

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.4

Question No. 108

Senator Ludwig asked the following question at the hearing on 14 February 2005:

What was the total cost to AGD for the management and coordination of security of Presidential visits:

- a) from the United States; and
- b) China
- c) Please provide: The total number of foreign dignitaries who visited Australia in 2003-04 in an official capacity. If there was a delegation please provide the leaders name. Please include the cost of protection for each visit.

The answer to the honourable senator's question is as follows:

- a) There were no direct costs to AGD for the management and coordination of security for the visit to Australia by the President of the United States who only visited Canberra.
- b) The cost of travel, accommodation and incidentals associated with the security advance and accompanying the visit for the President of China was \$3449.
- c) There were 161 official visits involving foreign dignitaries that involved the Protective Security Coordination Centre. Ten of these involved delegations and were led by:
 - Vietnamese National Assembly Delegation, Hon Pham Ngoc Thien,
 - Indonesian TNI-AD Delegation, Major General Arief Budi Sampurno,
 - French Parliamentary Delegation, President of the New Caledonian Government, Pierre Frogier,
 - Brazilian Parliamentary Delegation, Deputy Vilmar Rocha,
 - Greek Parliamentary Delegation, Anastasios Mantelis, President of the Greek-Australian Parliamentary Friendship Group,
 - Austrian Parliamentary Delegation, Hans Ager, President of the Senate,
 - Delegation from the Foreign Affairs Committee of the National People's Congress, Mr Yingfan Wang,
 - New Zealand Parliamentary Delegation, Martin Gallagher MP,
 - Civil Aviation Department of China Delegation, Yang Yuanyuan, Director, and
 - United States Congressional Delegation, Senator Don Nickles, Chairman Budget Committee.

Management and coordination of visits is part of the core business of the Protective Security Coordination Centre (PSCC) and is budget funded.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.4

Question No. 109

Senator Ludwig asked the following question at the hearing on 14 February 2005:

In how many instances was the AFP Protective Service unable to provide guarding services? Please give a short synopsis about why they were unable to provide the service. Please state if they did not provide a reason.

The answer to the honourable senator's question is as follows:

There have been six instances where the AFP Protective Services were unable to provide guarding services. Three were for periods less than 24 hours and three were for extended periods.

The extended periods include full time guarding at the British Consulate-General, South Australia. There is no AFPPS Diplomatic Protection Unit capacity in South Australia.

The other two extended instances relate to guarding at the Iraq Embassy (vacant at the time). In these two instances the decision to utilise a private security company was determined to be more cost effective due to the low risk associated with the empty premises.

Three short term instances arose to provide guarding services in Canberra during May, July and October 2004. These were due to unforeseen operational circumstances of a short duration.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.4

Question No. 110

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Where private sector guards were utilised to replace the AFPPS, which private sector services were used and at what cost for each incident? What was the total cost for all operations using private sector guards?

The answer to the honourable senator's question is as follows:

There have been six instances. Private service providers used included: Chubb Security, Star Security and South Australia Police Security Services.

Total cost for private sector guarding is \$174,948.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ADMINISTRATIVE APPEALS TRIBUNAL

Question No. 111

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Referring to AAT appointments:

- a) have all the AAT positions been filled?
- b) who was appointed?
- c) were the appointments full time or part time?
- d) what number were women?
- e) what number were persons from a non-English speaking background?

The answer to the honourable senator's question is as follows:

- a) A total of 14 appointments will expire in 2005 as set out in the following table:

State	Appointment	Number	Month
NSW	Acting President	1	April
	Part-time Deputy President	2	September
QLD	Full-time Deputy President	1	December
	Part-time Member	2	July, September
SA	Full-time Senior Member	1	June
	Part-time Member	1	October
TAS	Part-time Member	1	September
VIC	Full-time Senior Member	1	May
	Part-time Member	2	December
WA	Part-time Deputy President	1	June
	Part-time Member	2	August, September

On 4 December 2004, the following positions were advertised in *The Australian*:

- WA: Deputy President, Senior Member and/or Member
- VIC: Deputy President, Senior Member
- SA: Senior Member

It is anticipated that the Deputy President in Western Australia and the Senior Member in Victoria will be appointed on a full-time basis. The other appointments will be part-time. The recruitment process for these positions is continuing.

On 24 February 2005 Justice Garry Downes AM was reappointed as Acting President for 12 months commencing on 19 April 2005.

No decisions have made at this time in relation to what, if any, further appointments may be advertised or made in 2005.

b) The following 39 appointments (including reappointments) were made to the AAT in 2004:

- Acting President

Justice Garry Downes AM

- Full-time Deputy President

Mr Donald William Muller
Emeritus Professor Geoffrey Dennis de Quincey Walker

- Part-time Deputy President

The Hon Raymond John Groom
The Hon Christopher Reginald Wright, QC

- Full-time Senior Member

Ms Narelle Bell
Mr James William Constance
Ms Robin Hunt
Ms Josephine Christine Kelly
Mr Philip Lindsay*

- Part-time Senior Member

Ms Geri Ettinger
Ms Lesley Hastwell
Associate Professor Peter Malcolm McDermott, RFD
Mr Bruce Herbert Pascoe
Emeritus Professor Ivan Anthony Shearer, AM, RFD

- Full-time Member

Ms Margaret Jeniveve Carstairs
Professor Philip Clarke*
Mr Graham David Friedman
Mr Bert Mowbray*
Ms Regina Lillian Pertou
Mr Simon Webb

- Part-time Member

Dr Ion Steffn Alexander
Dr John Duncan Campbell
Dr Edward Katro Christie
Ms Ann Frances Cunningham

Mr Conrad Ermert, Brigadier (Rtd)
 Associate Professor Simon Christopher Fisher
 Mr Michael Albert Griffin
 Dr Gordon Langford Hughes
 Ms Naida Isenberg
 Mr Robert Graham Kenny
 Dr Kenneth St Clair Levy, RFD
 Dr Graham Joseph Maynard, Brigadier (Rtd)
 Associate Professor John Hildyard Maynard
 Miss Elizabeth Anne Shanahan
 Mr John Gordon Short
 Professor Tania Michelle Sourdin
 Dr Peter Alfred Staer
 Mr Ian Way, Brigadier (Rtd)

* These members have since resigned from the AAT.

c) Of the 39 appointments in 2004, 14 were full-time and 25 were part-time.

d) Of the 35 appointments in 2004, 11 were women.

e) The AAT does not currently collect information from members as to whether they are from a non-English speaking background.

Additional information

The AAT undertook to provide some further information in relation to changes in Tribunal membership between 30 June 1998 and 31 January 2005.

	1998	2005	% Change
Total no. of members	99	73	- 26%
(No. of women)	(26)	(17)	(-35%)
No. of full-time members	19	19	-
(No. of women)	(5)	(8)	(+ 60%)
No. of part-time members	80	54	- 33%
(No. of women)	(21)	(9)	(- 57%)

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ADMINISTRATIVE APPEALS TRIBUNAL

Question No. 112

Senator Ludwig asked the following question at the hearing on 14 February 2005:

In respect of Freedom of Information requests:

- a) is the trend described in the 2003-04 Annual Report continuing?
- b) how many have there been since 30 June 2004?
- c) how many have been ruled favourable to the applicant? Of those do you keep track of whether they have been appealed?
- d) how many have been rejected?

The answer to the honourable senator's question is as follows:

The answer to this question is set out in two parts. The first part responds to the Senator's questions in relation to applications to the AAT for merits review of decisions made by Ministers, Departments and agencies under the *Freedom of Information Act 1982*. The second part responds to the Senator's questions in relation to requests made to the AAT under the *Freedom of Information Act 1982* for access to documents in its possession or to amend or annotate personal records kept by the AAT.

Part 1 Applications to the AAT for merits review of decisions made by Ministers, Departments and agencies under the Freedom of Information Act 1982

- Applications lodged and finalised and outcomes of Tribunal decisions

The table below provides information relating to the number of applications lodged and finalised in the 2003-04 financial year and in the period from 1 July 2004 to 14 February 2005. Applications may be finalised in a number of ways including by a decision made in accordance with an agreement reached between the parties or by a decision of the Tribunal following a hearing on the merits. The table specifies the number of applications that were finalised by way of a decision of the Tribunal following a hearing on the merits. Figures are given for the number of applications in which the Tribunal decided to:

- affirm;
- vary; or
- set aside;

the decision under review.

A decision of the Tribunal to affirm the reviewable decision can be considered unfavourable for the applicant. A decision to vary or set aside the reviewable decision will generally be favourable for the applicant. The precise nature of the outcome will depend on the terms of the decision.

	1/7/03 - 30/6/04	1/7/04 - 14/02/05
Total no. of applications lodged	158 ¹	87
Total no. of applications finalised	135	91
No. of applications finalised by a decision of the Tribunal on the merits following a hearing	30	28
Decision under review affirmed	17	17
Decision under review varied	4	5
Decision under review set aside	9	6

Assuming that the rate at which applications will be lodged in the remainder of the 2004-05 financial year remains consistent with the number lodged to date, it appears that the Tribunal may receive slightly fewer applications for review of decisions under the *Freedom of Information Act 1982* in this financial year compared to the 2003-04 year.² It is likely that the number of applications determined by a decision of the Tribunal on the merits following a hearing will be greater in 2004-05 than in 2003-04.

- Appeals from Tribunal decisions

The following tables provide information current to 9 March 2005 on appeals to the Federal Court from Tribunal decisions delivered in 2003-04 and in the period 1 July 2004 to 14 February 2005.

	1/7/03 - 30/6/04	Total no. lodged	No. dismissed	No. allowed	No. not yet determined
Decision under review affirmed	17	1	1	-	-
Decision under review varied	4	0	-	-	-
Decision under review set aside	9	1	1	-	-

	1/7/04 - 14/2/05	Total no. lodged	No. of appeals dismissed	No. of appeals allowed	No. not yet determined
Decision under review affirmed	17	4	1	1	2
Decision under review varied	5	1	-	-	1
Decision under review set aside	6	2	-	1	1

¹ The original answer gave the total number of applications lodged and finalised in the 2003-04 year as 157 and 134 respectively, as set out in the Tribunal's Annual Report for 2003-04. A recent report from the Tribunal's case management system for that period gives the figures provided in the table.

² 87 applications have been lodged in the 32 weeks from 1 July 2004 to 14 February 2005. This equates to approximately 141 applications lodged over a 52 week period.

In relation to the two appeals allowed, the court remitted the matters to the Tribunal for reconsideration according to law. The Tribunal is yet to determine the applications that were remitted. The ultimate outcome is yet to be determined.

Part 2 Requests that were made to the AAT under the Freedom of Information Act 1982 for access to documents in its possession or to amend or annotate personal records kept by the AAT

The AAT received two requests for access to documents under the *Freedom of Information Act 1982* in the 2003-04 financial year. One request was granted in full and one request was granted in part. Neither applicant sought internal review of the decision.

One request for access to documents under the *Freedom of Information Act 1982* had been received by the Tribunal during the period 1 July 2004 to 14 February 2005. This request was granted in full. The applicant did not seek internal review of the decision.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 113

Senator Ludwig asked the following question at the hearing on 14 February 2005:

How does the ACID database work? (Please describe the process for searching)

The answer to the honourable senator's question is as follows:

The Australian Criminal Intelligence Database (ACID) is a secure, centralised, national repository for criminal intelligence, which is provided by the ACC as part of an integrated suite of applications. ACID contains criminal intelligence on persons, places, vehicles, communications, organisations, events and their relationships.

Both basic and advanced searches can be undertaken.

Users can enter basic search criteria, specify search parameters and determine which type of entity to look for by selecting the corresponding search options. Users also have the ability to look for the search criteria within 'text only' or within 'entities and text'. The results are presented as a list from which the user can view the corresponding records in full.

Advanced search capabilities include: Person Name Searches, a 'soundex' tool for phonetic matching and name rotation; Query By Form, for searching multiple fields; and Active Interest Profiles, a form of search query which retrieves new data based on set criteria.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 114

Senator Ludwig asked the following question on 14 February 2005:

What emerging areas did the Picture of Criminality Report identify in the area of criminal threats?

The answer to the honourable senator's question is as follows:

The Picture of Criminality report is a classified product produced annually by the ACC. In general terms the 2004 report identified the following emerging issues relevant to the assessment of criminal threats to Australia:

- The expanding nature of the regional trade in synthetic drugs.
- Australia's law enforcement environment is likely to remain strongly influenced by continued Western concern over terrorism and regional tensions.
- Regional trends in identity crimes and capability of regional law enforcement to respond to such trends need to be monitored.
- Increases in labour exploitation and illegal people movement in the region may also have greater impact on Australia over time.
- Organised criminal activity in the financial sector and environmental sector.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 115

Senator Ludwig asked the following question at the hearing on 14 February 2005:

What alerts are specifically produced for industry groups in 2003-04, and which industry groups were they produced for? Are they discrete alerts as such? (*Reference is p.35 of the ACC Annual Report*)

The answer to the honourable senator's question is as follows:

Alerts are not routinely produced for industry groups. However, in July 2003 a declassified version of the Alert '*Card Trapping Device Located in Australia*', was provided to the financial sector as a means of providing immediate advice that what was believed to be the first card trapping device located in Australia had been found on an ATM in Melbourne.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 116

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Regarding credit card skimming: Has there been an increase in the number of complaints to the ACC? How many subsequent prosecutions have been commenced or finalised as a result?

The answer to the honourable senator's question is as follows:

The Australian Crime Commission does not accept complaints of card skimming directly. The ACC receives intelligence relating to card skimming offences from relevant police jurisdictions. The ACC National Fraud Desk also maintains a National Card Skimming Database which collects intelligence relating to common points of purchase (CPPs) and test skimming sites identified both in Australia and overseas. This information is provided by financial institutions and card providers.

Eight ACC targets have been charged with offences related to credit card skimming.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 117

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Vehicle rebirthing media campaign: Were any particular ethnic groups targeted as a consequence of the campaign?

The answer to the honourable senator's question is as follows:

No particular ethnic groups were targeted by the ACC as a consequence of the campaign.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 118

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Is the Australian Crime Commission (ACC) aware of recent media reports in relation to Mr John Elliott which say that a company incorporated in Monaco called *Argent Investment Holding Ltd* made an interest-free loan of \$24 million to Mr Elliott and that this loan has not been repaid in full nor is it required to be repaid?

The answer to the senator's question is as follows:

Yes.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 119

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Is the ACC aware of a newspaper report in the Age newspaper which describes *Ardent Investment Holding Ltd* as being “care of” another company “*Alliance Investments*” and that *Alliance Investments* is administered by Mr Weisner (who was identified by Mr Jarrett as one of the beneficial owners of the Elders Swiss bonds)?

The answer to the honourable senator’s question is as follows:

Yes.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 120

Senator Ludwig asked the following question at the hearing on 14 February 2005:

An article in the Age newspaper states that, quote:

“The documents describe Argent Investment as being “care of” Alliance Investments, another Monaco company which, according to evidence before the HIH royal commission in 2002, was administered by Weisner.

(David Elias, *The Age*, 22 January 2005)

- a) Will the ACC investigate Mr Weisner’s association with Argent Investment Holding Ltd and Alliance Investments?
- b) Will the ACC investigate why Argent Investment Holding Ltd provided an interest free loan of \$24 million to Mr Elliot?
- c) Will the ACC investigate where the \$24 million provided by Argent Investment Holdings came from?

The answer to the honourable senator’s question is as follows:

The Australian Crime Commission does not confirm nor deny whether it is undertaking investigations into a particular matter.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 121

Senator Ludwig asked the following question at the hearing on 14 February 2005:

- a) Could the Commission outline the process for the ways in which the Commission investigate allegations of unlawful or corrupt conduct and also breaches of regulations within the Commission?
- b) What oversight and accountability mechanisms does the Commission have built-in in terms of general day-to-day monitoring of officers for this type of conduct?
- c) At what point in an internal investigation do either ministerial offices or other agencies get notified?
- d) At what point in an internal investigation are other agencies required to be brought in?
- e) What is the status of the investigations into the possible corruption of two ACC officers as raised in the Four Corners Report?
- f) How did allegations against those individuals first come to the attention of the Commission?
- g) How many other formal complaints have been made against the conduct of ACC officers over 2000, 2001, 2002, 2003, 2004?
- h) Please provide a breakdown on how many of those were for corruption?

The answer to the honourable senator's question is as follows:

(a) Allegations of unlawful or corrupt conduct against seconded police officers are generally referred to the home force of the officer concerned for investigation. Allegations of corruption against Australian Public Service staff may be investigated internally in the first instance but are referred to the relevant police force where possible criminal conduct is discovered. More serious allegations are referred to the Commonwealth Ombudsman, who has the discretion to initiate an own motion investigation of allegation against any ACC staff including seconded officers.

Where breaches of the Australian Public Service and Australian Crime Commission Code of Conduct are alleged or suspected, the ACC undertakes an investigation in accordance with the Public Service Commissioner's Directions for investigating suspected breaches of the Code of Conduct. On occasions, the ACC uses independent investigators to conduct these investigations.

(b)

- Extensive operational policies and procedures and strict policing of adherence to these policies and procedures. This reduces the opportunity for corrupt behaviour and supports effective detection of corruption if it occurs.
- Regular and random compliance audits across operational and functional areas - Both internal and external audits of ACC systems are carried out on a regular basis. The ACC has an Internal Auditor and an Audit Committee. Audits are also undertaken by the Australian National Audit Office. Audits check compliance with legislative requirements and the ACC Policy and Procedures Manual for operational activity.
- A rigorous security vetting regime which includes:

- All staff undergoing a rigorous security clearance in accordance with the Commonwealth Protective Security Manual,
 - Security clearances for new and existing staff are re-validated every five years,
 - Police secondees undergo a security check and must receive a clearance from their home force ethical standards/internal investigation branch and their head of agency.
- A comprehensive Professional Standards and Integrity Management Plan (PS&IMP), endorsed by the ACC Board.
 - This is designed to ensure effective corruption prevention strategies operate within the agency, to enable early detection of unethical and or unprofessional behaviour.
 - The effectiveness of the plan is monitored by the ACC Audit Committee.
 - Whistleblowers policy - The ACC Whistleblowers policy has been updated and publicised with staff.
 - The Commonwealth Ombudsman has the power to investigate complaints against the ACC or its staff and to monitor and report on the ACC's compliance with telecommunications interception and controlled operations legislation. State Ombudsmen are also able to inspect certain ACC records where the ACC has used State legislation.
 - Secondees are subject to home force disciplinary and ethical standards regimes - Police officers remain responsible to their home force to act in an ethical and lawful manner. Any transgression remains on their record with their home force and is not left with the ACC when their secondment is finished.
 - Limited access rights to classified information - The need-to-know principle is used as the basis of determining who has access to classified and sensitive information. Classified and sensitive information is only shared with those staff that need the information for operational purposes.
 - Drugs and Alcohol Policy - The drug and alcohol policy includes information on the responsibilities of both the ACC and its employees to drug and alcohol issues.

(c)

There is no requirement on the ACC to notify internal investigations to either Ministerial Offices or other agencies. If a matter is considered to be minor, there will be no notification outside of the ACC. More serious matters may be notified to the Minister for Justice and Customs, the Board, the Commonwealth Ombudsman or to an affected external agency. However each case is treated on its merits and there is no set rule for external notification of internal investigations to the Minister or other agencies.

(d)

The Commonwealth Ombudsman does not require advice on every complaint or allegation made against the ACC or its officers. However, if corruption, criminal or serious misconduct, or serious integrity and accountability issues are alleged, the matter will always be discussed with the Ombudsman's Office to determine the most appropriate course of action. In such cases the Ombudsman may wish to investigate or to closely oversee the investigation. Where a complaint is received concerning the actions of an officer seconded to the ACC, Task Force member or a person

participating in an ACC operation or investigation it will be subject to a preliminary inquiry or assessment of its possible validity and implications. If the ACC is satisfied that the complaint could be justified, the complaint may be referred to the officer's home agency for investigation. Alternatively, in consultation with that home agency, the matter may be referred to another police service or specialist agency.

Allegations against Public Service staff may be investigated internally, or referred to another agency, including the Commonwealth Ombudsman, depending on the nature and seriousness of the allegation.

(e)

The allegations against the former NSW Police seconded officer, Mr Samuel Foster, are being investigated by the NSW Police Integrity Commission. The allegations against the former Victoria Police seconded officer, Mr James McCabe, are being investigated by the NSW Police Integrity Commission and the Victoria Police. The ACC is assisting these investigations.

Questions on the status of the investigations should be directed to the investigating agencies.

(f)

The allegations against the two former seconded officers are still under investigation. It would be inappropriate to reveal the source of the allegations while the investigations are continuing.

(g)

2000 6

2001 4

2002 3

2003 9

2004 11

(h)

2000 2

2001 Nil

2002 Nil

2003 2

2004 2

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 122

Senator Ludwig asked the following question at the hearing on 14 February 2005:

- a) How many users in 2003-04 had their access to ACID removed, for any reason?
- b) In reference to the intelligence and information reports that are uploaded, what exactly is an 'entity' and a 'link'?
- c) How many intelligence and information reports in total are in ACID?

The answer to the honourable senator's question is as follows:

- a) The number of users who had their access to ACID removed, for any reason, in 2003 - 2004 was 368.

Under ACC ICT policy and procedures, ACID access can be removed as a result of disuse, duplication of accounts, cancellation by the user's agency or for other reasons (ie user left the agency).

- b) An 'entity' within the information and intelligence reports that are uploaded to ACID is an:
 - Address
 - Agency Activity – investigation, probe, project etc
 - Communication Device – listening device, telephone, facsimile, etc
 - Event
 - Object – firearm, warrant, licence, passport, etc
 - Organisation
 - Person
 - Transport – motor vehicle, vessel, aircraft etc

A 'link' shows that there is an association between individual entities.

- c) There are 978,184 reports in ACID.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 123

Senator Ludwig asked the following question at the hearing on 14 February 2005:

What mechanisms have been put in place to ensure that the frequency and timeliness of the Picture of Criminality reports is enhanced?

- a. When were they introduced?
- b. Why were they necessary?
- c. What was the timeliness and frequency of these reports before the mechanisms were introduced?

The answer to the honourable senator's question is as follows:

The Picture of Criminality in Australia (POCA) Report is produced annually and mechanisms were put in place early in the formation of the ACC to ensure that assessments on strategic trends and harms in the report were supported by relevant, predictive and timely intelligence processes. This foundation analysis manifests in a range of regular strategic reports and threat warning products produced by the ACC which ultimately feed into the POCA. Intelligence procedures are in place to ensure constant scanning of current and emerging threats and that these issues communicated to ACC clients in a timely fashion. This includes a daily scanning of all National Criminal Intelligence Priorities (NCIP) in both the restricted and open source environments and the establishment of close ties with all agencies that contribute intelligence to the ACC to ensure the timely flows of intelligence between agencies. In addition detailed analysis is conducted on a day-to-day basis by ACC Strategic and Operational analyst teams who produce intelligence products on NCIP issues such as drugs, firearms, fraud and criminal networks.

- a. These mechanisms have been in place since the establishment of the ACC.
- b. These mechanisms are necessary to ensure that the flows of intelligence to the ACC are such that the agency can fulfil the mandate of producing strategic and operational intelligence assessments to meet the needs of both the ACC Board and clients. Day-to-day scanning and production of intelligence assessments are also critical as they feed into the production of the POCA report.
- c. Not applicable

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 124

Senator Ludwig asked the following question at the hearing on 14 February 2005:

What legislative requirements and directions exist for the JOPC to operate within the 1000 nautical mile zone?

The answer to the honourable senator's question is as follows:

See the answer to House of Representatives Question 452 sent for tabling on 23 March 2005. A copy of the answer is attached.

**MINISTER FOR JUSTICE AND CUSTOMS
HOUSE OF REPRESENTATIVES**

(QUESTION NO. 452)

Mr McClelland asked the Minister representing the Minister for Justice and Customs, in writing, on 8 February 2005:

- (1) Does an existing Act or Regulation empower the Joint Offshore Protection Command to order Australian Defence Force or Australian Customs Service (ACS) personnel or agents to intercept, board and search any vessel within 1000 nautical miles of the Australian mainland or Territories; if so, what are the details; if not, (a) what matters are required to be legislated upon, (b) are amendments to existing legislation required for the implementation of these measures; if so, what are the details and (c) when does the Government plan to introduce the legislation.
- (2) Which ACS staff will be responsible for executing an order by the Joint Offshore Protection Command to intercept, board and/or search any vessel within 1000 nautical miles of the Australian mainland or Territories.
- (3) Will ACS staff need to be seconded or transferred from existing duties to execute orders by the Joint Offshore Protection Command; if so (a) what are the details, and (b) will those duties be undertaken by other ACS staff.
- (4) Will the ACS need to engage additional staff to implement these measures.

Mr Ruddock – The Minister for Justice and Customs has provided the following answer to the honourable member's question:

- (1) Current Customs Act powers to board vessels vary depending on the location of the relevant vessel and whether it is Australian or foreign flagged. Australian Customs Service (Customs) and Australian Defence Force (ADF) officers empowered under the *Customs Act 1901*, have broad powers to board Australian vessels in any location, provided it is not in the territorial sea of another sovereign State. Customs officers and empowered ADF officers have the same broad powers in respect of foreign vessels in Australia's territorial sea. However, powers in relation to foreign vessels are more limited where the vessel is located further offshore.

Under the JOPC arrangements, ADF and Customs officers will not seek to intercept, board and search vessels, as a matter of course, out to 1000 nautical miles from the Australian mainland or Territories. Under the proposed Australian Maritime Identification System (AMIS), the Joint Offshore Protection Command

(JOPC) will seek certain identifying information, at 1,000 nautical miles from the Australian mainland, from vessels proposing to enter Australian ports; at 500 nautical miles, information on vessels proposing to transit Australian waters, and, at 200 nautical miles, the identification of all vessels, other than day recreational boats, within Australia's Exclusive Economic Zone.

- (2) Customs staff on board Customs assets, assigned to the Commander JOPC for execution of a specific mission, will be responsible for executing orders by the JOPC, within the legal parameters outlined in part 1 of this question.
- (3) Establishment of the JOPC will locate existing Customs and ADF organisational units within a joint command infrastructure for certain operational activities. Customs staff from Coastwatch and the National Marine Unit will continue to perform their current duties, albeit under different command arrangements for these operations.
- (4) Yes. Additional planning and intelligence staff are being recruited to support operations.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 125

Senator Ludwig asked the following question at the hearing on 14 February 2005:

How many vessels currently report their sea cargo to ACS in the 48 hrs prior to their arrival (by percentage and by number)? Which category of vessels are they?

The answer to the honourable senator's question is as follows:

Shipping companies, and freight forwarders rather than vessels provide sea cargo reports to the Australian Customs Service (Customs). It is not unusual to have more than 50 different cargo reporters lodging cargo information for one vessel and voyage. For this reason, Customs records timeliness at cargo line level rather than vessel and compliance improvement activities focus on the responsible reporting party.

The Customs Sea Cargo Automation system is used for electronic reporting of sea cargo. The Sea Cargo Automation figures for timeliness of cargo line reporting during 2004:

Rating Description	Number of lines	% of lines
Over or equal to 48 hours before vessel arrival	1355612	75.99%
Over or equal to 24 and less than 48 hours before vessel arrival	193398	10.84%
Over or equal to zero and less than 24 hours before vessel arrival	95304	5.34%
After vessel arrival	139713	7.83%
Grand Total	1784027	100%

The Sea Cargo Automation system does not require category of vessel to be reported. In general, the categories of vessels reporting sea cargo include Container Vessel, Reefer Vessel, General Cargo Vessel, Bulk Cargo Vessel and Roll On/Roll Off Vessel.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 126

Senator Ludwig asked the following question at the hearing on 14 February 2005:

How many times has a vessel arrived without reporting its cargo?

The answer to the honourable senator's question is as follows:

It would be highly unusual for a vessel not to have any of its cargo reported 48 hrs prior to the arrival. Late reporting involves only some lines of cargo being reported after this time.

Around 7.8 per cent of cargo lines were reported after vessel arrival during 2004. The timeliness figure is currently taken from the final version of the cargo report rather than the original version. A new version of a cargo report is generated whenever the cargo report is amended for example to add more lines of cargo. Effectively, this means that cargo recorded by the Australian Customs Service as late may have been originally reported 48 hours prior to arrival.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 127

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Late records (reporting sea cargo): When do manifests that aren't shown within the 48 hour period turn up? What happens if they do not turn up after 48 hours? There are about 205,000 containers that turn up late each year – when does the number go to zero?

The answer to the honourable senator's question is as follows:

During 2004, around 10.8 per cent of cargo lines were reported less than 48 hours and more than 24 hours prior to vessel arrival. Around 5.3 per cent of cargo lines were reported less than 24 hours and before vessel arrival. Around 7.8 per cent of cargo lines were reported after vessel arrival. These figures are based on the final version of a cargo report rather than the original version, as explained in response to question number 126.

If a cargo report has not been received by the Australian Customs Service prior to the discharge of the vessel, that cargo is deemed to be surplus cargo. Surplus cargo is treated as high-risk cargo and may be subject to examination or x-ray. The cargo will remain at the wharf until such time as it is reported and entered into home consumption or otherwise dealt with.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 128

Senator Ludwig asked the following question at the hearing on 14 February 2005:

In the 2003-04 reporting period: How many containers were x-rayed? How many of those were opened for physical inspection, as a percentage of the total number?

The answer to the honourable senator's question is as follows:

In 2003-04 the Australian Customs Service Container Examination Facilities in Melbourne, Sydney, Brisbane and Fremantle x-rayed 64,591 containers and physically examined 5,718 containers, which is 8.9 per cent of these containers.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 129

Senator Ludwig asked the following question at the hearing on 14 February 2005:

Customs draft National Cargo Targeting Strategy: has the expert panel referred to in Audit Report No. 16 been reconvened and work undertaken or has that been subsumed into the larger work?

The answer to the honourable senator's question is as follows:

An expert panel specifically addressing this issue has not been reconvened. This work has been subsumed into a more comprehensive program.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 130

Senator Scullion asked the following question at the hearing on 14 February 2005:

In what percentage of those containers or cargoes assessed as low risk are you finding precursors, drugs, etc?

The answer to the honourable senator's question is as follows:

In calendar year 2004 there were fifteen drug and drug-precursor finds in containerised sea cargo.

Customs risk assessment of containerised sea cargo is based on a range of indicators and information provided by other agencies including the Australian Federal Police.

Cargo sent to the container examination facilities (CEFs) is assigned a relative priority rating by targeters to assist the facilities in directing their examination resources. The priority ratings range from one (highest priority) through to four (lowest priority).

Nine of the fifteen finds referred to above were made at Customs container examination facilities. Eight of these shipments had been assigned priority one, and the remaining shipment was assigned priority two.

The other six drug finds were made during examinations at other facilities during 2004. This cargo was targeted for examination, but was not assigned a formal priority rating as part of Customs business practice, as they were not examined at the CEFs.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 131

Senator Ludwig asked the following question at the hearing on 14 February 2005:

P. 43 of the Annual Report – ‘Increase in newly imported hand gun dealers is due primarily to the buyback scheme’ –

- a) please explain why this is and how the connection was made.
- b) Who writes that in the Annual Report?
- c) Was there a review undertaken to establish the link? If so please provide details.
- d) If it is an error, please explain it.

The answer to the honourable senator’s question is as follows:

- a) Following detailed analysis of Customs handgun certification statistics, it was found that since July 2002 the number of certified dealers has been increasing, on average, by 28 certificates per year.
Industry comments indicate that a proportion of the growth in certified dealers may be attributed to an increased market demand for handguns compliant with the COAG handgun controls on barrel length, calibre and capacity.
- b) The Annual Report is prepared by Customs staff
- c) No review was undertaken.
- d) N/A.