

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
FEDERAL MAGISTRATES COURT

Question No. 101

Senator Brandis asked the following question at the hearing on 22 February 2011:

1. To what extent does the Court rely on police check information provided by the Australian Federal Police when employing new staff?
2. What process does the Court follow when inaccurate information is provided by the AFP regarding police checks?
3. What measures has the court implemented to ensure these errors do not happen in the future?
4. What compensation measures has the Court considered for personnel who have had to rectify incorrect reports provided about them by the AFP?

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

1. Employment of new APS employees in the Court is ordinarily subject to a condition requiring a successful police records check. The Court seeks those checks from the AFP but understands that Police Check information provided in respect of new employees is the result of inquiries made by the AFP and the various State and Northern Territory police forces. The Court relies on the information provided by the AFP, except where it is shown to be incorrect.
2. The Court is in the position that it must rely on information provided to it. As it is unclear initially that information provided by the AFP is inaccurate, the Court regards itself as having been put on inquiry by a qualified result. It informs the subject of a police check about any such result. This gives the subject the opportunity to provide the Court with any comments he or she may wish to make, including as to the accuracy of the information. The Court will liaise with the AFP to see if an error may have occurred, if the accuracy of the report is called into question. There has only been one error of which the Court is aware, which was resolved by the jurisdiction concerned.
3. As above.
4. It is unclear that there is any need for personnel to take such action individually. The process adopted by the Court should lead to errors being identified in the rare cases where they occur. In any event, any error involved is not the Court's error so the proper basis for a payment of compensation by the Court is unclear.