

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

Output 1.6

Question No. 26

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

Please provide a list of the 60 technical amendments to the Native Title Act that are being considered.

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

It would not be appropriate to disclose the list of possible technical amendments to the *Native Title Act 1993* that have been suggested for consideration. These matters represent part of the Government's native title policy considerations.

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Question No. 27

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

In his most recent report, the Social Justice Commissioner has noted the attempts AG's is making to understand native title from a range of perspectives through its Native Title Consultative Forum, and said that they represented a step in the right direction. However, Mr Calma also raised a number of criticisms of the way in which the Forum operates.

- a) What is the Department's view of these criticisms?
- b) Is it planning to make any changes to respond to the issues raised by Mr Calma?

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

The Native Title Consultative Forum (the Forum) is a multilateral body which brings together officials from the Australian Government, including the Attorney-General's Department, the Department of Immigration and Multicultural and Indigenous Affairs, the Federal Court and the National Native Title Tribunal, the State, Territory and local governments, Native Title Representative Bodies (NTRBs) and stakeholders representing pastoral, mining and fishing sectors, as well as the Human Rights and Equal Opportunity Commission. The Department notes that the Social Justice Commissioner attended the March 2005 Forum meeting.

The Forum has a specific purpose. It was convened to consider:

- developments in the native title system
- legal aid issues
- trends affecting the capacity of users to respond to the requirements of the native title system
- perceived impediments preventing effective use of the services in the system, and
- ways of improving communication and building productive interaction among key stakeholders.

It is important for the Forum to remain focused on improving the effectiveness of the native title system for those currently operating within it. It is also necessary to ensure that the Forum remains a reasonable and workable size and that it remains relevant to all of the current Forum members.

At the same time, however, all participants are encouraged to apply the knowledge they gain from the Forum to their broader consideration of native title and other issues. This is particularly the case for the government representatives. From an Australian Government perspective the forum enables a broad range of views to be considered in policy formulation.

The Department agrees with the Social Justice Commissioner that it is important that the membership of the Forum include Indigenous representatives. The contribution of Indigenous representatives, especially NTRB members, at previous Forums has provided an invaluable broader perspective on native title policy issues. Up to three NTRB members can attend each Forum

meeting. NTRBs are in the process of developing a roster for attendance at the Forum, to be coordinated by the Cape York Land Council to ensure different NTRBs have the opportunity to participate at the Forum. The Cape York Land Council will also ensure that the discussions and outcomes of the Forum are fed back to all NTRBs. At the November 2004 meeting three NTRBs gave presentations on their experience of agreement making in the native title context. There have also previously been presentations from Indigenous speakers not associated with NTRBs.

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Question No. 28

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

- a) What has been done with the request for submissions received by ATSIIS with regard to legal service exposure draft tendering documents?
- b) Please provide a copy of those submissions.
- c) What effort did ATSIIS make to actually address the Parliamentary Question?

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

- a) The Department understands that ATSIIS sought advice from the Australian Government Solicitor (AGS) on issues arising from the request. AGS advised that the submissions may be released, subject to some specific advice regarding one submission that the writer asked to remain confidential.
- b) Attached are 53 submissions, which ATSIIS received in response to the Exposure Draft of Purchasing arrangements, Legal Services Contract 2005–2007 for legal aid services for Indigenous Australians. One submission that the writer requested be kept confidential has not been provided.
- c) See (a).

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 29

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

Provide a breakdown of the \$179,000 cost to administer the Northern Territory Indigenous interpreter services program.

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

The figure of \$179,000 for the Aboriginal Interpreter Service comprises:

0.05 SES Band 1 (including salary, on costs of 33.06%, supplier expenses of 40% and property lease expenses)	\$11,283
0.10 EL2 (including salary, on costs of 33.06%, supplier expenses of 40% and property lease expenses)	\$38,608
1.0 APS 6 (including salary, on costs of 33.06%, supplier expenses of 40% and property lease expenses)	\$128,612
TOTAL	\$178,503

The work of the officers will include high-level consultation and liaison. Northern Territory Government and Australian Government inter-agency negotiations are required in relation to the continued operation of Indigenous interpreter services after the cessation of the current funding for the Aboriginal Interpreter Service on 30 June 2006. Apart from the necessary inter-and intra-governmental negotiations there will be on-going management of the project and supervision of the project officer. The project officer has day to day management of the funding including payment of invoices, monitoring of financial and program reporting and preparation of briefings.

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Question No. 30

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

Budget Paper No. 2 states that the current funding arrangements are in fact a joint funding agreement which expires on 30 June. How much did the Northern Territory contribute to the last agreement?

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

The Northern Territory Government is providing \$540,000 to the Aboriginal Interpreter Service under the Northern Territory Extension Agreement which commenced on 1 September 2004 and expired on 30 June 2005.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 31

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

Indigenous Interpreter Service: provide a breakdown of the total cost of the program.

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

For the period 1 September 2000 to 31 August 2004, the Australian Government has made the following payments under the Northern Territory Agreement for the Aboriginal Interpreter Service (AIS):

Item	Expenditure
Aboriginal Interpreter Service Commonwealth share of the establishment and recurrent costs	\$2,148,010
Unmatched funding for training and community awareness	\$680,000
AIS Sub Total	\$2,828,010
Total funds provided to the NT Aboriginal and Torres Strait Islander Legal Services (ATSILS) for purchase of interpreter services	\$1,217,384
Northern Territory Agreement AIS Total	\$4,045,394

For the period 1 September 2004 to 30 June 2005 the following payments will be made under the Northern Territory Extension Agreement for the AIS:

Item	Allocation
Aboriginal Interpreter Service Commonwealth share of the recurrent costs	\$600,000
ATSILS for purchase of Interpreter services total	\$300,000
NT Extension Agreement AIS Total	\$900,000

The Australian Government has also funded an independent evaluation of the entire operation of the Northern Territory Agreement by *Urbis JDH* at a cost of \$207,695. The staff requirements and administrative overheads over the life of the Northern Territory Agreement and the Extension Agreement have been provided from Departmental resources.

The Australian Government has allocated **\$1,079,000** in 2005-2006 to continue the joint funding of the Northern Territory AIS to 30 June 2006.

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Question No. 32

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

Indigenous affairs transfers:

- a) What has the cost been to the Department of the transfer of the functions?
- b) What has been the increase in funding for services actually going to people other than the Departmental outputs?
- c) Identify the additional increase in service provided – not the transfer of funding.

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

- a) The main costs to the Department for the transfer of the ATSI functions were for the relocation of Canberra staff to new premises and for integration of all transferred staff into the Department's information technology structure. The total fit-out and IT costs incurred by the Department for which it was not funded was \$1.2m.
- b) Funds available for the provision of services under Indigenous programs transferred to the Department have been maintained at a level comparable to that of previous financial years.
- c) See answer to question (b).

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Question No. 33

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

The aggregate effect of the 1.125 per cent efficiency dividend is \$367000 across the Department. What is the effect specifically for Indigenous programs?

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

The efficiency dividend, which is 1.25 per cent, is applied only to departmental funding and not to administered funding. As Indigenous-specific programs are funded from administered funding, the efficiency dividend does not apply.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 34

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

Can the department provide details of the substantive changes to the legal aid guidelines?

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

A copy of the revised Commonwealth Legal Aid Guidelines is attached. The Commonwealth Legal Aid Priorities have been incorporated into the legal aid agreement at clause 6. The Guidelines remain as Schedule 3 to the agreement. Copies of both (from the agreement with Victoria Legal Aid) are attached; the agreements with the other States and Territories are analogous.

Changes to the priorities and guidelines were made following extensive consultation with legal aid commissions and other stakeholders. Substantive changes were made in the following areas:

Commonwealth Legal Aid Priorities

The civil law priorities have been expanded to include extradition proceedings. The new priority area is subject to the limitations set out in the extradition proceedings guideline, as well as applicants having to satisfy the means and merits tests.

Commonwealth Legal Aid Guidelines

Part 2 – Family law guidelines

- *Guideline 2 (PDR services)* - The definition of PDR services has been removed and is now defined in the new legal aid agreements.
- *Guideline 2.2(2)(a) (PDR Services – appropriateness of participating in a PDR Service)* - The guideline has been revised to ensure that a commission determines that appropriate protections are in place where child abuse and/or violence is involved in a dispute. The improvement extends to cases where either of the parties are, or have previously been, the subject of reported allegations, investigations or court proceedings relating to child abuse in relation to a child of the parties, or violence against the other party.
- *Guideline 10 (Recovery, locations and information orders)* - The guideline is new and provides that assistance may be granted for court proceedings for the location and recovery of children who are the subject of a parenting order and Commonwealth information orders which assist in the location and recovery of such children.

- *Guideline 12.1 (Assistance for certain property settlement disputes)* - The revised guideline expands the assistance that can be provided by removing two former requirements used to determine if aid could be provided.¹ It also clarifies that assistance may be granted for disputes relating to the matrimonial home (not 'real estate'), the preservation of matrimonial property and/or funds from which the applicant may receive only a deferred benefit.
- *Guideline 12.2(1)(a) (Limitations on assistance for matrimonial home dispute)* – The guideline expands the assistance that can be provided by increasing the allowed ceiling on the applicant's equity in the matrimonial home to an amount that does not exceed \$200,000. It also sets out how an applicant's equity in the matrimonial home is to be determined.
- *Guideline 16 (Enforcement of court orders)* – The guideline has been revised to provide for assistance to be granted for the enforcement of interim family law or child support orders.
- *Guideline 17 (Contempt of court and breach of court orders)* – This is a new guideline to make explicit that assistance may be granted to an applicant who is a respondent to a court proceeding for contempt of court or breach of a court order and who faces a real likelihood of a significant penalty being imposed by the court.
- *Guideline 18 (International Child Abduction)* – The guideline is new and provides that assistance may be granted in certain types of international child abduction matters for which assistance is not available under any other Commonwealth scheme.
- *Guideline 19.2 (Family law costs management – limit on costs)* – This guideline has been revised to increase the cost caps for party professional costs in family law matters to \$12,000 (from \$10,000) and for child representative costs to \$18,000 (from \$15,000).

Part 3 – Criminal law guidelines

- *Guideline 1.2 (Assistance for illegal fishing or people smuggling offences)* – This is a new guideline that limits legal assistance for illegal fishing and people smuggling offences to the following circumstances:
 - in cases involving more serious offences where it is considered that a court would require that a person be legally represented before the trial could proceed, or
 - where, under Article 14 of the International Covenant on Civil and Political Rights, the interests of justice would so require.

The change applies irrespective of whether the person charged is an Australian citizen or a foreign national.

The new guideline applies to offences under the following legislation:

- Division 5 of Part 6 of the *Fisheries Management Act 1991*, or
- Part VI of the *Torres Strait Fisheries Act 1984*, other than an offence committed by a traditional inhabitant in the course of community fishing or traditional fishing, or

¹ The former guideline provided that assistance may be granted for the resolution of a property dispute, where the separation of the parties is final, if:

- for a dispute relating to real estate: (i) the applicant is likely to retain the matrimonial home; and (ii) the applicant cannot borrow enough funds to both buy the other party's interest in the matrimonial home, and pay the anticipated legal costs of the proceedings. or
- the dispute relates to the preservation of assets, or to funds from which the applicant can only receive a deferred benefit, such as superannuation benefits.

The two requirements in (a) have been removed.

- a people smuggling offence under Subdivision A of Division 12 of Part 2 of the *Migration Act 1958*, or
- an offence ancillary to such illegal fishing or people smuggling offence due to the operation of Part 2.4 of the *Criminal Code Act 1995* (Cth):
- *Guideline 2.1 (Summary criminal prosecutions – assistance for trials in magistrates or local courts)* – This guideline has been extended to include cases where the applicant is a child thus protecting the interests of child offenders.

Part 4 – Civil law guidelines

- *Guideline 2.2 (Social security and other Commonwealth benefits – appeals to the AAT)* – This guideline has been revised to remove the financial threshold (overpayment of more than \$5,000) for which assistance is granted for appeals to the Administrative Appeals Tribunal.
- *Guideline 5 (War Veterans’ matters)* – This guideline has been revised to take account of the commencement of the new *Military Rehabilitation and Compensation Act 2004* (on 1 July 2004).
- *Guideline 7 (Proceeds of Crime)* – The guideline has been revised to:
 - ensure all proceedings under the *proceeds of Crime Act 2002* (the POC Act) are covered
 - require the legal aid commission to ensure that the costs claimed under the POC Act are fair and reasonable and in accordance with the commission’s usual fee scale in Commonwealth civil law matters, and
 - exclude the ‘appropriateness of spending limited public legal aid fund test’, which forms part of the legal aid merits test for applications for assistance for POC Act matters.
- *Guideline 8 (Extradition matters)* – This is a new guideline that provides for assistance to be granted for extradition proceedings before a magistrate under section 19 of the *Extradition Act 1988*, or for appeals from such a decision under section 21 of the Act.

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

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Question No. 35

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

Can the department provide a copy of the report of the review of legal aid funding models?

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

A copy of the report of the review of the legal aid funding model is attached.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 36

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

Can the department provide a list of the different reports of the Community Legal Centres and who has access to those reports?

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

The Community Legal Services Information System (CLSIS) produces two types of reports:

- Local Reports—only accessible by the relevant Community Legal Centre. Reports are run against the Centre's locally stored database which contains all client and activity data.
- National Processing Centre (NPC) Reports—accessible by the Attorney-General's Department, State Program Managers, the National and State Associations of Community Legal Centres, and individual Community Legal Centres via the NPC website, which is password protected. Reports are run against the centrally-held secure database which contains de-identified client, activity and financial data.

A list of available NPC Reports is attached, as well as an extract from the CLSIS *NPC and Local Reports Manual* outlining the restrictions on data access.

CLISIS National Processing Centre Reports

Activity Reports

CA1	Average Number of Activities per Client
CA1.1	Activity Summary Report
CA2.2	Activities by Law Type Casework by Number
CA2.3	Activities by Law Type CLE and by Number
CA3	Activities by Worker Type
CA4	Activities by High Level Problem Type
CA5	Activities by Service/Specific Project
CA6.1	Referrals to Other Agencies for Activities
CA6.2	Referrals from Other Agencies for Activities
CA.8	Cases Resolution by Law Type
CA.9	Cases—Duration by Percentage
CA10.1	Outputs—Funding Levels
CA10.2	Outputs—Advice/Funding Levels
CA10.3	Outputs—Casework and Non-Casework—Funding Levels
CA11	Outputs—Full Breakdown
CA12	Outputs- Volunteer Service Provision by Percentage
CA13	Outputs—Targets Progression
CA14	Activities With a Public Interest Dimension—All Problem Types
CA16	Child Support Activities

Client Reports

CC1	Client Demographics by Number
CC2	Client Demographics by Percentage
CC3	Customised Client Demographics
CC4	Customised Client Demographics
CC6	Clients by Law Type
CC7	Clients by Service Type

Management Reports

- CM1.1 Reporting Requirements—Triennial Summary—by Centre
- CM2 Reporting Requirements—Triennial Summary—Progress Aggregate
- CM4.1 Annual Reporting Requirements—State Summary
- CM4.2 Annual Reporting Requirements—Exception Report
- CM4.3 Annual Reporting Requirements—Exception Report—Extension Dates
- CM5.1 Quarterly Income and Expenditure Reports—State Summary
- CM5.2 Quarterly Income and Expenditure Reports—Exception Report
- CM5.3 Quarterly Income and Expenditure Reports—Exception Report—Extension Dates
- CM5.4 Financial Summary Report
- CM6.1 Progress Reports—State Summary
- CM6.2 Progress Reports—Exception Report
- CM6.3 Progress Reports—Exception Report—Extension Dates
- CM7 Funding Ratio Report
- CM8 Data Submission
- CM9 Annual Targets
- CM10 Annual Budget
- CM11 Quarterly Income and Expenditure Report
- CM13 Data Submission Activity Summary

Client Satisfaction Reports

- CS1 Advice and Casework
- CS2 Advice and Casework—Client Characteristics—Effectiveness Issues
- CS3 Community Legal Education
- CS4 Community Legal Education—Client Characteristics—Effectiveness Issues

Performance Reports

- PI1 Efficiency Indicator Report
- PI2 Effectiveness Indicator Report
- PI7 Centre Performance Summary Report

Problem Type Reports

- PT1 Top 10 Problem Types

Access to Data for CLSIS National Processing Centre Reports

Access to data for reports by stakeholders is restricted by the Catchment (National, State, Centre) that is selected. These access restrictions are built into the report templates.

However, in selecting from the standard variables Source Data, Service Type/Specific Project and Activity Nature, and Catchment selection, the following limitations apply:

- The Attorney-General's Department has unlimited access to all reports, with the exception of certain client reports.
- The State Level Program Managers have unlimited access to any report for their own State or Territory with the exception of certain client reports.
- The State Level Program Managers have unlimited access to any report aggregated nationally or by state or Territory, and limited access to any report for other States or Territories—a report for other States or Territories must have 3 or more service provider organisations contributing to the data before the report is produced for these users. Their access is also limited for certain client reports.
- The National Association of Community Legal Centres (NACLC) and State Associations have unlimited access to any report aggregated nationally or by State or Territory and limited access to any report for States and Territories—a report must have 3 or more service provider organisations contributing to the data before the report is produced for these users. The exception is if ALL organisations in a particular State or Territory have agreed that NACLC or State/Territory associations may access data. Their access is also limited for certain client reports.
- Centres have unlimited access to data from their own centre. Some centres may have access to more than one centre ie their User ID enables them to access more than one CLSIS Service Provider ID.

There are also general limitations on who has access to display a report. They are:

1. Reports which identify the activities of individual workers or worker types in service provider organisations should be restricted to the service provider/centre ONLY.
2. Reports which identify the activities of an individual service provider organisation or centre should be restricted to the Attorney-General's Department, the relevant State Level Program Manager and the service provider itself. Service providers can, by agreement, enable other users to access non-client identifying data about their service.

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

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Question No. 37

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

Please provide a copy of the new funding agreement for the National Pro Bono Resource Centre.

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

The new funding agreement for the National Pro Bono Resource Centre is presently being negotiated. A copy will be provided to the Committee when it is finalised.

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

Output 1.7

Question 38

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

Can reports for National Pro Bono legal resource under its reporting requirements be made available?

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

Under the present funding agreement, the National Pro Bono Resource Centre provides the Attorney-General's Department with the following:

- a Strategic Plan for the term of the Agreement which outlines the manner in which the Centre will seek to meet its key objectives
- an Annual Workplan containing performance indicators for the Centre's performance against the Workplan and the key objectives outlined in the Strategic Plan
- an Annual Report on the Centre's performance against each of the objectives outlined in the Strategic Plan
- an interim report in each financial year setting out the Centre's performance against the performance indicators identified in the Annual Workplan
- quarterly income and expenditure statements, and
- annual audited financial statements.

A copy of the latest version of these documents is attached.

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

Output 1.7

Question No. 39

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

Aboriginal and Torres Strait Islander Legal Services

In regard to the Northern Territory, there are currently four separate organisations providing Indigenous legal services.

- a) Will the tender process seek to reduce the number of providers in the Territory to one, or at most two?
- b) If so, please explain what benefit will flow to the Commonwealth or to Indigenous Territorians from this outcome, given that each of the four existing services appears to be providing cost-effective services?

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

- (a) The Government has indicated a preference for a single service provider in each State and Territory. At this time the Attorney-General has not determined whether tenders will be open to more than one region in the Northern Territory.
- (b) The Government's policy on tendering is centred on the principle of contestability. The tendering process is intended to ensure Indigenous Australians, including Northern Territorians, have access to high quality, professional and culturally sensitive legal services, and to ensure value for money. The tender makes no prejudgement about the efficiency and effectiveness of current providers.

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

Output 1.7

Question No. 40

Senator Carr asked the following question on 23 May 2005:

In May 2004 the Department advised the committee that it was hoping to have a final report on the revision of the National Indigenous Justice Strategy to the Minister by the end of June 2004. Please provide an update on the revision of the Strategy.

1. Did the Department meet its timeframe for providing advice to the Minister?
2. What has happened since then?
3. Can the Department advise when a revised Strategy is likely to be completed?
4. What has been the delay in providing submissions in response to the discussion paper released in March 2004 to the Committee (question 26 from May 2004 refers)? Please provide these submissions or a further explanation of why they cannot be provided

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

The final report on the revision of the National Indigenous Justice Strategy has been completed. The report has been approved by the Minister for Justice and Customs. The Minister also approved making copies of the responses to the Indigenous Justice Discussion Paper available to members of the Legal and Constitutional Legislation Committee. The Minister has agreed that a summary of the Report should be distributed to members of the Ministerial Taskforce on Indigenous Affairs. This Summary has been compiled by officers of the Indigenous Justice and Legal Assistance Division of the Department.

It will be a matter for the Minister and his colleagues on the Ministerial Taskforce on Indigenous Affairs to determine the manner in which the report on the revision will inform future work on Indigenous justice issues.

One copy of each submission was provided by the Department to the Secretary of the Legal and Constitutional Legislation Committee under cover of a letter dated 14 February 2005 from the First Assistant Secretary of the Criminal Justice Division. Shortly thereafter, in answer to a request, six additional copies of each submission were also provided to the Committee.

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

Output 2.1

Question No. 41

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

International Criminal Court: Has Australia received any formal, or informal, expressions of concern from other states or international organisations regarding the government's intention to enter into article 98.2 of the agreement with the United States?

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

No State or international organisation has formally expressed concern to us regarding our possible entry into an Article 98(2) Agreement with the United States.

We have engaged with other States in discussions about Article 98(2) of the Rome Statute for the ICC generally, and in particular the circumstances in which a State Party to the ICC Statute could enter into an Article 98(2) Agreement.

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

Output 2.1

Question No. 42

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

Can you advise who the referees for Mr Hannaford were?

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

The referees for Mr Hannaford were:

The Hon Nick Greiner AC

The Hon Jeff Shaw QC

Dr Colin Gellatly, Director General, Premier's Department, New South Wales

Mr Gary Byron, Deputy President, Workers Compensation Commission, New South Wales

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

Output 2.1

Question No. 43

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

In regard to the ACC, can you advise if the Prime Minister or the Prime Minister's office were informed of that appointment for two and the appointment was subsequently made for two; or whether the names came before the position, whether there were two equal candidates and no decision could be made to that by the panel and then the idea was to expand as a consequence, based on workload. If there is a timeline available, that would be helpful.

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

Following interviews on 27 June 2003, the Selection Panel recommended two equal candidates for consideration by the then Attorney-General, the Hon Daryl Williams AM QC, and the Minister for Justice and Customs, Senator the Hon Chris Ellison. Because two candidates had been found suitable by the Panel, the Attorney-General's Department did consult with the ACC on the ACC's workload and desire to accommodate two additional Examiners rather than one from the recruitment process. The ACC advised that there was adequate work and financial resources for the ACC to employ two additional Examiners. This advice was communicated to the Attorney-General and the Minister.

The Attorney-General and the Minister interviewed the two candidates in July 2003. Following the interviews, the Attorney-General and the Minister asked for written referee reports for both candidates. The last report was received and provided to the Attorney-General and the Minister on 26 August 2003.

In October 2003 the new Attorney-General, the Hon Philip Ruddock MP, sought the Prime Minister's approval for the Minister to consult the Intergovernmental Committee on the Australian Crime Commission (IGC-ACC) regarding the two candidates, as required under section 46B of the ACC Act.

On 3 November 2003, with the approval of the Prime Minister, the Minister wrote to the members of the IGC-ACC seeking support for the proposed appointments of the two candidates. No concerns were raised by the IGC-ACC on the proposed appointments.

On 1 December 2003 the Government approved the two appointments for Federal Executive Council consideration. The Federal Executive Council approved both appointments on 18 December 2003.

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

Output 2.1

Question No. 44

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

Regarding DVS, if someone disputes in 12 to 18 months time if it is deemed to be fraudulent and they want to track back to determine what response they got, how will past DVS results be flagged?

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

The prototype document verification system (DVS) is still being developed and the design has not yet been finalised. It is anticipated that the inquiring agency will retain a flag on their computer system about the outcome of a DVS check, along with the document details which they collected as part of their existing business and enrolment processes. This is consistent with existing practices where agencies verify documents with the issuing authority and record the result of that check on the relevant file within their agency.

If at any time in the future, it becomes necessary to query a response from a DVS check, this will have to be done using the records held by those agencies directly involved in the transaction i.e. the inquiring agency and the agency responsible for issuing the document.

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

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Question No. 45

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

When was the ID Theft security initiative first raised with APMC?

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

The subject has been discussed at the Australian Police Ministers' Council (APMC) on a number of occasions.

In July 2003 the APMC established a Task Force on Identity Crime which tabled its report on 17 November 2004.

On 14 April 2005 the Attorney-General and I jointly announced the Government's national identity security initiative. A report on the initiative was provided at the APMC Senior Officers' Group on 21 April 2005. At its meeting on 1 June 2005 the APMC endorsed the national identity security strategy in principle.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN FEDERAL POLICE

Question No. 46

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

Are there still AFP personnel employed in an advisory capacity in PNG; how many remain there?

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

As of 21 June 2005, there are seven AFP personnel employed in PNG as part of the Assisting Australian Police (AAP). These employees are monitoring and securing AAP assets, and are not undertaking any policing duties.

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

Output 2.1

Question No. 47

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

Has any consideration been given to diplomatic immunities for those bureaucrats or the remaining police in PNG?

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

The Enhanced Cooperation Program (ECP) with PNG falls within the portfolio responsibilities of the Minister for Foreign Affairs and Trade.

The Australian and PNG Governments are working to address the issues raised by the recent PNG Supreme Court decision on the constitutionality of the ECP. Australian and PNG Ministers met in Canberra on 26 May 2005, and Australian officials attended further meetings in PNG on 9 June 2005. These negotiations are ongoing and it is inappropriate for the Department to comment on any particular measures discussed.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 2.1

Question No. 48

Senator Ludwig asked the following questions:

- a) When was the URL www.ag.gov.au/aml last updated?
- b) When were the last five or six updates?
- c) Can you provide a timeline and what material of significance might have been added?

The answers to the honourable senator's questions are as follows:

- a) The Attorney-General's Department's Anti-Money Laundering Reform web site (AML web site) at <http://www.ag.gov.au/aml> was last updated 30 November 2004.
- b) Please see the answer to question (c).
- c) The last six updates to the AML web site, and the changes resulting from each update, were:
 - (i) 30 November 2004—updated to remove the reference to the expected introduction of the AML Bill to Parliament in 2004
 - (ii) 6 July 2004—updated information on the number and dates of meetings of the Ministerial Advisory Group and the composition of the Anti-Money Laundering implementation team in the Attorney-General's Department
 - (iii) 10 June 2004—published a Policy Principles Paper (PPP) outlining the key principles underpinning proposed changes to Australia's anti-money laundering system, and added a link to the Minister for Justice and Custom's press release on the PPP
 - (iv) 2 April 2004—updated to reflect the conclusion of the consultative forums on proposed anti-money laundering reforms and the end of the consultation period on the five industry-specific Issues Papers issued in January and February 2004
 - (v) 16 March 2004—updated to note the occurrence of the first meeting of the Ministerial Advisory Group, and
 - (vi) 5 February 2004—added invitation to, and information about, the consultative forums on proposed anti-money laundering reforms held in late February and early March 2004.

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

Output 2.1

Question No. 49

Senator Ludwig asked the following question:

Update the reply to QoN 139 from the February hearings (Incomplete sentence)

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

- a) No permissions to export human embryos were refused in 2003-04 or 2002-03. All applications for permission to export human embryos were approved on the basis that they met the criteria set out in subregulation 7(5) of the *Customs (Prohibited Exports) Regulations 1958* as follows:

An application for permission to export a human embryo whose prospective mother is alive:

- (a) must be in writing; and
- (b) must be lodged with the Minister; and
- (c) may be made only by the prospective mother; and
- (d) must be accompanied by a statement from each of the following persons, to the effect that the embryo is being exported for the purpose of implantation in the prospective mother or a relevant woman, if necessary to achieve her pregnancy
 - (i) the prospective mother;
 - (ii) the spouse, if any, of the prospective mother;
 - (iii) the director of the storage centre;
 - (iv) the medical practitioner in the country to which the embryo is being exported who will be responsible for the storage of the embryo; and
- (e) must be accompanied by a copy of the relevant agreement, if any.

Prior to 27 March 2003, there was no system for issuing permissions for the export of embryos under the *Customs (Prohibited Exports) Regulations 1958*.

- b) See answer to question 139 (a).

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 2.1

Question No. 50

Senator Ludwig asked the following question at the hearing on 23 and 24 May 2005:

How much money has been expended of the money that was earmarked in the Action Plan to Eradicate Trafficking in Persons for AGs?

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

Since responding to Senate Estimates Question Nos. 61 and 72, which Senator Ludwig asked on 2 December 2004 and 14 February 2005 respectively, the Department has not spent any further money allocated to it under the Action Plan to Eradicate Trafficking in Persons. Accordingly, the Department has expended \$88,717 to date.