

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
DIRECTOR OF PUBLIC PROSECUTIONS

Question No. 158

Senator Ludwig asked the following question at the hearing on 31 October 2005:

- a) Is it the standard practice to continue with the criminal prosecution for Social Security fraud where a customer has been referred to the Director of Public Prosecutions and Centrelink or the Social Security Appeals Tribunal subsequently waives the debt?
- b) In the last three years, how many cases have been prosecuted where the debt has been fully waived by Centrelink or the Social Security Appeals Tribunal?
- c) In the last three years, how many cases have been withdrawn by the Director of Public Prosecutions where the debt has been either waived or found not to exist by Centrelink or the Social Security Appeals Tribunal?
- d) Over the last three financial years, how many customers have been referred from Centrelink to the Director of Public Prosecutions where the DPP has subsequently decided not to proceed with the prosecution?
- e) Does the Director of Public Prosecutions have any internal policy, specific to Social Security to assess when it is not in the “public interest” to prosecute a case for Social Security fraud? If so, please provide a copy of these guidelines.
- f) Does the DPP prosecute clients with terminal illness, serious brain injuries, or significant mental health problems?
- g) How many clients in such situations have been prosecuted by the DPP for Social Security fraud in each of the last three financial years?
- h) What is the dollar figure and percentage of the Director of Public Prosecution’s financial resources and staff time that has taken up in dealing with Social Security prosecutions for each of the last three years?

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

- a) No. All matters are assessed in accordance with the Prosecution Policy of the Commonwealth.
- b) This information is not recorded electronically.
- c) This information is not recorded electronically.

d) Numbers of defendants the DPP decided not to prosecute as a result of assessing a brief referred by Centrelink are recorded in the table below:

Year	Number of defendants
2002-2003	721
2003-2004	712
2004-2005	497

Note that the above figures do not include matters where the DPP decided to discontinue a prosecution after commencement.

e) No. All matters are assessed in accordance with the Prosecution Policy of the Commonwealth.

f) Where known, these matters are taken into account in accordance with the Prosecution Policy of the Commonwealth. Paragraph 2.10(c) of that Policy provides that the youth, age, intelligence, physical health, mental health or special infirmity of the alleged offender, a witness or victim may be factors which arise for consideration in determining whether the public interest requires a prosecution.

g) This information is not recorded electronically.

h) Estimates on the basis of briefs received:

For the year 2002-2003, approximately \$ 10,100,000, about 17% of financial resources and approximately 18% of staff time.

For the year 2003-2004, approximately \$ 11,300,000, about 16% of financial resources and approximately 18% of staff time.

For the year 2004-2005, approximately \$ 12,300,000, about 16% of financial resources and approximately 19% of staff time.