR**—It was not some time ago; it was about two weeks ago.

**Mr Farmer**—I am making the point that I would not want anything we give to you being portrayed as purporting to be authoritative.

**Senator CARR**—No, I will check this next week.

**Senator Ellison**—A week is a long time.

**Senator CARR**—You are not proposing to not give me the information?

**Mr Farmer**—We are simply saying we as always will try to be helpful.

**Senator CARR**—I have always appreciated the way this department has tried to be helpful.

**Mr Rizvi**—Five providers have either been suspended or had conditions put on their courses.

**Senator CARR**—Can I have the names of those five, please?

**Senator Ellison**—We will take that on notice. It is not that we do not want to provide that information but we just want to make sure that what we are providing is firstly correct and that there is no privacy aspect.

**Senator CARR**—There is no privacy aspect, because these are lists that are published on CRICOS. It is a publicly available record. Each of these providers has a provider number. You are about to be asked a few questions about some of them.

**Senator Ellison**—Some are under investigation.

**Senator CARR**—I am not asking for the ones under investigation; I am asking for the ones that have been suspended or have had conditions attached to their course or programs. People have a right to know these things.

**Mr Farmer**—The nub of my concern is that you are asking us for information which is, essentially, not the information of this department but of another.

**Senator CARR**—This is information that has been provided to you, Mr Farmer—

**CHAIR**—Can I just seek some clarification. You are saying it is information that belongs to the department of education, essentially, are you, Mr Farmer?

**Mr Farmer**—Yes, and the second point is that you may well be right, Senator, but I am not aware of the caveats that should apply to this information. If it is information from this department, we are aware of it and, as you know, we try to go as far as we can.

**CHAIR**—I seek some clarification. We are not sure if the information is completely accurate from the department of education and we do not know what the status of the inquiry process is. Could you just clarify for me what the problems are?

**Senator Ellison**—The ideal is that you go to the estimates committee which is the source of the information, and Senator Carr normally gets this from the education estimates, with which he and I have had years of experience. I am wondering whether that is a better place to ask this question and to seek this information than with the department of immigration.

**Senator CARR**—This is information held by the department of immigration as well. It is information that you have to rely upon and make a judgment—

**Senator Ellison**—It is a CRICOS action and that, as you know, is education.

**Senator CARR**—I understand that the CRICOS listing is, but the suspension material is stuff that you have to rely upon as well. This is information that you have. If you are asking me for time to confirm whether or not it is still accurate, I can understand that, but I do not want to have to wait until 5 July or whatever date it is for the return—

**CHAIR**—I think the education estimates sit next week.

**Senator CARR**—I would like to have this information before I go in there to talk to the departmental officials from Education. As you well know, their approach is somewhat different from this department's. It is a bone of some contention, as far as I am concerned. I like accurate information. I often get it here before I get it there. It helps their memory quite often.

**Senator Ellison**—Senator Carr, we know how well you play the estimates committees off against each other.

**Senator CARR**—That is my job.

**CHAIR**—I am sure that is a compliment.

**Senator Ellison**—Let us take that on notice and we will see what we can do. We are around for a few more days.

**Senator CARR**—If you are going to hold out on the information, I need to know that as well.

**CHAIR**—Could I seek some assurance from the department that you will respond to the committee as soon as possible with whatever the view ends up being?

**Mr Farmer**—Yes, we will respond as soon we can.

**CHAIR**—Preferably during the hearings.

**Mr Farmer**—Yes, I understand the thrust of Senator Carr’s remarks.

**Senator COONEY**—Mr Farmer, from what I can gather you are saying to Senator Carr, ‘Look, if some other department has this information and it’s more akin to their work than yours, I needn’t give that information, even though I mightn’t have it as directly as they have it.’ Even though you might have a body of information, are you saying it is proper for you to refuse to give it to this committee because it could be better got from other committees? I am just wondering how you are putting it.

**Mr Farmer**—I will put it again. My concern is that we had a request from Senator Carr to put names into the public arena. From this department’s perspective, I do not know the full range of caveats that we should be attaching to that particular exercise. It is not information that has been gathered by this department. I am very happy to do what we have just undertaken to do, which is to make inquiries quickly in an endeavour to be as helpful as we can.

**Senator CARR**—I understand that, but I just emphasise this: you issue visas. That is your job. The officers before me are responsible to this parliament for the issuing of visas to people who want to come to this country to study in our education institutions. One of the conditions for the granting of that visa is that students are enrolled in a provider registered on CRICOS. You must therefore have information about who is registered on CRICOS and who is not.

**Mr Farmer**—Yes.

**Senator CARR**—Therefore, you are also determining whether or not people are legitimately granted visas based on that information.

**Mr Farmer**—Yes.

**Senator CARR**—I think it is appropriate that, when you have a list of providers suspended from the registration process, you provide that.

**Mr Farmer**—Senator, that may very well be appropriate. We will use our best endeavours—

**Senator CARR**—Mr Farmer, all I say to you is that I find it inconceivable that this is information that cannot be provided to this committee.

**Mr Farmer**—I have not said that.

**CHAIR**—I do not think that is what the secretary said either.

**Senator Ellison**—Madam Chair, there is another aspect to this as well. If we say this school or institution has been cancelled in relation to the CRICOS criteria, that could imply that there has been some wrongdoing. Someone who saw the *Hansard* might think, ‘That school has been up to no good,’ or something. As I am advised, some of these schools have simply stopped taking overseas students or have closed their business. I can see some schools on that register—I do not want to go into the names—that have ‘cancelled’ written beside their names, and it may well be that unfair inferences are drawn from the fact that they have been cancelled. I think we need to have more information in relation to this matter, before we simply say X, Y and Z have been cancelled.

**CHAIR**—I have absolutely no problems with the department checking the accuracy of information before they put it on the record. I think that is an entirely appropriate thing to do and I would think that my colleagues would at least agree with that.

**Senator COONEY**—I will just make one comment. I have been sitting here listening and, as always, I have been fascinated by Senator Carr's pursuit of his line of questioning. Clearly, in fairness to him, he has been pursuing a line and, as he has been following it through, an objection has suddenly been taken which has stopped his legitimate line of examination dead. I know you are sincere in saying that you will go away and come back with the information, Mr Farmer, but it seems to me that someone in Senator Carr's position has lost a lot, because he has lost his line of questioning and that makes it less effective. So, from our point of view on this side of the table, the fact that you have not got the information—or not in a state where you can say whether you will refuse to give it to us or not—is a bit hard.

**Mr Farmer**—I would like to give you an analogy to another, unrelated area which will perhaps illuminate my concern. This department receives information from a number of government agencies. We receive that information, as you have said, Senator Carr, in order to fulfil our functions—visa issuing and what have you. We receive that information for the purposes that we need it for. We do not necessarily have *carte blanche* to release into the public domain every bit of information we get.

**Senator CARR**—Mr Farmer, I understand that. I am not asking you to act irresponsibly. I am asking you to provide to a committee of parliament information about a group of providers suspended from a public register. Students have a right to know that the college they have applied to study in has been suspended, and I think other people in the industry have the right to know that information about colleges they are dealing with too. I have not asked you for the reasons for their suspensions; I only want to know whether or not they have been suspended.

**Mr Farmer**—And I have said that we will examine the—

**Senator CARR**—While you are there, I also want to know about those that have been cancelled. I think you said five were suspended. How many have been cancelled?

**Mr Rizvi**—On the information that has been provided to us by DEST, five have been cancelled.

**Senator CARR**—Is that the latest information?

**Mr Rizvi**—That is the latest information we have. There are many investigations that are still afoot.

**Senator CARR**—I am not asking you about ongoing investigations. That is a separate issue of complaints.

**Mr Rizvi**—We explicitly asked DEST about whether it was all right to make publicly available this information, which they have provided to us, and they said they had to investigate and examine that issue further before they would agree to our doing that. I am reluctant to give out information that has been given to me on that basis.

**Senator CARR**—I understand that, but I would like you to show me where in the act that governs the operations it says anything about withholding information from a parliamentary committee.

**Senator COONEY**—Mr Rizvi, I have great respect for the candidness and frankness that you have shown over the years, but I think with the answer you have just given,

unintentionally of course, you have been rather insulting to the Senate committee. In effect, what you have said is that, because another body—other than this parliamentary body, this Senate—has said that you are not to give it to the Senate or has put caveats on it, you are therefore excused from giving information to the Senate. I do not want to go into this long argument; I will just adopt all the arguments I have put earlier. I will read this into the transcript if necessary, but the chair will more than deal with me if I do so without proper grounds. I will hand these resolutions of the Senate, statements that have been made in estimate committees over the years, to you, Mr Farmer, to indicate that it has always been the position of the Senate that bodies such as yours and people such as you, Mr Rizvi, have to give up information if it is asked for by the Senate unless parliament otherwise decides. It is not for you, may I say, to decide whether or not you will give information to this body. If this body says, 'Right oh, we will wait,' that is fair enough, but if it wants it now I do not think you are in a position to say that you should not give it.

**Mr Farmer**—Can I just say that Mr Rizvi and I have not in any way attempted to do anything that should be taken as an insult to the committee—far from it. We have tried to explain the position as we understand it. We have also said that we will make very quick inquiries to find out what information we can provide in the course of these hearings. I had understood Senator Carr to indicate that that was acceptable to him.

**Senator CARR**—It is, but understand that I want the stuff.

**Senator COONEY**—I think Senator Carr, in his usual way, is crumbling under pressure and wrongly conceding matters that I do not think this committee ought to concede.

**CHAIR**—Senator Cooney, this committee has had what I would describe as extremely lengthy and, in some cases, edifying—in other cases not—discussions on this issue and on similar issues over the past couple of days in which you and I have been active participants, along with other members of the committee. We have outstanding consideration of similar issues under way, and I would very much like to move on at this point, if we can, given that the department has made their position quite clear, we have made our position quite clear and the department has indicated it will come back to us on the information Senator Carr has requested. I am more than happy to then examine this situation again at length, but I do not want to take further time now.

**Senator COONEY**—Could I get these matters that I have already put before the committee photocopied and perhaps give them to Mr Farmer to read.

**CHAIR**—We could just give him the *Hansard* from yesterday and from the day before.

**Senator COONEY**—All right. Minister, would you make sure that the department takes on the arguments that have already been put and that you know so well?

**Senator Ellison**—Yes, I will undertake to do that—if you can provide me with a copy.

**CHAIR**—We will certainly circulate the document, Senator Cooney. I think it is very important.

**Senator Ellison**—We will take this on notice, with a view to getting back to you as soon as we can.

**Senator CARR**—Would it be possible, Mr Farmer, to get an answer after the dinner break?

**Mr Farmer**—We will do everything we can, Senator.

**CHAIR**—We will revisit the question at half past seven.

**Senator Ellison**—If I say that we will have an answer after the dinner break and we do not get it to you until tomorrow morning, you will go crook at us and say that we did not live up to our undertaking. Obviously, we are trying our best. You have the opportunity still to question us on this matter during these proceedings.

**Senator CARR**—Hopefully, I will not be here until half past seven.

**Senator Ellison**—Senator Carr, you can always come back to the committee.

**Senator CARR**—I will. I appreciate the point you are making.

**Senator Ellison**—You have been doing that with consummate regularity.

**Senator CARR**—All I am anxious to impress upon Mr Farmer is that, if we can get an answer quickly, it would be of assistance to us.

**Senator Ellison**—I am not profound, Senator, but I am quick. I got that point. We will try.

**Senator CARR**—Can I ask a question, then, in terms of the new regime, on the issue of the capacity of the Commonwealth to override state jurisdictions. Mr Rizvi, you have already indicated that you are working closely with the states. You would be aware that at the ACPET conference last year it was revealed by officials from another department that the question of the Commonwealth's capacity to override the states was not clear in the legislation. Is that this department's view on that matter?

**Mr Rizvi**—I am not entirely clear what that question relates to. If it is a technical legal question, I would not be competent to answer that.

**Senator CARR**—It is just that there was an amendment specifically moved in the Senate to ensure that this was not the case and that Commonwealth officers had the capacity—obviously, where the need arose—for the Commonwealth jurisdiction to be able to override a state if there was a difficulty with the states changing their approach to international students.

**Mr Farmer**—Is this migration legislation?

**Senator CARR**—It is in terms of the whole new regime—the new ESOS regime—which, while you do not directly administer it, you are parties to.

**Mr Rizvi**—Are you referring to the question of registration on CRICOS?

**Senator CARR**—Yes, the registration on CRICOS, and the fit and proper persons test in particular.

**Mr Rizvi**—I am not sure that I can answer the question on the fit and proper persons test.

**Senator CARR**—Could you take on notice your understanding of the fit and proper persons test?

**Mr Rizvi**—We can—I will investigate that.

**Senator CARR**—That is a very serious matter, given the level of refusals that are coming through. Have you done any assessment of any correlation between particular providers and high levels of refusal?

**Mr Rizvi**—I do not have data on refusals by providers with me. I do have data on non-compliance notices by providers.

**Senator CARR**—What information do you have on that?



**Mr Rizvi**—Non-compliance notices issued by providers come under a range of codes. The data I have here relates to what is known as code 8 non-compliance notices and code 10 non-compliance notices. Those two codes relate to where a provider finds that a student is either non-attending or is not meeting satisfactorily their academic requirements.

**Senator CARR**—So code 8 is non-attendance?

**Mr Rizvi**—I will need to confirm which one is which.

**Ms Siegmund**—Code 8 is student non-attendance at classes.

**Senator CARR**—And academic progress is code 10?

**Mr Rizvi**—That is right. For the year 1 July 2001 to 28 February 2002, 4,737 non-compliance notices in total had been issued by providers under those two codes.

**Senator CARR**—Do you have a breakdown for the particular codes?

**Mr Rizvi**—Yes—2,421 were under code 8 and 2,316 were under code 10.

**Senator CARR**—How many providers were there?

**Mr Rizvi**—The total number of providers?

**Senator CARR**—Yes.

**Mr Rizvi**—As you can tell, this is a very small table.

**Senator CARR**—Have you got a nice little table there you would want to give me?

**Mr Rizvi**—These relate to providers that have issued non-compliance notices into the confirmation of enrolment system.

**Senator CARR**—Can that be provided to the committee?

**Mr Farmer**—Senator, could you move on a little and we will come to that question.

**Senator CARR**—We do not want to go through all of this again.

**Senator Ellison**—It looks okay, but we just want to make sure.

**Senator CARR**—I am obviously interested to know whether there is any pattern emerging from any particular providers. These are, by and large, confirmation of enrolments provided by the providers, are they not?

**Mr Rizvi**—These are non-compliance notices issued by the provider against students—

**Senator CARR**—So this is the schools saying, ‘These people are not fronting or not performing’?

**Mr Rizvi**—That is right.

**Senator CARR**—Therefore, they will be self-identification—there is no great secret about that. How many breaches of either code 8 or code 10 has the department identified which have not been notified by the providers?

**Mr Rizvi**—We would have to take that on notice. We have figures on the location of students who are in breach. That would not be the number you are after because the number you are after is a subset of that number. A percentage of those would have been students who had been reported by the provider and a percentage would be students who had not been.

**Senator CARR**—You will take it on notice. Can I press the issue. The question of quality assurance has been a point of discussion throughout this whole debate. To what extent is the

department's systems still dependent upon enforcement at the student level—that is, seeing the problem as the student rather than the proprietor of a college who has systematically rorted the system or systematically broken the law—leaving the student as the victim rather than the perpetrator of a crime?

**Mr Rizvi**—I think it would be fair to say that we are attacking the problem from both ends. We are dealing with it in terms of students who are not complying. They are, as I said, a mixture of persons who have been reported by the provider and persons who have not been reported by the provider that we locate. In conjunction with that, there are two other things that we are doing. We are working closely with DEST and the relevant state education body to investigate providers in regard to whom there may be concerns or complaints that have been raised. As a result of that, I think action has been taken. In respect of a number of providers, further action will be taken.

**Senator CARR**—What I would be interested to know is: of those five providers who have been suspended and the further five who have been cancelled, were the cancellations a result of actions taken by the Commonwealth or the states, and can you divide those two, or were those a result of business failures or some other non-breach of the code or the regulations?

**Mr Rizvi**—I would have to take that on notice. In respect of some cases it would actually be a mixture of both.

**Senator CARR**—I find that if the police come knocking on the door about criminal activity it usually does not do business a lot of good. I accept that line of argument. But I am concerned about the extent of systematic criminal activity by providers. As I have always said to you about this, you spend a lot of time and money on so-called border protection, but we seem to be able to import very large numbers of people through a whole range of measures. My concern goes to the extent to which there are criminals operating—people-smuggling, if you want to call it that—within Australia at the expense of the students, at the expense of this very valuable industry to this country and at the expense of the other providers who do the right thing.

That is why I am going to continue to press you on these issues. I need to have this information to establish whether or not my concerns have any basis. I have drawn to your attention over the years a sufficient number of bodgie operators to suggest that there is cause for concern. In fact, it might be argued that the work of the parliament has led to the changes in the regulation as well as, no doubt you will tell me, the work that your investigators do. I draw your attention to some recent examples, given that this new regulation is in operation. Towards the end of last year a man was arrested in Sydney by the Australian Federal Police in regard to the fraudulent production of English language test results. Are you familiar with that case?

**Mr Rizvi**—I am aware that a scam has been running to that effect. Whether or not it is exactly the same case, I could not say.

**Senator CARR**—This was an illegal printing press, operating in Petersham, reproducing multiple copies of forged university letterheads, entry examination papers and ESL papers. Are you aware of that case? Can you confirm that 19 charges have been laid against a Sydney man under sections 302A and 527C of the New South Wales Crimes Act?

**Mr Rizvi**—As I said, I am aware of a substantial case involving forged IELTS certificates, and the actions that were being taken by police in respect of that. Whether the two cases are

the same I do not know. I would have to take that on notice to check whether that was related to this case in Petersham.

**Senator CARR**—I am surprised that you do not have more knowledge of this matter. An article was published in the *Campus Review* on May 22. Are you familiar with that article? Do you have it in your folder?

**Mr Rizvi**—No, I am sorry, I do not.

**Senator CARR**—It is surprising that your research let you down on this matter. This is in regard to the University of Sydney academic transcripts—

**Senator Ellison**—This is a matter which is under investigation, so we need to be careful.

**Senator CARR**—I am not asking you to go to the issues of the police investigation. I am going to this particular case to highlight the point that I am making. There were forged University of Sydney logos, certificates of graduation, ESL test results, TOEFL English language testing score cards, TAFE certificates, letterheads, Commonwealth Bank compensation cheques and a range of other matters. To what extent do you think that the guidelines, the code of practice and the new regulations are actually picking up these sorts of events? Is this an isolated case that we have here or, in your professional judgment, are there other cases that we might draw lessons from in regard to the production of false documents?

**Mr Rizvi**—As we have said before, fraudulent documents are unfortunately part and parcel of the business we are in. In that particular instance, it is not clear whether the person or persons involved in producing those forged documents are indeed linked to specific providers or not or whether they are doing it without any link to those providers. We are aware of instances of fraudulent documents and, indeed, there is quite a deal of expertise amongst our decision makers in detecting fraudulent documents. We pay a great deal of attention to training people in that. In addition, we are working very closely with IDP Australia, the part owners of the IELTS test, for example, to develop security features in their IELTS certificates, as well as there being an intention on their part to develop a database that we can check to verify whether someone's IELTS certificate is genuine or not.

**Senator COONEY**—You have given evidence over the years, and given it here today, that the department is very conscious of who they are going to let into the country, conscious of preserving our industry here and what have you. It makes lots of checks before it lets people from certain countries in. Does the department take any responsibility at all—the answer to this is probably no—to ensure that those people who we have come here for education are going to be reasonably treated by the system in this country or do you just say, 'Bad luck for you, you ought to know how Australia runs. If you come across to Australia and get into a bogus education system that is your bad luck. What we want from you is your money; we do not really want much else'?

**Mr Rizvi**—We are very interested in those issues and where complaints or concerns are raised with us, or if we come across those through our investigations, we certainly pursue them, and where it involves a specific education provider we will work closely with DEST to investigate those matters.

**Senator COONEY**—Don't the people tell you they are coming out to these particular colleges that turn out to be bogus?

**Mr Rizvi**—I would certainly admit that there are colleges out there which are of concern to us and investigations into them continue. However, we cannot unilaterally take action against them without the evidence to act against them.

**Senator CARR**—I have not suggested to you at any point that you should breach the law. That is not in any way an issue here. The question is whether our current system is sufficient to detect fraud and whether the system is geared to addressing the issue before people arrive and to the people organising it rather than the victims. I support the measure of refusal rate; I am not disputing the right of the department to say to people that they cannot come here if they are relying on bodgie documents or if they have not met the criteria of the law. I think it is very important that you enforce the law. The question arises as to whether there are groups of people—Mr Bigs, if you like, although some of them are not that big—operating in this country and organising these scams. That is the point I am going to. This article here refers to the fact that these issues were put to DIMA, as it was then, in July 2001. You undertook your own investigation. Can you confirm that in July last year DIMA undertook an investigation into this matter referred to in on page 3 of the *Campus Review* of 22-28 May this year?

**Mr Farmer**—We can look into that and give you a detailed reply. I would like to consult on that.

**Senator CARR**—I am surprised that you do not have the officers here at the moment to assist me.

**Mr Farmer**—That may well have been undertaken by our New South Wales office. We had this generic discussion a couple of years ago when we were talking about the fact that the investigation office—

**Senator CARR**—Okay. There are further reports in the *Melbourne Age*.

**Mr Farmer**—Was that a yes, Senator, to the offer?

**Senator CARR**—Yes, of course. I do not see how I have any choice in the matter. You are saying that you do not have the officers available. I would appreciate a detailed answer on the steps the department has taken in regard to the matters raised in the *Campus Review* article of May 22-28. Furthermore, there are reports in the *Sunday Age* of 10 February this year of fake degrees flooding the market. This is a Singaporean based operation. Are you familiar with that article?

**Mr Farmer**—We come across instances and reports of fraud frequently and we do investigate those that occur onshore. We do encounter many offshore as well.

**Senator CARR**—An article appears in a major metropolitan newspaper alleging these things and you have had an inquiry into them.

**Mr Rizvi**—We will take that on notice.

**Senator CARR**—Finally, Lloyds International College, one of the old favourites: I see now that they have managed to link up with the University of Southern Queensland. Are you familiar with that arrangement?

**Mr Rizvi**—The details I have on Lloyds does not refer to that particular aspect of their operation, but I am sure that would be reflected on CRICOS if they have linked up.

**Senator CARR**—Have there been any discussions with the University of Southern Queensland about Lloyds? Would the University of Southern Queensland be aware of Lloyds history?

**Senator Ellison**—That is an education question, Madam Chair. What we are talking about here are visas for overseas students as handled by the department. The relationship between Lloyds and the University of Southern Queensland is really a matter for the education estimates.

**Senator CARR**—No, there is a point to this. Are you issuing visas for students to attend Lloyds International College in Sydney and are those students subsequently appearing at the University of Southern Queensland?

**Mr Farmer**—Can I make a general point, and it does bear on our professed desire to be helpful. With some of these detailed questions, we would generally speaking be able to be more helpful if you gave us—

**Senator CARR**—You would like them on notice rather than—

**Mr Farmer**—No, we could be more helpful if you gave us notice before the hearings.

**Senator CARR**—Mr Farmer, I appreciate the point you make, but the nature of these parliamentary sittings is that we do not, as a rule, tell you what we are going to raise before you get here. It is one of the joys of the experience, I am sure, and that is why you have such extensive briefing papers. Take this on notice, please. Can you provide me with details of student visa cancellations for non-compliance during 2001-02 with students from the following colleges: Excelsior, Lloyds International, Alexander Institute of Technology, Alexander College? It would be terrific if you had them on hand straightaway and I could have them after the dinner break.

**Mr Farmer**—No, we will take them on notice.

**Senator CARR**—Uniworld College and Alpha Beta College. And could you provide me with details for the reasons for the cancellations? Could you also advise me as to any other private providers, besides those where the situation exists with the providers listed above, where there have been persistent or serious problems with student visa issues including cancellations? Can you provide a list including the numbers and the details of the problems discovered?

**Mr Farmer**—We will take that on notice.

**CHAIR**—Senator Bartlett has some questions in 1.1.

**Senator BARTLETT**—In output 1.1 on family entry visas, the aged parent category that has been problematic for a few years, last year the department put out an options paper. It had four different options for ways forward in this area. Can you give me an idea of what sort of response you have had to those options?

**Mr Rizvi**—While Mr Smith is digging up the information we have on the consultation processes, we compiled the responses and presented the information to the minister. The minister subsequently, as you are aware, wrote to you and the Labor Party spokesperson on immigration. We held briefing sessions on the parents issues and the options, and I understand subsequent to that there have been further exchanges of oral communication and/or written communication between the respective officers.

**Senator BARTLETT**—Was there any one option out of those four that received a particularly strong response—positive or negative?

**Mr Rizvi**—Overall, 68 per cent of the votes were in favour of one of the four options; 32 per cent of the votes picked one specific option that they did not like. Of all the four options, option 4 was the most popular with 32 votes for and 11 votes against.

**Senator BARTLETT**—From the point of view of the department and the minister, are those four options all still on the table or have any of them been ruled out as impractical on further examination?

**Mr Rizvi**—I would not be in a position to comment on that. I think only the minister could decide which might be ruled in or out.

**Senator BARTLETT**—I presume the queue is getting longer as the years go by with the 500 cap on it. I do not recall seeing anything in the budget papers about any expectation of a change with any budgetary implications over the course of the next year. I would have thought if there was any change it would have some revenue implications. Is that a sign that at this stage you are not anticipating any change to the current situation over the course of the next financial year?

**Mr Rizvi**—No, Senator. We are well prepared to implement a parent option once agreement is reached and we would act quickly to do so. However, in order to implement any one of those four options, regulation and, most likely, primary legislation changes would be involved. As a result, even once agreement is reached, there would be substantial lead times involved in implementation.

**Senator BARTLETT**—Just on the working holiday-maker visa briefly: are efforts still being made to expand that program and to reach reciprocal agreements with other countries?

**Mr Rizvi**—Yes. We continue to negotiate with a range of countries. Most recently, the minister signed an agreement whilst he was in Finland. We are very close to reaching agreement with a number of other countries and, hopefully, announcements will be made progressively as those agreements are reached.

**Senator BARTLETT**—Where are those countries—mainly Europe?

**Mr Rizvi**—No, it is a mixture of countries—both European and Asian countries. We have been talking to the United States for some time on a working holiday-maker agreement as well.

**CHAIR**—That is it for 1.1. Are there any further questions on 1.1? There are none. Thank you.

**Senator COONEY**—I am sorry—I do have a question. We have raised the issue of the brain drain or the brain gain—

**CHAIR**—I know how they feel.

**Senator COONEY**—From reading the papers, the story is—and the anecdotal evidence seems to be—that we are losing lots of people overseas to Europe, America and elsewhere. I know you have done lots of work on this, Mr Farmer, but it seems to me that there is more of a drain than a gain. I know there are lots of clever people coming here, but very high-class brains are going out of the country. Have we got any programs aimed at turning that around? I think we have, but can you just bring up to speed an all that because I think it is important.

**Mr Farmer**—Mr Rizvi might have some detailed comments. I would just say that, generally speaking, the research indicates that we gain rather than drain, if you like. We have to bear in mind—and we all know this—that we are essentially competing in an international

market not only for skilled people who might come to Australia but, as you rightly point out, for skilled people who are already in Australia. The figures for young skilled Australians leaving, who indicate that they are leaving for good, are quite high. Mr Rizvi might have something to offer on those comparative figures for incoming and outgoing skilled people.

Can I just make a point that might be of interest to you, because I know that you have an interest in this area. Over the last two years, a number of countries—I would include a number of the west European countries—have developed a much increased interest in the Australian migration program and, broader than that, our settlement and multicultural programs. As they face up to issues like declining birth rates, they are looking to shore up their skills base in the future. There is a great deal of interest there in the way that Australia has done what we have done over the last 55 years. That is in terms of not only migration but also how we have made a success of basically welcoming people and giving them a basis on which to participate equitably in our society. The nub of my general introductory comment is that, in global international migration terms, we have a great success story to tell in Australia. It is one that I know you are interested in, Senator.

**Senator COONEY**—To be fair, Mr Farmer, you have been very conscious of this for a while. I know that it cannot be confined just to your department. It is a big issue; a lot of the media have taken it up, I think quite properly so. You would have seen the stories every now and then of geniuses going overseas, with not so many coming here. It is significant, as you say, given the declining birth rate around the world—in Australia too, unfortunately. People in their 20s and 30s do not now seem to be giving people of my generation the grandchildren that they deserve. I do not want to go into that too deeply, but it is a matter of moment. Are you a member of any interdepartmental organisation or group that is looking at this?

**Mr Rizvi**—Our focus is predominantly immigration, but certainly we have an interest in emigration issues. As Mr Farmer has pointed out, in just about every major occupational group, the research is showing us that we have a net gain rather than a net loss. It is true that levels of emigration have gradually been rising and, indeed, they probably rose steadily almost throughout the 1990s. It is also true that the persons leaving are relatively young and quite skilled. But in many ways our skilled migration program is also relatively young and also highly skilled. A lot of the research in this area tends to talk about brain circulation rather than drain or gain.

**Senator COONEY**—I do not want to go too deeply into this, but is there any way that you can get a picture of the level of skills and education which people going out of the country have and the level that those who are coming in have? Could you say how many near geniuses are leaving the country and how many are coming in?

**Mr Rizvi**—I would have some difficulty with geniuses, Senator. I do not know whether the data we collect classifies things that way. From the data we have, from passenger cards of persons leaving, we know that of the emigrants who were in the work force immediately prior to leaving—of course there are kids and older people also in the emigrant group—in 1999-2000, 17.8 per cent were managers or administrators, 45.8 per cent were professionals or associate professionals and 7.1 per cent were tradespersons.

**Senator COONEY**—Is there any program on foot in government, of which the department is a part, trying to do something about this?

**Mr Rizvi**—I think there are probably two things here that I would refer to. Firstly, there was the announcement by the Prime Minister in Backing Australia's Ability which focused on

some of these issues. Most of the policy initiatives in that, of course, were not Immigration initiatives; they were done by other departments. Nevertheless, one of objectives of Backing Australia's Ability is to retain, and indeed expand, our stock of high-quality academics and researchers. The other thing we have been doing is funding some major research in this area by Professor Graham Hugo, from Adelaide University. Professor Hugo spoke at our recent Migration: Benefiting Australia conference, where he provided a work in progress report of where he is up to with that research. We can provide you with a copy of that report if you wish.

**Senator COONEY**—Thank you very much.

**Mr Rizvi**—I would say that his work is ongoing. He is conducting a series of interviews with a large sample of skilled, professional Australians living overseas. The final report is due towards the end of this year or early next year. But we can get you his interim report.

**Senator COONEY**—Mr Rizvi, I gather that this issue is gaining some momentum. Is that right? Are people throughout government, or indeed throughout the community I suppose we should be saying, concentrating on this issue of 'gain versus drain' more and more?

**Mr Rizvi**—I think it is, as Mr Farmer has pointed out, a global phenomenon, particularly as far as the developed nations are concerned. All of the evidence is showing us that, in net per capita terms, we are doing better than most developed countries around the world. You are absolutely right: it is not a matter on which you can relax, and we need to continue to conduct research that will enable the development of appropriate policies.

**Senator COONEY**—Thank you.

**Senator SHERRY**—I will pose a question but I do not expect an answer this evening. One of the officers at the table may be aware that there has recently been some superannuation legislation that pertains to people who have been permitted to work in Australia under a whole category of visas. Are you aware of that?

**Mr Waters**—Yes.

**Senator SHERRY**—Can you take on notice the list of visa categories to which that legislation applies, the number of persons in each visa category, the countries from which they have come, and presumably are returning to, and the average length of stay in Australia for each of those visa categories?

**Mr Waters**—To combine all of that would create an enormous table. We can certainly provide tables of a much more modest dimension on each of those.

**Senator SHERRY**—See what you can do for me. If it is not suitable and does not give me the required information, I will enter into correspondence in the normal manner and we will see how we go.

**Mr Waters**—I am happy to assist.

[5.13 p.m.]

**CHAIR**—We will now move to 1.2: Refugee and humanitarian entry and stay.

**Mr Farmer**—Madam Chair, can we clarify that 1.1 is finished. I am thinking of the officers involved who may not need to stay.

**CHAIR**—All I would say, Mr Farmer, is that with Senator Faulkner returning for general questions it may be that he will canvass some areas that pertain to those officers' responsibilities. As you know, I expected him a little earlier. I think he has been further



delayed in his travel, through no fault of anybody's. So if the officers do not mind waiting until we have at least dealt with Senator Faulkner's concerns I would be very grateful.

**Senator McKIERNAN**—During the last round of estimates I asked some questions about processing of protection visas overseas and processing times. I was given some information at the committee hearing and some of the fuller detail was taken on notice and provided to the committee. I am most grateful for that very comprehensive response on it. Included in the figures that were given at the hearing and confirmed later in the written response to the question were the processing times in weeks from various overseas posts. Some of them were quite long processing times. A number of my constituents, when this information has been brought to their attention, have been quite shocked with the delays that are occurring overseas and the amount of time that Australian citizens have got to wait when sponsoring their relatives to Australia under the refugee and humanitarian program.

I do not want to go through all of the information on processing times in weeks from the various posts. I would rather ask the global question: what can be done to shorten that processing time? By having those very lengthy processing times at some of the posts, it is actually providing an incentive—and being seen as an incentive—for others to enter the country by non-legal means and therefore enabling a much speedier processing of the application. Can the committee be informed of any initiatives in train to shorten the processing times in overseas posts in those refugee and humanitarian programs?

**Mr Hughes**—Looking back through some of the previous estimates, there has been a lot of discussion about those processing times and some of the particular reasons that cause them to be so lengthy, such as access to people in camps, which can be difficult, character checking and health checking, all of which can cause the times to be much longer than anyone would like them to be. Without going back over those discussions, I certainly think we would like to improve on those times. We are very shortly to commence an internal review of the operational performance of the humanitarian program aimed specifically at seeing what we can do and what adjustments we can make around the world that might bring those times down to something much shorter and less likely to create the kind of concern that you mentioned.

**Senator McKIERNAN**—How difficult a task is it to bring those times down? Another part of the information that we got during the last round of estimates—and the information was already available, I appreciate that, because I have been able to access it in other areas—was that in February there were 44,000 applications in the pipeline in the refugee and humanitarian program. That in itself, with an annual refugee and humanitarian component of 12,000 a year, is not going to be cleared in a year, even with the best will in the world. It is not going to be cleared in three years with the best will in the world. So, in a real sense, what can be done to fulfil Australia's refugee and humanitarian obligations as Australia has determined them?

**Mr Hughes**—I think you are right that there will be no easy and instant solution. Just on that particular pipeline, the numbers have come down a little bit this year compared to last year.

**Senator McKIERNAN**—I have not asked that question yet!

**Mr Hughes**—My colleague will have the answer ready to by how much when you do ask it. I do not think there will be any instant or quick solution, but I do think it is possible for us to look at all the particular barriers that might be anywhere in our legislation, regulations, the

way we process applications and the way we apply resources—also the specific problems at particular posts, because the problems do vary from post to post. Being an optimist at heart, I hope that we can find a way to bring them down—not instantly but over a reasonable period of time.

**Senator McKIERNAN**—I think we have got obligations in this area to find a way, because we are talking in the main—not exclusively—about Australian citizens sponsoring their relatives. Within this group of people we are also talking about persons who are of concern to the UNHCR, who have been deemed by UNHCR that resettlement in another country is the proper resolution of their case, and there are few countries in the world who are resettling refugees in cooperation with the UN High Commissioner for Refugees. Some of these people in that 44,000—which is an extraordinary large number—are living in absolute destitution. Some others, including relatives of constituents of mine—and this is my last opportunity to put forward arguments on their behalf—are actually living in other countries illegally and, because of that, are not allowed to work, their accommodation is not very secure, to say the least, and are being exploited to a very great degree. In the truest sense of the word, they are in need of protection and, because of relatives in this country, Australia is one of the countries that they are looking to. So there is a real need to concentrate effort on this area because of those very large numbers of people.

**Mr Metcalfe**—We absolutely agree with everything you have said. Australia is one of only nine or 10 countries that actually does offer resettlement places to UNHCR. I think a key plank of the government's approach to border management and refugee and humanitarian issues has been to preserve our ability to continue to offer resettlement to those people most in need and those people who really have nowhere else to go other than a resettlement place—the people who do not have the same freedom of movement that some others do. It is interesting to compare us to a country such as Switzerland, which some years ago had a resettlement program but which, essentially, had to abandon that program because of the pressure of border arrivals and needing to process people at the border. In essence, the choices about who the refugees were being made by people smugglers and people moving themselves as opposed to the United Nations process dealing with those people most in need. I think I have the statistics that you are looking for in terms of the offshore pipeline.

**Senator McKIERNAN**—I have not asked for them yet.

**Mr Metcalfe**—If you like, I can anticipate that question.

**Senator McKIERNAN**—I think it is probably time I moved on, if you are anticipating me to that degree, although I would warn you that there is some danger in that, as I think the committee found out last evening with a different set of witnesses.

**Mr Metcalfe**—If you like, I will wait.

**Mr Farmer**—What question would you like to ask?

**CHAIR**—Just write a few answers and we will think of a few questions.

**Senator SHERRY**—What would you like to answer?

**Mr Metcalfe**—The advice I have—and Mr Hughes and others will correct me if I am wrong—is that as at 30 April this year there were 37,135 persons in the offshore humanitarian pipeline which comprised 30,016 persons at the registered stage, 6,584 at the assessed stage and 535 persons approved but not yet evidenced. The current pipeline of 37,135 is a 25 per cent reduction from a figure of 49,831 at the beginning of the program year. So the key point

is that the pipeline has come down in the last nine months by about 25 per cent. Our offshore processing capacity processes around 64,000 cases a year, so essentially we are able to deal with more applications in a year than we receive and therefore the processing times are coming down.

As I think we have discussed before, there are a number of factors outside our control which go to the length of processing time and there are obviously some matters within our control, such as resourcing and other decisions. Factors outside of our control have obviously been some significant world events. For example, since September 11, travel in the Middle East has been more problematic, in some situations, than it was: some flights which existed previously no longer exist. Perhaps the best example of that was the case in Pakistan where we had to withdraw our processing capacity from 19 September until 13 December for security reasons. As a result of that, a large number of cases where health and character checks had been completed—which are valid for 12 months—expired and had to be reinstated.

Mr Hughes mentioned the fact that we are going to have an internal review. One area that the department has been looking at for some time, and it will be key to how we progress this issue, is that we have developed over the last few years a coterie of highly trained officers proficient in assessing refugee and humanitarian cases. That group of people built up in numbers due to the large influx of boat arrivals in the last couple of years. With the significant reduction in unauthorised arrivals in recent times, we retain a large number of staff. They are fully occupied on other matters, but we have a large group of people. We are looking at issues such as how we can apply that resource which was previously being used for onshore arrivals to the offshore pipeline to try to improve our processing times even further. Whether that ultimately consists of groups of officers going into situations and essentially undertaking a task force approach or whether there are other ways of dealing with it to supplement our standing resources at posts are the sorts of issues we are now looking at. We are very conscious of the importance of dealing with this caseload in the most timely way possible because of the humanitarian aspects and because of the links to Australia. It is an issue we are taking very seriously.

**Senator McKIERNAN**—I am very pleased to hear that because in the refugee debate that has happened in Australia in recent times it would appear that the numbers I have used—44,000—have not been brought to the fore. In fact, the people overseas have not been a consideration. It actually disturbed me on one particular occasion when, within the realms of political debate, an argument was being put forward that the overseas and offshore processing for refugee application should cease. I must claim some little credit for having that debate dampened down at least. The debate is now a little more informed. I do think that from time to time the department needs to take a bit of a battering on these pipeline figures because too often Australian citizens who are struggling in many cases on average income levels are sending any excess resources they have over to overseas posts to support their relatives in those countries, particularly those living in an illegal situation. I have some Iraqis living in Holland, for example, in pretty dire circumstances, even though it is a very modern developed country.

A related matter—and I am seeking to move things along rather than compress them—is the United Nations High Commissioner for Refugees and the fact that Australia is one of the few countries that cooperates with the UNHCR in the resettlement of people who are deemed by the UNHCR to be in need of resettlement. That is the only option available to them in third

countries. Is it true, as I have read in some media outlets, that there has been a reduction in Australia's contribution to the UNHCR?

**Mr Farmer**—That is a matter that comes under the Foreign Affairs and Trade estimates because those funds come from AusAID.

**Senator McKIERNAN**—I had expected you to know that. You do not know that there has been a reduction, do you?

**Mr Farmer**—I have seen reports of an increase in the amounts that could be available to UNHCR coupled with a reduction in the contribution to the core budget. I would not want this to be authoritative, but that is my understanding.

**Senator McKIERNAN**—I appreciate, and I understand and accept, that it is not a question for you. Within the realms of the debate that we are having and the questions in this particular area, there are obligations on Australia as well, and we have been very much to the fore in cooperating with the UNHCR, who do an enormous job right around the world. I had the honour to sit on a platform with the UN High Commissioner for Refugees in Marrakech in recent times when participating in a forum at the Interparliamentary Union Conference where Australia's contribution was mentioned in very favourable terms on the resettlement of people. So, even though there are times that officers of the UNHCR are reported as being critical of some of Australia's policies, in the area of refugee resettlement they very much applaud the effort that has been made over the years, and I would very much hope that the relationship at that level can continue. But the funding matter is something that the chair and I will probably have to address in another committee at another time in these estimates proceedings.

**Mr Farmer**—Yes. I would like to add one or two sentences. As I understand it, the intention is to give the government as a whole an enhanced capacity to respond to particular UNHCR or other refugee and humanitarian related needs in the field. I think that is important, because the UNHCR, for example, has found that it has been unable to attract the level of funds that it would like for special purpose appeals in dealing with refugee populations in countries like Pakistan and Iran. So I think that what we are essentially saying is that we will enhance our capacity to respond to that sort of need.

**Senator McKIERNAN**—I do not want to open up the debate to another forum, but I am grateful to Mr Metcalfe and for your offer, Mr Hughes, for those figures. I am very appreciative of the fact that the numbers awaiting processing are reducing. I hope, sincerely, that that trend will continue, but as a private citizen I might use whatever means are available to me to take up the issue of refugees. Refugees, in my determination, certainly include those people who are languishing in camps overseas in some dreadful conditions. They do not have the voice that others involved in this debate have. A little shot across the bows would probably be a parting shot. No, I will not say it is a parting shot, because I have many more questions in the area, but that concludes 1.2 for me.

**Senator BARTLETT**—What is the status with the upcoming expiry of the first temporary protection visas that were issued in 1999? When does the first of them expire? Do you have any indication of the processes that are being followed for people who want to get them either renewed or reassessed for permanent visas?

**Mr Hughes**—The first visas do not expire until November. There will be a relatively small number that will expire this year and then the numbers will start to increase in 2003. I think

there will probably be an announcement fairly shortly about the precise processes that will be followed for people issuing permanent protection visas.

**Senator BARTLETT**—Is it correct that, six months out, people are able to start having their situation reassessed?

**Mr Hughes**—That is correct.

**Senator BARTLETT**—Is the department able to ensure that people who apply six months out will have at least an initial determination by the time the expiry comes up?

**Mr Hughes**—Obviously that is our intention. I would rather leave it to the minister to make announcements about the precise arrangements.

**Senator BARTLETT**—With those people whose visas expire this year, are they all likely to be eligible to move on to permanent visas or will some only be able to get another temporary one? Does it depend on when they put an initial application in?

**Mr Hughes**—I believe, apart from a very small number, the ones that would have expired this year have applied for permanent protection visas.

**Senator BARTLETT**—The variance there is simply when they initially put in an application for a permanent visa?

**Mr Hughes**—Whether they put an application in before 27 September 2001.

**Senator BARTLETT**—I presume, as we move to next year, there will be greater numbers in that second category. Is there likely to be any difference in approach to those two groups in terms of assessment criteria?

**Mr Hughes**—Again, I think I would rather leave it to the minister to announce the arrangements, which I expect will happen quite soon.

**Senator BARTLETT**—Is there an anomaly—you might not consider it an anomaly but certainly some have called it an anomaly—between those who have had their TPV issued on the same day, although one may have put in the application for a permanent visa one day and the other after September last year? It seems to me a bit arbitrary. Has any consideration been given to addressing that situation?

**Mr Hughes**—I suppose I would agree with your first assessment, but I would not call it an anomaly. There are cut-off points and changes in immigration law. It depends on which side of the cut-off point you have applied or not applied.

**Senator BARTLETT**—Have you been able to keep many statistics on where the TPV holders have gone? You initially dropped them all off in Perth, Adelaide and Brisbane. Have you been able to track where they have gone from there?

**Mr Hughes**—I think we might have some indicative if not complete statistics, if you bear with me.

**Mr Metcalfe**—We have some data that may indicate where people are now living. It is provided to us through Centrelink records where people may be receiving benefits.

**Mr Hughes**—I have percentages as at 3 May showing people receiving Centrelink benefits: 48 per cent in New South Wales, 24 per cent in Victoria, five per cent in Queensland, 11 per cent in South Australia, eight per cent in Western Australia and 0.1 per cent in Tasmania.

**Senator BARTLETT**—Have you got any statistics—and you can take this on notice if necessary—of the numbers of people who have engaged in any sort of paid work whilst on the visas and also statistics on the usage of health services.

**Mr Hughes**—I would have to take that on notice. I do not know what we have in that area.

**Mr Metcalfe**—I have in front of me some earlier data which is probably from about 1 February. If it has changed significantly since then, we will provide further details on notice. On 1 February we had granted 7,574 TPVs. Centrelink records show that 4,576 principal applicants were receiving special benefit, which leaves 2,998 visa holders who presumably either had gained employment or were supporting themselves through other means or who are dependants of another applicant. So it does not quite answer your question, but it goes some way towards answering your question.

**Senator BARTLETT**—Are the payments you are making to IOM in relation to people in Indonesia and the like part of this program or is that down the track?

**Mr Metcalfe**—Payments, or the regional cooperation model in Indonesia, are within 1.2. The work that we do with IOM in Nauru and Papua New Guinea is under 1.5.

**Senator BARTLETT**—Are you able to specify how much is provided directly to IOM for their Indonesian activities?

**Mr Okely**—The amount paid to IOM to the end of February this year under the regional cooperation model was \$5,239,630. We paid to UNHCR an amount of \$763,870 for their work on assessing protection claims. In Cambodia, under the regional cooperation model a total of \$556,680 was paid to IOM.

**Senator BARTLETT**—What do we require IOM to do for that money? Is it based on numbers of people or a specific type of activity.

**Mr Okely**—The payments are made to IOM for services that they provide to us. People are intercepted en route to Australia, they are detained, the Indonesian authorities then request IOM to intervene and IOM provide care for those people who are in detention in Indonesia. If there are protection requests, UNHCR is involved in the assessment of those protection claims. The figure covers the care of those people and the return of those people to their home countries where that is applicable. It is an overall figure for the services that IOM provide.

**Senator BARTLETT**—Do they get paid so much per person?

**Mr Okely**—It is not on a per capita basis; it is on the basis of costs incurred.

**Mr Metcalfe**—Just to give you an indication, Senator, around 1,500 persons have been assisted through the regional cooperation model in Indonesia. IOM would have had contact with them, and we would have provided some funding to IOM in relation to that. In Cambodia, there were around 240 persons who were similarly covered by those sorts of arrangements.

**Senator BARTLETT**—At the last estimates hearing, questions asked by Senator McKiernan touched upon processing times for offshore people. I raised an issue about some Afghans and processing times through the Islamabad office, and I received some useful information from you on notice. The general concern I raised at that time, though, was about a quite clear indication from an officer at the Islamabad post that family reunion applications from people who had arrived here initially in an unauthorised way were getting a lower priority than others. Mr Giuca indicated at the hearing that that was not correct, that all those in the queue were processed equally. Has any action been taken since then to make sure that

the officer at that post—I think I gave a copy of the relevant email to someone at the time—and also officers at other posts are not applying that incorrect interpretation?

**Mr Hughes**—I would have to check on that for you, Senator. I will take that on notice and see whether or not it has been done.

**Senator BARTLETT**—Thank you. I presume you still have a copy of the specific email that I mentioned. I can get it again if you need it. I have received verbal allegations since that someone has received similar communications from our post in Belgrade. It would be useful to make sure that mistaken interpretation was not still occurring. I note that, in amongst a lot of other regulatory changes that are coming through, there is an extension of the situation in relation to Sino-Vietnamese people in the Peoples Republic of China. I did get a briefing from departmental staff, which I am grateful for. Could you outline more fully why it is believed there is a need to extend that particular regulation?

**Mr Metcalfe**—As I am sure the briefing would have advised you, that particular arrangement first came into place, from memory, at the end of January 1995 and is an example of the application of the safe third country legislation, which was introduced in about September 1994. The particular situation deals with the fact that we in December 1994 and into early 1995 received a very significant number of persons known colloquially as Sino-Vietnamese—essentially persons who are of Chinese ethnic descent who have been living in Vietnam and who were displaced and crossed the border into the Peoples Republic of China in 1978 following the Sino-Vietnamese border conflict. If memory serves me right, around 350,000 to 400,000 people—the figure may have been a little less but certainly a very large number of people—were affected by that conflict. The group was granted refugee status in China, China of course being a signatory to the refugee convention, and UNHCR were actively involved in their resettlement in China. From evidence given to probably a forerunner of this committee—a legislation committee looking at the issue back in 1995—my recollection is that about \$US1 billion of UNHCR funding and international aid funding was involved in the resettlement of that group. Over the years, some people from that group sought to travel to third countries. I recall that a large number travelled to Hong Kong, some people went to Japan and, in late 1994-95, some people came to Australia.

The legislation was enacted in September 1994—and, just as an aside, I remember that Senator Ellison examined the department at length about that when he was in opposition and was convinced of the need for the legislation. Arrangements were put in place that, on the basis that the group had refugee status in China and that they were not making refugee claims in relation to China, they would not be able to access asylum procedures in Australia—in other words, that they could not make a valid application for refugee status in Australia. The way that that legislation operates is that the particular regulations rely upon the continuation of an agreement between Australia and the PRC, and that has been renewed from time to time. From recollection it has a sunset of about two years and it has been extended on a number of occasions since January 1995. The regulation you are referring to is the most recent iteration of that. Why do we continue to renew that agreement with the PRC and why do we continue to make that regulation? We have seen from time to time small numbers, in the more recent years, of Sino-Vietnamese coming to Australia and the conditions essentially remain the same. They are welcome in China, they have been granted refugee status there, and it remains appropriate that they be returned to the PRC to send a signal that people should not attempt to travel, usually in very unsafe vessels, seeking asylum elsewhere as a secondary movement. The reason that regulation has been renewed on a number of occasions, and is being renewed now, is the potential for persons to continue to undertake that travel.

**Senator BARTLETT**—Does that mean that you are able to be confident that any Sino-Vietnamese person would not be subject to persecution in China?

**Mr Metcalfe**—That was the basis of the making of the arrangements in 1995 and it remains the case.

**Senator McKIERNAN**—I seek clarification of those earlier questions from Senator Bartlett regarding the temporary protection visa holders in Australia. Is it the case that persons who held three-year temporary protection visas prior to the legislative changes in September last year still had the right—if they had not already applied for permanent residency—to apply for permanent residency in Australia? Or did that change to the legislation in September have the retrospective effect of depriving those who had not previously applied of being able to apply thereafter?

**Mr Illingworth**—The legislation has a prospective impact because the provision has been attached to the new application for protection. Essentially what it does is say that if anybody who applies for protection after the commencement date—on or after 27 September—has held a TPV before, they have to meet an additional criterion in order to access the permanent version of the protection visa as opposed to the temporary one. So in the case of those who held temporary protection visas and applied before 27 September, their fresh application would not be affected by the legislation. But anybody who applies for a protection visa beyond that date would be affected if they were a TPV holder.

**Senator McKIERNAN**—Thank you for the clarification.

**Senator COONEY**—This is not a smart point, Mr Metcalfe, but I wanted to take you up on something you said when you were talking with Senator Bartlett about the people who had got refugee status in China. They came down here and we sent them back. You said that that was to send a message. I would have hoped that it was to comply with the law as well as to send a message.

**Mr Metcalfe**—I think the policy intent of the safe third country legislation is to ensure that persons who already have successfully obtained refugee status in the third country are swiftly returned to that country, on the basis that the most effective way of stopping further departures of people—the way to stop people clinging to false hopes and undertaking what can be extremely perilous voyages—and sending that message is the quick return of people who are not applying for refugee status in Australia.

**Senator COONEY**—You seem to say the big thing is to send the message rather than to see that the law is complied with. Do you give any weight at all to the fact that they have to be returned because the law says they have got to be returned?

**Mr Metcalfe**—No, Senator, I am not. I am simply saying that the law is a very good law and that the policy intent behind the law, as articulated by Minister Bolkus at the time the law was established, was to send that message. That was the policy basis for the development of the law. The department, of course, complies with the law.

**Senator COONEY**—I would have thought that the law was made because there has got to be a regulated way of getting people into the country. I would have thought that that was the purpose of the law.

**Mr Metcalfe**—The law is to ensure that persons who Australia did not have a protection obligation towards did not enter the country.



**Senator COONEY**—That is right. Wouldn't that be the purpose of sending them back—to conform to the law?

**Mr Metcalfe**—Yes, but without getting into semantics—

**Senator COONEY**—I do not think it is semantics; I think it is just a way of thinking.

**Mr Metcalfe**—As you know, we are both lawyers, Senator, but I was involved in the development of that legislation—

**Senator COONEY**—I was involved in the passing of it. You were involved in the preparation, I was involved in the passing.

**Mr Metcalfe**—Indeed, Senator, you were also on the committee that considered the matter in detail.

**Senator COONEY**—Let's hope your memory is not too good.

**Mr Metcalfe**—So perhaps I was being imprecise in my terminology. My answer to Senator Bartlett, of course, was on why the arrangement was being continued, therefore I went to the policy rationale behind it. The policy rationale is that Australia does not owe protection obligations to persons who have refugee status elsewhere. There is also a subsidiary issue that it makes sense that others should not be encouraged to travel, clinging to false hopes, paying people-smugglers large sums of money and possibly imperilling themselves or their children in undertaking such a voyage.

**Senator COONEY**—Are there any terms that are used throughout the world that everybody understands? Let me explain what I mean by that. As you know, there has been great discussion as to whether Australia lives up to its obligations and whether it does better than Holland, the United States, China or somewhere else. One person might make a proposition and another person says, 'Oh, yes, but that is because you have used these terms, and in Holland'—I am just taking a place at random; it could be England or somewhere else—'they don't use those terms.' It is very hard to get an idea of what is happening around the world on what is clearly a universal problem. I was wondering whether there has been any agreement about terminology and what is meant by what.

I think it is more than a semantic issue. It is difficult to get an understanding of what is going on around the world and to decide whether people are doing what they ought to do according to the law or according to humanitarian injunctions. I don't know whether you know anything about this, but is there a group from around the world which gathers to clearly define the terms that are to be used and which sticks to those terms so we can get an idea of what is happening to this mass of people swirling around the world.

**Mr Metcalfe**—I think there are some well-accepted terms amongst persons who deal with the issue on a regular basis—in academic circles, in government and parliamentary circles, and others who may have a regular professional usage of the words. But possibly the point that you are trying to draw out is that the 'terms of art' in relation to these issues, such as 'refugee', 'asylum seeker', 'humanitarian', 'irregular migrant', can quite often not translate into the vernacular use of the particular term.

Perhaps the best example of all is the use of the word 'refugee'. Quite often you will read a banner headline in the newspaper: 'Refugee boat arrives'. Well, a boat may arrive. The persons on board may or may not be refugees. Ultimately that will depend on whether or not they have a well-founded fear of persecution for reasons set out in the refugee convention. But the particular distinction between a person who is a refugee and an asylum seeker or

simply an illegal immigrant who is looking for a job sometimes can get quite confused in terms of vernacular or tabloid newspaper usage. I think there are some commonly accepted terms that are used in forums such as the executive committee of the UNHCR or in similar working groups or bodies dealing with these issues.

**Senator COONEY**—Another one that is used is ‘humanitarian’, for example, as in ‘giving humanitarian relief’. It would seem that in Europe the countries tend to give ‘humanitarian relief’ rather than ‘refugee asylum’. So you get into arguments about who is doing what, which are in a certain sense a bit pointless but in another sense very important in terms of the responsibility shown by the world to people who are out of their country for whatever reason—be those reason ones that give rise to humanitarian or refugee considerations. That seems to be the problem. I do not think there is a common understanding as to what is ‘humanitarian relief’.

**Mr Metcalfe**—I think that ‘humanitarian’ certainly is one of those words that mean different things to different people. In an Australian context we make a distinction. In our overseas refugee program we are dealing with people referred to us by UNHCR who by definition are outside their country of habitual residence. That is a precursor to becoming a refugee—that you have fled your country. Then we have a special humanitarian program, which largely deals with people within their country of habitual residence for whom there are particular humanitarian issues, which may go towards refugee-like issues, but where the person does not qualify as a refugee because they have not left their country. I think it is fair to say that the terminology can differ. In some of the core terms such as ‘refugee’ or ‘asylum seeker’, in UNHCR parlance, in the sort of language that we speak we tend to try and be as precise as we can. But I accept that there can be different meanings ascribed to those words depending upon who the audience is and how those words are used.

**Senator COONEY**—I know this tends to get to issues of policy, which you cannot talk about, but the whole issue becomes whether or not the present convention and protocol really meet the needs of what is going on around the world. That is where I am coming from—to see just what sort of discussions might take place between this department and similar departments around the world and whether there is any comparison as to how many people, either humanitarian or refugee, various countries take. These are what I think are fairly invidious comparisons. Nevertheless, people go on with them and then they lead on to the sort of perceptions that go on in the community—not only here but overseas, because you get all sorts of reactions from all round the world. We are part of that, and this seems to be the proper outcome to raise this in. I am just wondering whether these sorts of issues are talked about in terms of international cooperation, or whether various countries around the world are just allowing the whole tragedy to go on as it is.

**Mr Metcalfe**—I think there is an active dialogue. Others may be able to expand on this point. There are a number of forums, and there is a very active dialogue. Australia very much plays its part in relation to that. For example, the executive committee of UNHCR, which is essentially the state parties, the countries that are signatories to the convention, meets on an annual basis. Within that umbrella there are a number of preparatory meetings. Quite often the executive committee is attended at ministerial or very senior official level. There are a number of other forums and areas of discussion. Because of the vast humanitarian issues that the world faces—in Africa, parts of the Middle East, South Asia and elsewhere—different countries respond to it in different ways. Some make substantial aid contributions. Some, admittedly a very few, of which Australia is of course one, have an active resettlement program for refugees as well as contributing towards UNHCR’s running costs, providing

substantial development aid and, in extremis, through situations such as we have seen in recent years in East Timor, providing support of a military nature to ensure that people can live in a safe situation. So the responses can vary markedly, but I think it is fair to say that these issues are very topical and are discussed, and there is an acute consciousness of the issues that need to be addressed.

**Senator COONEY**—The UNHCR, by its very name, is very limited in the approach it takes in this area. Has the department got any material on this?

**Mr Metcalfe**—Last year was the 50th anniversary of the refugee convention. The UNHCR held a ministerial council meeting late last year—in December, from memory—and has been through a substantial process which is close to finalisation of so-called global consultations, where it is consulting with the state parties, with NGOs and with academics as to future work in this area. To the extent that we have that material, I would be only too happy to make that available to the committee.

**Senator COONEY**—By its very nature it must be confined to the consideration of refugees in terms of the convention, I would have thought.

**Mr Farmer**—No. In fact, the global consultations have gone more broadly than the refugee category. That is because of exactly the sorts of phenomena you have been talking about. You have, in many cases, what you would call mixed flows of people—people looking to migrate, refugees and people being trafficked. So the consultations have tried to look at this broad question of movement of people to see the ways in which not so much the convention but the systems that have grown up under the convention have proved their relevance or the ways in which contemporary events show that they might need some revision. I would say that—without blowing our trumpet—Australia, in the multilateral area, has long established a reputation for intellectual input into the future of the national system. That is certainly the case in relation to the global consultations.

**Senator COONEY**—There is a certain amount of discussion about refugee policy in the community, which you may have noticed. A lot of it seems to me to be based on people talking past each other and there seems to be no common currency in the language, in many ways. Obviously, the argument is based on our responsibilities to the world and how the world is going. Has the department—I am not saying it should, because it is an arm of government—thought at any stage of at least clarifying those terms and issues in a way so that people around the world could understand them? You get people locked up in containers in France and England and people are getting very upset in France—at least, in Australia, we know what they are getting upset about. What is happening there?

**Mr Farmer**—There has been quite a lot of work on those, if you like, definitional issues, including work by Australia. We would be happy to make some of that material available to you. We could go through and see what might be of interest.

[6.08 p.m.]

**CHAIR**—We have completed consideration of matters pertaining to output 1.2. Senator Faulkner advises me that the issues he wishes to pursue are located in output 1.3 so we can progress to that quite logically now without having to revert to the general area, as far as I understand.

**Senator FAULKNER**—I thank you and the committee for your courtesy and assistance. I have had to attend a funeral in Sydney. I really do appreciate the fact that the committee has

been able to assist me in this way. Mr Farmer, could you outline the involvement of your department in the joint People Smuggling Strike Team?

**Mr Metcalfe**—The joint AFP strike team?

**Senator FAULKNER**—Yes. I understand that there are DIMIA officials involved in the joint People Smuggling Strike Team. Could you brief us on that?

**Ms Siegmund**—The strike team has been operating for approximately two years. It is a joint agency strike team as you have mentioned, comprising 10 officers from the Australian Federal Police and five from DIMIA. The five from this department are made up of four certified IV investigators and one intelligence analyst.

**Senator FAULKNER**—Four certified investigators?

**Ms Siegmund**—All of the investigators operating within the Commonwealth are required to have qualified with their certificate level IV training. The four that we have with the AFP are officers who have undertaken that training.

**Senator FAULKNER**—They are DIMIA officers?

**Ms Siegmund**—Yes, they are.

**Senator FAULKNER**—They may have come from other agencies?

**Ms Siegmund**—No, they have come from within the department. We currently have an officer who has come from DIMIA investigations in New South Wales. Another is from Queensland and the others are from central office.

**Senator FAULKNER**—What is the role of the DIMIA officers in the strike team?

**Ms Siegmund**—Part of the advantage and rationale of having a joint agency strike team was to bring together the strengths and skills of both agencies to try to tackle the issue of investigation and ultimately prosecution of people-smugglers. From a DIMIA perspective we have brought with us a very detailed and intimate knowledge and understanding that we have built up over the last several years of what the people-smuggling environment has been like, what the smugglers' modus operandi has been, what experience we have had in building up intelligence and information on the whole issue, and a knowledge of immigration law and the migration and citizenship acts and so on. As an agency we have extensive experience in working in an interdepartmental capacity. We have worked with a number of agencies over the many years I have been in the department and it is something we are familiar with. We rely on cooperation with other agencies in many areas.

**Senator FAULKNER**—This is Canberra based?

**Ms Siegmund**—It is centrally located, but the team is quite mobile. In other words they can go out to different locations to take witness statements or to investigate further.

**Senator FAULKNER**—Who is the lead agency? I asked this of the AFP and I wondered about DIMIA's view of who the lead agency is.

**Ms Siegmund**—Under the original cabinet decision the AFP have taken administrative responsibility in terms of the funding arrangements, and the strike team is physically located within AFP headquarters in Canberra. The team manager of the strike team is also an AFP officer. However, there is also a structure within the arrangements for what is called a board of management. That comprises a senior officer from the AFP and me, and any investigation proposals and plans must be submitted to the board of management for agreement and approval, including the nature of the operation, what the outcome will be, how long it will

take, what resources it will utilise and so on. Because I am a member of that board of management that obviously gives us equal partnership, if you like, in terms of determining priorities for investigations and a clear knowledge of what the teams are actually doing.

**Senator FAULKNER**—I knew you would say that. It is similar to what that AFP said. Is there a lead agency? There may not be; I do not know.

**Mr Metcalfe**—We do regard it as a joint strike team. While there is an AFP lead in terms of the day-to-day management, in terms of overall issues it is a joint effort, and Ms Siegmund as the relevant branch head is our representative in relation to that.

**Senator FAULKNER**—Are you and the AFP the only agencies involved?

**Ms Siegmund**—In the actual joint agency strike team, yes. But we obviously work very cooperatively with a range of other agencies in terms of a whole-of-government approach to tackle people-smuggling, so there will be contacts with other agencies along the way. But the actual investigations are only conducted with the AFP and DIMIA officers.

**Senator FAULKNER**—What other agencies do you work with in that collaborative way?

**Ms Siegmund**—We work with the Department of Foreign Affairs and Trade through their officers at post, with Defence and with a range of other agencies within the law enforcement and intelligence community—anyone and everyone that can provide us with any relevant information that they see would assist us. That may involve state police as well if they want to provide us with information they think is relevant to the people-smuggling issue.

**Senator FAULKNER**—Who does the strike team report to?

**Ms Siegmund**—The structure at the moment is that the team manager reports to the board of management which, as I said, comprises myself and a senior AFP officer.

**Senator FAULKNER**—Who does the board of management report to then?

**Mr Metcalfe**—The board of management then reports through the relevant departments ultimately to the ministers: Senator Ellison, on the one hand; and Mr Ruddock, on the other.

**Senator FAULKNER**—So in DIMIA's case, does the board of management report directly to Mr Ruddock?

**Mr Metcalfe**—Ms Siegmund is a branch head within a division and so, through the departmental structure, ultimately would report to Mr Ruddock, but the secretary, Mr Moorhouse and I all have a role to play.

**Senator FAULKNER**—Have you actually got any intelligence units at all? I do not know whether I am using the correct terminology but it seems broad enough.

**Mr Metcalfe**—We have a section within Ms Siegmund's branch known as the intelligence analysis unit which was established a couple of years ago—we could give you a more precise date. It has a particular focus on people-smuggling and it seeks to draw together information from the various sources and produce reports that can then be used in our efforts to deal with that situation.

**Senator FAULKNER**—Can you explain to me the difference between the strike team and the intelligence analysis unit so I get an understanding of the different roles, please?

**Ms Siegmund**—Of course, Senator. As Mr Metcalfe has mentioned to you, the intelligence analysis section is based within the border protection branch in DIMIA. It has responsibility for gathering a very broad range of information and intelligence then trying to analyse that,

value add to it and, ultimately, come out with some intelligence product or analysis of what all of that would mean from a DIMIA perspective. The joint agency strike team uses intelligence product and information to drive its investigations—to take them that one step further of actually operationalising, if you like, that information or intelligence. It may then set up a formal investigation and hopefully have a prosecution as one of the outcomes.

**Senator FAULKNER**—How many staff do you have in the intelligence analysis unit?

**Ms Siegmund**—It is led by a section head. Below that there are five assistant directors and then a team of analysts who are broken up on a geographical basis.

**Senator FAULKNER**—Who is the section head of the intelligence analysis unit?

**Ms Siegmund**—Mr Antony Pollock.

**Senator FAULKNER**—There are five assistant directors under Mr Pollock.

**Ms Siegmund**—Yes.

**Mr Metcalfe**—In public service terms, Mr Pollock is an executive level 2 officer and the assistant directors are executive level 1 officers.

**Senator FAULKNER**—Fair enough. And below that?

**Ms Siegmund**—Below that is a series of analysts and administrative support staff. The teams are broken up on a geographical basis. For example, you would have areas that would specialise in the Middle East, China, Africa or the South Pacific. Those analysts then specialise in gathering information about those geographic locations. There are 19 staff altogether in this section.

**Senator FAULKNER**—Are you able to say what the areas covered by the teams are?

**Ms Siegmund**—Yes, I can. The areas are the Middle East pipeline and the rest of the world, which we then divide into subsections including China, the Pacific region and a region that covers Cambodia, Vietnam, Laos, Thailand and Malaysia. We have a separate area that does coordination. We produce a series of daily information bulletins regarding, for example, interdictions at the airport, and so we have a separate section that coordinates how those reports are pulled together from all the Australian airports and how they are distributed.

**Senator FAULKNER**—So you do not have anything dealing with Indonesia, for example?

**Ms Siegmund**—Yes, I am sorry. Indonesia is one of our major subsections too.

**Senator FAULKNER**—Is that included in one of the others or is it separate?

**Ms Siegmund**—It is a separate subsection. If you like I can perhaps provide you with an organisational chart.

**Senator FAULKNER**—If you would not mind, that would probably save us a bit of time which would be of benefit to everyone, I suspect.

**Senator COONEY**—It would be.

**Senator FAULKNER**—I know how quickly you move through your questioning, Senator Cooney. In the last 12 months, has the department been particularly actively engaged with Indonesia, countering people-smuggling? Obviously, there has been a great deal more focus on that, and we have heard about that from a range of agencies. I think it is well known to anyone who turns on a television or a radio. I just wonder if, in the broad, Mr Metcalfe or Mr

Farmer, you could just very briefly outline the prioritisation that this issue now has within your department.

**Mr Metcalfe**—It has a very significant order of prioritisation, but it obviously takes its place among other work and relationships that we have. For example, within the Australian Embassy in Jakarta, we have three full-time A-based staff working on the broad issue of immigration fraud and compliance, and people-smuggling issues form a subset of that. We obviously work closely with other Australian agencies in relation to that issue. We have also worked very closely with our counterparts in Indonesia at the Indonesian immigration department—Imigracia. There have been a number of high-level exchanges and areas of cooperation, and over the last couple of years quite a mature working relationship with Indonesian immigration has developed at a number of levels, including the post level in Jakarta. Their director-general has visited Australia on one occasion, I have visited Jakarta on a number of occasions and the secretary has visited Jakarta. One of the outcomes of the discussions that Minister Ruddock and other ministers had in Jakarta in September last year was the establishment of a number of cooperative working groups. One of those dealt with immigration issues, and we have met on three or four occasions with Indonesian immigration officials to discuss areas of mutual cooperation.

**Senator FAULKNER**—Does this high-level activity includes ministerial activity?

**Mr Metcalfe**—Yes.

**Senator FAULKNER**—In the last calendar year, would you be able to say how many ministerial visits there were to Jakarta and when they occurred?

**Mr Metcalfe**—I will check that. Mr Ruddock was certainly in Jakarta in September and then in Bali in February for the multilateral conference involving 34 ministers, I think, from a range of countries in the region and elsewhere. He met with Indonesian ministers on that occasion as well, of course. I will have to check my records but, from memory, I have been to Jakarta on three or four occasions in the last year. The secretary has been to Indonesia accompanying the minister.

**Senator FAULKNER**—Wasn't the minister there in June or July last year as well?

**Mr Farmer**—I do not believe so, Senator.

**Mr Metcalfe**—We can check on that.

**Senator FAULKNER**—I just had a vague memory of that.

**Mr Metcalfe**—I think he may have been there earlier last calendar year, but we can check on that. When I said that the relationship is maturing, I think that there is evidence of that on a range of fronts, in a number of bilateral and multilateral forums. For example, Indonesia works with Australia in relation to APEC forums and areas of developing cooperation relating to business travel. Those are not necessarily related to combating people-smuggling but they go to the broad area of immigration cooperation. Mr Killestyn was in discussions with Indonesian colleagues last week on areas of further cooperation. I think this week or next week we are conducting some fairly substantial training courses for a number of immigration officers from Indonesia on document fraud issues—how to identify fraudulent documents and how to use modern equipment. So there is a breadth to the relationship that has arisen out of the working group and earlier efforts, and it is obviously a strong focus for us.

**Mr Farmer**—I have been corrected: Mr Ruddock did go to Indonesia in the middle of the year, in the context of a visit to Indonesia and Vietnam.

**Senator FAULKNER**—Do you know what month that was, Mr Farmer?

**Mr Farmer**—It was June.

**Senator FAULKNER**—I thought that was the case. Would you be able to provide the ministerial itinerary for that visit—not for the other ones?

**Mr Farmer**—I will certainly ask Mr Ruddock. I cannot see any problem. Is your interest the people he saw there?

**Senator FAULKNER**—I would like the itinerary, yes. I would like as much detail as you are able to provide.

**Mr Farmer**—Is your interest just in his itinerary in Indonesia or do you want the one relating to the Vietnam part of the trip?

**Senator FAULKNER**—I would be happy for you to limit the question to Indonesia if that would save work. You know I am always interested in saving departmental resources where appropriate. Do you have a good working relationship with the AFP in relation to these activities that Mr Metcalfe is speaking of?

**Mr Farmer**—I think the commissioner and I have made it clear to both our organisations that we expect a very close working relationship in this whole area. We have instituted arrangements which involve very high-level regular periodic contact between the two organisations. The deputy secretary of the department and the deputy commissioner meet to essentially talk about issues of common concern and they, of course, go more broadly than this issue.

**Senator FAULKNER**—Sure. I will conclude on this question: are there any memorandums of understanding or protocols or other guidance or documentation that govern your operations in Indonesia?

**Mr Farmer**—Are you talking just about immigration or about government operations more broadly, including the police?

**Senator FAULKNER**—I am interested in government operations more broadly, but I am talking to DIMIA and I do not expect you to answer for every other agency. I only expect you to answer for yourselves, but any information you can happily provide from a whole-of-government perspective would be appreciated.

**Mr Farmer**—We will try to be as helpful and as full as we can, if you like.

**Senator FAULKNER**—That is genuinely appreciated but I am specifically interested in your own operations and what guidance you have.

**Mr Metcalfe**—I mentioned earlier the working groups that were established. They were established following the ministerial discussions last September, and we will check and I will take that on notice and come back to you. I recall that there was some documentation in the form of a media release or some form of communique from the Australian and Indonesian sides about the fact that—

**Senator FAULKNER**—Yes, but I am looking more to find out what other guidance is available in relation to how you conduct your activities in countering people-smuggling in Indonesia and whether it comes by the joint People Smuggling Strike Team or by the intelligence analysis unit or by any other DIMIA operations, either onshore in Indonesia or Australia based. I would be very interested to see such guidance. Thank you very much for your cooperation.



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**Proceedings suspended from 6.30 p.m. to 7.37 p.m.**

**CHAIR**—I reconvene the examination of estimates for the Department of Immigration and Multicultural and Indigenous Affairs. We are dealing with output 1.3, but I understand Senator Carr has a point he wishes to raise with the committee.

**Senator CARR**—I would ask whether we have a response from the department to the inquiry I made around five o'clock this evening on the provision of some information about providers who have been suspended or cancelled from the CRICOS listing.

**Mr Farmer**—No, we do not have a response yet. We are consulting with DEST, but their processes are still continuing. I said we would try. We will be here for a lot longer, but it may be tomorrow, I will have to see.

**Senator CARR**—When you say you are consulting with DEST, does that mean you have actually contacted DEST?

**Mr Farmer**—That is right.

**Senator CARR**—Have you spoken to an officer from DEST?

**Mr Farmer**—I have not but other DIMIA officers have.

**Senator CARR**—Was this a senior officer from DEST?

**Mr Farmer**—I believe so, but we do not have a definitive reply yet.

**Senator CARR**—Are you waiting on the secretary?

**Mr Farmer**—We are waiting on a definitive reply.

**Senator CARR**—When do you think you will be able to contact the secretary?

**Mr Farmer**—I have said that I am trying. Basically, I cannot tell you when we will have a reply; we are making efforts in that regard.

**Senator CARR**—Mr Farmer, I appreciate your good intentions, your bona fides, on this—I say that genuinely—but it is just that at five o'clock this evening we asked for some information. Normally secretaries to departments can be found reasonably quickly, particularly when estimates are sitting. It strikes me, it being 20 to eight and we are still not able to contact the secretary to the education department, as unfortunate. I trust he can be found overnight.

**Mr Farmer**—Contact may have been made with the secretary, but I do not yet have a definitive response from DEST to the matter you raised. We said we would try. If it is not tonight, we will have something tomorrow.

**Senator CARR**—If the secretary is not available, presumably another senior officer from DEST could be found. They still have some of them over there. I know that they have been cut pretty heavily.

**Mr Farmer**—I cannot speak for DEST and their procedures.

**Senator Ellison**—It has only been a few hours.

**Senator CARR**—I would hate to see them act urgently.

**Senator Ellison**—Yours is not the only thing that is being dealt with, of course.

**CHAIR**—Yes, it may be the entire focus of our existence at the minute, but it is not the rest of the world's. The secretary did indicate that DIMIA officers would make their best

undertakings to secure an answer for you, Senator Carr. I am confident they will continue to do that, and we will advise you as soon as we have some information.

**Senator CARR**—I suppose I should be lucky to get anyone to answer the phone after five o'clock there.

**Mr Farmer**—That is not my impression of the department, Senator.

**Senator CARR**—That's good.

**Mr Farmer**—Like other Public Service departments, five o'clock comes and goes regularly—

**Senator CARR**—Every day, I am told.

**Mr Farmer**—and there are many officers who could be at home with their families but who I know from first-hand experience are not at home with their families, and I for one do not appreciate having the Public Service slandered. There are many officers who devote much, much more than is asked of other people.

**Senator CARR**—I appreciate that, but I want to emphasise to you that I think it is reasonable that we have this information. I do not think it is acceptable that you cannot find a senior officer from the education department of the Commonwealth of Australia.

**Mr Farmer**—I did not say that. I said that we were still awaiting a definitive response; we have spoken with officers from DEST. You raised a matter that I thought significant enough to raise with DEST and get a definitive response on. I will make sure we get the right response.

**Senator Ellison**—I think Mr Farmer has adequately covered the matter, and I think we should now move on.

**CHAIR**—Yes, that is my absolute intention. We will move to questions from Senator Cooney in output 1.3.

**Senator COONEY**—I want to get the cost to the department of running the enforcement division, including the detention centres. Can you break it up into how much it costs to run each centre and how much people are paid? I would like information on anything to do with the financing of them and how that is distributed. This follows on from questions I have asked the Attorney-General's Department, and I think the minister has on board the general thrust.

We are waiting for an opinion in this area from the Clerk, and that will clarify it. I just want to be on record now as having asked for that. I would also like details of reports made within the centres. This is a second category, and you might think that giving details of the finance is one thing but that giving details of what actually happens in terms of operations is another. So you might want to have a think about that. Nevertheless, I have asked for them to get some idea of what is going on in the centres. Minister, you have heard me put that ad nauseam and you would not want me to do it ad nauseam again. Have I been clear enough as to what I want? All I want at this stage is to establish my bona fides in having asked for the information. Is that sufficient, Minister, or do you want me to detail it a bit further?

**Senator Ellison**—No, I think that is fine.

**Senator COONEY**—The other matter I want to raise is the origin of the word 'queuejumper'. I say it came from Mr Hand, who was then the minister, who was reported in the *West Australian* on Thursday, 8 October 1992—which you would have read, Minister, being a good Western Australian—as saying about refugees, 'You are either a refugee or you aren't. If you aren't and you want to stay, at best you can be described as a queuejumper.' He

was not describing the refugees as queuejumpers. I do not know that I have a high basis for putting that in. Has anybody got any great problems with that being incorporated in the *Hansard*. If you agree to that I will go; I will leave you for the rest of the night. So, there you are, there is an incentive.

**Mr Farmer**—I think it is already incorporated, isn't it?

**CHAIR**—It sounds like it to me, Mr Farmer.

**Senator COONEY**—When we get this opinion from the Clerk it will be clearer. I just wanted to ensure a very wide-ranging discovery into the whole thing. We can talk about it when the opinion comes. Thank you, Mr Farmer. I have one more comment to make. I was on this theme earlier in the day, but I think it is outrageous that public servants should be subjected to the sort of examination they are subjected to here, that they must patiently plod through, whereas people from private enterprise who are administering the detention centres escape examination and are protected by people—like you, Mr Metcalfe—who say that it is commercial-in-confidence and what have you. I just think that, whether public money is spent by public servants or by private people, it is public money and those people should be subject to examination. I cannot see the fairness in you, but nobody else, being subject to the sorts of questions that come from us. I have to concede that some questions are not as fair as others, but you have to put up with that and I think it is pretty bad. You have shown grand patience over the years—everybody has.

**Mr Farmer**—Thank you. We operate within the existing system. That system has many ramifications, including of course some contractual requirements that the contractors, in some circumstances, not make public statements. So it is preceded by a foundation that goes more broadly than the estimates process.

**Senator COONEY**—I think there is a bit of truth in what I say, all the same—taking into account what you say. Perhaps we can discuss it further when the Clerk sends his opinion.

**Senator SHERRY**—I have seen media reports that the computerised scanning software system for passenger card data collection has not been working to the required standards. When was the system to be operational?

**Mr Moorhouse**—The previous manual system for processing passenger cards was intended to be replaced by the middle of 2000. The initial implementation of that system was problematic, and the—

**Senator SHERRY**—Just before you continue: was it agreed that it would commence operation from July 2000?

**Mr Moorhouse**—It was either July or August.

**Senator SHERRY**—And that was the understanding?

**Mr Moorhouse**—Yes.

**Senator SHERRY**—Was that in the contract?

**Mr Moorhouse**—That was intended, yes.

**Senator SHERRY**—What was the value of the contract?

**Mr Moorhouse**—I am not sure about that. Can we take that on notice?

**Senator SHERRY**—Yes. Who was the supplier?

**Mr Killesteyn**—The value of the contract is approximately \$15 million over a five-year period. We can get the precise figures for you, but it is of that order.

**Senator SHERRY**—Thank you. Who was the supplier?

**Mr Killesteyn**—The supplier is an organisation called Insight. They were awarded the tender to provide the scanning technology for us.

**Senator SHERRY**—So we know that it was July or August and that it was a \$15 million contract. Is this system operational yet?

**Mr Moorhouse**—Yes, it is.

**Senator SHERRY**—When did it become operational?

**Mr Moorhouse**—It has been operational for several months. The passenger cards from July last year to the beginning of this year have now been processed, and the results have been passed to the Australian Bureau of Statistics.

**Senator SHERRY**—So there was a period of a year when you could not use the system?

**Mr Moorhouse**—There was a period of a year when the cards themselves were unsuitable for use by an automated system.

**Senator SHERRY**—So the problem was with the cards, not with the technology?

**Mr Moorhouse**—No, the problem was in both areas.

**Senator SHERRY**—Has the backlog now been cleared?

**Mr Moorhouse**—No, the backlog has not been cleared. There is a period from August 2000 until June 2001 for which the cards themselves are not entirely suitable for machine reading.

**Senator SHERRY**—So are they being done manually?

**Mr Moorhouse**—We have reinstated the previous manual system in order to ensure that the data from those cards is complete. Quite a number of the cards could be read but, unfortunately, there is a significant proportion where that is not the case, and the Australian Bureau of Statistics obviously would want to have complete data for that period.

**Senator SHERRY**—What do you mean by a significant proportion? How many cards are we talking about that cannot be read?

**Mr Moorhouse**—I would need to check the proportion, but it was a significant proportion.

**Senator SHERRY**—Are we talking about thousands, tens of thousands?

**Mr Moorhouse**—We are talking about a substantial number, yes. The number of passenger cards we would process each year would be around 17 million.

**Senator SHERRY**—So, when we are talking about a substantial proportion, we are talking about millions?

**Mr Moorhouse**—I would need to check on that for you, but it was a significant proportion that could not be read. I can go into the reasons if you would like.

**Senator SHERRY**—We do not need to at this stage. We may need to. What is the extra cost involved in the delay and the manual processing?

**Mr Moorhouse**—I would need to take that on notice.

**Senator SHERRY**—You must have some idea.

**Mr Moorhouse**—If you would allow me to consult my notes, I will check.

**Mr Killesteyn**—I wonder if I could add some context to this whole issue. It is obviously unfortunate that the particular scanning technology did not operate as we had originally intended, but this has been an exercise in which DIMIA has over many years sought to reduce the time between the actual production of the card and the production of the information ready for use by ABS. If you look at the history of this exercise, back to the mid-nineties, we used to take in the order of six months to get the information to the Australian Bureau of Statistics. Steadily, through a range of processes, we were able to bring that down to a period of some six weeks. However, the growth in the passenger card volume led us to the view that we could not sustain that sort of processing rate in the way in which we had been doing it before, which was essentially a manual keying exercise. Indeed, we never keyed in all of the cards; they were sampled on a proper basis agreed with the ABS.

With the growth in volume, we started to look for new technologies that could help us maintain and perhaps improve the timeliness of the availability of the data for ABS. It was in that context that we took off on this particular piece of technology. Many of the trials for the Insight technology were done on a card design which ultimately proved to be not what was actually in the marketplace, so to speak. In fact, we found subsequently that many airlines had in a sense produced their own cards. Admittedly, they were to our standards, but there were slight variations in size and parameter, which made it somewhat difficult for the scanning technology—which had been originally designed on the DIMIA version of the card—to keep a reading rate which was very high and accurate.

It was over that time that we progressively tried to tweak the system—that is a technical term—to make the system work better and also to get the card designed in a way in which we could rely on the precise parameters in which the information was being contained on the cards so that the reading could take place. In the meantime, we have instituted separate arrangements to try and deal with the backlog and provide the information to ABS. Those separate arrangements have effectively taken us back to the old scheme, which is essentially a manual keying exercise. Gradually, the backlogs are being reduced and, as Mr Moorhouse has said, we will be in a position within the next couple of months where those backlogs will have been eliminated entirely.

**Senator SHERRY**—Who was oversighting the selection of the contract? Was this done within the department?

**Mr Killesteyn**—Indeed it was. We put out a tender, and a number of providers submitted bids. On the basis of the evaluation that we conducted at the time, the bid from Insight Technology was judged to be the best, and we moved on from that time.

**Senator SHERRY**—Which group in the department was responsible? Was a special working group of some sort set up?

**Mr Killesteyn**—It was within the Border Control and Compliance Division, a special project group that had been established for that purpose.

**Senator SHERRY**—Do you have anything on the costs of this?

**Mr Moorhouse**—I am sorry; I do not have final costs for it. I will have to take it on notice.

**Senator SHERRY**—Has legal action been taken against Insight for breach of contract?

**Mr Moorhouse**—No, it has not. The circumstances that led to the cards not being able to be read are not entirely Insight's fault—in fact, substantially not Insight's fault.

**Senator SHERRY**—The fault, you have determined, lies with the department rather than with Insight?

**Mr Moorhouse**—The fault lies with the fact that, in the intervening period between the assessment of the schemes and the implementation of the scheme, because of the timing and the impact of the Olympics, a lot of the airlines had produced their own version of the cards, which varied significantly.

**Senator SHERRY**—That is not what I asked. If Insight is not in breach of its contract—if you have come to that conclusion—the responsibility must lie with the department; otherwise you would take legal action to recover costs, wouldn't you?

**Mr Killesteyn**—This is very new technology. Nowhere else in the world has this type of technology been used in the manner in which we were seeking.

**Senator SHERRY**—I appreciate that, but from what you have outlined it is not the technology but the card itself.

**Mr Killesteyn**—It is both. The technology is new. Imagine our trying to use technology to read handwriting, essentially, from a range of individuals coming into Australia. The handwriting is obviously of variable quality and the cards of variable quality, so it is difficult and sensitive technology in that sense. We are learning that the application of this technology needs a bit more experience, and that is what we have been doing over the last 12 to 18 months of learning about how to use this technology properly.

**Senator SHERRY**—I would have thought that that issue would have been taken into account. But I want to come back to the issue of the department's concluding that it has no legal basis for taking action against Insight. It must have concluded that it bears the responsibility for the botching of this system and the introduction of it.

**Mr Moorhouse**—As Mr Killesteyn was explaining, it is unfortunate that there was such a wide variation in the standards of the cards—

**Senator SHERRY**—You are avoiding the question. You conclude you cannot take legal action against Insight, so they are out of the picture. Therefore, the responsibility must lie with the department and the decision-making process and the oversighting of the cards.

**Mr Killesteyn**—Ultimately we do take responsibility for the delivery of the cards on time and the information to ABS. We are accountable for that. This has been a difficult project and we have learnt from it. We will find that, in the coming months, we will have technology which is the best in the world and is going to serve the Australian public well, because we will be able to keep up with the growth in passenger cards, and we will get on with it.

**Senator SHERRY**—I understand that, and I am sure that that was the intention when the system was designed, but there is a significant cost from the errors that have been made and we will find out in due course just how big the cost is. My understanding is that the ABS uses this data for its demographers, planners and those in the aviation and tourism industry and that Australia's population cannot be accurately calculated without the data. Is that correct?

**Mr Killesteyn**—It is a question that you best should address to ABS, but they do use it for a range of purposes, including providing information to the Bureau of Tourism Research and the tourism industry generally. They also use it in the context of, for instance, refining the electoral boundaries, because there is information on the cards about those people who are leaving permanently and from which state they are leaving. So there are a lot of adjustments,

but again I think this is information which is used to refine that sort of data rather than necessarily being totally dependent upon the data from the cards themselves.

**Mr Moorhouse**—I would add that we have continued to provide the Australian Bureau of Statistics with statistical information about arrivals in Australia from our electronic systems. Passenger cards are not the only mechanism we use to collect information about people arriving and departing Australia, so throughout this period we have continued to provide statistical information. The information that the passenger card provides, which our systems do not provide, is in relation to the intentions of the person—where they intend to reside in Australia or what they intend to do while they are here.

**Senator SHERRY**—You had this hiatus where you had the manual processing of the backlog and a delay in the implementation of the system: did that make the situation worse for that period of time than existed prior to the introduction of the electronic system?

**Mr Moorhouse**—For a while, yes.

**Senator SHERRY**—There must have been quite a few staff who would have been manually entering the data off the cards?

**Mr Killesteyn**—That was a contracted exercise. That was not DIMIA staff. An organisation called HPA did the manual data entry.

**Senator SHERRY**—Have you gone back to them to carry out the processing in the meantime?

**Mr Moorhouse**—They were not interested in continuing with their previous contract.

**Senator SHERRY**—So you went to a new contractor?

**Mr Moorhouse**—We used Insight to provide the manual keying services for that interim period.

**Senator SHERRY**—Are any Commonwealth payments made based on the data?

**Mr Moorhouse**—I am not sure about that.

**Senator SHERRY**—For example, payments to the states?

**Mr Moorhouse**—You would need to consult the ABS.

**Mr Killesteyn**—We will take that on notice and provide you with that information.

**Senator SHERRY**—My understanding is that ABS data pertaining to net migration is used by the Commonwealth for the purpose of payments to the states in some areas. It has had a serious flow-on consequence, has it not?

**Mr Moorhouse**—We acknowledge that, yes.

**Mr Killesteyn**—The point needs to be made that it is not that ABS have not had the data. It is not a question of their having a great big gap in the data on which a whole lot of decisions have been affected. They have the data. It is more a question of the timeliness of the provision of that data. That is a critical element. Nothing has been brought to our knowledge that suggests that decisions have been affected. There may be a timeliness issue, but not in terms of poor decisions or incorrect decisions as a consequence of not having the data.

**Senator SHERRY**—So your understanding is that there has been no hold-up in any payments to the states as a consequence of this problem with the data collection?

**Mr Killesteyn**—I did not say that. I said that you need to make a distinction between ABS having the data late versus not having the data at all. In this case it was simply that there was a delay in the provision of the information. I cannot give you a categorical answer on how that is actually rolled out in terms of subsequent matters that the ABS are providing advice on.

**Senator SHERRY**—If, as I believe, there have been delays in the payments because of the problems with the implementation of the new system, then that is yet another serious flow-on consequence of the new system, is it not?

**Mr Farmer**—I am sorry, Senator, I was out of the room on another matter, so this may have been mentioned, but one thing that is important to note is that in deciding the priorities for the processing of the backlog we consulted very closely with ABS to ensure that the caseload that was of priority to them was processed first.

**Senator SHERRY**—Was there still a delay in the data being transmitted to them?

**Mr Farmer**—There is a backlog, yes.

**Senator SHERRY**—You have not heard from ABS about the delay in payments to the states because of this problem?

**Mr Farmer**—I am not aware of that, no.

**Senator SHERRY**—Do you know how many extra staff Insight had to employ in order to carry out this processing?

**Mr Moorhouse**—I would need to take that on notice to give you precise information. They have been working around the clock to try to catch up.

**Senator SHERRY**—Put it this way, do you have any idea how many staff were employed by the previous contractor to do the processing?

**Mr Killesteyn**—We can take that on notice, but that was some time ago.

**Senator SHERRY**—Do you have any idea of the cost of the previous contractor who was doing the manual processing? You must have some idea.

**Mr Moorhouse**—I do not have that information with me, I apologise, but we will get that information for you.

**Senator SHERRY**—I am a reasonable person and I would not expect you to find out in the next four hours, but do you think you could try to get a response for us some time tomorrow?

**Mr Moorhouse**—In relation to the cost of the previous contractor?

**Senator SHERRY**—The costings, yes.

**Mr Moorhouse**—Yes.

**Senator SHERRY**—I will now move to questions on work related visas. Is it correct that the department has no power to fine employers who do not adhere to agreements made with the department in the case of business sponsored visas for workers?

**Mr Moorhouse**—That is something that is more related to program 1.1, but that is correct.

**Mr Metcalfe**—We do have the officer here who might be able to answer that.

**Senator SHERRY**—If that is convenient. I am not going to insist because it is my error.

**Mr Rizvi**—Could you please repeat the question, Senator.



**Senator SHERRY**—Thank you for coming back because it is my error. Is it correct that the department has no power to fine employers who do not adhere to agreements made with the department in the case of business sponsored visas for workers?

**Mr Rizvi**—In the case of sponsors for what is known as the long-term temporary business entry visas, which is subclass 457, the employers enter into a series of undertakings with the department. If those undertakings are breached we have the power at present to cancel their sponsorship. That would lead to a flow-on cancellation to the employees that they have brought in from overseas. We can also refer cases where employers or sponsors may have breached other laws to the relevant agencies. It is true that, beyond that, we cannot place any other penalty on the sponsor. Where the sponsor seeks to sponsor again, of course, their past record would be taken into account. We have been undertaking a review, which the minister initiated a little while back, in relation to this visa. One of the draft recommendations of that review, the review has not been finalised, is to look at possible sanctions for employers who breach their undertakings.

**Senator SHERRY**—Are lists of business sponsor visa recipients and the companies they are employed by provided to state departments of industrial relations?

**Mr Rizvi**—I do not believe we provide those lists at this stage. What we do do is, where we encounter a situation where an employer may have breached a state industrial relations law, we refer the matter to the relevant state agency.

**Senator SHERRY**—My understanding in respect of state industrial relations departments is that their checks are infrequent and the proportion of employees that would have any check carried out on them would be minuscule. How can you ensure that the visa recipients are being paid correctly in accordance with Australian working conditions of employment?

**Mr Rizvi**—Of course, I cannot comment on the practices of any other agencies, but what I can say is that, from our perspective, we actually monitor the sponsors associated with this visa very closely. For example, after six to 12 months of having sponsored someone under this visa, we require the employer to submit a monitoring form to us which we analyse. In addition to that, we target, based on the information we receive in those monitoring forms and based on our own analysis of past history with this visa category, employers and we conduct site visits of the relevant employers. From that, we are able to glean a fair amount of information.

**Senator SHERRY**—What is the level of breach that you have been able to detect?

**Mr Rizvi**—I do not have those statistics with me. If I can take that on notice, we can certainly provide that.

**Senator SHERRY**—There are breaches—you have obviously indicated that. Can you indicate to the committee what types of breaches you have discovered?

**Mr Rizvi**—In the past, we have discovered breaches associated with whether employers are paying the appropriate award wages or not and from time to time we have encountered instances where there appear to be taxation or superannuation payment anomalies—those sorts of issues.

**Senator SHERRY**—I should warn you that if you start on super we could be here for a long time! Sorry, I jest. Go on.

**Mr Rizvi**—It would be those sorts of breaches; but, as I said, we could provide you with comprehensive information on the kinds of breaches we are encountering through our monitoring program.

**Senator SHERRY**—Do you not think it would be better if the state departments of industrial relations are forearmed or forewarned, in a sense, so they can keep an eye on the situation? Frankly, I do not expect your department to be an enforcer of conditions of employment. I think that is a responsibility you should not have to undertake. It seems to me that the appropriate organisations are the state departments of industrial relations.

**Mr Rizvi**—We would agree with that. The question of how we can effectively share data, given that we are talking about a very large amount of data, and also deal with any privacy issues that may be involved is something we are certainly looking at.

**Senator SHERRY**—What is the number of people in this category for the last few years?

**Mr Rizvi**—In any one year we would issue between 30,000 and 40,000 visas under this category.

**Senator MURPHY**—I want to ask a question on what Senator Sherry is seeking information about. Do you ever notify any of the state authorities with regard to employers that have an intake of a reasonable number of people who come out on work visas? Do you ever liaise with the state departments of industrial relations?

**Mr Rizvi**—We certainly liaise with the state agencies.

**Senator MURPHY**—Do you let them know the names of employers that have people who are out on work visas?

**Mr Rizvi**—We usually only share that information with the state agencies where we have come across an issue that appears to cut across their legislation. We would refer that matter to them and have them investigate it. We would not, as a general course, simply give them that sort of data. We certainly do share that information with the Department of Employment and Workplace Relations, but we do not, as a matter of routine, share that data at this stage with state agencies—although, as I said, that is something we are exploring.

**Senator MURPHY**—What is the process involved in coming across those problems you mention?

**Mr Rizvi**—We would come across those problems in one of three ways. The first way we may come across those problems is as part of our normal routine compliance action, where we may come across visa holders or employers who may have breached undertakings associated with those compliance actions. The second way is through our use of the monitoring forms that I mentioned earlier—we may encounter inconsistencies in the returns that we get on those monitoring forms which lead us to investigate further. The third way is that we conduct actual site visits of employers. We seek to site-visit 15 to 25 per cent of employers sponsoring under this category every year.

**Senator MURPHY**—Do you ever have any discussions with the Australian Taxation Office?

**Mr Rizvi**—Yes, we do discuss the issues associated with this and other visa categories with the Taxation Office. From time to time we refer cases where there appear to be taxation anomalies to the Taxation Office.

**Senator SHERRY**—When the department carries out these site visits, how does your department and the people carrying out the inspections know what the wages and conditions are that are supposed to apply at a particular site?

**Mr Rizvi**—We can ask employers to provide us with records regarding the rates of payment.

**Senator SHERRY**—But, logically, if an employer is deliberately underpaying, they are only going to provide you with the information that they want to provide you with, aren't they?

**Mr Rizvi**—Yes.

**Senator SHERRY**—So your detection level is going to be pretty low. If the employer is underpaying or not paying the tax or super and breaching the law, why would they give you or your people the correct information?

**Mr Rizvi**—They may from time to time give us contrived data. That is quite possible. It is a question of us being conscious of that possibility and crossmatching the data they are giving us with other information that we may have.

**Senator SHERRY**—But as a matter of course, you do not have that information when you go to the workplace.

**Mr Rizvi**—Whenever we do a site visit, the situation will be different from case to case. There will be instances where we instigate a site visit because of a dob-in, because of some information that we are aware of, and that can help. You are right—in other instances the site visit may well be relatively cold and we may not have that data.

**Senator SHERRY**—Presumably you would talk to employees at the workplace?

**Mr Rizvi**—Yes, we certainly do that.

**Senator SHERRY**—That would be the normal procedure. I would have thought at least some proportion of workers would feel some reluctance to talk about what they are being paid—particularly if they believe that they are not being paid correctly—at a workplace where the employer is present.

**Mr Rizvi**—There will be circumstances where the employee is reluctant to tell us what they are being paid, that is true.

**Senator SHERRY**—Is the employer present at the discussions that take place with the employees?

**Mr Rizvi**—We would seek their permission to talk to the employees. Whether or not we can do it separately from the employer depends on the permission we get from the employer.

**Senator SHERRY**—That makes it even worse. If you do not get the employer's permission or the employer insists on standing there, you are not going to get much of a response, are you?

**Mr Rizvi**—You are right. We are not in a position to insist on many things in this area. We have to respect the rights of the employer. We also need to remember that the vast bulk of employers are honest and would not be involved in contrivance.

**Senator SHERRY**—I accept that.

**Mr Rizvi**—It is a matter of crosschecking other information. For example, we can check for audited tax records that may well help us in those areas. We do crosschecks with the

Australian Securities Commission. Those sorts of things can help us drill down into these issues and ask further questions of the employer. But you are right; there are limits to what we can reasonably do.

**Senator SHERRY**—I am concerned about the practical limits the department has in being able to effectively monitor this area. I do not see it as your primary responsibility. That is why the state departments should have the data available to respond in this area. Is there any program for ensuring the state departments get this data?

**Mr Rizvi**—That is something we are consulting on with state departments. It is a question of finding an efficient way of getting the data across to them. The volume of data is quite substantial. We also need to deal with the issues of privacy associated with being able to give out to other agencies data that we have been given relating to employers and employees.

**Senator SHERRY**—But you are giving them to the Commonwealth.

**Mr Rizvi**—We have explicit permission on the application forms that enables us to do that. The question we are examining is whether we can also provide data to state government agencies. It may require some modification of that permission on the form.

**Senator SHERRY**—This conversation prompts me to raise the issue of sailors from overseas working in Australian waters. Are they covered by this particular visa class?

**Mr Moorhouse**—Are you talking about sailors on international vessels?

**Senator SHERRY**—Yes. Sailors working within Australian waters.

**Mr Moorhouse**—While they are working within Australian waters, the sailors would hold what we call special purpose visas.

**CHAIR**—Senator Sherry, if you have finished in that area, which was output 1.1, we will come to Senator McKiernan.

**Senator McKIERNAN**—There has been a glitch in the system.

**CHAIR**—Yes. We are doing our best to have a system.

**Senator McKIERNAN**—There has been a series of questions to do with persons working illegally in Australia—in some cases illegals in Australia. After what Mr Rizvi has said, it may have been more appropriate to address them in output 1.1. Questions relating to people who overstay their visas have been allocated to output 1.3 in the folders that we have. Is it appropriate to leave them there?

**Mr Metcalfe**—Output 1.3 is the most appropriate place, Illegal workers and overstayers.

**Senator McKIERNAN**—And holders of TPVs who may be exploited. The other matter here is what happened in the harvest industry in Queensland—the declaration forms.

**Mr Metcalfe**—That is 1.3.

**CHAIR**—That is good, because we are in 1.3. I am conscious that there is a very significant amount of interest amongst senators in output 1.3. I do want to make sure that the members of the committee as well as the participating members who are here this evening have an adequate opportunity to ask questions. On that basis, I am going to go to Senator McKiernan now and then we will divide the time as evenly as possible amongst other senators.

**Senator McKIERNAN**—I wanted to stay with the same theme—it will be neater for the *Hansard* and for those following these proceedings—of persons in Australia who are found to

be working illegally. I am following up on Senator Sherry's questions. Firstly, are there any marked results of the initiative announced by the minister in November 2000 about this issue of illegal workers in Australia?

**Mr Moorhouse**—Can I just clarify that: are you talking about the initiatives relating to the review of illegal workers?

**Senator McKIERNAN**—Yes.

**Mr Moorhouse**—Two of the programs that were introduced as a consequence of that review relate to supporting the capacity of employers to confirm that employees are legally able to work in Australia. We have an inquiry line for employers to confirm that people are able to work in Australia lawfully, and also a fax-back facility. I can get the statistics in a moment, if you like, for the take-up rate of those two facilities.

**Senator McKIERNAN**—Perhaps you could take the statistics on notice and come back to me.

**Mr Moorhouse**—If you like.

**Senator McKIERNAN**—The government made an announcement that they plan to introduce a bill to give effect to a graded system of sanctions in 2002. How far away is that bill? Is it in the drafting stage yet? Have the drafting instructions being issued?

**Mr Moorhouse**—We are at the point of finalising proposals in that respect. It has been a more complex process than had initially been anticipated, because of the practical difficulties that we encountered in terms of employers being able to confirm a person's ability to work—hence the effort that we have put into these measures to support employers. Those measures are working successfully, and we are in a position now to put to the minister proposals for the system of sanctions that you referred to.

**Senator McKIERNAN**—The committee will watch that with interest. I would like to ask about the issue of what occurred in Queensland in association with the National Farmers Federation, the Australian Taxation Office and the department. A firm of consultants, Colmar Brunton social research, were engaged to have a trial and evaluation of a new tax declaration form for use within the harvest industry—that is, the fruit picking industry—and the report of that has recently become public. What does the department say in regard to that? Is there confidence that such a system of sanctions could be imposed?

**Mr Moorhouse**—One of the measures that we are examining to assist employers in this regard is, as you have mentioned, the trial of the combined tax file number-work rights form. The pilot itself has been extended until the end of this year. We are continuing to trial that form and to refine it, but we have also been considering strategies for evidencing a person's ability to work in Australia. The possibility of a work rights card has been suggested to us by employers, and we are looking at possibilities at the present time.

**Senator McKIERNAN**—When I read the executive summary—and I am not going to go through each of the points in the executive summary—I was not encouraged that there will be acceptance by the employer sector of the work force of the proposed sanctions that are being looked at. It seems to me that the problems that prevailed in that industry, as a different parliamentary committee found out in a different inquiry, still remain and that it will be a difficult industry to continue to police. Nonetheless, I think this has been a very useful trial and it could be trialed in other areas. Are there any plans to undertake a similar trial in other areas of the work force?

**Ms Siegmund**—Not at this stage. The trial was begun in this particular area very much in response, as you said, to issues that were raised with us, because we wanted to try to address those as best we could. It is a good point that you raise, but, no, at this stage we had not considered it.

**Senator McKIERNAN**—In watching the activities of the department—which you know I do and which the committee knows I do; I will not labour the point any further—I have noted that there have been a number of compliance activities in recent times where persons have been apprehended in the community and, in some cases, removed from Australia as a result of their being here illegally and also working illegally. Are the officers of the department in a position to provide some recent information on the numbers? Perhaps we could deal with the period since the last estimates round or with a useful set of numbers that might be handy so that we can get some indication of the levels of those activities—and I know there have been some.

**Ms Siegmund**—Can I just clarify with you, Senator, whether you would like to know about compliance activity generally or whether it is just to do with—

**Senator McKIERNAN**—Compliance activity generally, but at this particular point in time I am more interested in those who are working and in what industry they are working.

**Mr Moorhouse**—The total number of locations of people either working unlawfully, contrary to their visas, or of people who have overstayed in this financial year was 14,056 to the end of last month.

**Senator McKIERNAN**—Can you do a breakdown on what industries those persons have been found in?

**Mr Moorhouse**—I do not have that information. We can take that on notice. We do have some information about illegal worker notices that we have given, and that relates to a degree to what you are saying. If we find people who are noncompliant—in other words, people who are in breach of their visa conditions—then we would issue an illegal worker notice to the employer.

**Senator McKIERNAN**—That would be helpful.

**Mr Moorhouse**—It is a long table, so it may be better that we provide that to you.

**Senator McKIERNAN**—Looking at it from here, I can see it does look like a long table. I am interested in long tables—and I will be looking for other tables that may be even longer later on. Perhaps you could paraphrase or highlight some of the aspects of it.

**Mr Moorhouse**—Certainly. The largest group was in the retail trade, with 163 illegal worker notices issued to employers in that trade; the next largest group was in the manufacturing industry; and then there was the group labelled ‘personal and other services’.

**Senator SHERRY**—Is that hospitality?

**Mr Moorhouse**—Yes, in another form.

**Senator McKIERNAN**—Some of them would be even more personal than that, wouldn’t they?

**Mr Moorhouse**—Some of them would be even more personal than that, yes.

**Senator McKIERNAN**—I have asked questions in that area before, but I am not going there now.

**Senator SHERRY**—You are not going there now?

**Senator McKIERNAN**—Perhaps a better choice of words would have been in order. How many complaints concerning illegal workers emanate from unions and do you, in turn, receive any complaints from employers about illegal workers?

**Mr Moorhouse**—We have had a significant liaison with some unions, particularly the CFMEU in New South Wales. We do have some statistics in relation to that, if you would like me to provide them.

**Senator McKIERNAN**—Yes, please.

**Mr Moorhouse**—The information provided by the CFMEU has resulted in 121 locations of unlawful non-citizens or people working in breach of their visa conditions so far this financial year.

**Senator McKIERNAN**—Is that 121 incidents where a number of workers have been apprehended, or is it 121 workers?

**Mr Moorhouse**—That is 121 workers.

**Senator McKIERNAN**—How does that number correlate to the overall number located this year? You gave me a number of 14,046.

**Mr Moorhouse**—There are a number of different types of locations, but field locations would be the sort of thing we are talking about—people located working unlawfully—and this year we have had 5,840 people in that situation.

**Senator McKIERNAN**—So 121 is still a significant number, and that is from only one union.

**Mr Moorhouse**—Yes.

**Senator McKIERNAN**—Would I be correct in saying that all of those workers would have been in the building and construction industry? Is it possible to narrow it down to the sector?

**Mr Moorhouse**—I think you would be correct in assuming that a substantial proportion of them would be, yes.

**Senator McKIERNAN**—Specifically within the building and construction industry, do you have any contact with the Office of the Employment Advocate in relation to getting their cooperation in the investigation of illegal workers in that industry?

**Ms Siegmund**—Not that I am aware of from my notes here, but I will take that on notice and double-check.

**Senator McKIERNAN**—I think you responded to questions earlier from Senator Sherry about this, but do you pass information between the two departments?

**Ms Siegmund**—Yes. As you would be aware, Senator, more broadly we do have cooperative arrangements with other federal government agencies, such as Taxation and Centrelink, on these sorts of issues.

**Senator McKIERNAN**—How would you describe your relationship with the Office of the Employment Advocate? Is it cooperative?

**Ms Siegmund**—In my area of border protection and compliance issues I have not had extensive dealings with them.

**Senator McKIERNAN**—I was disturbed when I heard some news about the construction job at the Lucas Heights nuclear facility. The unions were seeking to remain in their collective agreement with the company, and there was a clause in there about having the employer check the status of possibly illegal workers. That was an agreement between the union and the contractor on that construction job at Lucas Heights. I have been told that the Office of the Employment Advocate has sought to interfere and is seeking to have that particular clause removed, or watered down from what it is now. Are you aware of any action such as that?

**Ms Siegmund**—Any other action?

**Senator McKIERNAN**—No, that particular instance at Lucas Heights.

**Mr Moorhouse**—I am not aware of the reason for that. We would expect that all employers would take seriously their responsibilities for employing only people who are lawfully in Australia and able to work. Why there may be an issue in relation to the inclusion in the agreement is not something we are aware of.

**Senator McKIERNAN**—But you would be expecting cooperation from the Office of the Employment Advocate to assist the department of immigration to undertake its functions and not be seen to be putting barriers in the way of your department carrying out its functions according to law.

**Mr Moorhouse**—I am not sure that they were putting barriers in our way. It is not something that I am familiar with.

**Senator McKIERNAN**—I do not want to press it too far, but it would seem to me that if there were cooperation between an employer and a union with regard to the employment, or non-employment, more importantly, of persons who are not entitled to work in this country, that would be of assistance to the department of immigration. It would make easier the jobs of officers, such as you people, when you approach a committee such as this to answer and be accountable for your responsibilities in the community. Could you, on notice, take this matter up with the Office of the Employment Advocate and follow it through. There are times when information given to persons on this side of the table is not always accurate and, because I do not have first-hand information on this, I would like to find out some more about it. If what I have been told has been confirmed, it would be a matter for the parliament to press the matter in other directions, including by way of legislative terms, as mentioned earlier, with the minister bringing in a greater system of sanctions.

**Mr Metcalfe**—We will look into that and, if we can provide any useful information on notice, we will certainly do so.

**Senator SHERRY**—From what we have been discussing, it appears that there is a problem with employer tax evasion and exploitation of foreign labour in this country—at least to some degree.

**Mr Moorhouse**—I am not sure precisely what you are referring to in that sense.

**Senator SHERRY**—We have already been discussing some employers not paying correct tax, superannuation and other wage entitlements. That has been discussed earlier and admitted. It seems to me there is a problem.

**CHAIR**—It think it is a statement you are making, Senator Sherry, rather than something Mr Moorhouse might necessarily wish to agree with.

**Senator SHERRY**—I will put it as a question: is there a problem in this area?



**Mr Moorhouse**—It is not something I would feel comfortable in answering. It is not something I would feel confident or competent to answer properly.

**Mr Metcalfe**—Clearly the Australian Taxation Office may have a lot more to say in relation to that. But, as we have said earlier this evening, we do work in close cooperation with the Taxation Office, Centrelink and others, including, in some areas, jointly. From our knowledge of their operations there does appear to be an issue, in some circumstances but, as to the breadth and extent of that, I am sure the Taxation Office would have a lot more information.

**Senator SHERRY**—There is a problem, isn't there?

**Mr Metcalfe**—I think we are agreeing there is a problem. How big it is and how widespread, we are not competent to answer.

**Senator SHERRY**—So you would not agree with the observations of Royal Commissioner Cole that there is no problem with employer tax evasion and exploitation of foreign labour in this country, would you?

**Mr Metcalfe**—I am not familiar with the comments or the context of that statement, but, as I have said, to the extent that we are able to observe the operations of another agency, there does appear to be an issue.

**Senator SHERRY**—Whatever the context of Commissioner Cole's comments, you have acknowledged there is a problem, as you said earlier.

**Mr Metcalfe**—Again, I will caveat my response by saying that it is the competent area of knowledge of another agency, and our comments are therefore necessarily hearsay or observations. I really think that the proper Commonwealth position on the issue—

**Senator SHERRY**—It is a bit more than hearsay. In the discussion I had with the earlier witness, it was first-hand experience by departmental people in some workplaces, wasn't it? It was not hearsay.

**Mr Metcalfe**—Yes, but I am being careful here because I am not an expert, and we as an agency are not expert, on the administration of taxation law.

**Senator SHERRY**—Or industrial relations law.

**Mr Metcalfe**—Or industrial relations law. The comments we have made tonight have to be based upon our knowledge of the situation in that we work cooperatively with other agencies.

**Senator SHERRY**—I understand that, but earlier we had clear evidence that departmental representatives were receiving, investigating and discovering some incidences of underpayment of wages and nonpayment of superannuation tax. It is not just hearsay; it is clear, verifiable evidence and investigation by departmental representatives, isn't it?

**Mr Metcalfe**—I will say again that if there were a suspicion of an issue associated with superannuation or tax, we would refer it to the Australian Taxation Office for their appropriate investigation. I am not trying to be difficult; I am simply saying that, if you are trying to set up a proposition that we are, in an expert way, providing advice on that particular matter, our comments have to be qualified to the extent that I have qualified those claims.

**Senator SHERRY**—But it is not hearsay. Hearsay is when you just hear stories; you do not have any experience and you do not see it first hand. We have heard from the evidence that you do have experience in this area. You have actually investigated it and found incidence of it, so it is a lot more than hearsay.

**Mr Metcalfe**—What we have said tonight is that in some individual cases—and I do not know how many or how widespread—we have, in investigating visa irregularities, also come across situations where we believe there are other issues to do with the administration of other laws. To the extent that we are competent to offer a view on whether or not those laws are being adhered to, my view is that we would always defer to the competent authority.

**Mr Moorhouse**—On occasions, when we conduct compliance field operations where other agencies are interested in joining us, we will conduct employer visits in association with the Australian Taxation Office and Centrelink. Our staff will essentially look at different things. We will be looking at whether or not people are working unlawfully. Centrelink will be looking at whether or not people are claiming benefits when they should not be and the Taxation Office will be looking at taxation matters. Whilst we may work cooperatively, we are not involved in investigating the taxation issues.

**Senator SHERRY**—I understand that. But surely the person who is carrying out these verifications—with or without representatives from the tax office or other departments—would obtain a first-hand knowledge of breaches. They might not know the details or the amounts of money but they would know that something has gone wrong and that there is a problem in respect of wages or superannuation or tax.

**Mr Moorhouse**—In the circumstances I was describing that would not necessarily be the case, because we would be accompanied by officers from other agencies. Our officers would be focused on issues of particular relevance to us.

**Senator SHERRY**—I understand what your officers would and should be focused on, but why would these other officers accompany them if they did not believe *prima facie* that there was a case?

**Mr Moorhouse**—They would believe *prima facie* that there was a case. I guess I was supporting Mr Metcalfe's comments that, whilst there may be matters of concern to the Taxation Office, they are not issues that we are closely or directly engaged in.

**Senator SHERRY**—But they would be issues that your officers would have knowledge of—not responsibility for, but knowledge of.

**Mr Metcalfe**—We may have some knowledge of it if there are joint operations. In the same way that the taxation officer might become aware that we had detained a number of people because they were working without authority or were overstayers, and therefore would have first-hand knowledge in a nonexpert way, I suppose it could be said that some of our officers would have first-hand knowledge if the Australian Taxation Office were dealing with issues associated with tax. I do not think it is appropriate to then draw the conclusion that this department is acknowledging that there is widespread taxation fraud in this area. The appropriate authority to comment on that is the Australian Taxation Office.

**Senator SHERRY**—I did not use those words. I did not say 'widespread'.

**Mr Metcalfe**—I am sorry if I was putting words in your mouth but I just wanted to make it quite clear.

**Senator SHERRY**—I asked you to acknowledge that there was a problem and you have acknowledged on the record that there is a problem.

**Mr Metcalfe**—To the extent of our ability to judge that, the answer is yes, but as I have said we are not the experts on that issue.

**CHAIR**—I think we are furiously agreeing.

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**Senator McKIERNAN**—In regard to what you do have competence in, you regularly produce statistics in this area of compliance activity. In what year would you have produced the most recent statistics in regard to this? I am thinking about how you identify an industry where there are particular problems.

**Mr Metcalfe**—Statistics relating to which area?

**Senator McKIERNAN**—Statistics relating to compliance activity for persons working illegally in Australia.

**Mr Moorhouse**—We would keep those statistics on an ongoing basis.

**Senator McKIERNAN**—Long term?

**Mr Moorhouse**—I cannot comment on how far into the past, but we can—

**Senator McKIERNAN**—No, I am talking about your most recent activity. Senator Sherry asked a question about the statements by Royal Commissioner Cole, and it is our understanding that those statements were based on the figures that were published in 1998-99, which seems to me, as a follower of publications from the Department of Immigration and Multicultural and Indigenous Affairs, to be very dated statistics.

**Mr Metcalfe**—We will take it on notice and provide to the committee our most recent statistics. I think those statistics are available by broad industry group, so they should provide the information you are seeking.

**Senator McKIERNAN**—Thank you. Does the department make a particular point of going to building sites in its compliance activities? You indicated before that there has been some cooperation with one particular union in that industry, and obviously there have been results from those complaints that have been made. How many building and construction sites would you visit in a year during your compliance activities? You will probably need to take that question on notice.

**Mr Metcalfe**—We will take that on notice.

**Senator McKIERNAN**—Thank you. Some concerns have been expressed that, because of the situation and circumstances that temporary protection visa holders are in, they may be a vulnerable group in the community and may be being exploited in their working abilities. Does the department ever get called in, as part of its compliance activity, to monitor the working arrangements with temporary protection visa holders?

**Ms Siegmund**—We have not to date, other than—

**Senator ALLISON**—They are not allowed to work, are they?

**Senator McKIERNAN**—We have had an interjection that they are not allowed to work. I was contradicting the advice, but perhaps we will put it on the record and have the department itself clarify whether or not TPV holders are indeed allowed to work.

**Mr Metcalfe**—I think I gave some statistics earlier—and I could find them again—indicating that, of the approximately 8,000 TPV holders, 2,000 or 3,000 were not in receipt of Centrelink benefits and therefore either were supporting themselves by work or were dependants of others. My assumption—and certainly I have seen television reports of people working—is that some would be working.

**Senator McKIERNAN**—But are they working legally?

**Mr Metcalfe**—That is correct; they have work rights.

**Senator McKIERNAN**—That was the subject matter of the interjection.

**Senator ALLISON**—There is a class of people who are not entitled to work, though, is there not?

**Senator McKIERNAN**—Not TPV holders.

**Mr Metcalfe**—Not TPV holders, Senator.

**Senator ALLISON**—Which group is it?

**Senator McKIERNAN**—We are not dealing with that group now; we are dealing with TPVs.

**Senator ALLISON**—We may not be, but we might as well clarify this for the record—for my sake.

**Senator McKIERNAN**—With all due respect, we are on a stream of questions, there was an interjection and I am reluctant to let us go off on a different tangent at this point in time.

**Senator ALLISON**—Okay.

**Senator McKIERNAN**—We have had a clarification of the interjection. I do not want to lose sight of the question, which was: does the department ever get called in to monitor what working arrangements there might be in place for TPV holders because of the possible vulnerable situations they might find themselves in?

**Mr Metcalfe**—Our role is to determine whether or not a person has permission to work and, as we discussed earlier with Senator Sherry, the issue of whether or not there may be particular issues in particular workplaces where people have been sponsored to come to Australia and whether or not the sponsor is behaving appropriately. Whether a visa holder with permission to work is being exploited or is working in less than appropriate conditions becomes a matter for the appropriate regulatory authorities, the industrial relations departments and so forth. It is not a matter that we have responsibility for.

**Senator McKIERNAN**—I appreciate the response, thank you very much. It was something put to me to raise. Have there been any marked results in the compliance activity on overstayers in our community? The figure given to the committee or recently published indicated that there has been an increase in the number of overstayers in the community. Has that led to any additional compliance activity within the department to bring that number down? I think the figure we are talking about is 58,700, and it went up to 60,000—which is not a tremendous increase but, nonetheless, it is an increase when it probably ought to be dropping back.

**Mr Moorhouse**—I am not sure that there has been a significant increase.

**Senator McKIERNAN**—I mentioned a figure of 1,700 or 1,300.

**Mr Moorhouse**—In terms of our locations this year, as I mentioned earlier, we have had 14,056 locations of people who either have been working illegally or have overstayed their visas in Australia. That compares to the total for the full year last year of 14,238, which projected over the full year for this year would be an 18 per cent increase over last year. We have had a slight increase in the number of locations this year.

**Senator McKIERNAN**—Overall the number of overstayers in the community has increased?

**Mr Moorhouse**—Whether or not it is a significant increase, it is a small increase. It is important to know that the overstayer population is not a static group. Each year, if we are locating 14,000 and removing those people or monitoring their departure, it is a moving group of people. What we provide, when we look at the overstayer estimate, is a snapshot of the number of people at a particular moment.

**Mr Killesteyn**—We will get the statistics for you but 60,000 is obviously an increase. It is not the way we want the figures to go but it also needs to be put in the context of the overall increase in tourism numbers into Australia. We have larger numbers of people coming into Australia and to some extent it is probably inevitable that the number of overstayers is also likely to increase. That said, it still remains an important part of our compliance activity to make sure the numbers are stable and, indeed going down. We can look at the overall percentage, if you like, in terms of the number of visitors to Australia. I think that is an important underlying figure that we need to look at.

**Senator McKIERNAN**—I think that offer is useful; those statistics are important in terms of the debate which we are about to move into. It is unfortunate that we are talking about increases but, as I move to Ms Godwin from the detention area, we are going to see better figures, because we are going to be talking about decreases from the figures that I have. Before I leave these matters and move into the detention area—and I know there are other senators interested in that subject matter—I will just ask a final question in regard to the compliance activity of overstayers. Do you run any statistics of the number of those persons who, when apprehended in the community, would be detained?

**Ms Siegmund**—I think we can get them for you. Could I take that on notice?

**Senator McKIERNAN**—Yes, indeed. I know that some are because, on the last occasion, when we got that very comprehensive set of statistics through Ms Godwin, it did indeed show that in a number of detention facilities around Australia there were large numbers of people who were not in the protection stream. They were, in fact, persons who had entered the country legally, had remained and overstayed and in some cases had been detained. Some people had been detained for quite a period of time, as I understand it, from memory. I am going to give Ms Godwin the opportunity to comment, and I know she has been waiting patiently for this.

**Ms Godwin**—Breathlessly.

**Senator McKIERNAN**—Well, it is better than landing a plane in Broome, is it not? We actually had a wonderful experience together when we were in a light aircraft—

**CHAIR**—Are you sure you want to go down this road?

**Senator McKIERNAN**—and the landing light did not come on. We had to fly past the airport, with the fire engines waiting. That was bad enough, but then we had to do it again. But we had wonderful reassurance from the pilot that we would not actually crash—there would be a few sparks and that would be all. We all survived it, thankfully.

**CHAIR**—Pilots are like that.

**Senator McKIERNAN**—Yes, indeed.

**CHAIR**—We will now move to questions on the area of detention.

**Senator McKIERNAN**—I will keep my questions relatively concise, as I tried to do last time. I asked a series of questions in order to get the total picture of the detention debate going on in Australia. I asked for the number of persons in detention and a breakdown of that

figure in the various centres where they are held. I asked for a further breakdown of the stream they are in in the refugee determination process and whether there is identification of the persons who may or may not be in detention. I gave Ms Godwin notice that I would seek to update that information when the committee met for the budget estimates deliberations. I have received a copy of the department's submission to the National Inquiry into Children in Immigration Detention which includes more up-to-date figures than were provided to me last time. I am giving you the opportunity, because I previously said I would ask for this information, to put what you can on the record, Ms Godwin. If there are any gaps in the information, I will ask you to update it. I am appreciative of the information that is contained in this submission. That might talk about different time lines to those you might give the committee now.

**Ms Godwin**—The submission focuses particularly on children in detention, so it will not necessarily have the full set of statistics that I have here and, as you say, it is a snapshot at a slightly different point than the one now. I am working with statistics from our computer system from 24 May, so they are as up to date as we could get them. I give the usual caveat that there is a slight discrepancy between this information and the actual head count in a detention centre because of time lags in inputting data into the computer. The discrepancy is only about 30-odd people. I will work from this single set of data because that will give the most complete picture. There are currently 1,439 people in detention in Australia. Do you want me to read the details into the record?

**Senator McKIERNAN**—Please.

**Ms Godwin**—I will start with the IDCs. At Villawood there are a total of 473 people: 353 men, 96 women, 12 male minors and 12 female minors. At Maribyrnong there are 50 people: 43 adult men, three adult women, two male minors and two female minors. At Perth there are 50 people: 44 men, three women and three male minors. At Port Hedland there are 155 people: 135 men, seven women, 11 male minors and two female minors. At Curtin there are 296 people: 244 men, 18 women, 21 male minors and 13 female minors. At Woomera IRPC there are 206 people: 133 men, 28 women, 25 male minors and 20 female minors. At the alternate detention project at Woomera there are four women, six male minors and two female minors. On Christmas Island there are 78 people: 63 men, six women, five male minors and four female minors. There is nobody on Cocos Island. In the last set of statistics we still had people on Cocos, but there is nobody on Cocos now. We have 119 people in a range of alternate places of detention—including hospitals, prisons, remand centres and various other locations: 89 men, 11 women, 13 male minors and six female minors. That brings us to the total of 1,439 people: 1,104 men, 176 women, 98 male minors and 61 female minors.

**Senator McKIERNAN**—Thank you for separating the Australian detention numbers from the offshore detention numbers. Do you have those figures there?

**Ms Godwin**—Offshore as in Manus—

**Senator McKIERNAN**—As in Manus and in Nauru.

**Ms Godwin**—I do not, but—

**Mr McMahan**—We were going to deal with that under 1.5.

**Senator McKIERNAN**—That is fine, because other colleagues have been waiting. I would be jumping in. I have put numbers as well, so I will not press the friendship. Have you got a breakdown of those individuals in detention who are in the primary application stage—

**Ms Godwin**—Stage of processing?

**Senator McKIERNAN**—Stage of processing, yes.

**Ms Godwin**—Of the 1,439, we have 486 who have no application, 72 who are at the primary stage, six who are referred to as being in the review lodgment window, 89 who are at on-hand review—that means that they are at the RRT—36 who have been remitted by the RRT and are being further considered by the department, 241 who are at judicial review and 500 who are PV finalised. There are a further nine who should be in the no-application group.

**Senator McKIERNAN**—So the no applications should read 498?

**Ms Godwin**—It is 486 plus nine.

**Senator McKIERNAN**—That is 495. More than two-thirds of the persons in detention are not in the refugee stream in any shape or form?

**Ms Godwin**—That is correct, close to a thousand now. Of course, the PV finalised group are ones who have been through the stream, but they are now past the point where they have any further proceedings before the department.

**Senator McKIERNAN**—I asked questions on the last occasion how long people have been in detention.

**Ms Godwin**—Yes. Less than six weeks, 276; six weeks to three months, 110; three months to six months, 82; six to 12 months, 298; 12 to 24 months, 500; 24 to 36 months, 125; and over 36 months, 48. If I could just with your indulgence say something about that last group, I mentioned at the outset that there is a slight discrepancy between the computer figures and the actual headcount. That is illustrated by that last group. Although the statistics are showing 48, the actual headcount is 23. It is just a statistical anomaly—people who have actually been removed or whatever whose computer record has not been finalised. And I have details of the 23 over three years if you want those.

**Senator McKIERNAN**—That probably would be helpful on notice. I am acutely aware of the time and also aware that there is quite a deal of other work to be done. I do not want to take all of the time here tonight. Can you give me the nationalities of the persons—perhaps the largest half dozen?

**Ms Godwin**—I have the table here for the top 10. We have 329 from Iran, 248 from Afghanistan, 103 from the PRC, 88 from Iraq, 79 from Sri Lanka, 66 from Indonesia, 53 from the Palestinian Authority, 42 from Vietnam, 33 from India, 32 from Korea, and 366 others. That is probably another 20 or 30 nationalities just in small groups.

**Senator McKIERNAN**—There has been a marked decrease in the numbers from the figures you gave us in February. Iraq last time was 564. It is now down to 88. Have I copied that correctly?

**Ms Godwin**—I do not have the figures that we provided last time. I apologise for that.

**Senator McKIERNAN**—Is the 88 correct?

**Ms Godwin**—The 88 is correct from Iraq, yes.

**Senator McKIERNAN**—That is a dramatic reduction. Would the decrease amount to the grant of TPV, in the main, to those persons?

**Ms Godwin**—There probably would have been a significant number of TPV grants. There have been a small number of people who have left as well.

**Senator McKIERNAN**—They left of their own accord, making their own arrangements?

**Ms Godwin**—They are listed as removals because we would have arranged their departure from Australia.

**Senator McKIERNAN**—I understand that some individuals have asked to be removed. Afghanistan has gone down from 434 to 248, according to the figures tonight—again a significant decrease. Would that be removals or would it be the granting of TPVs?

**Ms Godwin**—I think it is probably mostly grants, but if you could just bear with me I have the removal figures. There would have been a small number of removals. As a general proposition, yes, it is mostly grants. There is a very small number—in fact one—of removals to Afghanistan.

**Senator McKIERNAN**—Of the persons awaiting removal, I think that would be close to the figure of 1,000—that is, persons who have made no application in the protection stream or persons whose TPV has been finalised. It would be close to 1,000, would it? Would I be correct in that assumption?

**Ms Godwin**—The figure that we have is 871. I think we explained, in response to a question on notice last time, that it is made up largely of the no-application figure and the PV finalised figure. But there is a slight statistical correction made, if you like, because some of those people with no application would be people recently arrived in detention and so we do not count them for the first couple of weeks in case they are going to make an application. Of course, there is some movement of people who make an application who then go off the available-for-removal figures and so forth. At the moment, the figure that I have is 871 available for removal.

**Senator McKIERNAN**—Has there been any significant movement in the number of persons who have been in detention for long periods of time who have been awaiting removal? On the last occasion the information given to us was that there were 112 people who had been in detention for more than nine months but less than 12. That was the largest number you gave the committee on the last occasion we met.

**Ms Godwin**—Do you mean awaiting removal?

**Senator McKIERNAN**—Yes, indeed.

**Ms Godwin**—I am just making sure I have got the right table. I have here figures for people awaiting removal by total length in detention. This is not time awaiting removal; this is their total period in detention. The largest group now in terms of total length of time in detention is over 12 months—462 people.

**Senator McKIERNAN**—Would they be people who, in the main, are not cooperating with the department or with their national embassies, high commissions or consuls to get papers to arrange their transport back to their home country?

**Ms Godwin**—Not necessarily. As I said, that is their total period of time in detention—over 12 months. A proportion of that time would have been processing. Some of them may well be in the sort of situation you have just described, but some of them would have become available for removal in just the last—

**Senator McKIERNAN**—I want to ask two further questions at this time in order to let colleagues have an opportunity to address questions. I am aware of a particular individual in Perth who has been in detention for quite a period of time. I am not going to give the name, as I normally do not do. As I understand it, the individual has not been cooperating with his



consuls or diplomatic bodies in order to get the papers to arrange his transportation back to his home country. It is his decision to remain in detention in Australia, rather than anybody else's decision.

**Ms Godwin**—If it is the person that I think we are referring to, yes.

**Senator McKIERNAN**—In long-term detention?

**Ms Godwin**—Yes. But that does not mean that we would not still try to continue to take other steps, and we are continuing with that individual to negotiate with the country to which we think he has the right of entry. There is a question of whether there is another country to which he has a right of entry, and we will continue to pursue that. His cooperation would certainly assist considerably, but that does not mean we will not continue to try to negotiate as well.

**Senator McKIERNAN**—The final question at this time relates to the matter of children in detention in Perth. You have indicated to the committee that there are three female minors and three male minors in detention in Perth. Perth is not regarded, and has not been regarded for a period of time, as an appropriate facility for the holding of children. How long have they been in there and how long is it expected that they will remain in there?

**Ms Godwin**—I probably have that information here, but perhaps rather than delay proceedings I could take that on notice.

**Senator McKIERNAN**—If you could. Maybe you could even come back to us in a little while, to give some of my colleagues an opportunity to enter into things. I am sure we will be with this subject of detention for a little time.

**Mr Killesteyn**—There is a postscript to those figures, probably just for the record. The other startling thing about that is that the number of cases where a primary decision is outstanding is less than 100. In fact, the most recent figures suggest that it is well under 50. In terms of the efforts of many people in central office and the state offices, I think that is certainly an achievement for the department.

**Senator McKIERNAN**—Thank you.

**Senator MURPHY**—I would like to ask some questions with regard to the Coonawarra detention facility. When did work start on it? Is it complete? How much did it cost? Who paid? Has it been used? If it has not been, will it be used? I understand it has not.

**Mr McMahan**—That is a fair list. The facility was started a month or so after the minister's announcement on 23 August, I think it was, that some contingency facilities would be established around Australia. That was basically a reception facility. The estimated cost at the moment is \$7.4 million. The works are not complete. It has been ready to use for some time. We have had processes in place to use it. The major work outstanding at the moment is perimeter lighting, and the lighting has to be done properly because it is relatively close to the approach to an airport. There is voice and data communications work still to be done. It has not been used to date. If the government's policies continue to be successful, then it will serve its purpose as a contingency facility.

**Senator MURPHY**—Which is likely to mean it will not be used?

**Mr McMahan**—The ideal situation in respect of any contingency facility is not to use it.

**Senator MURPHY**—If I recall, when the announcement was made, it was to be a little more than a contingency facility. Who paid?

**Mr McMahan**—The department of immigration paid.

**Senator MURPHY**—Did they also meet the cost of the defence personnel who left Coonawarra as a result of the facility being put in there?

**Mr McMahan**—No, and the facility is continuing to be used by defence personnel. We have also made it available—the whole facility—for defence personnel.

**Senator MURPHY**—I understand that all of the single male personnel were transferred elsewhere and that at least seven of the married-quarters residents on the Coonawarra base also left.

**Mr McMahan**—Basically, it is in two parts. There is the old defence component, which is 250 places, and then there are the additional facilities that we put on, which are another 400 places. It is true that they moved them in the early stages. Defence met those costs. We have since made it available, and I believe it has been used for periods of time since we have made it available.

**Senator MURPHY**—Could you check that, please? That is not the case according to a letter that the Minister for Defence sent to me.

**Mr Farmer**—Which part do you think is—

**Senator MURPHY**—My information from the Minister for Defence is that at least seven married personnel departed as a result of, as I understand it, an offer from Defence because the facility was being established there. They could move if they had some concern about living next to a detention facility.

**Mr Farmer**—I do not think we have said anything about that matter at all—about families moving.

**Senator MURPHY**—That was my question in part. I also asked about those who occupied some single men's quarters, as I understand it, that are within the facility now established. I understand that the minister's letter says they were placed elsewhere.

**Mr Farmer**—Yes, and I think that was what Mr McMahan was referring to. But I do not think we commented on the matter of the seven families.

**Mr McMahan**—I simply do not know about the seven families. I simply know that an offer was made for the singles to move, and I believe most of them did.

**Senator MURPHY**—The offer was also made to married personnel.

**Mr McMahan**—That would not surprise me, but I do not know for sure.

**Senator MURPHY**—Can you respond to the same questions with regard to Baxter?

**Mr McMahan**—Baxter is a facility that will cost about \$43 million. It was initiated as one of the three facilities—the contingency facilities—that the minister announced on 23 August. The other one was Singleton. Essentially, we have put considerable design effort into it, and I guess our view over time changed from it being a contingency facility to it being a primary facility. That has certainly been reflected in the comments now made by the minister. Essentially, it is largely completed now. We are at the stage of doing landscaping and finishing a number of the compounds. We would expect it to be completely ready with grass et cetera that can be walked on by the end of June.

**Senator MURPHY**—And is it intended to be used?

**Mr McMahan**—I think it would depend on the time and the number of people we have in detention. But certainly it is one of our best facilities available now and, of course, we would like to use it.

**Senator MURPHY**—Can I just ask one other question in regard to Pinkenba.

**Mr Metcalfe**—Brisbane Airport, I think you are talking about.

**Senator MURPHY**—Not for publication—cost.

**Mr McMahan**—The budget originally had made an assumption that a detention facility in Brisbane would be essentially owned by a private sector group and the Commonwealth would lease it off them. So the budget had a stream of payments running forward in the budget, but the Commonwealth has now made a decision that it will build the facility. It has made provision for it to be built on its own land. Essentially, that is simply reflecting the fact that the cost of that land is estimated to be less than the amount of money that we had provided in the budget for the stream of payments to a private sector provider.

**Senator MURPHY**—Thank you.

**Senator ALLISON**—If I could just follow up on some of the statistics, is it possible to indicate how many detainees are in detention centres because there is no memorandum of understanding with the country of origin? And which countries are they?

**Ms Godwin**—If I understand your question correctly—perhaps I could seek clarification—are you asking whether there are people that we cannot remove because we have not got a memorandum of understanding?

**Senator ALLISON**—Yes. They are in detention centres, are they not?

**Ms Godwin**—Yes, but we do not require memorandums of understanding, generally speaking, to remove people.

**Senator ALLISON**—Let me put it another way. How many are in detention centres because there are barriers to removing those persons back to their country of origin?

**Ms Godwin**—I do not have a figure precisely on that, but if I could say a couple of things: there is a variety of issues to do with removal, ranging from countries to which it is easy to remove people because of the administrative processes that are in place through to countries where it is difficult to remove people, but there are very few places to which it is not possible to make some arrangements. The other point to make is that the Migration Act requires that people be removed from Australia if they have no lawful reason to remain, not necessarily that they go to their country of origin. So if they have got the lawful right of entry somewhere other than their country of origin then they will be able to go there and we would facilitate that. There are a number of people in detention who come from countries that it is difficult to make removal arrangements to, but they have got right of residence somewhere other than that country.

**Senator ALLISON**—So which are those countries where we do not have those arrangements?

**Ms Godwin**—It can vary. An obvious example is a country like Iraq. We do not have any direct relations with that country and, therefore, removals in a direct sense are difficult. But a number of people who have come from Iraq at some point have lived in other countries or have got visas for other countries, or whatever. So that is just an example.

**Senator ALLISON**—So you cannot provide the figures now, but is it possible to indicate how many are in the category of there being no third country willing to take them and their own country we do not have an arrangement with?

**Ms Godwin**—I would need to take the question on notice.

**Senator ALLISON**—That is what I am suggesting you do.

**Ms Godwin**—Yes, but if I could just say I think it is a difficult figure to provide because, in a sense, the way we manage removals, when it comes down to those sorts of circumstance, is on a case-by-case basis.

**Senator ALLISON**—I understand that. Perhaps if we can have the raw data—that is, the number Australia is sending back, wherever they are going and whose country of origin we do not have an arrangement with. There are those from Iraq. I understand there is a problem with some Vietnamese detainees.

**Ms Godwin**—Generally speaking, there is not a problem with Vietnam. There has been a problem with some criminal deportation cases.

**Senator ALLISON**—These are people who have committed a crime in Australia, who have served a jail sentence and who Australia now says must return to Vietnam?

**Ms Godwin**—Yes.

**Senator ALLISON**—Is it possible—perhaps the minister can help—to have the rationale for that arrangement? Why it is that, having served a sentence for a crime in Australia, we now require them to be deported?

**Mr Metcalfe**—If I could anticipate the minister's response, the Migration Act has made provision since 1958 for the deportation of certain persons who commit certain crimes in Australia. Essentially, that provides for people who are not Australian citizens. While there have been changes over time, essentially it is persons who have lived as Australian residents for less than 10 years before they committed a crime that carries a sentence of at least 12 months or longer. The actual decision to order a person's deportation is usually taken by the minister or a very senior officer of the department. At the moment, it is the minister personally who makes those decisions. There are also various appeal rights associated with that. So the issue of criminal deportation is a very longstanding aspect of Australian law and, indeed, the Joint Standing Committee on Migration undertook an inquiry into that particular issue two or three years ago.

**Senator ALLISON**—And how many countries remain in the category of not accepting those persons?

**Mr Metcalfe**—The point that I think you are driving at is a complex one—because another aspect of the complexity is that it depends to a certain extent on, in many circumstances, whether the person is willing to cooperate or not. In relation to many countries, if a person is prepared to sign an application form, cooperate with the authorities, provide details of their residence, that country will cooperate. But if the person is not prepared to assist and refuses to complete forms then some countries find it difficult. Australia did sign a memorandum of understanding with Vietnam. In fact, the minister signed that in I think June last year, and that has now led to the deportation or the putting into effect of the deportation of a number of Vietnamese nationals who had committed serious crimes in Australia. That process of deportation is continuing.

**Senator ALLISON**—If I could go to the Maribyrnong Detention Centre, I visited there recently and was struck by the very high security arrangements in place. I wonder if you can explain in what way the contractors of that detention centre are required to ensure that this is an administrative detention centre and not a criminal detention centre. Is it possible to explain the difference between those arrangements?

**Ms Godwin**—I will certainly try to assist. The fundamental issue of immigration detention is that it is for an administrative purpose, not because someone has been convicted of a crime. Generally speaking, what we say to the service provider is that this means that we want people, to the extent possible, to go about their business within the detention centre with as little constriction as possible and with a range of support services and facilities provided to them. But it is a requirement that they are in detention and that they remain in detention; therefore the external security, if you like—the fences and so forth—is designed for that purpose.

The other important point to make is that there is a wide variety of people in detention, including people who have committed serious crimes, who as you say have finished their sentence and who are then the subject of a criminal deportation order. While we work to achieve that criminal deportation, they are required to be held in immigration detention. In the past, we used to work closely with state correction authorities, because there were a number of people who we thought it was more appropriate should remain in a state corrections facility rather than in the immigration detention centre, but in recent times—in the last 12 months or so—state corrections have been taking a much more restrictive line on that and, therefore, we do have people in immigration detention who we are anxious to ensure do not escape into the community. So the external security has to take account of all of those sorts of things. As I said, within the facility the objective is to try to permit people to have a degree of freedom of movement, freedom of association and to be able to participate in activities or not as they choose and so forth. So it is not like a prison where people are locked in their cell at six o'clock at night, the lights are turned off at a particular time and so forth. There is a greater degree of flexibility in an immigration detention centre than you would normally find in a prison.

**Senator ALLISON**—Can I ask you about some of the what seemed to me to be very high security measures. One was the two-hourly headcounts that took place every night. In fact, some detainees have said this was as frequent as every half hour, depending on which officer was in charge. Given the high level of monitoring, the security cameras and the control room, which is manned 24 hours a day and looks into every corridor and every area beyond the bedrooms and the toilets, why is it necessary for two-hourly headcounts?

**Ms Godwin**—I would have to take on notice the question about the frequency of the headcounts. I am not aware that they happen that frequently and I would need to check. It is certainly not the case that they happen that frequently in other centres. I would want to check whether that was actually the frequency at Maribyrnong and take that on notice.

**Senator ALLISON**—The management in fact said it was at least every two hours but, for reasons of not being too regular, that it was more frequent than that. The booklet which was provided to me, which I understand is provided to detainees, says that there will be two a night and that there will be one at 12 noon and one at 5 p.m. My question arising from that is: how is it that there can be an inconsistent approach if you are surprised that it is as regular as that, and why is it that the department is not aware of that situation?

**Ms Godwin**—I am not aware of it, because I did not personally check it today—

**Senator ALLISON**—I am sorry, I was not meaning you personally.

**Ms Godwin**—No, but I am the one responsible.

**Senator ALLISON**—Would you expect whoever is DIMIA's representative at Maribyrnong to know this?

**Ms Godwin**—Yes, I would. It has been true over a period of time that the frequency of headcounts varies in centres, particularly if there has been either an escape or information that there might be an attempt to escape. Musters are necessary to make sure that people are in the centre that we believe ought to be in the centre. As I said, those can vary according to the assessment of the manager or management at a given time about the risk or other information they have that might suggest that they should vary it. So it is not unexpected that it might vary from time to time, and that is why I said I would need to check what the actual frequency was at the moment.

**Senator ALLISON**—Are you surprised to hear, too, that during these headcounts, despite the fact that bedrooms have no doors on them and open to a corridor which is relatively lighted and, as I said, is under surveillance, guards use torches? Detainees say the torches are shone in their eyes, the guards say they are shone at the ceiling; but, nonetheless, torches are used. Would you regard both the frequency of the headcounts and the use of torches, the lack of doors and all of the other activity going on as factors which would contribute to a high degree of sleeplessness and therefore the sorts of problems that arise from that?

**Ms Godwin**—There is a number of elements that you have touched on there. As I said, I would need to check on the actual frequency of the headcounts at this time. There have certainly been instances in other centres where people appear to be in their bed but in fact have later been found not to be. The service provider obviously needs to check whether someone is actually there or not. There is a duty of care issue as much as anything else. The way in which the headcount is conducted, whether a torch is shone on the ceiling and so forth, again is something I would need to check. But, as I said, given that the service provider needs to satisfy themselves that the person is there, it may well be necessary to use torches. So, no, I would not necessarily be completely surprised by that. The other point you make is about sleeplessness. Again, there is a range of factors. We know that there are numbers of detainees who stay up late watching television or playing cards. We do not have a set lights-out or lock-down type of an arrangement as you would in a prison. So there would be a variety of things that might contribute to people's patterns of sleep, if you like.

**Senator BARTLETT**—Has there been an escape from Maribyrnong in the last couple of years?

**Ms Godwin**—I would need to take that on notice. There have certainly been escapes from Maribyrnong—

**Senator BARTLETT**—Since the extra security went up?

**Ms Godwin**—The new fence has been there for only a few months and it was not actually completed until fairly recently.

**Senator BARTLETT**—When you talk about people not being in their rooms and that being an occurrence that is not infrequent, what does that usually pan out to be—people going to the toilet, people hanging out watching TV, people wandering around?

**Ms Godwin**—No. The service provider would be, generally speaking, looking to see if someone is not in their room. But, as I said, there is a duty of care issue: if someone is ill, for example, or is in some part of the centre they should not be, or indeed if there has been an escape. As I said, there is a duty of care consideration through to a security consideration. One of the issues that the service provider has to satisfy themselves of is whether everyone who is supposed to be in the centre is in the centre. We require them to provide us with a headcount, I think, every day. It is provided to central office twice a week, but in the centre we require it every day.

**Senator BARTLETT**—You need a headcount once a day?

**Ms Godwin**—They need to provide us with information that they are there once a day, but obviously they would check more frequently than that, because if, for example, they find that someone is not there at a particular time, if it has been 24 hours since they did the last count, it is hard to know just where that person might be. So it is common practice in centres for a census, muster or headcount—or all the various terms that are used—to be conducted a number of times a day. Different methodologies are used in different centres.

**Mr Metcalfe**—As a general observation, the increase in perimeter security that we have seen in recent years has been a direct result of the fact that there have been escapes from detention centres and security, therefore, had to be increased to prevent that. At the end of the day, that is the fundamental basis that detention centres are there for—to ensure that people are available. If they can walk out, then it is really defeating the purpose of what the law requires. We have seen a number of incidents at Maribyrnong, Villawood, Woomera, Curtin and Port Hedland where people have decamped without authority. That has led to a requirement that the perimeter security as well as internal checking responds to that particular issue.

**Senator ALLISON**—If I can return to the question of sleeplessness, if the accounts of detainees are to be believed, there is a very high level of sleeping problems and depression, which is not surprising. Can you provide the committee with data on the number of detainees who have been provided with sleeping pills? It has also been suggested to me that some are forced to take sleeping pills, that guards in fact stand by them and ensure that they are swallowed. Can you indicate whether that is practised as well? Can you provide a schedule of the medication currently being taken and the doses of that medication together with medical records—I am not asking for names—so we can have some idea about the claims by detainees that there is a high level of medication? That would give us some indication as well of the incidence of depression and/or other disorders.

**Ms Godwin**—I would certainly want to take on notice your question about whether we could provide you with some sort of schedule. I am not attempting to be unhelpful, but clearly I would need to be conscious of the privacy issues, particularly when it comes to medical—

**Senator ALLISON**—I am not asking for names or anything.

**Ms Godwin**—I understand that, but I just need to take it on notice to see whether there are any issues:

**Senator ALLISON**—Why would there be a privacy issue if there were no names associated with the records?

**Ms Godwin**—Because Maribyrnong is a small centre and the numbers of individuals are small in any given category, if you start to do a schedule according to adults, children, males

and females, it gets down to very small cohorts. There could in fact be, without giving the person's name, a potential to identify the individual. I truly mean this; I am not trying to be unhelpful.

**Senator ALLISON**—I understand.

**CHAIR**—I think it is very important, Senator Allison, to take that on notice. The release of medical records in any way is a matter which has to be handled very sensitively.

**Senator ALLISON**—Sure. Might I say that the accusations that were being made are very serious. I have taken it upon myself to follow this up, because if it is correct, as I said, it is a very serious matter indeed.

**Ms Godwin**—I understand.

**CHAIR**—I understand that. From our side, we have seen certain individuals post medical records of details from other centres on the World Wide Web, on the Internet, which I think also has similar impact on privacy issues and the sensitivity of medical records, so I think it is important to handle this sensitively.

**Ms Godwin**—Absolutely. I thank you for that. Can I say one thing, though, in respect of the comment about detention officers standing there while people take medication. That is in fact a duty of care issue. If people are not supervised when they are given medication, that could in fact be dangerous if it were hoarded into a toxic dose. That is, as I say, a duty of care issue. It would be quite standard practice, generally speaking, in a number of centres for people to be supervised when they are taking serious medication.

**Senator ALLISON**—I understand. Another matter related to sleep is blankets. I understand that at Maribyrnong the issue is one very thin, small grey blanket and if detainees request a second they can have a second but not beyond that. Can you confirm that this is sanctioned by DIMIA and the reason for it and why it is that blankets are not permitted to be brought into the centre by visitors when the detainees request them?

**Ms Godwin**—The latter part of your question I will take on notice, because I do not know that that is the case and, if it is, I am not sure what the reason is. I will take that one on notice, and I know you have asked the manager at the centre the same question, so we will check that one out. I understand that when you visited the centre there was an issue with the heating—in fact, there had been a problem with the heating. That has now been rectified and the centre heating is back to its normal arrangement. Generally speaking, people have two blankets, because that is what is generally required when the heating is working. In the period when the heating was not working, the advice that I have is that people were offered additional blankets, but the heating was rectified fairly quickly. That is the advice that I have, and I will check that to see whether there is anything further that I can add.

**Senator ALLISON**—Perhaps you would also check the advice that I received, which was that for three weeks—Melbourne has been quite cold now, especially overnight, for a good period of time—requests were made for heating to be turned on and it was only quite recently that that occurred.

**Ms Godwin**—It may be a problem with heating in bedrooms.

**Senator ALLISON**—My understanding is that each of the detainees had two blankets and that is all.

**Ms Godwin**—My understanding is that it was in bedrooms.



**Senator ALLISON**—As I said, they were very thin.

**Ms Godwin**—I understand the point you are making and I will certainly check it. My understanding is, though, that the issue with the heating was not that it was not being turned on but that there was actually a problem with the heating and that there had been an offer to provide additional blankets. But, as I said, that is the advice I have at the moment and I will check that to confirm.

**Senator ALLISON**—Thank you. Why are there no doors on the bedrooms?

**Ms Godwin**—Again, I would need to check that in relation to Maribyrnong. As you are probably aware, Maribyrnong is quite an old centre. It was built, I think, nearly 30 years ago. There have been issues to do with fire safety—not that we have had a fire there; I do not mean that. There have been issues to do with doors and whether the corridors were wide enough to accommodate having doors that open one way or the other and whether there were security issues. That is a factor in a number of places. The family rooms have doors, as I understand it, but the dormitories, mostly for single men, do not have doors. But they are dormitories.

**Senator ALLISON**—Given the requirement—I forget the name of the document but it was in some management document—or undertaking that privacy would be afforded to detainees, I wonder how you achieve that at Maribyrnong.

**Ms Godwin**—That is in the immigration detention standards. I am dredging from memory here. I think we have got a copy which I could refer to at some point. Essentially, as I recall it, the requirement is that people be provided as much privacy as is possible given the physical infrastructure, which of course is provided to the service provider—that is not their infrastructure. For example, we would expect that people are not walked in on when they are in the bathrooms and those sorts of things. Clearly, there are limitations because there are not individual rooms and there is not the possibility in a dormitory setting for people to have complete privacy in that sort of situation.

**Senator ALLISON**—I put it to you that there is no privacy anywhere—in bathrooms or elsewhere

**Ms Godwin**—The toilets have doors and people can shower—

**Senator ALLISON**—It would be good if you could check that. It is my understanding that neither the toilets, nor the bathrooms, nor the bedrooms, nor any rooms have doors.

**Ms Godwin**—I will check that.

**Senator ALLISON**—Could you also confirm that question of how privacy is arranged? It is my understanding as well that ACM staff were given training—whatever ‘training’ means I am not sure—on this question of appropriate management of detainees and ways of treating people culturally appropriately and otherwise. Given that it is my understanding that many ACM staff come from criminal prison arrangements, what training is provided and have all staff been through that training?

**Ms Godwin**—Yes. It is a requirement that all detention officers complete a six-week training program prior to taking up duties. The service provider then provides refresher training on an annual basis. The initial training that people go through prior to taking up duties has a number of components to it, including cultural awareness and communication. It is the practice of the service provider, generally speaking, to try to source external consultants for the provision of things like cultural awareness. I am aware—and this is not the same for

every training course—that they have used people like the Refugee Council of Australia, various torture and trauma service providers et cetera, to provide—

**Senator ALLISON**—So this is six weeks full time for staff who have previously already worked in some sort of prison environment; is that correct?

**Ms Godwin**—Yes, that is my understanding. It is a program for detention officers. It has recently been reviewed to make sure that it had all of the appropriate components in it.

**Senator McKIERNAN**—But it is not a requirement for prison officers, or persons recruited to the positions, to have a prison background?

**Ms Godwin**—No, it is definitely not a requirement.

**Senator McKIERNAN**—I think there might have been the inference in the question that there was that requirement there—

**Senator ALLISON**—No. The inference, if you like, was that perhaps those who had previously been prison officers would not do the full six-week course.

**Ms Godwin**—I will check that, but that is not my understanding. There are some officers who have worked in both prisons and detention facilities, and some officers who have only worked in detention facilities. Presumably, the service provider has some officers who have just worked in their prisons, given that the service provider has contracts in a number of states, I think, to provide correctional facilities or managed correctional facilities as well as detention facilities.

**Senator ALLISON**—What action does DIMIA take on complaints by detainees that there is inappropriate treatment of them by guards or prison officers, or whatever you call them.

**Ms Godwin**—Detention officers.

**Senator ALLISON**—Some, for instance, said to me that they felt the every half-hour headcount was conducted by some detention officers who were prone to use that sort of technique as a harassment tool. What measures do you have in place to ensure that complaints against particular officers can be made without any repercussions from or retribution by those officers towards the detainees?

**Mr Farmer**—Could I just ask a question? You said there were allegations of an ‘every half-hour headcount’. That is the first time I have heard you say ‘half-hour’. I thought you were talking about two hours beforehand. Have I missed something?

**Senator ALLISON**—The guards indicated to me, as did DIMIA, at the centre that they were two-hour headcounts, but the guard also indicated that they were more frequent in some instances to avoid the regularity. But the detainees said that some officers conduct those headcounts more frequently, and as frequently as every half-hour, depending on the officer.

**Mr Farmer**—As a general practice?

**Senator ALLISON**—Depending on the officer.

**Mr Farmer**—I think we have undertaken to reply to this question, but can I just say that I am not aware of that sort of practice as a general practice. That would seem an unusual management—

**Senator ALLISON**—It seemed unusual to the detainees, too, who were woken every time it happens.

**Mr Farmer**—That is what they are saying, but we will look into this. I do not necessarily accept that at face value.

**Senator ALLISON**—I do not accept it, either. I am just indicating that that is what was said to me. It seems to me there is some responsibility for us to know whether it takes place or not. Two hours seems to me to be too frequent. I think you have indicated that that is something of a surprise as well.

**CHAIR**—Senator Allison, could we perhaps spend the next five to 10 minutes in your area and then changed to another senator—

**Senator ALLISON**—There will be some questions I am happy to put on notice, but there are a couple of critical issues that I would like to pursue.

**CHAIR**—Could you go down the road of those critical issues, and then I might just ask you to give way to another senator for a while. We will come back to you if there is more time this evening.

**Senator ALLISON**—Okay. There was discussion earlier about the four-metre high razor wire fence which now surrounds the entire area. Access to a grassed exercise area was promised, I think, in the Senate committee's report into detention centres more than a year ago, and certainly six months ago the fence was up around this area. But even as I speak there is no general access to the area. Given that most of the detainees, I would imagine, pose no security threat, it is hard to understand why, when this is completely surrounded by such a fence, it is not available. Can you shed any light on that?

**Ms Godwin**—The fence is there, but there has been a range of issues about the fence. Without delaying the committee too long, part of the issue is that in the case of Maribyrnong the project to build the fence was in fact managed by the department of finance and not by us. There has been a range of issues around the detailed completion of the project, including some problems with final completion with some of the security issues to do with the fence—the computer system and various things. As a result—again, this is the advice I have—the green area is being used but only under supervision. So you are right: there is not general access to the green area, which is what we would hope to move to as soon as we can, but the area is being used by groups under supervision.

**Senator ALLISON**—Today's advice was that only one person at a time was permitted to be in the area and then there would be four detention officers present at the time. Why would there be the need for such a small number—

**Ms Godwin**—Sorry? Today's advice from whom?

**Senator ALLISON**—Maribyrnong.

**Ms Godwin**—Sorry, are you saying that is from the centre or from a detainee?

**Senator ALLISON**—From a detainee.

**Ms Godwin**—Again, that is not my advice, but I will check.

**Senator ALLISON**—Could you provide me with information on the size of the groups that are now being allowed and why it is the case. One would have thought that if they are under supervision it should be possible for more than a small group to be there. There are three children in the centre at present, I think you indicated?

**Ms Godwin**—Yes.

**Senator ALLISON**—One of those children is aged five, as I understand it, and has only recently been able to be sent to a kindergarten. Can you explain why it was that kindergarten was not provided for this child when he or she was at kindergarten age 12 months or so ago?

**Ms Godwin**—I am aware that two of the three children are attending kindergarten. As I understand it, one of the children turned five only reasonably recently. I would need to check precisely but, given that the schooling arrangements are made on a local basis with the local school, it may well depend on what was able to be arranged with the school. There is an education officer—a qualified teacher—at the centre, and there have been programs available in the centre. It may well be, as I say, just a question of what was able to be arranged in that particular circumstance. I am trying to be a bit circumspect here, given that it is such a small group. As I pointed out before, it is possible to identify people just because the groups are so small.

**Senator ALLISON**—And the mother is not allowed to accompany the child or children to kindergarten. Is that decision being reviewed?

**Ms Godwin**—I am aware that that was a question you asked. I do not know the answer to that. It is standard practice for detention staff to take the children to school. As to whether there is a possibility of reviewing it in a particular case, I would need to talk to the staff there.

**Senator ALLISON**—It was suggested that there was a detainee at Maribyrnong who had tuberculosis for a period of about seven months. I gather this person is not there still. Can you confirm that that was the case? If it was, why is it that inoculation against the disease was not provided for other detainees?

**Ms Godwin**—I can confirm that there was a detainee at Maribyrnong who was diagnosed with tuberculosis. That person was appropriately treated, in consultation with the state health authorities. The provisions made for other detainees were similarly discussed with the state health authorities—the public health authorities. Inoculation would depend upon whether that was regarded as necessary by the state health authorities. We would take whatever advice we had from them in that sort of situation.

**Senator ALLISON**—Is it possible to provide that advice?

**Ms Godwin**—I will ask, yes.

**Senator ALLISON**—How many detainees at Maribyrnong have been diagnosed with mental illness of one sort or another—depression or other disorders?

**Ms Godwin**—I do not have that information, Senator. Without an individual examination of their individual medical records, I am not sure that it would be possible to get it. We do not keep statistics in quite that way, because the issues of people's health are a matter between the individual and their doctor.

**Senator ALLISON**—You would have thought that if there is widespread depression, widespread sickness of that sort, this would be a matter of broader concern than the individual and their doctor, surely.

**Ms Godwin**—It would depend very considerably. A number of people in Maribyrnong are only there for fairly short periods of time. Some people come in with pre-existing conditions. We would expect those pre-existing conditions to continue to be appropriately treated. Some people are more extensive users of medical services than others, just as is true in the community. So there are a variety of issues. As I say, it is something that would require specific reference to their individual medical records.

**Senator ALLISON**—So there is no inquiry into the medical conditions which could be attributable to the conditions in which detainees are held? Surely this would be of interest to the department. If people are coming in and getting sick there, that is a different matter from those who arrive with a sickness and get treatment for it.

**Ms Godwin**—I guess the key issue from our perspective is that people's medical requirements are appropriately attended to. If there are people whose medical circumstances are such that they require specialist treatment or hospitalisation or indeed cannot be managed in the detention environment, we would respond to all of those issues. I guess the question from our perspective is not so much where the condition came from. As I say, people may well come into a centre with a pre-existing condition. The issue is that they get appropriate treatment while they are there, and there is a variety of ways in which that would happen.

**Senator ALLISON**—The rules are said by detainees to be applied arbitrarily by certain detention officers and not others. One of those appears to be about what might be brought into the centre. I note the rules say that only alcohol, mobile phones, medication, glass or metal are not allowed to be brought in, but there are instances where other items—blankets is one of them—are refused. What is your understanding of the consistency of those rules? How clear do you think they are to visitors?

**Ms Godwin**—It is a little while since I have been to Maribyrnong, so I cannot speak from personal reference there. But certainly in other centres that I have visited recently there is a big sign up on the wall explaining to visitors that there are a variety of things that are prohibited. Beyond that, the service provider is required to ensure the safety and good order of the centre. There may well be provisions instituted from time to time in specific centres to respond to particular issues that have arisen in that centre. There would be variations between centres in respect of some aspects, but there would also be a core of issues that would be consistent—mobile phones being an example. If your point is that people have asked to bring in blankets and that has not been permitted, that was raised earlier and I indicated that I would take that on notice.

**Senator ALLISON**—Most recently I understand that flowers are not permitted to be brought in. They were once allowed.

**Ms Godwin**—I would need to check.

**Senator ALLISON**—In relation to rules for visitors, I understand that at Maribyrnong there has been a new rule introduced whereby visitors are not permitted to bring in notebooks and pencils.

**Ms Godwin**—I will take that one on notice as well.

**Senator CROSSIN**—Can you provide me with a date on which the work at the temporary detention centre at *Coonawarra* naval base was commenced?

**Mr Metcalfe**—We were asked a very similar question by Senator Murphy earlier.

**Senator CROSSIN**—The answer you gave, though, was the announcement that it was going to be erected, which was on 23 August 2001.

**Mr Metcalfe**—I think Mr McMahon indicated that work commenced about a month later.

**CHAIR**—That was my recollection, Mr Metcalfe.

**Senator CROSSIN**—I am after a specific date.

**Ms Ellis**—Because the facility comprises the existing tin city—Defence refers to the demountable accommodation as Tin City—there would have been some initial preparations work. I think Mr McMahon said earlier that within about a month work commenced on the site. Certainly the date we have is that the additional accommodation that was introduced to the site was completed by about 21 December.

**Senator CROSSIN**—Are you suggesting to me that the number of demountables that are currently there now were in existence prior to work on the detention centre actually starting?

**Ms Ellis**—That is correct. Defence had demountable accommodation—it was single rooms—which would accommodate up to 125 single sailors. It was used as transitional accommodation for when people were moving from the base to another place.

**Senator CROSSIN**—So you are telling me that the number of demountables on that site that we currently see as we drive up and down the Stuart Highway—not the number of demountables that Defence have but the number of demountables in exactly the same place that they are now, in rows—has not changed in the last 12 months?

**Ms Ellis**—I think what I said was that there was some existing accommodation and then there were additional demountables that were brought onto the site. That work was completed—the number of demountables that were brought in—in late December.

**Mr McMahon**—An additional 50 demountables were brought in.

**Senator CROSSIN**—Thank you. What date were they moved onto the site?

**Ms Ellis**—They were progressively moved onto the site; they were brought from Western Australia. As I understand it, it was completed by the end of December.

**Mr McMahon**—We will take it on notice. I understand the question you are asking. You are asking about when we physically started the work and when we moved them. We will have to check our files and we will get back with an answer on that.

**Senator CROSSIN**—On what date was the department advised that the facility was ready to receive illegal entrants for processing?

**Mr McMahon**—We took the view that we could accommodate people there at the end of December. Essentially, it was a question of numbers. We got the smaller compound ready first and then we had the accommodation—water et cetera—connected up to the larger compound. We could have used that as well but we would have had to bring in portaloos for a period of time, but we did not need to.

**Senator CROSSIN**—In the answer to question on notice No. 33 that I received from this department, you outlined 15 times in the last 12 months that showgrounds had been used to process illegal immigrants. Is that still correct?

**Mr Metcalfe**—I think it would be, because essentially no-one has arrived in Australia in recent times.

**Mr McMahon**—I understand there may have been some illegal fishermen housed there for one night.

**Senator CROSSIN**—No, I think what I am asking you is to verify for me whether 15 times in the last 12 months the Darwin showgrounds have been used to process illegal entrants. That is the number and the times you gave me in answer to question No. 33. Is that still correct?

**Mr McMahon**—Yes.

**Senator CROSSIN**—So what I would like from you is the dates of those 15 occasions in the past year in reference to that answer.

**Mr McMahan**—We will have to take that on notice.

**Senator CROSSIN**—Thank you. Can you also provide me with the number of people who were processed on each of those 15 occasions?

**Mr McMahan**—We will take that on notice, too.

**Senator CROSSIN**—Thank you. This is a answer that I received following the estimates of 19 and 20 February; there is no date on it. Have any illegal entrants been processed at the showgrounds since this question was answered? We are probably talking about between February and now.

**Mr Farmer**—I think we have already taken that on notice from you.

**Senator CROSSIN**—No, I am not sure you have. I have just asked you—

**Mr Farmer**—We will do it now.

**Senator CROSSIN**—Mr McMahan, you were suggesting perhaps there might have been one other.

**CHAIR**—What number question was that?

**Senator CROSSIN**—It is question on notice No. 33. Has there been one other group of people processed at the showgrounds?

**Ms Godwin**—That is an issue in my area of responsibility and I would need to check it. We will check, as you have asked, the dates and the numbers, and as part of that we will confirm what the most recent occasion was.

**Senator CROSSIN**—I am assuming that this answer is up to February this year. So what I am now asking is whether there have been any other illegal immigrants processed at the showgrounds in Darwin since this question was answered, which would have been, say, in February of this year.

**Mr Metcalfe**—We will update our answer. Just as a general observation, no unauthorised arrivals have come to the Australian mainland since 29 August last year. So the answer, I think, is no.

**Mr Farmer**—With the possible exception—

**Mr Metcalfe**—Unless the fisheries authority brought in illegal fishermen.

**Senator CROSSIN**—I am actually referring to them as illegal entrants. I am making that distinction, because your answer to me actually says that the last time the showgrounds were used in Darwin was December 2001. So I am assuming you processed illegal entrants in December 2001.

**Mr Metcalfe**—I do recall that there was quite a large number of, from memory, Chinese nationals in Darwin in December who were subsequently moved to Port Hedland. That may have been that incident. But we will take that on notice and update you.

**Senator CROSSIN**—Can you indicate to me why, if the temporary detention centre was available for use around the time of December, the group of people you are referring to may have been processed at the showgrounds and not at the *Coonawarra* temporary processing centre?

**Mr Metcalfe**—We will have to check the specific circumstances on it. We will take that on notice.

**Senator CROSSIN**—Right. Can you also perhaps provide me with the details of the costs and the charges incurred for processing the people at the showgrounds during the last 12 months in terms of their security, health, cleaning and catering costs?

**Mr Metcalfe**—To the extent we can, we will.

**Senator CROSSIN**—In all of those areas. I do not know how long each group stays, but I am assuming that it is a cost to your department and I would like a breakdown of that. So the detention centre has been budgeted to be established at \$7.4 million. Can you point to where in this year's PBS that is costed or mentioned?

**Mr McMahan**—It was actually provided for in the additional estimates context.

**Mr Metcalfe**—So it was in the previous PBS; it is not in this one.

**Mr McMahan**—And there were no dissections, as I recall it, between the specific centres in the document itself.

**Senator CROSSIN**—So there is no referral to it at all in the PBS?

**Mr McMahan**—Not in this budget document. We have just confirmed that answer.

**Senator CROSSIN**—So there is no—

**Mr McMahan**—There is nothing in the budget document.

**Senator CROSSIN**—Nothing at all in this budget document?

**Mr McMahan**—No.

**Senator CROSSIN**—So in February you anticipated that it would cost up to \$7.4 million; is that correct?

**Mr McMahan**—That is our provision for it, yes.

**Senator CROSSIN**—What is the total cost that has been expended on that centre to date?

**Mr McMahan**—About \$5.6 million.

**Senator CROSSIN**—Do you anticipate that the costs will blow out beyond \$7.4 million?

**Mr McMahan**—No, that is our provision.

**Senator CROSSIN**—So you are not anticipating any additional expenditure beyond that?

**Mr McMahan**—That is our expectation.

**Senator CROSSIN**—All right. My understanding is that the *Coonawarra* temporary centre has not been used at all since it was completed for illegal entrants; is that correct?

**Mr McMahan**—No, it has not been used at all.

**Senator CROSSIN**—When you answered a question from Senator Murphy before, you made some reference to it being made available for Defence personnel. Were you referring to the temporary processing centre in your answer to that question?

**Mr McMahan**—The *Coonawarra* centre, yes. We are prepared to allow Defence to use it and I believe they have used parts of it.

**Senator CROSSIN**—Can you provide me with dates, who used the centre and for what reason?



**Mr McMahon**—We can take that on notice, but it is a Defence issue.

**Senator CROSSIN**—If you would take that on notice, I would appreciate it. Have you got any idea how many times it has been used?

**Mr McMahon**—I have no idea.

**Mr Metcalfe**—We will have to ask Defence, I suspect. To the extent that we can get information from them, we will provide it to the committee.

**CHAIR**—Thank you. Your assistance would be appreciated.

**Mr Farmer**—The facility has double keys—in other words, it is possible for either DIMIA or Defence officers to have access to the site. We simply would not know necessarily when Defence had access and vice versa.

**Senator McKIERNAN**—You are trusting of that lot, aren't you?

**Senator CROSSIN**—You suggested that there is still perimeter lighting and data communications to be installed in the centre.

**Mr McMahon**—That is correct.

**Senator CROSSIN**—What is the expected cost of each of those items?

**Mr McMahon**—The total remaining cost is \$1.8 million and they are components of that. But the largest component would be the perimeter lighting which we are going out to tender for. So we would not want to comment on that at this stage.

**Senator CROSSIN**—What are the ongoing costs of maintaining the temporary detention centre? For example, I am assuming that even though no-one has used it there are ongoing security or cleaning costs or ground maintenance costs?

**Mr McMahon**—No, there is no security because it is basically within a Defence establishment. There has basically been no maintenance because it has not been used. To the extent that we have done any work, it is because heavy rains or something have washed away a path and we have gone back in and fixed the path et cetera. If there is any maintenance, it is so small that it would not register.

**Senator CROSSIN**—It is not being used at all, but are there ongoing cleaning costs associated with this centre lying dormant?

**Mr McMahon**—I would not expect so.

**Senator CROSSIN**—Do you know so?

**Mr Metcalfe**—We will check on that because we have said that it is our understanding that Defence has used the facility. It would be our expectation that if it has used it, it would leave it in a clean state. To the extent that there has been cleaning, if we can find out some information about that we will provide that to you.

**Senator CROSSIN**—I would appreciate it if you could tell me whether there are particularly any ground maintenance on-costs or cleaning on-costs and what those costs are. There have been many reports that some sort of landscaping would be provided around the fence line. In fact, in an interview with the minister on 12 April he indicated that there would be some landscaping and trees planted around the border of the detention centre. Why hasn't that started yet?

**Ms Ellis**—There are plans for that to occur. There has been a need to redo some of the ground works. As Mr McMahon mentioned, because of heavy rains there was a need to go in and do some works to divert water to places where it would not cause a problem. There are certainly plans. I would have to get back to you on the precise date when the planting commenced or a date when it will commence.

**Senator CROSSIN**—So there has been some sort of plumbing work done around the centre to provide drainage for excess water during the wet season. Is that correct?

**Ms Ellis**—Yes. When the facility was first completed there had not been heavy rains. It was only really after the first lot of heavy rains that it became clear that some of the paving needed to be redone and that there were certain areas where the water needed to be diverted.

**Senator CROSSIN**—Can you provide me with a cost for that activity?

**Ms Ellis**—Yes, we will get a cost. We will take that on notice.

**Senator CROSSIN**—Just going back to the cleaning, there has been no attempt during the wet season to clean or check airconditioners or clean inside these demountables, given various activities that occur during the wet season up there?

**Mr McMahon**—We have taken that on notice, so we will check to see whether or not there have been any cleaning costs, and we will provide that information.

**Senator CROSSIN**—What is the rationale for simply removing one set of razor wire from the top of the fence and moving the other from the top of the fence to the bottom of the fence?

**Ms Ellis**—On completion of the facility there was a review of the works that had been undertaken. We did receive advice that if razor wire was to be there it would be more effective if it was located at the bottom of the fence. As a result of that advice, we conferred with the Department of Defence and the Department of Defence raised no concerns about the relocation of the razor wire, and that work was commissioned.

**Senator CROSSIN**—Who conducted the review?

**Ms Ellis**—It was a review that was conducted by the department in consultation with its security advisers.

**Senator CROSSIN**—Were there any community groups involved in this review?

**Ms Ellis**—No, there were not.

**Senator CROSSIN**—Was the Northern Territory government involved in this review?

**Ms Ellis**—No, it was not.

**Senator CROSSIN**—Who headed up the review?

**Ms Ellis**—It was a review that was undertaken within my branch.

**Senator CROSSIN**—Did some external consultant conduct this review or was it internal?

**Ms Ellis**—The department has a panel of security advisers, people who we can consult on a range of security aspects. It has certainly been the advice from the advisers that the razor wire would be more effective if it was located at the bottom of the fence because it would prevent, if people were attempting to escape, easy access to the chain wire which could be snipped through.

**Senator CROSSIN**—So you have relocated one strand of the razor wire, which is the internal strand. The second strand, I noticed, either has been removed or is rolled up along the fence. Is this going to be the case in other detention centres around this country? Will you relocate the razor wire in other detention centres?

**Mr McMahon**—We have different arrangements in each of the detention centres. It really just depends upon the nature of them. Sometimes the outer fence is a palisade fence. As you probably heard, Baxter has an energised fence. I do not believe that you can actually directly compare many of our facilities. They are quite different. Singleton does not have razor wire.

**Senator ALLISON**—Can I just ask a question for clarification. It is on the inside of the fence rolled up so you cannot actually get close to the fence. You cannot touch the fence.

**Ms Ellis**—It is located at the bottom of the external fences. There are two fences to create what is referred to as a sterile zone. The razor wire is attached to the bottom of the inside of the external fence.

**Senator ALLISON**—So the effect of it is that you cannot then touch the fence. You cannot get close to the fence.

**Ms Ellis**—The effect of it is to make it difficult for anyone who is in the sterile zone, which is an area where no-one should be, to get through the external fence.

**Senator CROSSIN**—You do not believe someone could take a good running leap and clear it?

**Ms Ellis**—It is a pretty high fence.

**Senator CROSSIN**—The fence might be; but the razor wire around the bottom?

**Ms Ellis**—There are no physical security arrangements that are unbeatable. It is an issue. The range of physical security measures are simply about the period of delay which would enable detection of any attempt to defeat them.

**Senator CROSSIN**—Have you seen it, Ms Ellis?

**Ms Ellis**—I have not seen the razor wire relocated to the bottom of the fence, but I have seen pictures of it as it was located on the top of the fence.

**Senator CROSSIN**—If I said to you that it was probably no higher than those tables, would you believe that that makes the fence more secure?

**Ms Ellis**—The decision was that there would be one layer of razor wire. I know that there are some institutions where they have three and four rows of razor wire.

**Senator CROSSIN**—Was a decision made to relocate the razor wire because of the community pressure in Darwin about the look of the centre?

**Ms Ellis**—The presentational aspects had certainly been raised, but the decision to relocate was based on security advice that it was a better arrangement for security purposes to relocate it to the bottom of the fence.

**Senator CROSSIN**—So there was no consideration about the presentation of this centre on a main highway as you drive into Darwin being perhaps offensive to the residents of Darwin in the way in which it looked?

**Mr McMahon**—I think it is a convergence of interests in this case.

**Senator CROSSIN**—What would make you say that, Mr McMahon?

**Mr McMahon**—Simply because the security arrangements suggested that they should have been down the bottom and community concerns were expressed that they should not be up the top.

**Senator CROSSIN**—There has also been community concerns expressed that it should not be there at all. Has that been taken into consideration?

**Mr McMahon**—The government makes the policy on the placement of assets on its Commonwealth properties; yes.

**Mr Farmer**—Can I make a general comment about the prospective use of that facility? It is not a detention centre for ongoing detainees. It is essentially a centre designed to be used for processing initial arrivals before they are taken from Darwin elsewhere. Typically during that initial processing phase we are dealing with a highly compliant population. That is a statement that reflects our experience.

**Senator CROSSIN**—Is there any chance that Mary Robinson's envoy is going to travel to Darwin or will see pictures of this detention centre?

**Ms Godwin**—He only expressed an interest in seeing Woomera. That is the only centre that is included in his program.

**Senator CROSSIN**—On 12 April Minister Ruddock actually said in a radio interview:

If you've got more time you can plan more passive security that's not as obtrusive.

Were those comments of the minister taken into account when the razor wire was relocated from the top to the bottom of the fence?

**Ms Ellis**—My recollection is that the decision to relocate the razor wire was made before that date.

**Senator CROSSIN**—What date was the decision made to relocate the razor wire?

**Ms Ellis**—I would have to take that on notice. Once the measure was proposed there was consultation with the Department of Defence. Then there was a need to obtain quotations for the work and then the work was undertaken. It has really only just been completed. I will get that date for you.

**Senator CROSSIN**—My understanding is that, in consultation with somebody from your department, we were advised that the razor wire was in fact relocated to make the place look more presentable. Is that the case?

**Ms Ellis**—I think Mr McMahon has answered that question, in that there was a convergence of interests. The priority was the security requirements. It just so happened to also address concerns about the look of the razor wire on the top of the fences.

**Senator CROSSIN**—What was the cost of the exercise of relocating the razor wire?

**Ms Ellis**—I will take that on notice.

**Senator CROSSIN**—Can you also perhaps tell me who undertook that work?

**Ms Ellis**—Yes, I will take that on notice.

**Senator CROSSIN**—Was it put out to tender?

**Ms Ellis**—I will take that on notice and provide information on just how the quotations were obtained and which company has undertaken the work.

**Senator CROSSIN**—Is there a view that a second row of razor wire will be placed around the fence if the centre is ever used?

**Ms Ellis**—Not to my knowledge.

**Senator CROSSIN**—So one row of razor wire has been completely removed; is that correct?

**Ms Ellis**—I would have to take on notice what the plans are for the second row of razor wire. I understand that there was an expectation that there may be some spoilage in the relocation. The extent of that I do not know, but I will provide that information to you.

**Senator CROSSIN**—Are there plans to relocate this razor wire to the top of the fence if the centre is ever used?

**Ms Ellis**—No.

**Senator CROSSIN**—It will stay permanently around the bottom of the fence; is that correct?

**Ms Ellis**—There are no plans to relocate it to the top of the fence. As I indicated earlier, the security advice is that the razor wire is more effective at the bottom of the fence.

**Senator CROSSIN**—Did any public consultation occur over the establishment of the Coonawarra facility?

**Mr McMahan**—The minister made the announcement and then there was some consultation, particularly liaison with Defence personnel, who were the most obviously affected, in respect of the nature of the facility. There was discussion about what was to happen et cetera.

**Senator CROSSIN**—Was there any consultation with community groups who may have an interest in such a facility being built?

**Mr McMahan**—I do not recall, but I will take that on notice.

**Senator CROSSIN**—Mr McMahan, you indicated previously in answer to a question from Senator Murphy that you believe that the fact the centre has not been used was probably evidence of the government's policy working. If that is the case, is there going to be a review of whether Darwin needs a permanent detention centre?

**Mr McMahan**—The question of a permanent detention centre will be considered in the context of the next budget.

**Senator CROSSIN**—Was there any consultation held with the Darwin community about the announcement for the proposed permanent detention centre in Darwin?

**Ms Ellis**—Could I just seek some clarification as to which announcement you are referring to.

**Senator CROSSIN**—The announcement that it would be built at the 11 Mile on the Stuart Highway.

**Ms Ellis**—There has certainly been consultation with the Northern Territory government and officials over the last period of over 12 months. There was close consultation with

Northern Territory government officials to identify potential sites in Darwin. To our knowledge, the Northern Territory government had no major concerns with the site that has been identified as the preferred site, subject to the availability of land on that site for a services corridor that the Northern Territory government has planned.

**Senator CROSSIN**—When did you advise the Northern Territory government that that was the preferred site?

**Ms Ellis**—The minister advised the chief minister shortly before the announcement of the preferred site.

**Senator CROSSIN**—And was there any approval perhaps of that site given prior to the announcement?

**Ms Ellis**—It was announced as a preferred site to enable a range of consultation. So it leaves it open for any further comment from the Northern Territory government and, indeed, from members of the community.

**Mr McMahan**—I should add that there has been consultation taking place for quite some time on this. We normally do build these facilities on Commonwealth land, and that was one of the only suitable bits of Commonwealth land around. Although we had not specified that formally as the preferred Commonwealth site, the Northern Territory government knew for quite some time that we were looking at that and that we had looked at some other sites.

**Senator CROSSIN**—You are talking about the current Northern Territory government as opposed to the previous one?

**Mr McMahan**—Both Northern Territory governments. They certainly provided us with comment at the time.

**Senator CROSSIN**—Mr McMahan, who has been involved in those consultations?

**Mr McMahan**—Ms Ellis, actually.

**Senator CROSSIN**—And who in Darwin, besides the Northern Territory government and Defence?

**Ms Ellis**—The discussions that have been held over that time have been with the Northern Territory government and Northern Territory government officials. As I indicated a short while ago, the announcement of 11 Mile Antenna Farm as the preferred site was a basis for enabling community consultations and getting a response from the local community.

**Senator CROSSIN**—Have you put advertisements in the paper advising people that they can now comment on this preferred site? Have you written to community based organisations such as the Multicultural Council to advise them that they have an opportunity to comment on this preferred site?

**Ms Ellis**—No. However, as Mr McMahan has mentioned, the minister, in announcing the preferred site, has also indicated that a decision as to whether or not the government would proceed with the centre in Darwin is a matter that will be reviewed within the next 12 months or so.

**Senator CROSSIN**—If people perhaps were not listening to a radio or reading his press release at that particular point in time, how would the broader community in Darwin know that there is this avenue for consultation?

**Mr McMahon**—We will develop a program closer to the time.

**Senator CROSSIN**—What time would that be?

**Mr McMahon**—Before the next budget. Essentially, we have not yet moved into the firm planning stages for a Darwin facility.

**Senator CROSSIN**—So are you suggesting there will be a time line in which the community can provide you with responses?

**Mr Farmer**—We have not yet put advice to the minister and received a developed view on that yet. At the moment the department is working very actively on matters relating to the development of a centre on Christmas Island. That is our current active focus.

**Senator CROSSIN**—We will get to that in a moment, Mr Farmer.

**CHAIR**—I am not sure that we will get to that tonight, Senator Crossin.

**Senator CROSSIN**—Perhaps tomorrow morning. Mr McMahon or Ms Ellis indicated that inherent in the minister's announcement was this view that the community was now able to actually provide some input into this. You are telling me, Mr Farmer, though, that you are now just developing a proposal about this?

**Mr Farmer**—No, Senator. What I said to you is that we have not put advice to the minister and received a decision about detailed implementation of any next steps in relation to the Darwin centre. I do not think that is inconsistent—

**Senator CROSSIN**—So how do the broader community in Darwin or non-government organisations now get a chance to tell your department what they want to tell you about this proposed site or this proposed initiative?

**Mr Farmer**—I think that will be a matter for consideration during the next step that I have talked about, which is development of advice to the minister.

**Senator CROSSIN**—Is there anywhere in the PBS where you can show me that the forward estimates carry over the \$40 million that was allocated two years ago for this detention centre?

**Mr McMahon**—The money provided for in the forward estimates, as I understand it, is a stream of payments. You would not be able to find it because it is simply within our base funding.

**Senator CROSSIN**—Then where in this book is your base funding identified?

**Mr McMahon**—It is not identified because it is simply in our base.

**Senator CROSSIN**—So the \$40 million was announced in 2000 but it is not carried over in your forward estimates in this PBS anywhere?

**Mr McMahon**—It is simply a stream of payments running through in respect of the detention funding.

**Senator CROSSIN**—I guess I am asking you to show me where I would find that total amount.

**Mr McMahon**—You cannot find it because it is in the base.

**Mr Farmer**—I think it possibly best if I ask the chief financial officer of the department to comment on this.

**Senator CROSSIN**—Thank you.

**Ms Gray**—As Mr McMahon said, that is included in the base, and by ‘base’ we mean in the appropriations for the department—that is, the whole appropriation for the department. It is actually an amount in there. It is not disaggregated as such.

**Senator CROSSIN**—On what page is that total amount?

**Ms Gray**—On page 37 there is a table which shows the appropriations and other revenue. That is where you can see by outcome the total amount.

**Mr Metcalfe**—I think what Ms Gray is saying is that within a base appropriation of \$814,750,000—

**Senator CROSSIN**—Within that is the \$40 million that was allocated in May 2000. Is that right?

**Mr Metcalfe**—It is within outcome 1.

**CHAIR**—We have 15 minutes available to us tonight, Senator Crossin. I know that Senator Allison has questions which she wanted to complete on Maribyrnong. What I would like to be able to do in that time is to close on your questions on the Darwin facility and Senator Allison’s questions on Maribyrnong and, given the time constraints that the committee is under, perhaps invite you to put extra questions in those two areas on notice if we do not get to all of them. Senator Crossin, perhaps you could perhaps wrap up on the Darwin area as soon as you can.

**Senator CROSSIN**—I can come back tomorrow and do Christmas Island.

**CHAIR**—Yes, I understand that. The committee will have to have a private meeting tomorrow to discuss how to manage the next two days that we have available to us, given that we have not completed Attorney-General’s estimates either.

**Senator CROSSIN**—I just have two further questions on this area. In a question on notice at the February estimates— that is, question (32)—I asked in (e):

Are there were plans to landscape the area and plant some trees etc.

Your answer was:

Yes. Fast growing shrubs and trees are being planted to provide visual screening along the Stuart Highway ...

In fact, that is not a correct answer, is it?

**Mr McMahon**—We have taken that on notice and will get back to you.

**Senator CROSSIN**—My recollection is that, at the time in February, no shrubs or trees were being planted at all. My last question relates to an answer you gave me to question (34). I asked how much of the \$40 million had been spent to date on the permanent detention centre and for a breakdown of what the money had actually been spent on. You advised me that up until that time \$108,000 had been spent. What I would like is an update on that figure.

**Mr McMahon**—We will take that on notice.



**Senator CROSSIN**—I would like an update on that figure and I would also like a breakdown of each measure—in other words, how much has been spent on the legal, financial, strategic and probity advice as well as the total cost to date.

**Mr McMahan**—We are taking that on notice.

**Senator CROSSIN**—Thank you.

**CHAIR**—Does that complete your questions in that area, Senator Crossin? If there are any more in that area and you would like to place them on notice, that would be enormously helpful to the committee. We will come back to the Christmas Island facility tomorrow, because I know Senator Bartlett also has questions in that area.

**Mr McMahan**—Christmas Island is 1.5, Madam Chair.

**CHAIR**—That is why it will be tomorrow, Mr McMahan.

**Senator CROSSIN**—Can I just ask one last quick one.

**CHAIR**—Yes.

**Senator CROSSIN**—In relocating the razor wire from the top to the bottom, would you perhaps call that redefining the security arrangements or would you in fact suggest that it might be an upgrade to the centre?

**Mr McMahan**—As we have indicated, our advice was that it was more secure. So it is better security.

**CHAIR**—Thank you. Senator Allison, I know that time has been cut short, but perhaps you could ask any further questions you have on Maribyrnong and then we will see what can be placed on notice.

**Senator ALLISON**—Can I ask about the rules regarding—and this is not specifically Maribyrnong—pregnant women who give birth. What are the arrangements for their husbands to be present and her children to be around? What are the general rules?

**Ms Godwin**—The rules vary from centre to centre depending on the circumstances of the centre and the requirements of local health authorities. The other point I should make is that our requirement for the service provider is that, except in emergencies where a birth happens quickly and unexpectedly, expectant mothers should be able to give birth in a hospital, as is the case for the Australian community. What that means of course is that, as I say, it varies according to the circumstances of the individual centres. For example, at Woomera the local health authority—and this applies to everyone in the community and not just the detention centre—requires that people from that area go to Port Augusta, I think, and that they go at a predetermined time prior to the birth of the child.

The question of whether other family members would be there or would simply visit would also depend on the nature of the family. There have been instances, if I recall correctly, of families where the woman has arrived pregnant but there is no husband but she has other children. In that situation, we would try to arrange for the children or the child to be with her or in close proximity. In other instances we have arranged for people to go down to visit or for there to be telephone contact on a regular basis, or whatever. As I say, it varies considerably according to the centre.

**Senator ALLISON**—Can I ask you then to check Maribyrnong and to check the most recent birth at Maribyrnong to see whether the children were permitted to be with the mother

at that time. My understanding is that they were not; they were left at the centre. That seems to me to be an unacceptable situation. I also have advice that in another centre the father of a child was not permitted to be present at the birth despite wishing to be so. Can you explain the rules surrounding that incident? I cannot tell you where it was. I do not think it was Maribyrnong, but I understand it happened.

**Ms Godwin**—I will take both of those on notice, except to say that the circumstances vary so widely that, in a sense, it requires a case-by-case consideration. It would also go to the question of what the hospital was able to cope with. All sorts of different things would come into play. It is sometimes a question of just looking at the individual case.

**Senator ALLISON**—There is the case of a detainee at Maribyrnong with significant burns which were incurred at Port Hedland. I think boiling water was the cause. It is my understanding that medical reports and medical treatment suggested skin grafts, but this detainee has not been provided with that medical attention. Can you indicate why this is not the case?

**Ms Godwin**—Again, I would have to take the individual circumstance on notice. But, generally speaking, if there is firm medical advice of a particular sort of treatment, that would normally be done. It is a question of whether it is medically indicated or whether it is regarded to be cosmetic surgery. Certainly, not just in that situation but in a variety of situations—we have assisted people with things like triple bypasses, cancer treatment and a whole variety of different treatments—it would go to the question of whether it was medically indicated rather than a cosmetic question.

**Senator ALLISON**—The suggestion made to me is that it was medically indicated but that it was not forthcoming.

**Ms Godwin**—I will take the specific case on notice.

**Senator ALLISON**—Just getting back to Maribyrnong again, another suggestion was that there were very frequent fire drills and that detainees were required to stand for lengthy periods of time outdoors. There was a report that detention officers used this occasion to harass people and that they were called by number and generally treated badly. The centre confirms that there were five in the last 12 months. Can you indicate why it is that such frequent drills are necessary, and will you investigate this question of the length of time spent during those drills?

**Ms Godwin**—I will certainly check to the extent that we can whether there is a record of the time that the fire drill took. I would need to check whether such information was available. The question of the existence of fire drills, of course, though, is something we require the service provider to do as part of their appropriate duty of care and risk management.

**Senator ALLISON**—How often do you have fire drills in your office?

**Ms Godwin**—Once a month or once every six or eight weeks—something like that.

**Senator ALLISON**—It is a very rare occasion in the parliament, I can tell you.

**CHAIR**—Please, do not wish that on us, Senator Allison. Sometimes we wish it was rarer. The alarm goes off and it is sometimes hard to tell what is required.

**Senator ALLISON**—There was a hunger strike at Maribyrnong not too long ago. As a result of that, a meeting was held, as I understand it, and a so-called log of claims was developed by detainees. Is it possible to have a copy of that log of suggestions or claims? As I understand it, the then management agreed to those claims. Is it possible to get an update on the status of each of them and whether or not the department has agreed that they are justified?

**Ms Godwin**—Again, I will take the detail on notice. I am certainly aware that there was a situation at Maribyrnong—that there were discussions with detainees. Whether there is something that can be called a log of claims, I do not know and I would have to check that, but we can certainly work that through with centre management and have a response for you on that.

**Senator ALLISON**—Was the department present at that meeting at which that so-called log of claims was discussed?

**Ms Godwin**—As I said, I do not know if there was a log of claims as such and I do not know if the department was present. I would have to check all of that.

**Senator ALLISON**—I notice in the booklet provided to detainees that there is mention of dangers associated with the security strap wire. Can you explain what this is and whether detainees have been injured by it?

**Ms Godwin**—No, I cannot. I would have to check what the language means. It would certainly be standard in centres to point out to people that there are certain security features such as razor wire that are dangerous if you go near them.

**Senator ALLISON**—This was not a matter raised with me by detainees, but I did notice it in the booklet produced by ACM. There is a warning, as I said, about the injury that might be caused by it. I would appreciate understanding what the advice is.

**Ms Godwin**—I will certainly check it; but, as I say, it certainly would be consistent with their duty of care requirements to warn detainees if there are sources of danger in the centre.

**Senator ALLISON**—One would hope so, but what exactly is that source of danger is what I am asking about.

**Ms Godwin**—I will check the language, but it may well be something to do with the razor wire.

**Senator ALLISON**—A question arose a number of times about the accommodation charges. In fact, this seemed to cause a fairly high level of anxiety—the notion that if you are in this detention centre for 12 months or even three years that would amount to a charge of some \$50,000 a year for this luxurious accommodation. What is the routine or the requirement with regard to informing detainees about the circumstances in which the charge will be made of them?

**Ms Godwin**—Again, I would need to check the specific details. A charge may be levied at the end of a period of detention if the person is not granted a visa, and it would usually be identified as a debt to the Commonwealth if somebody was removed from Australia. It would then be a debt that would be required to be repaid if the person was attempting to re-enter Australia on a visa. That would be one of the considerations that would be taken into account. I think that there is information to detainees when they are taken into detention that that may

be the case. But, as I said, it depends on their individual circumstances whether a debt is raised in a particular instance.

**Senator ALLISON**—Can I put it to you that detainees are all being told that they will incur a debt and not being given advice that if, for instance, they are granted refugee status there is no debt. Does that apply to them?

**Ms Godwin**—As I said, I will take the detail on notice, but that may well go to the particular mechanics that surround this issue. As I understand it, the debt has to be raised and then waived. So the requirement to tell people that a debt may be incurred relates to all detainees. The question of whether it would ultimately be waived is something that happens at the end of the process.

**Senator ALLISON**—Are there any cases where the debt is not waived, where a detainee is given some sort of residential status?

**Ms Godwin**—I would have to take that on notice. I am not certain.

**Senator ALLISON**—Without going back to their original country?

**Ms Godwin**—If they were granted a visa in Australia—that is, they have made an application here and were granted a visa and released from detention—I would have to take on notice whether there was any circumstance such as you have described.

**Mr Davis**—In relation to detention debts, there is a debt raised to the Commonwealth when someone leaves detention. The Department of Finance and Administration has a delegation from its minister to waive debts. We do not have such a delegation. When someone is granted refugee status, for example, the debt is written off in our accounts but the debt technically still exists. But we do not pursue it and we do not require refugees who are given that status to repay that debt. For those removed, the debt stands and is recorded in our systems for repayment and is part of consideration of any re-entry into Australia. But technically the debts are not waived. Technically, they still exist, but they are not pursued and they are written off by the Commonwealth.

**Senator Ellison**—I think we are about to close for the evening. Therefore, can I advise the committee—I thought Senator Carr might have come in earlier—we have a note or advice from the Department of Education, Science and Training that the department will provide a response when it attends the estimates hearing next week. The issue is a Department of Education, Science and Training responsibility because it is about the department exercising its responsibility in relation to the suspension and cancellation of education providers under the ESOS Act. The list DIMIA holds does not give an accurate picture of the action taken by the department under the ESOS legislation.

**CHAIR**—Thank you, Minister.

**Senator Ellison**—So the Department of Education, Science and Training is saying, firstly, that cancellation, suspension or otherwise is the responsibility of the department under the ESOS Act and, secondly and most importantly, that the list that the committee holds does not give an accurate picture of the action taken. So it could be prejudicial to those bodies. But it has said that it will provide a response when the estimates for that department are held next week. So that information will be available to Senator Carr.

**CHAIR**—Thank you for placing that on the record. I have no way of knowing Senator Carr's response to that statement, my ESP capacities being slightly diminished at this time of night.

**Senator Ellison**—I believe it fulfils the requirements rather than a criticism for being tardy in the response.

**CHAIR**—Indeed, and I appreciate that. I understand that. I will ask our secretariat to leave a message with Senator Carr's office to contact us as a matter of priority in the morning so that we can convey that. The committee has resolved to hear in the first instance tomorrow the MRT, the RRT and the MARA, which will have a slightly smaller group of officers in attendance. We will, however, go from the conclusion of those deliberations straight back into output 1.3. So, Mr Farmer, you and your officers will need to assist us in that process.

Senator Allison, if you have further questions in this area, we can perhaps discuss, once the evening is closed, whether you want to come back to continue to put those or put them on notice. I thank the minister, Mr Farmer, your officers, the committee members and Hansard for their assistance today.

**Committee adjourned at 11.03 p.m.**