

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

Output: CSG

Question No. 32

Senator Ludwig asked the following question on 2 December 2004:

How many incidents of fraud were detected against the department in 2000-01, 2001-02, 2002-03, 2003-04? For each incident:

- a) What was the subject of the fraud in each instance?
- b) What was the value of the fraud?
- c) Which administrative unit was the subject of the fraud?
- d) Was anyone charged with the fraud (specify if they were employed by the Department)?
- e) Was anyone convicted of the fraud (specify if they were employed by the Department)?
- f) Were any of the defrauded items or was any of the defrauded money recovered?

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

The following agencies have advised a "Nil" or "Not applicable" response, or there were no incidents of fraud detected during the years specified:

Australasian Centre for Policing Research

Administrative Appeals Tribunal

Australian Institute of Criminology/Criminology Research Council

Australian Institute of Police Management

Australian Law Reform Commission

Australian Security Intelligence Organisation

Australian Transaction Reports and Analysis Centre

Copyright Tribunal

CrimTrac

Defence Force Discipline Appeal Tribunal

Federal Court of Australia

Federal Police Disciplinary Tribunal

High Court of Australia

Human Rights and Equal Opportunity Commission

National Native Title Tribunal

Office of the Federal Privacy Commissioner

Office of Film and Literature Classification

Office of Parliamentary Counsel

Responses from the Attorney-General's Department and remaining portfolio agencies are set out below.

Attorney-General's Department

No incidents of fraud were detected against the Department in 2001–02, 2002–03 or 2003–04.

In the period 2000-01, departmental records indicate that an internal fraud-related investigation was conducted. The investigation resulted in internal administrative action and an amount of \$900 is shown on file as being recovered as a result of this action. The matter was not referred to the Australian Federal Police. No further records are readily available.

Australian Crime Commission

Refer Attachment A.

Australian Customs Service

Refer Attachment B.

Australian Federal Police

Refer Attachment C.

Australian Government Solicitor

One incident in each of 2000-01, 2002-03, and 2003-04, and nil incidents in 2001-02.

Details of the incidents with respect to question parts a - f are provided in the table below.

Date of incident	a)	b)	c)	d)	e)	f)
2000-01	Cheque fraudulently altered	\$28,350	AGS Corporate	No	No	Alteration of the cheque was detected by the bank and the cheque was not cleared
2002-03	Cash	\$50	AGS Darwin	No	No	No
2003-04	Cheque	\$6,954.20	AGS Corporate	No	No	No

	fraudulently altered					
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Commonwealth Director of Public Prosecutions

There were two in 2000-2001 (i)(ii), none in 2001-2, one in 2002-3 (iii) and none in 2003-4.

- (a) (i) Misuse of Commonwealth property (ii) obtain leave not entitled to (iii) improperly obtain benefit by virtue of employment.
- (b) Each had a value less than \$3,000.
- (c) Administrative support units.
- (d) Yes, for (ii) (DPP employee).
- (e) Yes, for (ii) (DPP employee)
- (f) No.

Family Court of Australia

2000-01

- a) Fees waived for services provided to Court clients through falsified documentation.
- b) Up to \$50,392 revenue forgone
- c) Family Court of Australia
- d) No
- e) No
- f) No

2001-02

No fraudulent acts

2002-03

No fraudulent acts

2003-04

- a) i) Cash
ii) Cash
- b) i) \$5,547
ii) \$50
- c) Family Court of Australia
- d) No
- e) No
- f) i) \$897.52 recovered
ii) \$50 recovered

Federal Magistrates Court

One incident was detected in 2003-04 involving \$4,859 of Federal Magistrate Court fees collected by an employee of the Family Court of Australia, which provides registry services under arrangements made under the Federal Magistrates Act. Further information is included in the Family Court of Australia response to this question.

Insolvency and Trustee Service Australia

a) Insolvency and Trustee Service Australia (ITSA) is an executive agency that administers and regulates Australia's personal insolvency system under the *Bankruptcy Act 1966*. That Act creates a role of Official Trustee in Bankruptcy, which ITSA fulfils. The Official Trustee in Bankruptcy administers bankruptcies and other personal insolvency arrangements when a private trustee or other administrator is not appointed.

ITSA also maintains a bankruptcy fraud investigation role, investigating possible offences under the *Bankruptcy Act 1966*. This usually involves possible offences in bankrupt estates that the Official Trustee or private trustees administer. Those instances of "fraud" do not involve fraud directly against ITSA and therefore are not reported in this answer.

For the periods 2000-01 to 2003-04, one instance of alleged fraud against ITSA was detected, in 2003-04. It involved a former ITSA employee who may have misappropriated funds by falsifying claims in estates being administered by the Official Trustee. Subsequent investigations identified other instances where the former employee allegedly defrauded from not only estates administered by the Official Trustee but also estates administered by a private trustee and from the Stevedoring Industry Reform Small Business Compensation Fund.

- b) The total amount involved is in excess of \$500,000.
- c) See a) above.
- d) The former ITSA employee is facing 17 charges.
- e) The case is currently before the courts.
- f) The extent of recoveries will depend on the outcome of the legal proceedings.

QON 32 – AUSTRALIAN CRIME COMMISSION

The Australian Crime Commission was created on 1 January 2003. The following answer also includes its predecessor agencies, the National Crime Authority and the Australian Bureau of Criminal Intelligence, prior to 1 January 2003.

“Fraud is dishonestly obtaining a benefit by deception or other means”*

*Attorney-General’s Department, Commonwealth Fraud Guidelines, May 2002.

Based on annual fraud returns to the Attorney General’s Department the following statistics are provided on incidences of fraud detected:

2000-01	1
2001-02	1
2002-03	Nil
2003-04	4

Specific incidences of fraud are as follows:

2000-01

Incident 1

- a) Credit Card Skimming
- b) Not known
- c) Corporate
- d) Yes - Not an NCA employee
- e) Yes - Not an NCA employee
- f) No

2001-02

Incident 1

- a) Fraudulent leave claim
- b) Not Known
- c) Operations
- d) No
- e) No
- f) No

2002-03

a) to f) not applicable

2003-04

Incident 1

- a) Fraudulent job application from external applicant
- b) Not known
- c) Operations
- d) No, applicant was not employed
- e) No
- f) No

Incidents 2 – 3

- a) Leaking of interview questions during a recruitment process
- b) Not known
- c) Operations
- d) No, disciplinary action was undertaken against two ACC employees, one was demoted while the other's employment was terminated
- e) No
- f) No

Incident 4

- a) Misuse of credit card
- b) \$267.50
- c) Operations
- d) No, administrative action was undertaken against an ACC employee who received a warning
- e) No
- f) No

In addition, the annual fraud returns to the Attorney General's Department included the following incidents of activity where the extent of fraudulent activity was unclear and the benefits obtained were unquantifiable.

2000-01

10 Incidents

- a) Inappropriate use of NCA's computer system
- b) Nil
- c) Operations and Corporate
- d) No
- e) No
- f) Not applicable

1 Incident

- a) Theft of Social Club money
- b) \$176
- c) Social Club
- d) Yes - NCA Contractor
- e) Yes - NCA Contractor
- f) Yes

1 Incident

- a) Lost and Stolen Assets*
- b) \$16,110
- c) Operations
- d) No
- e) No
- f) No

* Details of lost stolen assets and have been incorporated into the ACC's responses to QoN's 31 and 33.

2001-02

1 Incident

- a) Alleged misuse of internet
- b) Not known
- c) Operations
- d) No
- e) No
- f) No

2003-04

2 Incidents

- a) Inappropriate use of ACC's computer system
- b) Nil
- c) Operations and corporate
- d) No
- e) No
- f) No

1 Incident

- a) Theft of mobile phone by contractor
- b) \$100
- c) Corporate
- d) Yes - NCA contractor
- e) No
- f) Yes

1 Incident

- a) Misuse of information
- b) Not known
- c) Operations
- d) No
- e) No
- f) No

1 Incident

- a) Contractor ignoring security access rules
- b) Not known
- c) Corporate and operations
- d) No
- e) No
- f) No

1 Incident

- a) Lost cash
- b) \$185.05 in total
- c) Operations
- d) No
- e) No
- f) Yes, the \$185.05 was recovered

2 Incidents

- a) Corruption
- b) Not known
- c) Operations
- d) No
- e) No
- f) No

QON 32 – AUSTRALIAN CUSTOMS SERVICE

Incidents of Fraud

Financial Year	Internal	External
2000-01	36	693
2001-02	34	637
2002-03	42	681
2003-04	80	634

Internal refers to allegations of internal fraud

External refers to fraud referrals accepted as cases for investigation

(a) Subjects of substantiated cases of Internal Fraud*

Financial Year	Theft ¹	Computer facilities ²	Release of information ³	Misuse ⁴
2000-01	2	7	4	2
2001-02	5	4	1	1
2002-03	2	17	2	1
2003-04	9	35	2	2

1. Theft of Commonwealth Property

2. Inappropriate use of Computer, IT or internet facilities

3. Unlawful release of information

4. Misuse of Commonwealth facilities (non IT)

* Incidents of fraud differ to cases undertaken due to:

- a) Insufficient evidence
- b) A breach not being identified
- c) The incident being outside Customs Guidelines
- d) The offence being referred to another agency

Subjects of External Frauds accepted as cases for investigation

Financial Year	Revenue Matters	Community Protection Matters
2000-01	90	603
2001-02	82	555
2002-03	67	614
2003-04	66	568

(b) Customs does not capture information in a form that readily enables an answer to this question.

(c) Refer to question 31 (c).

(d) Customs Prosecutions

FY	Internal Fraud ¹	External Fraud
2000-01	0	229
2001-02	1	319
2002-03	1	317
2003-04	0	309

1. Prosecution of two Customs employees

(e) Data unavailable in electronic format.

(f) Defrauded items or defrauded money recovered following investigations of fraud:

Financial Year	Internal	External¹
2000-01	\$10,000	Data unavailable
2001-02	\$5070	Data unavailable
2002-03	\$533	\$2,250,240
2003-04	\$588	\$1,317,594

1. Does not include monies recovered by the Commonwealth Director of Public Prosecutions

QON 32 – AUSTRALIAN FEDERAL POLICE

The following questions have been answered in line with the AFP's responses to the Attorney General's Fraud Control Annual Reporting for the years 2000-01, 2001-02, 2002-03 and 2003-04.

The answers incorporate issues defined as fraud as per the Commonwealth Fraud Control Guidelines as outlined below:

Definition of Fraud

Dishonesty obtaining a benefit by deception or other means.

2.1 *This definition includes:*

- *Theft;*
- *Obtaining property, a financial advantage or any other benefit by deception;*
- *Causing a loss, or avoiding or creating a liability by deception;*
- *Providing false or misleading information to the Commonwealth, or failing to provide information where there is an obligation to do so;*
- *Making, using or possessing forged or falsified documents;*
- *Bribery, corruption or abuse of office;*
- *Unlawful use of Commonwealth computers, vehicles, telephones and other property or services;*
- *Relevant bankruptcy offences; and*
- *Any offences of a like nature listed above.*

2.2 *The benefits referred can either be tangible or intangible. Examples include:*

Hacking into, or interfering with a Commonwealth computer system;
Using a false identity to obtain income support payments;
Using Commonwealth systems to gain access to other systems without authority;
Charging the Commonwealth for goods or services that are incomplete or not delivered;
Hiding or disposing of assets by bankrupts to avoid paying creditors; and making false statements under the Commonwealth Electoral Act 1918.

There were 14 cases of fraud detected in the department in 2000-01. Some of the cases involved multiple incidents.

- a) 15 incidents of accessing a secure physical location (site) without authorisation;
4 incidents of obtaining a physical asset;
6 incidents of obtaining a financial asset including making dishonest claims for payment;
5 incidents of making false statements; and
1 incident of falsifying a record.
- b) The value of the incidents is undeterminable.

c) Unknown

d) No

e) No

f) Of the incidents outlined in a) above, most of the fraudulent acts were intangible and any recovery of any monies for that period was not recorded.

There were 6 cases of fraud detected in the department in 2001-02. Some of the cases involved multiple incidents.

a) 4 incidents of obtaining a financial asset including making dishonest claims for payment;
1 incident of obtaining information; and
6 incidents of obtaining an intangible benefit.

b) The value of the incidents is undeterminable.

c) Unknown

d) Nil. 4 incidents were dealt with administratively, 2 employees resigned, retired or otherwise left the organisation

e) No

f) Of the incidents outlined in a) above, most of the fraudulent acts were intangible and any recovery of any monies for that period was not recorded.

There were 10 cases of fraud detected in the department in 2002-03.

a) Financial (4 cases) estimated loss \$2138;
Physical Assets (2 cases) estimated loss \$2594;
Information (3 cases) estimated loss: unable to be determined; and
Benefits (1 case) estimated loss: unable to be determined.

b) As per answer a) above

c) Unknown

d) Nil. 5 incidents were dealt with administratively, 5 employees resigned, retired or otherwise left the organisation.

e) No

f) By administrative remedy \$2594 was recovered.

There were 8 cases of fraud detected or still under investigation in the department in 2003-04.

- a) 1 incident of theft;
4 incidents of obtaining property, a financial advantage or any other benefit by deception;
2 incidents of bribery, corruption or abuse of office; and
1 incident of unlawful use of Commonwealth vehicle.
- b) The estimated value of losses for financial frauds \$677.00
The estimated value of losses for physical assets \$ 13650.00
- c) Unknown
- d) NIL. 1 of the incidents was dealt with administratively, 1 of the incidents had insufficient evidence to prosecute, 1 member's employment was terminated and 5 are (as at 21 January 2005) yet to be finalised.
- e) Not as at 21 January 2005.
- f) Total amount of monies recovered was \$635.00