

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 191

Senator Ludwig asked the following question on 2 December 2004:

What qualification does this person hold in deciding eligibility for prosecutions?

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

In deciding whether or not to prosecute, the decision-maker is guided by the *Prosecution Policy of the Commonwealth*. This requires consideration of whether:

- A *prima facie* case exists;
- There is a reasonable prospect of a conviction being secured; and
- In the light of the provable facts and the whole surrounding circumstances, the public interest requires a prosecution to be instituted.

The Customs decision-maker is not required to hold any particular tertiary qualifications as he or she relies on advice from the Commonwealth Director of Public Prosecutions (DPP) and/or the Australian Government Solicitor (AGS) as to whether or not a *prima facie* case exists and if there is a reasonable prospect of a conviction being secured.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 192

Senator Ludwig asked the following question on 2 December 2004:

Of the 430 warrant actions to search for prohibited and restrictive goods, how many resulted in convictions and or penalties

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

As a result of the 430 warrant actions, 50 people were convicted and \$769,623.26 was awarded in fines/penalties and cost to the Commonwealth.

A number of cases developed from these warrant actions are still to be prosecuted before the courts.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Question No. 193

Senator Ludwig asked the following question on 2 December 2004:

How many search warrants have been executed on market stalls to counter the increase in sales of counterfeit DVD's?

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

There has been one warrant executed by Customs in March 2004 at a market stall on the Sunshine Coast where counterfeit DVDs were being sold.

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Question No. 194

Senator Ludwig asked the following question on 2 December 2004:

- a) Does Customs receive complaints of imported or poor quality DVD's/CD's or Video games?
- b) How many complaints have been received in the 03-04 financial year?
- c) How many complaints were followed up resulting in prosecutions?

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

- a) Customs receives complaints concerning imports of pirated and counterfeit goods, including optical disks and computer games, from intellectual property rights holders and from persons who imported such goods that were subsequently seized by Customs.
- b) Customs receives complaints from a range of sources which are recorded in a general database. Specific records regarding poor quality DVD's/CD's or Video games are only maintained for those complaints that result in prosecution.
- c) One.

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Question No. 195

Senator Ludwig asked the following question on 2 December 2004:

Of the 1550 containers x-rayed each week:

- a) how many are held over by customs for further inspection?
- b) What is the average duration these containers are held over for?
- c) What reasons are generally given for the continued seizure of goods to importers?

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

Customs Container Examination Facilities (CEFs) have a notional weekly inspection (x-ray) target of 1740 containers, comprising 550 containers each for Melbourne and Sydney, 350 for Brisbane and 290 for Fremantle. The weekly target will increase to 1940 containers per week in March 2005 once the Brisbane CEF commences afternoon shifts, comprising 550 containers each for Melbourne, Sydney and Brisbane and 290 containers for Fremantle.

- (a) Customs has a notional target that 10% of containers inspected at the Container Examination Facilities should be physically examined. The ANAO's performance audit found that up to 1 September 2004, approximately 8.25% of containers inspected had been subject to further examination.
- (b) For the six months ending 1 December 2004, the average time containers were subject to inspection or examination at the CEFs was around 2 hours and 40 minutes.
- (c) Customs does not provide reasons for the detention of containers at the Container Examination Facilities, as it could potentially compromise the apprehension of parties involved in illegal activity.

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Question No. 196

Senator Ludwig asked the following question on 2 December 2004:

Is there a figure of how many Pleasure Craft or non commercial vessels enter Australian waters from overseas?

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

In 2003-04 there were 848 pleasure craft or non commercial vessels that entered Australian waters from overseas.

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Question No. 197

Senator Ludwig asked the following question on 2 December 2004:

Are non commercial vessels boarded at first port of call for immigration or customs reasons? Is customs advised prior to these vessels entering Australian waters? What process is undertaken to ensure compliance with Australian customs, immigration and quarantine requirements?

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

All arriving pleasure craft are boarded by the Australian Customs Service (Customs) at first port to carry out immigration and customs clearance.

All pleasure craft are required by law to report to Customs not later than 48 hours prior to arrival, or 24 hours prior if the voyage is less than 48 hours. However, not all vessels provide this advice prior to the craft entering Australian waters.

All arriving pleasure craft are boarded by Customs at first port to carry out immigration and customs clearance. The Australian Quarantine and Inspection Service boards all pleasure craft at first port to carry out quarantine clearance.