

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**TREASURY**

**Australian Taxation Office**

(Budget Estimates 30 May 2006)

**Question**                    **BET 166**  
**Topic:**                      **Prosecution and DPP referrals**  
**Hansard Page:**            **113-114**

Senator Sherry asked:

**Senator SHERRY—There was a question put on notice about prosecution and DPP referrals at additional estimates in February 2006 by Senator Ludwig to which I want to refer; it is number AT95. According to the answers to additional estimates, the ATO has figures on the amount of briefs returned to the ATO from the DPP for 2004-05. In the answer to the series of questions relating to those 31 cases returned to the ATO in 2004-05, how many briefs were returned without action?**

**Mr D'Ascenzo—Without action by the DPP?**

**Senator SHERRY—Yes.**

**Mr D'Ascenzo—My reading of that was that no action was taken in 31 of them.**

**Senator SHERRY—Of those 31, were any prosecuted?**

**Mr D'Ascenzo—No. The fact that they returned the brief to us meant that they have taken no action on those briefs.**

**Senator SHERRY—Are the identities and penalties of those who were prosecuted a matter of public record?**

**Mr D'Ascenzo—Prosecutions and the outcome would be a matter of public record but that would be a matter within the DPP's knowledge and records.**

**Senator SHERRY—Are you able to supply the committee with those details? Surely you would have that on file.**

**Mr D'Ascenzo—We could work with the DPP and see what information we can provide along those lines.**

**Senator SHERRY—Of the almost 700 cases investigated by the ATO between 2001 and 2005, excluding the cases sent to the DPP, how many were prosecuted?**

**Mr D'Ascenzo—These are the ones on which we actually briefed the DPP. The other prosecutions are more in-house prosecutions which are more in terms of the non-lodgment type area. Once you have a defended action, our referral guidelines say that that has to be referred on to the DPP. The in-house ones are really the ones about nonlodgment, late lodgment—those sorts of issues. I do not think I have the figures available here but I can provide them to the committee if you wish. They are in the annual report as well.**

**Senator SHERRY—Could you provide how many were prosecuted and in dollar terms what was recovered?**

**Mr D'Ascenzo—It is not a recovery if you prosecute. It could be a sanction, it could be a court fine, it could be a good behaviour bond.**

**Senator SHERRY—It could be a range of things. Could you provide the detail of what moneys were obtained, if I can use that expression?**

**Mr D'Ascenzo—Even if it is a fine it is not to the tax office, it would be through the court processes.**

**Senator SHERRY—I know it is not to the tax office, but there is a money that flows from the action. What was the money that flowed from the action? I know it does not flow to the tax office. These prosecutions I am asking about, are they a matter for public record?**

**Mr D'Ascenzo—Yes. All prosecutions are before a court and are for public record unless the court makes an order of closed, in camera, which I do not think is normal for the prosecution action.**

**Senator SHERRY—Could you please supply a list of the identities and penalties of those prosecuted? Will you take that on notice?**

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Answer:

Please refer to the response provided to question on notice, **BET 136**, which was received in writing following Budget Estimates of May/June 2006.