

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

Output 2.2

Question No. 83

Senator Ludwig asked the following question on 2 December 2004:

- (a) Has the Attorney-General's Department received any request for advice, or itself requested legal advice, regarding whether Mr Hicks could either face trial or be convicted in Australia of the charges that he currently faces in Guantanamo Bay?
- (b) If so, what was the nature of such request or advice?
- (c) If a request for advice, has the Attorney-General's Department responded to any such request?
- (d) Has any such request or advice been amended or otherwise altered as a result of this recent US Supreme Court Decision?

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

- (a) - (d) The Commonwealth Director of Public Prosecutions has advised that Mr Hicks cannot be successfully prosecuted in Australia for an offence against the laws that applied prior to his capture in December 2001.

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

Output 2.2

Question No. 84

Senator Ludwig asked the following question on 2 December 2004:

Willie Brigitte

- (a) Has the Attorney-General's Department sought any contact with Mr Brigitte following his expulsion from Australia?
- (b) If so, has the Attorney-General's Department actually made any such contact?
- (c) If so, what was the nature of that contact?
- (d) If so, has Attorney-General's Department sought any legal advice in relation to this issue?

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

- (a) – (d) No.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
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Output 1.4

Question No. 85

Senator Ludwig asked the following question at the hearing on 2 December 2004:

- (a) Has the Attorney-General's Department recently received any request for any legal advice, or itself requested any legal advice, regarding the invasion of Iraq?
- (b) If so, what was the nature of such request or advice?
- (c) If a request for advice, has the Attorney-General's Department responded to any such request?
- (d) If so, what was the nature of that advice?

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

Consistent with the practice of successive Governments, information is not given on whether or not legal advice has been sought or on the content of any advice that may have been given. However, at a very general level, we can say that the Attorney-General's Department is often called upon to provide advice on international law relevant to Australia's engagement overseas. This includes advice relating to Australia's continuing role in Iraq.

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

Output 2.1

Question No. 86

Senator Ludwig asked the following question on 2 December 2004:

Human Embryos

- a) Did the Department supply advice on the export of human embryos under the Customs (Prohibited Exports) regulation 1995 in 2003-2004?
- b) Were any human embryos exported out of Australia under this act in 2003-2004?

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

- a) Yes. The Department supplied advice to the Minister for Justice and Customs on the operation of the provisions in the *Customs (Prohibited Exports) Regulations 1958* dealing with the export of human embryos.
- b) Yes. The Minister granted 20 permissions to export human embryos during 2003-2004 under the *Customs (Prohibited Exports) Regulations 1958*. Those regulations also require the Minister for Justice and Customs to lay before each House of Parliament a report setting out information about permissions granted for the export of human embryos. This is to occur twice yearly; both reports for 2003-2004 were tabled.

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

Output 2.1

Question No. 87

Senator Ludwig asked the following question on 2 December 2004:

People Smuggling

- a) Has the Attorney-General's Department been involved [in/with?] assisting Australia to obtain reciprocal assistance from other countries in the prosecution of people involved in people smuggling?
- b) Does this reciprocal assistance involve the signing of formal treaties, memorandums of understanding, or other forms [of?] written agreements?
- c) If yes please supply a list of all countries with whom Australia has negotiated such agreements, the date of signing, and the nature of the agreement.
- d) Does Australia have any formal agreement dealing with people smuggling?
- e) What form does that agreement take?
- f) When was that agreement finalised?
- g) Is Australia currently negotiating agreement associated with people smuggling with any other countries? If so please supply a list of these countries.

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

- a) Yes.
- b) Yes.
- c) Yes. Below is a list of all countries with whom Australia has negotiated such agreements, the date of signing, and the nature of the agreements.

(i) Extradition agreements

The following extradition agreements allow extradition of persons accused or convicted of people smuggling offences where both countries have people smuggling offences and all other requirements of the extradition agreement are satisfied:

Country	Date of signing	Nature of the agreement
Federal Republic of Germany	14 April 1987	Treaty between Australia and the Federal Republic of Germany concerning Extradition
Federative Republic of Brazil	22 August 1994	Treaty on Extradition between Australia and the Federative Republic of Brazil
Finland	7 June 1984	Treaty between Australia and Finland concerning Extradition
	10 September 1985	Protocol between Australia and Finland amending the Treaty concerning Extradition

Country	Date of signing	Nature of the agreement
Greece	13 April 1987	Treaty on Extradition between Australia and the Hellenic Republic
Hong Kong	15 November 1993	Agreement for the Surrender of Accused and Convicted Persons between the Government of Australia and the Government of Hong Kong
Ireland	2 September 1985	Treaty on Extradition between Australia and Ireland
Kingdom of Belgium	19 November 1986	Treaty on Extradition between Australia and the Kingdom of Belgium
Latvia	14 July 2000	Treaty on Extradition between Australia and the Republic of Latvia
Luxembourg	27 April 1987	Treaty on Extradition between Australia and the Grand Duchy of Luxembourg
Monaco	19 October 1988	Treaty on Extradition between the Government of Australia and the Government of His Serene Highness the Prince of Monaco
Netherlands	5 September 1985	Treaty on Extradition between Australia and the Kingdom of the Netherlands
Norway	9 September 1985	Treaty between Australia and Norway concerning Extradition
Paraguay	19 December 1997	Treaty on Extradition between Australia and the Republic of Paraguay
Republic of Argentina	6 October 1988	Treaty on Extradition between the Government of Australia and the Government of the Republic of Argentina
Republic of Austria	29 March 1973 18 August 1985	Treaty between Australia and the Republic of Austria concerning Extradition Protocol between Australia and the Republic of Austria amending the Treaty concerning Extradition done at Canberra on 29 March 1973
Republic of Chile	6 October 1993	Treaty on Extradition between Australia And the Republic of Chile
Republic of Ecuador	13 October 1988	Treaty on Extradition between the Government of Australia and the Government of the Republic of Ecuador
Republic of France	31 August 1988	Treaty on Extradition between the Government of the Republic of France and the Government of Australia
Republic of Hungary	25 October 1995	Treaty on Extradition between Australia and the Republic of Hungary
Republic Indonesia	22 April 1992	Treaty between Australia and the Republic of Indonesia (<i>Note that this treaty merely provides a discretion for the requested country to grant extradition for people smuggling offences</i>)
Republic of Italy	26 August 1985	Treaty of Extradition between Australia and the Republic of Italy
Republic of Korea	15 September 1990	Treaty on Extradition between Australia and the Republic of Korea
Republic of the Philippines	7 March 1988	Treaty on Extradition between Australia and the Republic of the Philippines
Poland	3 June 1988	Treaty between Australia and the Republic of Poland on Extradition
Republic of Portugal	21 April 1987	Treaty on Extradition between Australia and the Republic of Portugal
Republic of South Africa	9 December 1998	Treaty on Extradition between Australia and the Republic of South Africa
Republic of Turkey	3 March 1994.	Treaty on Extradition between Australia and the Republic of Turkey
Republic of Venezuela	11 October 1988	Treaty on Extradition between Australia and the Republic of Venezuela
Spain	22 April 1987	Treaty on Extradition between Australia and Spain

Country	Date of signing	Nature of the agreement
Sweden	20 March 1973	Treaty Between Australia and Sweden concerning Extradition
	6 September 1985	Protocol between Australia and Sweden amending the Treaty Concerning Extradition Done At Stockholm On 20 March 1973
Switzerland	29 July 1988	Treaty Between Australia and Switzerland on Extradition
United Mexican States Mexico	22 June 1990	Treaty on Extradition between Australia and the United Mexican States
United States of America	14 May 1974	Treaty on Extradition between Australia and the United States of America
	4 September 1990	Protocol amending the Treaty on Extradition between Australia and the United States of America of May 14, 1974

(ii) Mutual assistance agreements

The following mutual assistance agreements enable Australia and the listed countries to provide mutual assistance to each other in criminal matters, including people smuggling matters:

Country	Date of signing	Nature of the agreement
Argentine Republic	30 August 1990	Treaty Between the Government of Australia and the Government of the Argentine Republic on Mutual Assistance in Criminal Matters
Canada	19 June 1989	Treaty Between the Government of Australia and the Government of Canada on Mutual Assistance in Criminal Matters
Finland	22 June 1992	Treaty Between Australia and Finland on Mutual Assistance in Criminal Matters
French Republic	14 January 1993	Treaty Between the Government of Australia and the Government of the French Republic on Mutual Assistance in Criminal Matters
Luxembourg	24 October 1988	Treaty Between Australia and the Grand Duchy of Luxembourg on Mutual Assistance in Criminal Matters
Greece	4 July 2002	Treaty Between Australia and the Hellenic Republic on Mutual Assistance in Criminal Matters
Hong Kong	23 September 1996	Agreement Between the Government of Australia and the Government of Hong Kong concerning Mutual Legal Assistance in Criminal Matters
Netherlands	26 October 1988	Treaty Between Australia and the Kingdom of the Netherlands on Mutual Assistance in Criminal Matters
Monaco	13 September 1999	Treaty Between the Government of Australia and the Government of His Serene Highness the Prince of Monaco on Mutual Assistance in Criminal Matters
Republic of Austria	20 October 1988	Treaty Between Australia and the Government of the Republic of Austria on Mutual Assistance in Criminal Matters
Republic of Ecuador	16 December 1993	Treaty Between the Government of Australia and the Government of the Republic of Ecuador on Mutual Assistance in Criminal Matters
Republic of Hungary	25 October 1995	Treaty Between Australia and the Republic of Hungary on Mutual Assistance in Criminal Matters
Republic of Indonesia	27 October 1995	Treaty Between Australia and the Republic of Indonesia on Mutual Assistance in Criminal Matters <i>(Note that this treaty has limited application to people smuggling)</i>
Republic of Italy	28 October 1988	Treaty on Mutual Assistance in Criminal Matters Between Australia and the Republic of Italy

Country	Date of signing	Nature of the agreement
Republic of Korea	25 August 1992	Treaty Between Australia and the Republic of Korea on Mutual Assistance in Criminal Matters
Republic of Portugal	4 July 1989	Treaty Between Australia and the Republic of Portugal on Mutual Assistance in Criminal Matters
Republic of the Philippines	28 April 1988	Treaty Between Australia and the Republic of the Philippines on Mutual Assistance in Criminal Matters
Spain	3 July 1989	Treaty on Mutual Assistance in Criminal Matters Between Australia and the Kingdom of Spain
Israel	24 August 1994	Treaty Between the Government of Australia and the Government of the State of Israel on Mutual Legal Assistance in Criminal Matters
Sweden	18 December 1998	Treaty Between Australia and Sweden on Mutual Assistance in Criminal Matters
Switzerland	25 November 1991	Treaty Between Australia and Switzerland on Mutual Assistance in Criminal Matters
United Kingdom	6 February 1997	Agreement Between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the investigation, restraint and confiscation of the proceeds and instruments of crime
	3 August 1988	Treaty Between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the investigation of drug trafficking and confiscation of the proceeds of drug trafficking
	11 February 1995 and 18 May 1995	Exchange of Letters between the Attorney-General's Department and the Home Office dated 11 February 1995 and 18 May 1995
United Mexican States	6 May 1991	Treaty Between Australia and the United Mexican States on Mutual Legal Assistance in Criminal Matters
United States of America	30 April 1997	Treaty Between the Government of Australia and the Government of the United States of America on Mutual Assistance in Criminal Matters
	30 April 1997	Exchange of Notes dated 30 April 1997

(d) to (f) Yes. In addition to the agreements listed at (c) above which enable Australia to obtain reciprocal assistance from other countries in the prosecution of people involved in people smuggling, Australia is a party to the following agreements and arrangements dealing with people smuggling:

(i) *Multilateral agreements*

Name of agreement	Date of signing	Date of ratification
United Nations Convention against Transnational Organised Crime	13 December 2000	27 May 2004
United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air	21 December 2001	27 May 2004

(ii) *Bilateral arrangements*

Country	Date of signing	Nature of the agreement
Afghanistan	6 May 2003	Memorandum of Understanding
Cambodia	14 March 2004	Exchange of Letters between the Cambodian National Police and the Australian Federal Police on the Transnational Crime Team Based on Phnom Penh
	4 March 2002	Memorandum of Understanding
Colombia	10 July 2003	Memorandum between the Ministry of National Defence of the Republic of Colombia through the Colombia National Police and the Australian Federal Police in relation to Cooperation on Law Enforcement Issues and the Exchange of Information
Colombia (continued)	9 July 2003	Memorandum of Understanding between the Administrative Department of Security of Colombia and the Australian Federal Police in relation to Cooperation on Law Enforcement Issues and the Exchange of Information Impacting on Both Agencies (<i>Note that people smuggling matters are not specifically referred to in this Memorandum of Understanding</i>)
	9 July 2003	Letter of Intent to Strengthen Cooperation and Information Sharing in Criminal Matters (<i>Note that people smuggling matters are not specifically referred to in this Memorandum of Understanding</i>)
East Timor	28 February 2002	Memorandum of Understanding
Fiji	29 April 2003	Memorandum of Understanding
Indonesia	13 June 2002	Memorandum of Understanding Between the Government of the Republic of Indonesia and the Government of Australia on Combating Transnational Crime and Developing Police Cooperation (<i>Note that people smuggling matters are not specifically referred to in this Memorandum of Understanding</i>)
Laos	30 April 2003	Memorandum of Understanding
Malta	7 August 2001	Memorandum of Understanding
Papua New Guinea	9 February 1994	Memorandum of Understanding
Philippines	14 July 2003	Memorandum of Understanding Between the Republic of Philippines and the Australian Federal Police on Combating Transnational Crime and Developing Police Cooperation
South Africa	2 August 2002	Joint Ministerial Statement
Sri Lanka	29 April 2003	Joint Ministerial Statement
Thailand	6 July 2001	Joint Ministerial Statement
Thailand	17 June 2003	Memorandum of Understanding between the Royal Thailand Police and the Australian Federal Police on Combating Transnational Crime and Developing Police Cooperation
USA	4 July 2003	Memorandum of Understanding between the Australian Federal Police and the El Paso Intelligence Agency [<i>Note: this agency forms part of the United States Drug Enforcement Administration. People smuggling matters are not specifically referred to in this Memorandum of Understanding</i>)]

- (g) Australia is actively engaged in negotiating a number of agreements concerning international cooperation in matters that would impact on people smuggling, either directly or indirectly. The details of current or future negotiations are confidential.

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

Output 2.1

Question No. 88

Senator Ludwig asked the following question on 2 December 2004:

For the National Community Crime Prevention Program, please detail

- a) The date on which the fund was first announced;
- b) Who made the announcement?
- c) The funding allocation to the program for each of the next four financial years;
- d) The total number of applications for funding since the program commenced;
- e) The number of approved projects under the program in financial year since the program commenced;
- f) A complete list of approved projects since the program commenced;
- g) The nature of each of these approved projects;
- h) The value of each of these approved projects;
- i) The person or organisation that successfully applied for the funding grant; and,
- j) The location and electorate of each of these approved projects.

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

- a) and b) The National Community Crime Prevention Programme was announced by the Prime Minister on 7 May 2004.
- c) The initial allocation was \$20 million over four years with a further \$10 million for 2004-2005 and 2005-2006. Commitments to further extend the programme were made in the 2004 election campaign. As at 17 December 2004 the allocations were 2004-2005 \$10 million; 2005-2006 \$10 million; 2006-2007 \$5 million; 2007-2008 \$5 million.
- d) 186 applications were received by 30 June and were considered for the first round of funding. The second funding round was advertised on 13 November 2004 and closes 7 February 2005. From 1 July 2004 to 20 December 2004, 54 applications were received, which will be considered for the second round of funding.
- e) Thirty-four projects were approved under the first round of the NCCPP.
- f), g), h), i) and j) The attached list (**Attachment A**) outlines the 34 successful recipients of grants from the first round of applications under the NCCPP by stream, including the names and descriptions of the funded projects and funding amounts (excluding GST), and State or Territory in which they operate. This information is also published on the Australian Government's Crime Prevention and Community Safety website: www.crimeprevention.gov.au. Electoral localities for first round recipients are indicated with the description of each project.

First round recipients of grants under the NCCPP

The following is a list by stream of the thirty four successful recipients of grants from the first round of applications under the NCCPP. The funding amounts below do not include GST.

Community Partnership Stream

- **Shire of Broome – The Broome Hype Project (Helping Young People Engage) - \$307,714 (WA).** A collaborative initiative to reduce anti social behaviour among youth and to build positive community relationships. (Electorate of Kalgoorlie)
- **Lutheran Community Care – Rural Men and Relationships - \$256,000 (SA).** A project to better equip service providers in the Mount Gambier region to work with men who are perpetrators of domestic violence. (Electorates of Adelaide and Barker)
- **Mission Australia – Family Enhancement Program - \$400,000 (Qld).** A project strengthening support for primary school aged children and their carers in the Inala area. (Electorate of Oxley).
- **Barnardos Australia – Kids Friends Program – Queanbeyan - \$200,000 (NSW).** A program that fosters resilience in children through mentoring and providing positive adult role models. (Electorates of Canberra and Eden Monaro).
- **Glenorchy City Council – The Chance on Main Programme - \$267,410 (Tas).** An early intervention project for young people at risk aged 14-19 years. (Electorate of Denison).
- **Lismore City Council – Closing the Gaps - \$274,000 (NSW).** A project to reduce the incidence of youth crime. (Electorate of Page).
- **Hills Community Support Group – Intervention and Diversion Project - \$331,000 (WA).** A project to build positive skills and self esteem in young people who are at risk of becoming involved in crime. (Electorate of Pearce).

Indigenous Community Safety Stream

- **Aboriginal Resources and Development Inc – Rom Ga Dharra - \$150,000 (NT).** A project to develop educational materials about the Australian legal system in local indigenous languages. (Electorate of Lingiari).
- **Tangentyere Council – Night Patrol Brokerage - \$150,000 (NT).** A project to provide prompt, responsive and flexible brokerage support to remote area night patrols. (Electorate of Lingiari).
- **Brisbane Indigenous Media Association – Keepin’ Safe - \$120,000 (QLD).** A project to prepare on air programs addressing local crime prevention issues. (Electorate of Moreton).
- **Kabbarli Home and Community Care – Walparra Kaduwna - \$133,217 (QLD).** A project to provide leadership training to 15 nominated indigenous youth and to organise activities with a view to addressing truancy, violence and anti-social behaviour. (Electorate of Fisher).

- **Bibelmen Mia Aboriginal Corporation – Crime Prevention through Culture - \$137,000 (WA).** A project to utilise the Wardan Aboriginal Cultural Centre to provide crime prevention through cultural awareness programs for people at risk of drug abuse and family violence. (Electorate of Forrest).
- **Joining in the Dreaming – Norta Norta Ngallia - \$150,000 (NSW).** This project offers a holistic approach to learning by providing an environment where young indigenous youths can develop a respect for themselves and their culture. (Electorate of Parkes).
- **Kowanyama Justice Group – Kowanyama Crime Prevention, a community approach - \$150,000 (QLD).** This project involves the implementation of a prevention program that looks at modifying or eliminating risk factors for indigenous school children in Year 7. (Electorate of Leichhardt).

Community Safety Stream

- **UnitingCare Burnside – Kinks and Bends - \$50,219 (NSW).** An educational package for young people which explores sexual violence in young people's lives. (Electorate of Dobell).
- **Community Solutions Inc – Sunshine Coast SafeLink Project - \$150,000 (QLD).** A project to reduce the fear of crime among older Australians through improved access to information about improving personal, financial and property safety. (Electorate of Fisher).
- **Strathbogie Shire Council – Nagambie Youth for Youth - \$76,500 (VIC).** A peer support project to reduce the incidence of underage drinking and minor criminal activity through a program of educational and other support activities. (Electorate of Indi).
- **City of Cockburn – City Drive through Art Gallery - \$110,500 (WA).** A diversionary program for youth to prevent graffiti by working with local businesses to provide space for youth to paint murals while being mentored and provided with ongoing skills. (Electorate of Fremantle).
- **Newington Security Sub Committee – Translation of security manual - \$6,000 (NSW).** A project to translate the Newington security booklet into their community languages. (Electorate of Reid).
- **St John of God Family Services – Day Respite - \$130,935 (NSW).** A project to provide respite care for the children with challenging behaviours and for parents to attend behaviour management education. (Electorates of Paterson and Newcastle).
- **Shire of Laverton – Active Youth Active Futures - \$80,000 (WA).** A project to assist youth and families at risk of crime and drug dependence. (Electorate of Kalgoorlie).
- **Primary After School Sports Inc – The PASS Program (NSW) - \$97,421.** A program aimed at primary school age children who are already displaying anti-social and undesirable behaviour. It will offer sporting and recreational programs during school time, after school and during school holidays. (Electorates of Hume, Eden Monaro and Fisher).
- **Chinese Australian Services Society – CASS Chinese Crime Prevention - \$150,000 (NSW).** A project aimed at reducing the fear of crime among Chinese speakers by raising awareness

through a media campaign, a Chinese crime prevention booklet and web page and counselling services. (Electorate of Watson)

- **Townsville City Council – Crime Prevention Advice Translations - \$58,133 (QLD).** A project to translate the Townsville City Council Crime Prevention Advice Guide into community languages other than English for migrants and international visitors. (Electorate of Herbert).
- **Yoorana Women’s Domestic Violence and Resource Service – B-Safe Maryborough - \$44,046 (QLD).** A project aiming to reduce the negative effects on children’s actual experiences (as witnesses and victims) of domestic violence through the use of education awareness programs. (Electorate of Wide Bay).
- **City of Greater Dandenong – Safe Streets through Community Arts - \$148,500 (VIC).** A project involving a variety of agencies engaging the whole community in the arts, graffiti prevention and community safety initiatives. (Electorates of Bruce and Holt).
- **Armadale, Gosnells and Districts Youth Resources Inc – Stairways Project - \$138,398 (WA).** A project to provide a range of services to support young people at secondary school who may be at high risk of exclusion or truancy. (Electorates of Hasluck and Canning).
- **Patricia Giles Centre – Women’s Safety project - \$44,490 (WA).** A project providing individual level strategies for single women including women with children who are at risk of property crime, family violence, antisocial behaviour and fear of crime. (Electorate of Moore).
- **Liverpool Women’s Resource Centre – Women’s Safety Project - \$78,653 (NSW).** A project focusing on reducing women’s fear of crime and improving women’s safety and security at home, at work and when out and about by developing community education programs targeting women. (Electorates of Werriwa and Fowler).
- **Primary After School Sports Inc – The PASS Program (QLD) - \$150,000.** A program aimed at primary school age children who are already displaying anti-social and undesirable behaviour. It will offer sporting and recreational programs during school time, after school and during school holidays. (Electorate of Fraser).
- **Mission Australia – Keep it Real - \$129,000 (SA).** A community education project led by young people to address negative media myths and break down the barriers between younger and older residents in the northern Onkaparinga area. (Electorate of Barker).
- **Plenty Valley Community Health Inc – Northern Community Intervention Program - \$149,363 (VIC).** An early intervention and crisis program targeting both adult offenders who have re-offended, have substance abuse problems, are perpetrators of domestic violence and/or may have committed violent crime, and their families. (Electorate of McEwen).
- **Victorian Arabic Social Services – Australian Arabic Community: Contribution to Safety and Crime Prevention - \$150,000 (VIC).** A project facilitating the active participation of the Arabic community in the northern region of Melbourne in local community safety and crime prevention initiatives. (Electorate of Calwell).

- **Wyndham City Council - Graffiti Free-Wyndham Proud - \$130,651 (VIC).** A project aiming to reduce the negative impact of graffiti in the Wyndham municipality through a partnership with Council, police, local agencies, residents and traders. (Electorate of Lalor).

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

Output 2.1

Question No. 89

Senator Greig asked the following question on 2 December 2004:

- a) When was the most recent communication between Australia and the United States regarding the United States' request for Australia to enter into an Article 98 Agreement under the Rome Statute?
- b) How many meetings have been held for the purpose of negotiating this issue, or how many times has it been discussed, since the beginning of this year?
- c) Are negotiations ongoing?
- d) Does the Government maintain it's in principle willingness to enter into such an agreement?
- e) If so, why?
- f) When are negotiations expected to be completed?

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

- a) and b) The details of bilateral discussions between Australia and the United States about a possible agreement under Article 98(2) of the Rome Statute of the International Criminal Court are confidential.
- c) Yes.
- d) Yes.
- e) The Rome Statute of the International Criminal Court, in Article 98(2), provides for the making of these Agreements. It is appropriate for the Australian Government to consider any request from any country for an agreement in accordance with the provisions of the Statute. Any such agreement must be consistent with Australia's obligations as a State Party to the Rome Statute of the International Criminal Court, and its obligations under extradition treaties with other countries.
- f) Negotiations are continuing. There is no timetable for the resolution of these negotiations.

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

Output 2.2

Question No. 90

Senator Greig asked the following question on 2 December 2004:

Australian detainees at Guantanamo Bay:

- (a) Is the Government aware of any plans to charge Mamdouh Habib and list his matter for trial?
- (b) If so, when is this expected to occur?
- (c) Has the Government, at any time since David Hicks and Mamdouh Habib were taken into United States' custody, explored with the United States the possibility of bringing each of these men home to Australia prior to any hearing before a US military commission?
- (d) If so, what was the response of the United States and when were these issues discussed?
- (e) Has the Australian Government conducted any independent investigation into allegations that David Hicks and Mamdouh Habib have been abused while in US custody?
- (f) If not, why not?
- (g) If yes, how was this investigation undertaken and what were its findings?
- (h) Did ASIO or any other Australian Government officials visit Mamdouh Habib in custody following his arrest in Pakistan and prior to his transfer to Egypt?
- (i) Was any ASIO officer or any other Australian official aware of the United States' plans to transfer Mr Habib to Egypt?
- (j) If so, were any representations made to the United States to prevent this transfer? What were those representations and what was the United States' response?
- (k) If no representations were made to the United States, why not?
- (l) If Australia had no prior knowledge of Mr Habib's transfer to Egypt, does the Government agree that the transfer of an Australian citizen to another country by the US without advising Australia, has implications for Australia's relationship with the United States?

- (m) Can the Government now confirm that Mr Habib was, in fact, transferred to Egypt for a period of time?
- (n) Does the Government have any information available to it suggesting that Mr Habib was subjected to torture whilst in Egypt?

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

- (a) On 6 January 2005 Australia time, the Government received official notice that United States authorities would not charge Mr Habib. Until that time, United States authorities had consistently said that Mr Habib would be charged.
- (b) See answer to question (a).
- (c) Yes.
- (d) Until 6 January 2005 Australia time, United States authorities consistently maintained that Mr Hicks and Mr Habib would be returned to Australia if they could be prosecuted in Australia. Advice from Australian prosecuting and law enforcement authorities was that neither man could be prosecuted for an offence under Australian law which existed at the time of their alleged activities. After receiving official notice that Mr Habib would not be charged by United States authorities, the Government insisted that he be returned to Australia. Mr Hicks, who has been charged with three military commission offences and whose military commission trial has already begun, remains in detention pending the outcome of his trial. Since they were first detained we have continually discussed the disposition of both men's cases with the United States.
- (e) No.
- (f) At the Government's request, United States authorities agreed to conduct two investigations into allegations that Mr Hicks and Mr Habib have been abused while in United States custody. As part of a concluded investigation ordered by the United States Deputy Secretary of Defense Wolfowitz, an examination of medical records and other documents concerning the detention of Mr Hicks and Mr Habib has revealed no information to support abuse allegations made by both men and their lawyers. The Naval Criminal Investigative Service is currently conducting an independent investigation. The findings of this investigation are pending.
- (g) See answer to question (f).
- (h) Mr Habib was taken into custody in Pakistan by Pakistani authorities on or around 5 October 2001. He was interviewed by ASIO on 24 October 2001 and by ASIO and AFP on 26 and 29 October 2001.

- (i) No ASIO officer or any other Australian official was aware of any plans to transfer Mr Habib to Egypt, nor does the Government know who transferred Mr Habib to Egypt.
- (j) See answer to question (i).
- (k) See answer to question (i).
- (l) Australia has a very strong relationship with the United States. The Government does not consider that the handling of Mr Habib's case has any implications for that relationship.
- (m) Egypt has not acknowledged that it had Mr Habib in its custody.
- (n) In an interview at Guantanamo Bay on 15 May 2002, Mr Habib claimed he was tortured when, he believed, he was in Egyptian custody.

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

Output 2.2 and 2.3

Question No. 91

Senator Ludwig asked the following question on 2 December 2004:

- a) How many companies and/or industry sectors are currently participating in the TISN scheme?
- b) How many companies and/or industry sectors have discontinued their participation in the TISN scheme?
- c) Does the Attorney-General's Department maintain a record of any complaints made by such companies and/or industry sectors regarding the TISN scheme in any capacity?
- d) If so, how many such complaints have been made to date?
- e) Does the Attorney-General's Department have a policy regarding the review of such complaints?
- f) If so, in how many instances has the policy resulted in any alterations to the TISN scheme?

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

- a) There are nine industry sectors currently participating in the TISN scheme: Banking and Finance; Communications; Emergency Services; Energy; Food Chain; Health; Icons and Public Gatherings; Transport, and Water Services.
- b) No industry sectors have discontinued their participation in the TISN. The National Blood Authority (a government agency) and St John Ambulance (a community organisation) have withdrawn from participation in the Health Infrastructure Assurance Advisory Group due to capacity and resourcing issues, but remain communicating members of the TISN. Virgin Mobile has withdrawn from the Communications Infrastructure Assurance Advisory Group as its operational concerns are covered by the Optus network. Optus is a member of this Group and has undertaken to communicate relevant TISN information to Virgin Mobile.
- c) The Attorney-General's Department has not received any formal complaints made by companies or industry sectors regarding the TISN scheme.
- d) The previous answer refers.
- e) If and when any formal complaints regarding the TISN are received, the Attorney-General's Department will address these complaints in the appropriate manner.
- f) Answer to question c) refers.

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

Output 2.4

Question No. 92

Senator Ludwig asked the following question on 2 December 2004:

- a) How did the agencies participating in the Mercury 04 exercise perform in that exercise?
- b) Are there any reports regarding their performance? If yes, please provide. If not, why not?

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

- a) All participating agencies performed very well. The Attorney-General's media release of 26 March 2004, regarding the exercise, is at **Attachment A**.
- b) A classified report of the exercise was produced. This report is not available for general circulation.



ATTORNEY-GENERAL

THE HON PHILIP RUDDOCK MP

NEWS RELEASE

26 March 2004

042/2004

COUNTER-TERRORISM EXERCISE PUTS AUSTRALIA TO THE TEST

Australia's largest and most ambitious counter-terrorism exercise, *Mercury 04*, ended today after testing more than 3000 members of our national security agencies, including defence, police and emergency services.

The first of five counter-terrorism exercises this year, *Mercury 04* involved four jurisdictions – the Northern Territory, Tasmania, South Australia and Victoria – as well as Australian Government agencies.

Conducted as part of the recent four-year \$15.7 million expansion of the National Counter-Terrorism Committee's (NCTC) exercise program, the five-day long exercise presented a range of complex terrorism scenarios. These included mock attacks by terrorists on an offshore oil and gas facility, bomb blasts, a high-profile kidnapping and siege and other incidents across the country.

Attorney-General Phillip Ruddock said the tragedy of the recent bombings in Spain served as a timely reminder for those who thought we could relax against the threat of terrorism.

"Many months of planning and hard work went into making *Mercury 04* as realistic as possible," Mr Ruddock said.

"Throughout *Mercury 04* there has been a high-level of commitment from Australian Government and State and Territory agencies with a role in security, law enforcement, intelligence and emergency management, including participation at the very highest levels of government.

"The participation of industry representatives also highlighted the government's commitment to working with all sectors in the protection of our critical infrastructure," the Attorney said.

The exercise focused on testing the operational responses to major terrorist incidents as well as the critical decision-making processes set up to deal with these events.

"Australians can be reassured by the high degree of cooperation between the Australian Government and the States and Territories which has been well and truly demonstrated during the course of this week," Mr Ruddock said.

"We can be confident that our agencies are well-trained and ready to protect our country from a variety of threats."

Media Contact: Steve Ingram (02) 6277 7300 0419 278 715

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

Output 2.4

Question No. 93

Senator Ludwig asked the following question on 2 December 2004:

What were the arrangements for the public contact prior to the establishment of the National Security Hotline?

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

Prior to the commencement of the National Security Hotline in December 2002, there was no dedicated facility to receive information on counter terrorism and national security concerns. Persons who held such information and concern generally made contact with their local police authority and in some instances contacted the Department of Defence and/or ASIO.

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

Output 2.4

Question No. 94

Senator Ludwig asked the following question on 2 December 2004:

How much does it cost to run the National Security Hotline and is the National Security Hotline run in-house, or is it run by an external organisation?

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

The National Security Hotline (NSH) commenced operations on 27 December 2002. At that time the Government allocated \$5.2m for reimbursement of expenditure in establishing the NSH and its running costs in 2002-2003. Of this amount approximately \$4.577m was spent.

The 2003-04 Budget allocated a further \$6m. Of this amount, \$3.5m was allocated to employee expenses and supplier costs and \$1.5m to the Department's Public Affairs Unit for additional market research and the development of the National Security Campaign. Of the remainder \$0.6m was allocated to the Information Knowledge Services Division for IT and technical support with the balance of \$0.4m directed to corporate support and overheads. Total expenditure for 2003-04 was \$4.5m.

The 2004-05 Budget allocated a further \$6.2m for the continuation of the National Security Hotline.

The National Security Hotline is run in-house by the Attorney-General's Department.

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

Output 2.4

Question No. 95

Senator Ludwig asked the following question on 2 December 2004:

If it (the National Security Hotline) is run by an external organisation:

- a) How much remuneration is the organisation receiving?
- b) What was the process for selection of the funded organisations?
- c) Was a tender offered? If yes, was it an open tender?
- d) Who or what committee was responsible for the selection of the successful tender?
- e) What quality controls are in place for overseeing the external organisation providing the services?

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

The National Security Hotline is not run by an external organisation. The NSH operates and is both funded and managed by the Attorney General's Department, more specifically within the Protective Security Coordination Centre (PSCC) Division of the Department.