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COMMISSION

Reference: Trafficking in women for sexual servitude

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JOINT COMMITTEE ON THE AUSTRALIAN CRIME COMMISSION

Tuesday, 30 March 2004

Members: Mr Baird (*Chair*), Mr Sercombe (*Deputy Chair*), Senators Denman, Ferris, Greig, Hutchins and McGauran and Mr Dutton, Mr Kerr and Mr Cameron Thompson.

Senators and members in attendance: Mr Baird and Mr Kerr and Senators Ferris, Greig and McGauran

Terms of reference for the inquiry:

To inquire into and report on:

The Australian Crime Commission's response to the emerging trend of trafficking in women for sexual servitude with particular reference to:

- the Australian Crime Commission's work in establishing the extent of people trafficking in Australia for the purposes of sexual servitude;
- the Australian Crime Commission's relationship with the relevant State and other Commonwealth agencies; and
- the adequacy of the current legislative framework.

WITNESSES

Bourne, Ms Jenny, Assistant Secretary, Strategic Policy and Development Branch, Office of the Status of Women, Department of the Prime Minister and Cabinet 1

Flanagan, Ms Kerry Anne, First Assistant Secretary, Office of the Status of Women, Department of the Prime Minister and Cabinet 1

Committee met at 7.39 p.m.

Bourne, Ms Jenny, Assistant Secretary, Strategic Policy and Development Branch, Office of the Status of Women, Department of the Prime Minister and Cabinet

Flanagan, Ms Kerry Anne, First Assistant Secretary, Office of the Status of Women, Department of the Prime Minister and Cabinet

CHAIR—I declare open this public meeting of the Parliamentary Joint Committee on the Australian Crime Commission and welcome everybody here. Today's hearing is the fourth in the committee's inquiry into the Australian Crime Commission's response to the problem of trafficking in women for sexual servitude. The inquiry will focus particularly on, firstly, the Australian Crime Commission's work in establishing the extent of people-trafficking in Australia for the purposes of sexual servitude; secondly, the ACC's relationship with the relevant state and other Commonwealth agencies; and, thirdly, the adequacy of the current legislative framework.

Information on parliamentary privilege and the protection of witnesses and evidence has been provided to witnesses. As you know, the committee prefers all evidence to be given in public but, should you at any stage wish to go in camera, please advise the committee of that. Finally, as government officers you would be aware that these proceedings have the same status as proceedings in the House of Representatives. I now invite one of you to make an opening statement before we proceed to questions.

Ms Flanagan—I understand that we have been called before the committee today to give you some more information about the victim support package in particular, so I will address my opening remarks just to some of the issues that were raised by the committee in the transcript that we read of the previous hearing. There was some discussion in that earlier session about how the victim support measures were to operate, and I think there was some mention of the fact that there will be two phases of victim support measures while the victims are in Australia.

Phase 1 goes for a maximum of 30 days. This is after the person has been identified, most probably in a brothel by the police and/or by compliance officers. They need to be assessed by the police as being a victim or a suspected victim of trafficking offences and of interest to them for the investigation or prosecution of a trafficking offence. If that is the case, the police identify them and they are given a bridging visa—bridging visa F, I think. Once granted that visa, they have access to some victim support. After phase 1 there is phase 2. This turns on whether it has now been established that the victim may be able to assist in the prosecution of offenders. At that stage a criminal justice stay visa is granted and a different range of support measures come into effect for the victim. The point I am making here is that the victim support package is driven from the visa regime.

I think the committee was also interested in some details about the sort of support that is provided to victims in the two phases. In the first phase it is a much more flexible and tailored package of assistance. In both of these phases we look to things like the offshore humanitarian program; it is modelled on other programs that are run, in particular for humanitarian settlement, asylum seekers and refugees. In the first phase there is a one-off start-up allowance to buy toiletries and clothing. We provide accommodation and a food and living allowance—we cover those sorts of costs. Immediately there is availability of medical and pharmaceutical treatment,

counselling and various forms of training, such as English language training and other training that might be deemed to be suitable. Each victim is also allowed up to three appointments with a legal practitioner. In phase 2 we go to a package whereby the victim is able to access special benefit and rent assistance, which is the equivalent of covering their living expenses. During this second phase they continue to have access to medical, pharmaceutical, counselling and training requirements as well.

We are getting a non-government organisation—we are finalising contract negotiations with a preferred provider as we speak—to manage this process for us. As of Friday, 26 March, Centrelink, which has been our interim case manager since 5 January and will be until we can establish the non-government organisation that will be the main provider, have been managing five victims for us. The tender was advertised on 6 December and closed on 29 January and, as I say, we have now chosen a preferred provider. We are in consultation with them and we hope to be able to announce that the contract has been signed with the preferred provider later this week or early next week. I do not know whether there is anything else I need to say. We are happy to take questions.

Mr KERR—There are a number of specific questions that I would like to address regarding the program, but a more general, introductory set of questions go to the issue of who has lead responsibility for the overall policy framework and setting in this very controversial area. By way of background, I am not certain whether you have read all the transcript but we have been given insight through a number of different windows as to different organisational responses—the AFP, the Attorney-General's Department and various other agencies. There seems to be a degree of buck-passing as to who actually has lead policy responsibility here, and some have suggested that it rests with you. Is that the case?

Ms Flanagan—For the victim support package, yes.

Mr KERR—I will turn to the narrower issue of the victim support package later, but this is about whole-of-government response to the issue of trafficking. Where is the focus of responsibility? Where does it reside? Which minister or ministers have that responsibility? Which department or agency is the lead agency?

Ms Flanagan—The Attorney-General's Department has been coordinating the efforts of various portfolios and it chairs an interdepartmental committee that we are members of. Senator Ellison is the lead spokesperson on this initiative but there is significant input, as you might imagine, from the Minister Assisting the Prime Minister for the Status of Women—that is in relation to victim support—the Minister for Foreign Affairs, the Minister for Trade, the Minister for Immigration and Multicultural and Indigenous Affairs and also the Attorney-General, as well as Minister Ellison. They are the main portfolios that have carriage of various aspects, but Attorney-General's is chairing the interdepartmental committee to coordinate activity.

Mr KERR—If you were trying to locate—both for praise and for blame, I suppose—those persons who you would attach responsibility to, how would you do that? This has been an issue of concern to the community for a long time. We have been trying to identify the point at which a person would make representations or seek to have a coherent overview expressed. Normally if I have a concern about some policy I know where to go. Where would I go? Would I go to

Minister Ellison? Is that the correct focus point, or is there a secretariat that serves the IDC? What is the mechanism here for identifying where responsibility lies?

Ms Flanagan—I am thinking about how these models work across government. Sometimes there is a loose conglomeration of interests of different portfolios in big policy that—

Mr KERR—They are usually called bungles.

Ms Flanagan—I have not heard them called that before. For policy that goes across government departments, the favoured model is for one agency to take a lead and for its head to be the spokesperson for other ministers on that, but that spokesperson would usually check back with the ministers before making a combined statement. And, just as with any other process of government, if there are particular aspects such as the victim support package that are the portfolio responsibility of a particular minister then the most appropriate person to come to in that circumstance would be the portfolio minister. I think your question is: if there is something that spans a range of portfolios, what do you do? To me, it would depend on what the issue was. There might be something that is relevant to both Foreign Affairs and OSW, for example, because we talk about an integrated support package which not only is based in Australia but also involves AusAID in reintegration back into countries of origin.

Mr KERR—My point is that, as this has emerged, I think every aspect of it concerns more than one agency. Is there a secretariat that supports the IDC?

Ms Flanagan—In coordinating it, Attorney-General's provides its officers to pull together paperwork and things like that, but there is no identifiable secretariat per se that only works on servicing the IDC and this particular initiative. As I say, we all do work. We have interdepartmental committee meetings, we agree on what needs to be done, we get our officers to work on that and we look to Attorney-General's to pull that information together from time to time.

Mr KERR—How often does the IDC meet? Is it a regular process?

Ms Flanagan—The meetings that I have attended are every two to three months but, for example, before we got government agreement in October last year there were a number of much more regular meetings leading up to that particular process.

Mr KERR—You have indicated that Attorney-General's does the secretarial work. Is any person charged with doing more than the secretarial work—that is, to apply an overall policy advising role to a number of agencies across the board as to a complex issue that involves a series of different departments and agencies such as yours?

Ms Flanagan—No, I would not couch it in that way. As I say, the members of the interdepartmental committee sit down together and try to map out the policy because we can all bring interests and expertise from our own portfolios to bear on the bigger problem of how we integrate this together.

Mr KERR—So, for example, a problem that might emerge because of the way in which criminal justice visas are drafted and applied would not come to anybody's attention unless the Department of Immigration and Multicultural and Indigenous Affairs drew it to your attention?

Ms Flanagan—Yes, and I would have thought that the appropriate place to go to raise an issue with a visa was the department of immigration, and then it would be up to the department of immigration. There is informal contact amongst officers all the time, and if that were seen as an issue that might impact on some other part of the package, for example, then it would be incumbent upon the department of immigration to raise it.

Mr KERR—Let us take that as a case study. We were told that there are instances where, because of the way in which the criminal justice visa operates, people have had to stay in Australia for a period of many years—not months but years—waiting for their testimony to be required and have not been able to see their children. Alternatively, they have returned to their home country—say, for a family funeral—and then have not been allowed to return to Australia, so their lives have perhaps been placed in jeopardy. We were given examples where people disappeared after that because, under the inflexible criminal justice visa, they were not allowed to return to Australia until the point at which they were required to give evidence. So for those years they were at the mercy of any person in those home jurisdictions who wished to take them out as a potential witness against that person. Has that issue come to the IDC's attention?

Ms Flanagan—This is in relation to women who have been trafficked?

Mr KERR—Yes.

Ms Flanagan—I am not aware of that issue having been brought to the interdepartmental committee.

Senator FERRIS—Is there a policy to enable people who find themselves in that situation to return to their home country, either to see their children or for any compassionate reason, and then come back? Is there an arrangement where that can occur? This committee has had evidence to suggest that it cannot occur.

Ms Flanagan—I think that this is why you are asking the questions you are asking: you are hoping that there will be one person sitting before you who can answer those questions. We have come to answer questions on the victim support package. I do not work in the department of immigration. That is a question that would need to be addressed—

CHAIR—I think the problem we have as a committee is that everybody says that you have the prime responsibility.

Ms Flanagan—That is news to us!

CHAIR—You have been fingered. Maybe that is the problem: no-one is really taking prime responsibility for the group.

Senator FERRIS—Anyway, surely it falls within the victim support service. If you have a trafficked woman who is being held here to give evidence against somebody who has been

arrested or who is the subject of an investigation and those investigations go for a length of time and the woman has a compassionate reason to return to her home country, surely that is within the basket of the victim support service in any case.

Ms Flanagan—That is certainly a victim issue, but we are responsible for designing victim support in Australia. In terms of the case you are talking about, as I understand it there would need to be some new visa or change to the existing visa so that they would be able to travel outside Australia and come back again. That is an issue that, as you point out, needs to be raised in the wider forum of the interdepartmental committee. We might take a decision that that is a fine thing, but, unless we can activate or change whatever visa requirements are required to underpin that, there is nothing that we as the Office of the Status of Women can do to effect that on our own.

CHAIR—Part of the problem that we have as a committee is that it would appear, from the evidence that we have had so far, that those who have come forward to provide evidence have had particular difficulties. Going by word of mouth, this seems to be a widespread problem. Victims are not given adequate support in that they cannot work and they cannot go back to their own country to see their family or their child and then come back—they are stuck in this situation where they are awaiting the courts without proper support. They are not being taught English et cetera. Clearly, this is an issue that has emerged in recent times, and it takes a while to develop these packages. But it seems to be a bit of a flaw in the system that no-one is bringing together the various strands of responsibility for the victims. If they feel that they are not being treated adequately, which is certainly the evidence that we have heard from both the victims themselves and groups such as Operation Respect and Scarlet Alliance—quite a lot of it in camera, so you would not necessarily see it in the transcripts—then it is an issue.

Ms Flanagan—There are two things that we do have responsibility for that I can address. Travelling back to Australia is not an issue that I can address.

CHAIR—Let us just isolate that factor. DIMIA will treat it simply as another visa type. They have so many other factors to look at. In terms of the responsibility for the victims' support, isn't it really up to your group to make recommendations as to what should happen?

Ms Flanagan—I will address the two issues that you raised: firstly, that women are not allowed to work. That is not true. In the second phase, they are allowed to work. Their visa requirements allow them to work if they choose to do so. It might have an impact on the rate of special benefit they receive, but we have made it very clear to Project Respect and others that have asked us that women are able to work, and they were very pleased to hear that. Secondly, we have heard issues raised around—

CHAIR—So this is fact?

Ms Flanagan—This is fact.

CHAIR—We saw people who were in the support program, and they told us that they were not able to work at all. I am not questioning your credibility over theirs, but certainly it is totally in contrast with what we have been told.

Ms Flanagan—In the first 30 days or in phase 1, because of the visa that they are on they are not able to work, as I understand it in that phase.

CHAIR—I understand that.

Ms Flanagan—In the second phase, they are allowed to work.

CHAIR—Okay.

Ms Flanagan—The second issue you raised was in relation to the difficulties around training, and again Project Respect have raised that with us. Training, as I said, is available, but there was some concern about ensuring a safe, secure environment. We were working with the police, as I understand it, to ensure that it was done appropriately and that the victims were protected. But there was certainly no issue about them not receiving training; it was just the operational requirements to ensure that they got it in the best possible way.

CHAIR—Do they get English training?

Ms Flanagan—Yes, they are able to receive English training.

Ms Bourne—The circumstances of ensuring a secure environment for the clients related specifically to English language classes, and I understand that two of the clients who wanted that have started their course this week.

CHAIR—It is critical. The numbers involved are not big. Obviously we are concerned about the welfare of these people, but what is significant, more importantly, is what that means in relation to other people coming forward and catching those who are involved in female trafficking.

Mr KERR—The chair made the point that some of these issues are new to emerge. I thought one of the most telling pieces of testimony, which I think was in public, was from the police officer who managed the first successful prosecution of somebody for holding these women. In that instance, the witness who did provide testimony found themselves unable to return to their own country, although they had very young children. There was no way those children were going to be allowed to come to be with their mother—and I do not know whether that arrangement has changed. The time between the commencement and the end of the investigation was over four years.

CHAIR—I am sure that was on the public record, so you would be able obtain that.

Mr KERR—What troubles me is that as we hear this evidence everybody tells us the same thing as you do. Some point to you as being the person to whom we should address our questions but everybody says, ‘Well, don’t ask us; it’s not our responsibility.’ If this is a serious issue which warrants a whole-of-government approach then the mere establishment of an IDC does not seem to have provided an effective way for those various silos—I think that is the bureaucratic jargon; it is a term I hate—to work effectively to deal with issues that need a coordinated response. There really needs to be somebody who looks at what we ought to do to address this problem as a whole and works with the various different agencies on a common

strategy. If there is nobody doing that, that should be a major focus of our report. I just want to ask you: is there nobody doing that?

Ms Flanagan—The interdepartmental committee is continuing to meet and monitor as we put these arrangements in place. I would have thought—and it has happened with other interdepartmental committees that I have worked on over the years—that if there are issues that go across a number of portfolios the appropriate place to address those is within the interdepartmental committee or in discussions between officers so that we can try and come up with solutions.

Mr KERR—I do not wish to be cruel but that does not answer the question. The question is: is there any person accepting that responsibility and that role currently? I suspect your answer, although long, could be shortened to the word ‘no’.

Ms Flanagan—Again, it would depend on what the issue was.

Mr KERR—No, it does not depend on what the issue is. Irrespective of what the issue is—whether it emerges in immigration, the justice system, the AFP or your agency—I am asking whether, if there are issues that require an overarching assessment of whether this is an effective way of addressing the needs of women who are being sexually trafficked, there is somebody whom all this information is funnelled to who can make coordinating recommendations?

Ms Flanagan—The answer to that question is no, but with most other government processes that is not always the solution: that there only be one person responsible for it.

Mr KERR—No, often there is a secretariat—many more than one person.

Ms Flanagan—There is no formal secretariat for this particular matter, either.

Senator FERRIS—I would like to put to you a matter that was put to us in evidence in Sydney. The evidence concerned a number of women who had been rescued and were suspected of having been trafficked. They were certainly illegally in the country for the purposes of prostitution. It was our understanding that these young women were receiving insufficient support to the point where they were working as prostitutes to get enough money to live on. I accept that you are not delivering the victim support service but you are responsible for coordinating it.

Ms Flanagan—Yes, we are.

Senator FERRIS—Does this piece of information surprise you? Could you assure the committee that there was no need for those women to be working in that way and that the support service could have done better in making sure that they had sufficient support, as potential victims, to not have to continue to work as prostitutes while their circumstances were being sorted out? How could it be that we have all this money available for these support services—I think it is \$6.5 million—and yet these three girls were saying that they had to work as prostitutes simply to live?

Ms Flanagan—Again, it would be good, if that evidence is on the public record, to find out why they thought they needed to do that. In terms of what the government has agreed, let me say first of all that, even though the package is \$5.6 million or \$6.5 million, that is an estimate based on the number of victims that we might actually have. So it is an upper limit and just an estimate. What the government has decided and legislated for is a package, an individual entitlement, based—certainly in phase 2—on receipt of special benefit. The maximum rate of special benefit is around \$12,600 a year. That includes rent assistance. That is the amount that people are provided with. It mirrors what is provided to asylum seekers or refugees in humanitarian settlement programs. This is what the government is willing to provide.

CHAIR—So \$12,600 includes the rent assistance?

Ms Flanagan—It includes rent assistance, yes. And, over and above that, there is provision for the non-government provider to also provide counselling services and English language training and there is access to both the Pharmaceutical Benefits Scheme and the Medical Benefits Scheme.

Senator FERRIS—The very title of the sister of this particular scheme, Victim Support, gives the impression, firstly, that the person is identified as a victim and, secondly, that they are being supported. These people certainly identify themselves as victims but the evidence that we were given indicates that they were not being supported to a point where they were able to be independent of the trafficking situation which had brought them to Australia. It would seem to me that they are fundamentally quite different from people who might be illegal entry victims because they have the potential to identify perhaps a pretty key player in a criminal racket. You suggest that they get rent assistance; I would have thought they would need a victim support system which might provide them with another identity and a safe house rather than give them toiletries, a Medicare card and rent assistance. It seems to me that they are quite different in every way to people who might find themselves at Villawood.

Ms Flanagan—Again, the decision was to model the range of benefits that they receive on what a refugee coming to this country would receive.

Mr KERR—They are not in a like situation at all, and I agree entirely. They are in a like situation to a protected witness. Protected witnesses are not paid \$12,500 max with rental assistance.

CHAIR—That is really a key point. All these inquiries have tried to establish where some of the problems are occurring. It seems that we have hit on a key factor. If these women, because of the program's inadequacy, are going back into prostitution, then we have not gained a whole lot. How many people do you actually look after in this program?

Senator FERRIS—It looks as if there are five.

Ms Flanagan—At the moment—

CHAIR—How much have you been given in total?

Senator FERRIS—There is \$6.5 million available.

CHAIR—So you have a little bit left over in terms of money allocated for this.

Ms Flanagan—Let me qualify this. This is an upper limit and it has just been identified as a notional amount based on an estimate that we would have between 70 and 90—I think the figures were—victims in any one year. What will actually be spent for each individual multiplied by the package of measures that they receive will be the total that is spent.

CHAIR—May I suggest that if a person has got an allowance which includes rent assistance of \$12,500 a year, if you, as we hear, are not giving adequate training in English and if the person cannot return to their country of origin et cetera, then it is not surprising that you have only got five in the program. What is in it for them?

Ms Flanagan—My understanding is that the five that are being managed by Centrelink at the moment have not gone home. They have obviously made the decision—and I cannot speak for them but I am assuming—that they are staying here.

Mr KERR—I can understand that. There will be people who, like the woman who waited for four years away from her child, presumably because she was so ready and angry and wanted to give testimony to put behind bars the person who organised her brutal treatment, are prepared to suffer in circumstances that most people would not. But hang on. You are saying to them that they can have a very reduced standard of living, the threat of retribution, circumstances where they may be the subject of threats and intimidation, the prospect that at some stage the prosecution may not proceed and their abuser will still be out there ready to take revenge, ultimately they may have to go home into circumstances where they will be in danger and so on. What are we being told? The framework that is so attractive to these folk is a maximum of \$12,500 and the circumstances that the chair has outlined. Frankly, you are asking an awful lot of people. These people are victims.

Senator FERRIS—It is woeful.

CHAIR—Who designed the package? Was it the recommendation of the Office of the Status of Women? The circumstances of this group of women and those who come and seek asylum in the country, even though I am sympathetic to their claims, seem to be entirely different. I am wondering who developed the package. Was it developed out of your office?

Ms Flanagan—Yes, the victim support package was developed out of our office; it was done as part of designing a whole process that involved all other portfolios.

Senator FERRIS—Who came up with the idea that these people are in principle similar to an illegal entry individual—a potential refugee but still an illegal entrant? Who decided a trafficked woman was similar to someone like that?

Ms Flanagan—Who ultimately decided? The government ultimately decided.

Senator FERRIS—No, who in your department put the proposition together? You are saying that the Office of the Status of Women designed the victim support package. What research was undertaken that led you to believe that there was a similarity of principle between the two groups of people that we are talking about. Did you consider that, for example, they would be

potentially more like a protected witness who might get witness protection from the ACC? It seems to me that we are talking about a person like that rather than somebody who has come on a boat and is potentially an illegal entry. I just do not understand the similarity and I am wondering how you got to the point of determining that within the Office of the Status of Women, which designed the package.

Ms Flanagan—As I say, we take responsibility for designing the package and we weighed up a range of factors. It was felt more appropriate to design a range of measures or a package that was similar to those for people that have come here because they are refugees or because they have come from dire circumstances themselves. That seemed to be a benchmark that the government was happy with in terms of groups that were very vulnerable.

Senator FERRIS—Do you still think it is adequate?

Ms Flanagan—The proof is going to be in the—

CHAIR—The proof is right in front of you: five people have come forward.

Senator FERRIS—You have \$6.5 million available and five people have come forward. You have told us that they will get \$12,000 a year. That is \$60,000. Let us round it off at \$100,000, perhaps. We have an upper limit of \$6.5 million. I am still confused as to why we are choosing not to give them a greater deal of support. Potentially these people are going to land us big fish in trafficking areas.

Ms Flanagan—I am assured that all of the victims who have been identified by compliance activity to date are still within the program.

Senator FERRIS—When you were, as you say, putting the range of measures together, did you take advice from any of the NGOs like, for example, the Scarlet Alliance or Project Respect to see whether they thought that treating these people like illegal entry victims was the way to go?

Ms Flanagan—After the package had been announced we certainly discussed it with them, and they were very complimentary of the package. They thought that it was a very good package and that it would work to provide a level of secure support for victims and to keep them here in the country. So we did not consult them before the event but, certainly, after the event they were very complimentary of the package of measures for victims.

CHAIR—They are not being all that complimentary to you now.

Senator FERRIS—Given that only five people are in the program, has there been any follow-up advice from any of those groups to the Office of the Status of Women to evaluate whether perhaps the program needs to be changed in some way to increase the number of people who might come forward?

Ms Flanagan—As I say, the interim arrangement started on 5 January. We do not yet have the provider up. At the moment one could say that we have a 100 per cent success rate in that all the victims who have been identified are still with the program. It is early days, but of course we

will be doing an evaluation to see whether the program is effective over time. That is something that we do with all programs.

Senator FERRIS—It just seems a tragedy to, if you like, rescue some women who are victims of a trafficker and then find that they still have to work as prostitutes to live. I would really appreciate any advice that you are able to give us that will reassure me that that is an unnecessary proposition because they do have enough money to live. That does seem to me to be a very sad indictment of the victim support program.

Mr KERR—Earlier this year we asked the AFP about a protocol that covers the steps after the identification of a person who, potentially, is a victim of sexual trafficking. They indicated that there was an interim protocol but that, on the coming into effect of this new arrangement, which you say will be in place next month, there would be a final protocol, part of which would be the measures that you are talking about but other aspects of which would be how the police are to deal with various matters from identification through to interview and all those sorts of things. Where is that protocol at at the moment?

Ms Bourne—Basically, the aspects of the protocol that relate to our program are things like their response time—for example, how many hours there are between the police making a decision that a suspected victim has been trafficked and the police notifying the case manager of that decision. They have to notify the case manager within an hour, and the case manager has to respond within two hours. That is the level of detail that is involved in that protocol. My understanding is that it has been finalised. If it has not been then it must be extremely close to being finalised.

Mr KERR—What is the procedure for its release to us? We sought a copy of it at one stage and we were provided with advice that it would be finalised this coming month, I think. Obviously, it would be material to our inquiry to have that.

Ms Bourne—I am sure that we could make it available to the committee. I do not see why not. I could confirm that with the committee secretariat. I just go back to the comment that Senator Ferris made—that it would be a shame if these women continued to work as prostitutes. One of the things that I think are really positive about this package is the training component. The case manager can pay for whatever training the people identify that they need, and we hope that that will then equip them with skills to do other things either if they stay in Australia or when they return home.

CHAIR—That is being optimistic about the training package. If you earned a total of \$12,500 a year, including rental, and you did not have a whole lot of family here, wouldn't your prime constraint be, 'How am I going to survive?' We have been over this several times, but I think you gather that it is the view of the committee that we are not terribly impressed with the package and maybe see it as one of the reasons that you have not had a whole lot of people come forward. Tell us if our thesis is wrong, but you can see where we are coming from. You have been given this large amount. We are being told that women are reluctant to come forward. They are saying that it is not worth it and they are having to return to prostitution and so on. That is a concern. If you could convince us otherwise, that would be good. As Senator Greig and I have said, there are a multitude of issues that you deal with in your area of responsibility—every type of issue confronting women in Australia. The numbers involved are relatively small, but it is an

issue that does worry the community. That is why there was a significant amount of resources put into it.

Ms Bourne—We need to be really careful in saying that the number is very low. The program has effectively been operational since 5 January.

CHAIR—That is a fair point.

Ms Bourne—There are five victims currently being looked after by the DPP. They have been quite longstanding cases, but they have not yet moved into this package. Since 5 January, every person that has come to the notice of the AFP and been identified has been referred to Centrelink and is still with the program. Perhaps this is partly reflecting the extent of trafficking.

Mr KERR—What we have been told is that the people that are with Centrelink are also working as prostitutes. That is the crude summation of it, isn't it?

CHAIR—We do not know for sure.

Mr KERR—But we have been given to understand that. They are with the program because they are supporting themselves by prostitution.

Ms Flanagan—To establish that, it would be good if it were on the public record, because in any evaluation of the program that will be important.

Mr KERR—Wouldn't you think it was predictable? It does seem to me to be relatively predictable that it is, at least, a foreseeable possibility for somebody who has been trafficked into the sex industry and is facing an indefinite future with relatively few skills and a meagre means of resources.

Ms Flanagan—That they would continue to work—

Mr KERR—They have been placed into a situation—whether or not they were in it beforehand—where they have learnt that their bodies are marketable commodities. When they do not get sufficient resources to support themselves through other means, they fall back on something that they have, sadly, learnt to do. You would not think that that was a surprising conclusion, would you?

Ms Flanagan—I would not think that it was a surprising conclusion, but I do not know that I have any control over that choice—

CHAIR—Yes, you do.

Ms Flanagan—except from what the committee is saying, and that is that we give them something more than they would be able to earn.

CHAIR—You are really offering them a subsistence allowance to survive at the very basic level. One of the problems is the disparity in amounts between what they could earn as a prostitute and what you are offering. I recognise the very valid point that Ms Bourne made that

the program has only just started. Your point that there could be only relatively few people being trafficked may also be valid. We have been asking that question ourselves.

Senator FERRIS—Just to clarify, you said you will receive feedback and you are telling the committee that you have let the tender. If you were to receive feedback that indicated a fundamental change was needed in the way the program operated, is the tender written in such a way that there would be some flexibility to make changes, such as you might receive in feedback and might decide could be justified or even urgently needed? In accepting the tender, is there an opportunity for you to make changes like that to the tender document if you want to?

Ms Flanagan—Depending on what changes you are talking about, we would of course have to go back to government to get agreement to that. The tender itself only covers the services that we are expecting the non-government provider to provide and does not go to the issue that you continue to raise—that is, whether the amount of living expenses which is provided through the social security system is adequate.

Mr KERR—It is not just the amount—

Senator FERRIS—It is not just the money; it is the suite of measures.

CHAIR—Incentives.

Senator FERRIS—It is fantastic to talk about training, but you are talking about training a 16-year-old girl who cannot speak any English, who was taken to work and taken home in a dark van with no windows, who has no idea where she is even living. It is not possible to talk about training in a realistic way. Thinking back to the evidence that we received from these three girls, I do not know what you could train them in where they would even have the confidence or self-esteem to understand what you were offering them. I am wondering whether, if in the evaluation process in another couple of months time you discover that something quite fundamental needs to be changed, we are locked into what might be found to be an inappropriate suite of measures to support them, simply because the tender document will not offer the flexibility for change. That is all I am trying to get to the bottom of.

Ms Flanagan—I will ask Ms Bourne to speak more about what is in the tender, but it is a flexible package of measures, and it is supposed to be designed for the individual.

CHAIR—Could we have a copy of the tender specifications?

Ms Bourne—Certainly. I think they are still available on our web site. I can certainly make them available to you. Do you mean the documentation that was available at the time people applied?

Senator FERRIS—Yes.

Ms Bourne—I can certainly make that available to you. The process is extremely flexible. It relies on the individual case manager, who speaks to you as a victim and asks, ‘What do you need? Do you have to learn how to go shopping?’ Centrelink has been taking people shopping, showing them how to catch a bus and how to buy a bus ticket—things which we would consider

to be basic living skills but which these people have not had the opportunity to learn in Australia. This is why it is an extremely intensive individual process.

CHAIR—Do they also get assistance with, for example, immigration matters and what options are available to them in terms of visas?

Ms Bourne—They are able to contact Immigration at any time and talk to them about a range of issues.

CHAIR—No, I am asking not whether they are able to contact them—that is obvious; anybody can do that—but whether they can actually get a briefing. I think it was Project Respect that came to see me after the inquiry, and they said they thought that one of the weaknesses was that there was no briefing. I suppose some people in the government might think, ‘We don’t want to make it too easy.’ But on the other hand, if they have certain rights, is it being explained to them what the options are?

Ms Bourne—My understanding is that DIMIA will explain to them all their rights and obligations.

CHAIR—Do they?

Ms Bourne—I am not aware whether that request has been made by any of the clients who are currently with Centrelink. But I do not see why it would not. I know that Project Respect have been concerned about this issue and they are of a view that people should be able to get independent migration advice. Government has decided that—

CHAIR—Following up the point from Senator Ferris, we are not talking about university-trained professionals who are coming out.

Ms Bourne—It is the case manager’s role to make sure that the people get whatever it is that they need.

CHAIR—Shouldn’t there be a checklist, though? In terms of your specifications of what these support group managers should be doing, do you have an outline of the things that they are expected to provide?

Ms Bourne—Yes, it is clearly set out.

CHAIR—Does it, for example, provide things such as briefing on immigration options?

Ms Flanagan—What does apply is that the case manager arranges for and accompanies the person to meet with a migration officer to discuss that. Their role is to facilitate and to accompany them to those sorts of meetings, where they might be very intimidated.

CHAIR—Who initiates that? Is it normal as part of the briefing?

Ms Bourne—The case manager.

Ms Flanagan—I think it can come from either.

Ms Bourne—I think it could come from either. If in conversation with the client, the person says, ‘I don’t really know,’ the case manager can say, ‘I can arrange a meeting for you to talk to DIMIA, who will explain to you the full range of options.’ The whole package is intended to do what you indicated earlier—get some convictions, get some Mr Bigs. We are really focused very much on ensuring that that is what happens.

Mr KERR—That is part of it. But part of it is also, surely, to deal in a sensitive, thoughtful and practical way with people who are victims, whether or not they can assist law enforcement. One of the things I suppose I was going to ask is: what happens to someone who is no use to law enforcement?

Ms Flanagan—The answer to that is—

Mr KERR—They are a victim—they have been trafficked, they have been misused and they have been brutalised—but the reason they come to light is that their captor has a car accident and is dead. They are of no use to law enforcement. What happens to that person?

Ms Flanagan—The package that has been designed operates off the granting of a visa which is contingent on, as I say, whether—

Mr KERR—What happens to that person?

Ms Flanagan—That person, if they are illegally in Australia because they do not have a right to be here, will be sent back to their country of origin. That is when we look to reintegration into their country and AusAID projects that have been provided in those countries. For example, in terms of the continuum of victim support we would ensure that perhaps an NGO operating in that country would meet them off the plane and try and assist them once they got back to that country.

Mr KERR—Perhaps?

Ms Flanagan—Yes. Again, AusAID have set up the protocols about how that would operate.

Mr KERR—So our response to a brutalised woman who has been misused but is of no use to law enforcement is to put them on a plane—and they might be met by somebody from AusAID who might do something for them when they get back home or they might actually be victimised all over again by exactly the same people who picked them up in the first place. Is that what you are really saying?

Ms Flanagan—Pardon?

Mr KERR—They might be picked up and used all over again by the same organisation or group that picked them up in the first place.

Ms Flanagan—That is possibly true.

Mr KERR—So we have not really got a victim support program; we have got a law enforcement aid program run on the most meagre smell of an oily rag with a headline figure of millions of dollars being spent. But the practical outcome, as Senator Ferris says, is about \$100,000 being applied to it on an annual basis.

CHAIR—How much is being spent on the victim support package per person in the program? If we have got five people, what is the total cost of the support package that is being allocated now?

Ms Flanagan—There is a level of special benefit and rent assistance, but in terms of the money that we provide to the non-government provider there is a base amount to provide the infrastructure so that they are available 24 hours a day. If the client is identified they can provide support very quickly. Over and above that, there is a suite or a menu of things that might need to be provided and then it is individually case-managed. So the amount might vary per individual and it is up to the case manager to determine—

CHAIR—So on average how much does it work out as for the support agencies?

Ms Bourne—We have not got that data so far.

CHAIR—Hang on a minute. You are about to allocate a contract—

Ms Bourne—Yes.

CHAIR—and you do not know how much it is going to cost?

Ms Bourne—I thought you were referring to exactly how much it has cost so far with Centrelink.

CHAIR—I am interested in trying to get a handle on how much this support program is worth. We have met several of the people in the program. How much are we paying per year per individual on average? You have not been going that long and I understand that we are trying to tie you down when you have got a suite of things, but just so that we get our head around how much it is—we know it is \$12,500 for each person in the program—how much does the support program cost?

Ms Bourne—There are two components to it. There is the infrastructure that the organisation needs, and that is a substantial cost—so that it is responsive 24 hours a day, seven days a week. They have to have—

CHAIR—What kind of cost are we looking at?

Ms Flanagan—I do not know that we are able to disclose that until the contract is let.

Ms Bourne—But you are talking about hundreds of thousands of dollars to have that infrastructure to have people on call and able to respond 24 hours a day, seven days a week.

Mr KERR—They would get more out of this deal than the people they are supporting, wouldn't they? The people providing services are a heck of a lot better off than the people that are being treated as victims.

CHAIR—We have got several hundred thousand for the base program and then on top of that there is another part—

Ms Bourne—On top of that there is a whole range of services. We believe that the funds we have will adequately cover that but there will be costs of things like trauma counselling and other sorts of counselling and training courses that will all be paid for. There will be other things like ensuring secure accommodation in the early phases and ensuring that any medical fees over and above their Medicare—

CHAIR—It is \$12,500 and rent was meant to be included. Now you are saying that accommodation is provided in the early stages. How early?

Ms Bourne—In the first period.

CHAIR—What do you mean?

Ms Bourne—Up to 30 days.

CHAIR—That is before they go on—

Ms Bourne—No, that is all part of the program. All of those things—phase 1 and phase 2—are covered in the money.

CHAIR—But it does highlight the fact, as Mr Kerr has said, that it is a top-heavy program. We have got this support base that is being provided, yet the actual amount provided to these girls to live appears to be inadequate.

Ms Flanagan—There is infrastructure support, but we cannot give you the average cost at the moment because we need to see the contract in operation. There is a sort of floating pool depending on how many victims we have and the menu of things that they need. So it will not be until we are some time into the contract that we will know what the variable cost looks like and will be able to give you an average figure of the additional support that is provided to each individual.

Senator GREIG—Listening to the discussion here this evening, I am uncomfortable with what I see as the ethos behind the structure of the packaging. When we as a committee and as a broader community came to this issue, it struck me that the fundamental problem was that these women were being perceived as illegal immigrants and were being dealt with in that way. When trafficked women were being found or stumbled across, the immediate reaction, principally from DIMIA, was to send them back home, and we were losing the opportunity to provide for their welfare and then, hopefully, to get useful information from them.

I think that over the last few months we have been able to turn that around, and the community debate is now more about seeing the women as victims instead of criminals. It

troubles me that the way that the support packaging seems to have been structured is a reversion to that ethos of seeing the women as illegal immigrants or giving them the same kind of assistance—it is not exactly the same; I have heard from Ms Bourne in more detail about some of the counselling that is being provided. I agree with Senator Ferris in that my view is that we should see this as an opportunity to draw from these women as best we can information they may have which, hopefully, would lead to convictions of traffickers. We really ought to see them more as protected witnesses—I think that was the term Senator Ferris used—rather than structure things in such a way that they are receiving little more than the dole. I think \$12,600 is probably less than the dole; I am not sure.

Ms Flanagan—It is the same.

Senator GREIG—This is not a question, though feel free to respond. It just seems wrong to me that we can and should be doing more and yet we are not. We should be thinking outside the square—thinking of these women not in the framework of being refugees or illegal immigrants but as people who, with our assistance, can provide us with even more assistance to address the problem.

Ms Flanagan—Certainly the view of the Office of the Status of Women when advising government on this package was that the victims should not be here just for prosecutions. We have an opportunity while they are here for prosecutions to try to change the circumstances by which they ended up being trafficked in the first place. That is why we were very interested in providing assistance around English language training skills. We were very interested in trying to get them retrained with another skill that might mean that they did not get back into the cycle of prostitution. So that was a really important emphasis that we wanted to place on this package: it was not just about keeping them here for prosecutions but also about giving them another chance at life.

Senator GREIG—Perhaps I misunderstood you when you were talking a little earlier in response to Mr Kerr's question about what happens to those women who are of no use to the authorities or to the Federal Police in terms of information that they may have had but now do not have. You said that they would be sent home, that they would be treated as unlawful entrants or whatever the term was that you used. That troubled me because it seemed to me to be an echo of what happens to some of these women at the hands of their traffickers. When they are no longer of use to the guys who are using them as cattle in these brothels, they are bundled off home. It worries me that perhaps we could be doing something better there but we are not. I accept the point that there is no easy answer to that, because they are here unlawfully, but I just wonder if perhaps OSW has turned its mind to a better outcome for these women.

Ms Flanagan—The AusAID programs that are being used will try to replicate what we will be trying to do here in Australia: that is, they will be assisted when they get back so that they do not have to go back into that cycle. We can try to get them out of that and prevent them becoming trafficking victims again. The best way to do that is to try to skill them in some other way. As I say, I do not have enough of the details of what the AusAID programs are doing, but that is my understanding of what their broad intent is.

Senator GREIG—Is there an opportunity for women in that particular circumstance—who have a valid claim of being trafficked here but who are not in a position to assist the Federal Police or are of no further value to the Federal Police—to claim refugee status?

Ms Flanagan—I am not an expert. We would need to take that on notice and speak to the department of immigration. I am not sure how you can claim refugee status or whether, in fact, some of them have done that. But we can get back to you on that.

Mr KERR—I would appreciate details of what programs are part of the national response to the victimisation of women for their sex crimes if they are returned to their home countries because they are not of use to law enforcement. I would appreciate a response to that. The obvious instance is where it first arises and law enforcement officers conclude they cannot proceed for a range of reasons—as I indicated, perhaps the person who was directly responsible for their abuse has died. That would seem to be one of the obvious circumstances. However, let me throw in another example of a hypothetical circumstance. A woman provides assistance to law enforcement agencies for a couple of years. There are other key witnesses, one of whom is shot, perhaps by the people who set this whole thing up. The DPP then concludes that there is insufficient evidence to proceed. What happens to that woman?

Ms Flanagan—I usually like hypotheticals.

Ms Bourne—I am not certain of the detail, but I understand that if a person was at risk if they were to return home then they could apply for a visa to stay in Australia.

Mr KERR—What kind of visa?

Ms Bourne—They can apply for a witness protection visa.

Mr KERR—But they are not a witness; they are not required.

Ms Bourne—I can take that on notice, but my understanding is that if—as in the circumstance you just described—a person has been assisting with inquiries and something has gone wrong with the case and they are then going to be at risk if they return home, they can apply for a visa, but I would have to check that with DIMIA.

CHAIR—This kind of support program gets a bit fuzzy at the edges.

Ms Flanagan—That is why hypotheticals are always difficult to answer.

Mr KERR—But these hypotheticals are inevitable. What happens after a person gives testimony in a case which is unsuccessful?

Ms Bourne—If they are still at risk, my understanding is they can apply to stay. The issue is if they are at risk on returning home.

Ms Flanagan—It is not based on the success or otherwise of the case.

Mr KERR—If I remember the earlier testimony correctly, that is true if it proceeds right through to the end, but it is more doubtful if something transpires that means, for various reasons, law enforcement agencies decide that person is not of use to them and no criminal proceedings are ultimately had or determined.

Ms Flanagan—The hypothetical view you gave was that somebody was shot. One would suggest that there is an element of danger even if it does not proceed to finality.

Mr KERR—Another hypothetical circumstance is that the woman, walking down the street learning to shop with her agency guide, is taken aside in the aisles by someone who whispers in her ear, ‘Next time we see you in this shop you’re dead,’ and she decides not to cooperate anymore. It is her decision then. What happens then? All I am saying is that, if this is victim support, surely it cannot be seen through the framework that our responsibility ends when a person is not of use to the prosecuting authority. I am not certain I have got answers to those sorts of questions.

CHAIR—It is an area that needs to be explored. Do you have responsibility for the victim’s awareness program that was allocated \$630,000?

Ms Flanagan—No, we do not.

CHAIR—Who has responsibility for that?

Ms Flanagan—The Attorney-General’s Department.

CHAIR—Okay. Perhaps we need to get some more information on that. I see one of the representatives from Attorney-General’s. It may be useful if we can have some briefings on that. Can we ask the representative from Attorney-General’s to step forward?

Ms Flanagan—Mr Fairbrother said that there is another area of Attorney-General’s that is running it, so it would depend.

Mr KERR—Another silo. That is all right.

CHAIR—I understand. That is fair enough. That is no problem. We will ask our secretary to pursue who is responsible for that awareness program.

Ms Flanagan—Attorney-General’s will be in touch with the committee’s secretary.

CHAIR—It is a surprise that you are not responsible for that program. I recognise how many generic issues you must be responsible for in your portfolio. I would have thought that this would be yours as well. But it is not, so let us not worry. Are there any final questions before we wrap up?

Mr KERR—I have a quick one. You said there were five people on the program. At the Canberra hearings on 26 February we were told there were four victims then receiving support under the interim arrangements, with an additional three expected to join the program. That leaves a missing two. What happened to them?

Ms Bourne—I am not aware of those particular victims. I am aware that there was an expectation that there were three people who might join the program. But they did not, so I can only presume that they were not identified as victims. But obviously they found somebody else to make up the five.

CHAIR—Perhaps you can advise us if there is anybody missing.

Ms Bourne—As I said, every person who has been identified by the AFP has been notified to Centrelink and has been picked up on the program.

CHAIR—We are just interested in case somebody pulled out of the program. The disconnection between the numbers is of interest to us. It is obviously quite feasible that we got the numbers wrong. We are only talking about small numbers. Thank you very much for coming. I know it has not been an easy session, as you have been accountable for a new program and we have highlighted some of the areas of concern to the committee. We would appreciate it if you could get back to us about those areas where we have identified issues. Please feel free to speak to the secretary about it, as we are going to be framing recommendations—I think this is the penultimate session tonight. Thank you.

Committee adjourned at 8.59 p.m.