

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
MINISTER FOR JUSTICE AND CUSTOMS

Question No. 1

Senator Carr asked the following question at the hearing on 24 May 2005:

A Cabinet-in-Confidence document appeared on the front page of the *Sydney Morning Herald* on 29 April 2005. Why was that matter not referred to the AFP?

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

I did not receive any request, including any request from the relevant Minister or Departmental secretary, that the matter be referred.

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

Output FSG

Question No. 2

Senator Ludwig asked the following question at the hearing on 23 May 2005:

Please provide financial health review outcomes for the department.

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

Due to increases in the department's workload additional funding was provided to the Department on a one-year basis in 2003-04 subject to a financial health review being conducted by the Department of Finance and Administration (Finance). Finance contracted a consultant, Mr Len Early to undertake this review during 2004. There were a number of outcomes from the financial health review, identified through recommendations made in the final report, as follows:

Recommendation 1: AGD's capacity in budget and strategic financial analysis should be enhanced by:

- Broadening the responsibilities of the Chief Finance Officer (CFO), upgrading the position, providing additional support and making the CFO a member of the executive, and
- Upgrading the business manager positions in the Civil Justice and Legal Services and Criminal Justice and Security Groups, broadening their responsibilities and giving them extra support.

Recommendation 2: In consultation with the Department of Finance and Administration, AGD should review performance reporting in the Department against the Commonwealth Performance Management Principles.

Recommendation 3: Subject to agreement to additional funding proposed in Recommendation 5, AGD's capacity to deliver required results within existing resources should be improved by a number of specific measures to be decided by the Attorney-General (total reduction agreed \$2.095m) and AGD's budget funding should be reduced in 2005-06 and subsequently to reflect the resultant reduced demand on its resources

Recommendation 4: The fiscal impact of the additional funding for AGD proposed in Recommendation 5 should be further offset by:

- Introducing user charging for services to marriage celebrants
- Applying a registration fee of \$130 for instruments and statutory rules to be published on the Federal Register of Legislative Instruments, and
- The Commonwealth entering 50-50 cost-sharing arrangements with State and Territory emergency management jurisdictions for Emergency Management Australia's (EMA) education, training and standards development programs.

To the extent these measures are adopted, AGD's budget funding should be reduced in 2005-06 and subsequently to reflect the resultant reduced demand on its resources. Should any of the measures in Recommendation 4 not be adopted, AGD should be precluded from garnering savings from them subsequently without the approval of the Minister for Finance and Administration.

Recommendation 5: Subject to:

a) Implementation of the measures proposed in Recommendation 3, or implementation of measures of equivalent value, and

b) The \$23.0 million provided to AGD for the fit-out cost of its new building being reduced by the accumulated value of \$0.7 million of the extra depreciation funding recommended to be provided annually over the interim years

AGD's funding should be increased by \$9.7 million in 2005-06 (and updated using standard budget methodology in subsequent years) in response to the workload increases that it has faced since 1 July 2001. Additional funding for the CFO should cease after three years.

Recommendation 6: The Steering Committee recommends that AGD commission an urgent analysis of its current budget situation and outlook over the forward estimates period. Subsequently, the CFO should report quarterly to the Secretary on AGD's budget position and outlook for the forward years and the remainder of the current year. This report should be copied to the Secretary of the Department of Finance and Administration.

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Output CSG

Question No. 3

Senator Ludwig asked the following question at the hearing on 23 May 2005:

With regard to access to freedom of information where it has been refused on the grounds that it offends privacy legislation or the Privacy Act:

- a) Is there any data about whether it is a request for private information by the person concerned, or outside of that as well, that have been refused on that basis.
- b) Provide information broken down by type or level of response given to the individual requestee if possible.
- c) If there is tabulated data on the types of requests that you get, please provide.

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

- a) The *Privacy Act 1988* has no operation in the freedom of information context. Where a request might involve the disclosure of personal information, that disclosure is permissible because of the 'required or authorised by or under law' exception to Information Privacy Principle 11. Section 41 of the *Freedom of Information Act 1982* (the Act) is the provision that governs the release of personal information under the Act. The right of correction of personal information in Information Privacy Principle 6/National Privacy Principle 6 is exercised by access under section 48 of the Act.

Section 41 of the Act allows access to documents to be refused if release of them would result in the unreasonable disclosure of personal information about another person (other than the applicant). If an applicant asks for personal information about himself or herself, the Department will release it - unless it is so inextricably intertwined with information about another person that it is impossible to separate it.

During the period 23 May 2004 to 23 May 2005, section 41 was used (mostly in conjunction with other exemptions) in 21 out of 47 (45%) of the cases in which access to documents was refused either in whole or in part.

- b-c) In accordance with the requirements of the Freedom of Information Annual Report, each request, as it comes into the Department, is categorised 'P' if it is predominantly a request for 'personal information' (about the applicant or anyone else), or 'O' if it is a request predominantly for other than 'personal information' (for example, policy documents). During the period 23 May 2004 to 23 May 2005, 32 out of 63 (50.8%) of the requests made to the Department have been categorised as 'P' and 31 out of 63 (49.2%) have been categorised as 'O'.

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Question No. 4

Senator Lundy asked the following question at the hearing on 23 May 2005:

Arising from the Government acceptance of recommendations contained in the JCPAA Inquiry into the Management and Integrity of Electronic Information in the Commonwealth: Can the Attorney-General's Department report on progress and results of all their allocated obligations?

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

In the Department of Finance and Administration response to the report, the Attorney-General's Department was noted as the lead agency for Recommendation 1 and 6. The Department also has responsibilities to work with other lead agencies for other recommendations. This response summarises progress against the List of Recommendation page xxi, Contents section of the report.

Physical Security

Recommendation 1

The Attorney General's Department had a physical security plan in place, consistent with the Protective Security Manual, prior to the inquiry. The plan continues to address the Department's information technology facilities.

Recommendation 2

AGD will comply with any Government policies arising from this recommendation in all future IT procurement.

Recommendation 3

AGD's current practices generally comply with recommendation.

Points 1 and 2

Laptops and portable electronic devices are controlled centrally within the Department. Prior to issuing a laptop computer or other portable electronic devices a Hardware Request form with supporting business case is required. This form must be approved by the appropriate delegate. All delegates are SES Officers. These devices are assigned to individual officers who sign a conditions of use and responsibilities form.

Point 3

All data on portable electronic devices are encrypted and quality passwords are enforced.

Point 4

AGD logs the movement of all valuable IT equipment – both inside and outside AGD premises to assist with accountability and inventory control. Certain items are intended for individual use and are highly portable e.g. mobile phones, personal digital assistants and laptops. It is not practical to all movement of such items. They are controlled through personal issue forms and stock-take procedures. There has been negligible loss of such equipment.

Point 5

All incidents have been reported both to the police and also to DSD via the ISIDRAS reporting scheme - in compliance with DSD requirements.

Point 6

The Department undertakes two stock-takes each year. Each stock-take includes the verification of portable equipment issued to specific officers.

Recommendation 4

Point 1

The Department maintains a current register of IT owned and leased assets.

Point 2

The Department undertakes two stock-takes each year. It also undertakes spot checks to verify the accuracy of the register.

Risk Management

Recommendation 5

The Department has constantly met all of its ISIDRAS reporting responsibilities.

Recommendation 6

AGD complies with and continues to implement sound risk management practices and conforms to Government policy.

Data Preservation

Recommendation 7

The Attorney-General's Department has implemented TRIM Context to capture, store and manage its paper and electronic records. Use of the system is governed by the Department's recordkeeping policy and procedures. The policy and its accompanying procedures give equal priority to electronic and paper records, regardless of format. The metadata the Department captures in TRIM Context complies with the Recordkeeping Metadata Standard for Commonwealth Agencies, which forms part of the e-permanence suite. Records are sentenced using the Department's Records Disposal Authority, which was developed in 2002 using the DIRKS methodology, and the Administrative Functions Disposal Authority.

Recommendation 8

The Department has a Business Continuity Plan (BCP) which it updates as required.

As part of the BCP the Department has disaster recovery (DR) plans which includes restoring onsite facilities, an alternate site and recovery form data stored offsite.

Information Security

Recommendation 9

No action required.

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Question No. 5

Senator Lundy asked the following question at the hearing on 23 May 2005:

Provide an update for the committee on the IT equipment that has been lost or stolen in the years 2003–04 and 2004–05 to date.

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

In 2003–04 a laptop was stolen and a personal digital assistant (PDA) was lost. The laptop computer was stolen from an officer's hotel room while travelling on official business in February 2004. The PDA was lost in July 2003.

In 2004–05 a laptop was stolen during December 2004, it was stolen from an employee's ACT residence.

Both were reported to the relevant police and the Defence Signals Directorate (DSD). Neither computer was recovered, nor have charges been laid in either case. There was no National Security Classified information on either laptop and both were protected by DSD approved encryption.

The Department undertakes two IT stock-takes per year, with one currently underway.

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Output 1.1

Question No. 6

Senator Ludwig asked the following question at the hearing on 24 May 2005:

Has any decision been made by the government about where the family relationship centres will be located first?

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

The locations of the first Family Relationship Centres will be announced in the next few months.

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Output 1.1

Question No. 7

Senator Ludwig asked the following question at the hearing on 23 May 2005:

- a) Who is attending the first consultation of the Family Relationship Centres?
- b) Please provide details of the two workshops that are going to be run and when they will be.

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

There were two Family Relationship Centre Scenario Workshops held. The first was in Canberra on 26 and 27 May 2005. The following participants attended:

Dianne Gibson	Family Court of Australia	NSW
Pam Hemphill	Family Court of Australia	SA
Tracey Dioses	Centrelink Customer Service Centre - Orange	NSW
Mary Comer	Catholic Welfare Australia	NSW
Lyn Slocombe	Centacare	NSW
Clive Price	Unifam	NSW
Jennie Hannan	Anglicare Australia	WA
Kaye Swanton	Lifeworks	VIC
Linda Pullen	Mercy Family Services	QLD
Anne Hollonds	Relationships Australia	NSW
Susan Holmes	Relationships Australia	TAS
Michael Hunt	Relationships Australia	VIC
Lexlie McCauley	Centrelink	ACT
Christine Hodge	Centacare	QLD
Filomena Colavecchio	Conflict Resolution Service	ACT
Margaret Anderson	Child Support Agency	ACT
Jo Hart	Child Support Agency	ACT
Walter Ibbs	Legal Aid Victoria	VIC

Also in attendance are representatives of the Attorney-General's Department and the Department of Family and Community Services.

The second workshop was held in Perth on 16 and 17 June 2005. The following participants attended:

Lynn Stephen	Bunbury Community Legal Centre	WA
Chris Gabelish	Geraldton Resource Centre	WA
Dianne Gray	Geraldton Resource Centre	WA
Stephen Ralph	Family Court of Australia	NT
Kay Benham	Family Court of WA	WA
Neil Hamilton	Centacare	WA
Simon Schrapel	Anglicare	SA
Michael Colin	Uniting Care Wesley Adelaide	SA
Colleen Brown	WA Legal Aid	WA
Ian Law	Relationships Australia	SA
Mandy Flahavin	Relationships Australia	WA
Andrew Bickerdike	Relationships Australia	VIC
Alan Campbell	Private mediator	WA
Shawn Phillips	Mensplace	WA
Sarah Mills	Community Justice Centres, Wollongong	NSW
Glenda Scott	Child Support Agency	WA
Dawn Snook	Child Support Agency	WA
Terri Coughlan	Centrelink	WA
Terry Reeves	Centrelink	WA
Melissa Perry	Centacare Incorporated	WA
Olive Woods	Anglicare	WA

Also in attendance are representatives of the Attorney-General's Department and the Department of Family and Community Services.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.1

Question No. 8

Senator Ludwig asked the following question at the hearing on 23 May 2005:

Family Relationships Services Program. How many people use these services each year?

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

The Attorney-General's Department funds six service types provided under the Family Relationships Services Program. These are children's contact services, contact orders program, family mediation, conciliation services, primary dispute resolution in regional areas and, jointly with the Department of Family and Community Services, family counselling.

The Department of Family and Community Services collects data for the Program and provided the following client numbers in May 2005 for this question:

	1/7/2001 to 30/6/2002	1/7/2002 to 30/6/2003	1/7/2003 to 30/6/2004
Children's Contact Services	7644	9364	9429
Contact Orders Program	914	1658	1277
Family mediation	7137	7208	6928
Conciliation	2333	3061	2560
Primary dispute resolution in regional areas	142	1171	2221
Family counselling (jointly with Department of Family and Community Services)	75073	84457	71387

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Question No. 9

Senator Ludwig asked the following question at the hearing on 24 May 2005:

Has the Department any quantifiable data or monitoring of the family relationships services programs to demonstrate that there was an increasing demand for the service and a need for additional funding?

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

The service providers funded under the Family Relationships Services Program are required to provide data on client and case information to the Department of Family and Community Services. In addition, the providers report at least annually on the status of the services, including demand, challenges and achievements. A review of the Program that was completed in June 2004 was commissioned by the Department of Family and Community Services in collaboration with Attorney-General's Department. It identified areas of unmet demand for services and a need for additional funding of providers.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.1

Question No. 10

Senator Ludwig asked the following question at the hearing on 23 May 2005:

Family Relationships Services Program: What did the Department contribute towards the review?

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

The Attorney-General's Department contributed \$195,135 in 2003-04 towards the cost of the three components of the review of the Family Relationships Services Program. These components included a client input consultancy by Colmar Brunton, a program review consultancy by Urbis Keys Young, nine regional service provider forums and a national summit held in May - June 2004.

The Department participated in reference group meetings for the planning and organisation of the client input and program review consultancies, as well as the conduct of the regional forums and national summit. Officers from the Department presented and participated in discussions at the regional forums and national summit. The Department also provided comments on the draft reports of the client input and program review consultancies and the report of the service provider forums and national summit.

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Output 1.1

Question No. 11

Senator Ludwig asked the following question at the hearing on 23 May 2005:

Family Relationships Services program: If they are available to the Committee, please provide copies of the budget submissions received from the three industry bodies.

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

The three industry representative bodies for the Family Relationships Services Program are Relationships Australia, Family Services Australia and Catholic Welfare Australia.

The budget submissions for 2005-06 from Relationships Australia and Family Service Australia are attached. These documents can also be found at:

- ▶ <http://www.relationships.com.au/utilities/about/budget05-06.pdf>
- ▶ <http://www.fsa.org.au/content-sections/files/FSA%20Budget%20Submission%202005.PDF>

The budget submissions for 2004-05 from Catholic Welfare Australia, Relationships Australia and Family Service Australia are attached. The FSA document can also be found at:

- ▶ <http://www.fsa.org.au/content-sections/files/FSA%20Budget%20Submission%202004.pdf>

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Output 1.1

Question No. 12

Senator Kirk asked the following question at the hearing on 23 May 2005:

Court Security review:

- a) When did the review take place?
- b) What was the cost of the review?

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

- a) The review was conducted in May and June 2003 and the report was provided to the Attorney-General's Department in July 2003.
- b) The cost of the review was \$59,939.37.

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Output 1.1

Question No. 13

Senator Ludwig asked the following question at the hearing on 23 May 2005:

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

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

The Attorney-General has consulted all State and Territory Attorneys-General in relation to the appointment of a replacement for the Honourable Justice Michael McHugh AC, who will attain the mandatory retirement age of 70 years on 1 November 2005.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.1

Question No. 14

Senator Ludwig asked the following question at the hearing on 23 May 2005:

National Judicial College of Australia:

- (a) In terms of the report, do we have any information about the number of participants that have taken up courses and programs? Is there a summary available?
- (b) In the programs that they have set targets for, do you have any feedback or monitoring as to whether they have met the targets or programs delivery to judicial officers?
- (c) Is there any additional funding that has been proposed?

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

- (a) Attached is a table setting out the programs given by the National Judicial College of Australia, during the period from August 2003 to 30 June 2005, the numbers of judicial participants and the jurisdictions from which they come.
- (b) The National Judicial College of Australia seeks written feedback from judicial participants in its programs. To date all feedback indicates that participants have been very satisfied with the programs. The College develops programs on the basis of responses to a survey of the judiciary conducted in 2003 and of proposals made by judicial officers in evaluating programs they attend.
- (c) In addition to the Commonwealth's annual contribution of 50% of College funding, the Commonwealth has made the following additional grants to the College:

2002-03: \$20,000 for operational expenses

2003-04: \$40,000 for operational expenses and \$147,000 in tied grants for the development of an electronic library service and a national sentencing database scoping project.

2004-05: \$40,000 for operational expenses and \$240,000 in tied grants for the national sentencing database project.

ATTACHMENT

NJCA Programs 2003-2006

Program	Location	Date	Length	Number of judicial officers	Jurisdictions
Travelling Program	Adelaide	August 2003	1.5 days	26	SA WA VIC Federal Court & Family Court
Phoenix Magistrates Program	Canberra	August 2003	5 days	17	SA WA VIC NT QLD ACT
Travelling Program	Hobart	March 2004	1.5 days	30	TAS VIC WA NSW, Federal Court, Family Court and Federal Magistrates Court
Phoenix Magistrates Program	Broadbeach QLD	May 2004	5 days	20	SA WA NT QLD ACT NSW TAS & PNG
Human Rights Act Workshop	Canberra	August 2004	1 day	15	ACT & Federal Court
Judgment writing program	Melbourne	August 2004	3 days	20	VIC QLD WA
Criminal Code module	Adelaide	August 2004	Half day	30	SA
Court craft module	Alice Springs	August 2004	Half day	15	NT
National Judicial Orientation Program	Sydney	October 2004	5 days	20	NSW VIC WA SA QLD
Federal Magistrates Court Orientation Program	Melbourne	October 2004	1 day	10	Federal Magistrates Court
Identification Evidence Module	Perth	November 2005	Half day	40	WA

Judicial Ethics module	Adelaide	March 2005	Half day	50	SA WA QLD NSW & Family Court
Criminal Code Workshop	Canberra	April 2005	Half day	15	ACT
Judgment writing masterclass	Online	April 2005	Half day	6	QLD WA VIC
Evidence Acts Workshop	Sydney	April 2005	1 day	50	NSW & Family Court and Federal Magistrates Court
Disability awareness program	Online	April 2005	2 weeks	6	SA QLD WA & VIC
Phoenix Magistrates Program	Joondalup WA	May 2005	5 days	44	SA WA NT QLD ACT NSW TAS & PNG
Disability awareness program	Online	May 2005	2 weeks	5	NT NSW QLD
Phoenix Judges Program	Canberra	May 2005	5 days	20	All States Federal Court Family Court

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Output 1.1

Question No. 15

Senator Ludwig asked the following question at the hearing on 24 May 2005:

With regard to the department's assistance to Lebanese authorities with text in relation to the welfare of children: Is the agreed text available?

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

It is understood that agreement on the text of an agreement has been reached at an officer-to-officer level with the Lebanese Authorities.

The draft agreement will now be considered by the Attorney-General, the Hon Philip Ruddock MP. Subject to the Attorney-General's approval it will need to be considered as part of Australia's treaty-making process before it comes into operation. The text is not yet approved and hence it would be premature to provide the text at this time.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.2

Question No. 16

Senator Ludwig asked the following question at the hearing on 24 May 2005:

- (a) How many officers of the department attended the LAWASIA downunder conference?
- (b) Could you detail what the department paid in terms of conference attendance and how many officers were paid for, for what duration and what programs they attended?
- (c) Was the Department a sponsor of the LAWASIA downunder conference?

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

- (a) The Secretary and six officers of the Attorney-General's Department attended the LAWASIA downunder conference.
- (b) and (c) The Department was a sponsor of the conference. In view of the sponsorship the normal registration fees for six of the Departmental attendees were waived. A registration fee of \$795 was paid for the seventh person. The seven attended a range of programs over the four days of the conference. The extent of their attendance was affected by other meetings held during the conference, including the Standing Committee of Attorneys General.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.2

Question No. 17

Senator Ludwig asked the following question at the hearing on 23 May 2005:

Ruhani v Director of Police (Nauru) [2005] High Court:

- (a) When did the Department provide formal advice?
- (b) Was it requested by the AG?
- (c) What form did the advice take?

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

- (a) The Department provided its formal submission to the Attorney-General on the question of intervention in *Ruhani*, incorporating the views of other agencies, on 29 September 2004.
- (b) Decisions to intervene in a constitutional proceeding are made by the Attorney-General. The established practice in relation to any question of intervention which raises a significant policy issue is to provide a formal submission on the question to the Attorney-General.
- (c) The submission on the question of intervention in *Ruhani* was in written form, setting out considerations relevant to the question of intervention, making a recommendation and seeking the instructions of the Attorney-General.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.2

Question No. 18

Senator Ludwig asked the following question at the hearing on 23 May 2005:

Have there been any consultative papers or discussion papers released by the working party since the national legal profession model bill?

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

No.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.3

Question No. 19

Senator Ludwig asked the following question at the hearing on 23 May 2005:

Funding arrangements for HREOC: What is the rationale behind the funding cuts for this financial year?

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

There has been no cut to the Human Rights and Equal Opportunity Commission's funding for the 2005-06 financial year. Funding to the Human Rights and Equal Opportunity Commission for the 2005-06 financial year is \$12.093m. Funding for the 2004-05 financial year was \$11.893m.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.3

Question No. 20

Senator Ludwig asked the following question at the hearing on 24 May 2005:

Can the Department provide a copy of the report which was provided to the Australian Building Codes Board?

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

The Building Access Policy Committee provided a report to the Australian Building Codes Board (ABCB) to inform ABCB's recommendations to the Government. The report canvassed various matters relating to the Disability Standards for Access to Premises which will be the subject of a future decision by Government.

Therefore, the report is part of the policy development process of Government and it would not be appropriate for a copy to be provided.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.3

Question No. 21

Senator Ludwig asked the following question at the hearing on 23 May 2005:

Please advise the committee when a decision has been made about Dr Ozdowski's position as Disability Discrimination Commissioner, which is due to expire on 1 July.

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

Dr Ozdowski's current term as acting Disability Discrimination Commissioner expires on 18 July 2005. The timing of any announcement regarding future appointment is a matter for Government.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.3

Question No. 22

Senator Ludwig asked the following question at the hearing on 23 May 2005:

With regard to FOI applications which are knocked back on privacy grounds, is the department looking at this issue more broadly or has it decided to do any work in his area to see whether they can improve the process?

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

Section 41 of the *Freedom of Information Act 1982* (FOI Act) states that a document is exempt if its disclosure would result in the unreasonable disclosure of personal information about any person. Generally, the section 41 exemption does not apply where a person seeks access to a document containing their own personal information. A decision to grant access must not be made unless, where it is reasonably practical to do so, the agency has given the potentially-affected individual a reasonable opportunity to contend that the information is exempt under section 41. The individual consulted has no veto over the agency's decision but any objections to disclosure made by the individual consulted will be a relevant consideration in the agency's decision. Further information about the operation of section 41 of the FOI Act, including the consultation mechanism, is in FOI Memorandum No 98 entitled *Exemptions Sections in the FOI Act*, available at <www.ag.gov.au/foi>.

The Attorney-General's Department is not currently undertaking any work in relation to section 41 of the FOI Act.

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Output 1.6

Question No. 23

Senator Carr asked the following question at the hearing on 23 May 2005:

Aboriginal and Torres Strait Islander Social Justice Commissioner's *Native Title Report 2004*

The Department advised in a response to a question Senator O'Brien asked in May 2004 that the Department does not formally respond to the Social Justice Commissioner's Native Title Reports – at least there have not been any formal responses since the first report in 1994.

- a) Broadly speaking, is there some mechanism within the Attorney-General's Department to consider these reports and recommend appropriate action to the Executive or the Government?
- b) If so, is this done formally, and monitored in some way, or is a more informal, ad hoc approach taken?

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

- a) Upon receipt, the Department considers the Aboriginal and Torres Strait Islander Social Justice Commissioner's Native Title Reports and provides briefing to the Attorney-General about their contents and recommendations. The content of these reports informs native title policy even where no formal response is made to the reports by the Government.
- b) It has been standard practice for the Department to prepare briefing about these reports.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.5

Question No. 24

Senator Ludwig asked the following question at the hearing on 23 May 2005:

Output 1.5 appropriation: Can the department de-pack the difference in the figures of \$6.126 million and \$7.568 million?

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

The reference to \$7.568 million in the Senator's question is the estimated actual appropriation for 2004-05 for output 1.3 in the 2005-06 Portfolio Budget Statements (PBS). The estimated actual appropriation in the 2005-06 PBS for 2004-05 for output 1.5 'Drafting of legislative and other instruments, maintenance of the Federal Register of Legislative Instruments (FRLI), publication of legislative materials and provision of related legal services' is \$7.543 million.

The appropriation estimate of \$6.126 million for output 1.5 for 2004-05 in the 2004-05 Portfolio Budget Statements (PBS) comprised \$2.602 million in direct employee and supplier expenses for the Office of Legislative Drafting and Publishing (OLDP) and \$3.524 million in indirect expenses (corporate support, property and depreciation).

The comparative figures for output 1.5 for 2004-05 in the 2005-06 PBS were \$3.588 million in direct expenses and \$3.955 million in indirect expenses, a total of \$7.543 million. The direct expense of \$2.602 million included in the allocation for the output in the 2004-05 PBS was based on the notional forward estimates for OLDP at the time the 2004-05 PBS was completed. After the completion of the Department's internal budgeting process for 2004-05, the appropriation funding allocated to OLDP was increased to \$3.588 million for the additional resourcing needs required by OLDP to establish ComLaw. The increased funding allocated to OLDP was included in the estimate for 2004-05 in the 2005-06 PBS.

The increase in the amount of overhead funding allocated to the output in the 2005-06 PBS reflected both additional funding for overheads in measures included in the 2004-05 Additional Estimates and the use of revised staffing levels rather than estimated staffing levels to allocate overheads.

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

Output 1.5

Question No. 25

Senator Ludwig asked the following question at the hearing on 23 May 2005:

Can the department update its response to QoN No. 29, assistance provided in drafting bills for Nauru and PNG?

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

QoN No. 29 for the hearing of 14 February 2005 was:

Regarding assistance to the governments of Papua New Guinea and Nauru: What is fee for service and what is absorbed into your budget and the scale or nature of it?

In summary:

- no further work has been done by the Office of Legislative Drafting and Publishing on matters assisting the Governments of Nauru and PNG;
- the amounts listed in the previous answer as "not billed yet" have now been billed to AusAID and payment received.

A detailed update of the information given in the previous answer is as follows:

The Office of Legislative Drafting and Publishing has provided assistance to the Governments of Nauru and PNG on the following matters during the 2004-2005 financial year. This assistance was part of a package for which AusAID had financial responsibility.

In the projects relating to PNG, OLDP has provided drafts for consideration by PNG. It is possible that further work will be required.

Assistance to Nauru:

- Draft of implementation legislation for Australia's package of assistance to Nauru. Begun in April 2004, completed and billed for in August 2004. Paid by AusAID. Cost: \$5,300.

Assistance to PNG

- Draft Bill on Assistance in Criminal Matters. Begun in June 2003 and still in progress. Costs so far: \$55,000. Paid by AusAID. (Includes costs of travel to PNG).
- Draft Bill on Extradition. Begun in September 2004 and still in progress. Costs so far: \$15,000. Paid by AusAID.
- Draft Bill on Proceeds of Crime. Begun in October 2004 and still in progress. Costs so far: \$34,000 Paid by AusAID.
- The costs billed did not include a small amount of work in administration, in particular for scoping of work and settling of billing arrangements. These costs were absorbed by OLDP.