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SENATE

LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE

Monday, 8 February 2016

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

In Attendance

Senator the Hon. George Brandis QC, Attorney-General
Senator the Hon. Michaelia Cash, Minister Assisting the Prime Minister for the Public Service, Minister for Employment, Minister for Women

Department of Immigration and Border Protection

Mr Michael Pezzullo, Secretary, Department of Immigration and Border Protection
Mr Roman Quaedvlieg APM, Commissioner, Australian Border Force
Mr Jim Williams, Acting Deputy Secretary, Visa and Citizenship Services
Ms Rachel Noble PSM, Deputy Secretary, Policy Group
Mr Peter Vardos PSM, Deputy Secretary, Client Services Decision Support Review
Mr Michael Outram APM, Deputy Commissioner, Operations
Dr Jill Charker, Deputy Secretary, Corporate, Chief Operating Officer
Ms Cindy Briscoe, Deputy Commissioner, Support
Ms Maria Fernandez, Deputy Secretary, Intelligence and Capability
Jenet Connell, Deputy Secretary, Strategic Reform
Major General Andrew Bottrell CSC, Commander, Joint Agency Task Force
Ms Maree Bridger, First Assistant Secretary, Executive Division
Ms, Rachael Spalding, First Assistant Secretary, Strategic Policy and Planning Division
Mr Ben Evans, Assistant Secretary, Strategy Branch
Mr David Wilden, First Assistant Secretary, Immigration and Citizenship Policy
Ms Linda Geddes, First Assistant Secretary, Traveller, Customs and Industry Policy Division
Mr Lachlan Colquhoun, First Assistant Secretary, International Division
Ms Charlotte Tressler, First Assistant Secretary, Corporate Services Division
First Assistant Secretary, People Change and Reform
Ms Paula Goodwin, Acting First Assistant Secretary, People Division
Mr Steven Groves, Chief Finance Officer
Ms Philippa De Veau, General Counsel
Mr Stephen Hayward, Acting First Assistant Secretary, Integrity, Security and Assurance Division (Chief Risk Office/Chief Audit Executive)
Ms Karen Harfield, First Assistant Secretary, Intelligence Division
Mr Randall Bruegeaud, Chief Information Officer, ICT Division
Mr Michael Milford AM, First Assistant Secretary, Major Capability Division
Mr Paul Cross, Acting First Assistant Secretary, Identity and Biometrics Division
Ms Christine Dacey, Acting First Assistant Secretary, Visa and Citizenship Management
Mr Kruno Kukoc, First Assistant Secretary, Refugee and Humanitarian Visa Management
Ms Peta Dunn, First Assistant Secretary, Community Protection
Mr Phil Thurbon, First Assistant Secretary, Digital Transformation and Channels Division
Mr Stephen Allen, Assistant Commissioner, Border Management
Mr Peter Docwra, Assistant Commissioner, Border Force Capability
Ms Cheryl-anne Moy, First Assistant Secretary, Children, Community and Settlement Services
Mr Ben Wright, Acting First Assistant Secretary, Detention Services
Mr Stephen Alexander, Acting Commander, Maritime Border Command
Mr Clive Murray, Assistant Commissioner, Strategic Border Command
Mr Anthony Seebach, Acting Assistant Commissioner, Investigations
Dr John Brayley, Chief Medical Officer/Surgeon General Australian Border Force
Committee met at 09:03

CHAIR (Senator Ian Macdonald): I declare open this public hearing of the Senate Legal and Constitutional Affairs Legislation Committee. The Senate has referred the particulars of the proposed expenditure for the portfolios of Attorney-General's, and Immigration and Border Protection, and other related documents, to the committee for investigation.

These are additional budget proceedings, and agencies to be heard during today's estimates are from Immigration and Border Protection. We have set Friday, 8 April as the date by which answers to questions on notice are to be returned. The committee has decided that written questions on notice should be provided to the secretariat by the close of business on 19 February.

Under standing order 26, the committee must take all evidence in public. This includes answers to questions on notice. Witnesses know that, in giving evidence to the committee, they are protected by parliamentary privilege and all that that entails. It is a contempt to give false or misleading evidence to a committee. If witnesses need any help with any of the rules governing Senate estimates hearings, please see the secretariat.

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders, pp 124-125)
In 1999, the Senate, by resolution, endorsed the following test of relevance of questions at estimates hearings: any questions going to the operations or financial positions of the departments and agencies which are seeking funds in estimates are relevant questions for the purpose of estimates committee hearings. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has the discretion to withhold details or explanations from parliament or its committees unless parliament has expressly provided otherwise. The Senate has resolved that an officer should not be asked to give opinions on matters of policy, but shall be given reasonable opportunity to refer questions asked to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy. It does not preclude questions asking for explanations of policies or factual questions about when and how the policies were adopted. I particularly draw the attention of the witnesses to an order of the Senate specifying the process by which a claim of public interest immunity should be raised. Witnesses are specifically reminded that a statement that information or a document is confidential or consists of advice to government is not a statement that meets the requirement of order. Instead, witnesses are required to provide some specific indication of the harm to the public interest that would result from the disclosure.

We have had a request from the media to film proceedings in the room. I assume that colleagues and witnesses have no particular objection. That is approved.

I indicate that the rules of the Senate require that while any senator has any questions that they want an answer to we continue with those questions until they are answered. This does mean, unfortunately, that sometimes the suggested times on the program are not followed. I am required to continue on any particular section until all questions have been asked, regardless of the time. I encourage my colleagues to try and keep to those guidelines of time, so that we can get through every aspect that senators have indicated they have a desire to question.

A number of agencies have been advised that they will not be required, and those that have been required are agencies that individual senators have indicated they would like to ask questions of. I am going to adopt my normal practice of sharing the time fairly by going from senator to senator for 10 minutes at a time, but we will keep coming back so that every senator has the opportunity to ask all the questions that they need.

I welcome the Senator the Hon. Michaelia Cash, Minister representing the Minister for Immigration and Border Protection, and also Mr Quaedvlieg, Mr Pezzullo and your staff and colleagues. Minister, would you or any of your senior officers like to make an opening statement?

**Senator Cash:** I will not, but I understand that the secretary and the commissioner do.

**Mr Pezzullo:** Thank you, chair. I should like to make a general opening statement covering a number of matters of significance that are likely to arise during the course of the day. I should like to begin with an overview of the situation regarding Operation Sovereign Borders, in light of the decision brought down last week, on 3 February, by the High Court of Australia, in the case known as M68. During my tenure as secretary, since October 2014, we have maintained the integrity of our maritime borders, with no illegal maritime ventures having reached our shores during that time. Over that time the High Court of Australia has upheld the legal foundations of both turn back and take back maritime operations, in a case brought down in January 2015, as well as regional processing in the case known as M68, brought down earlier this month.

People smugglers and those seeking to employ their services should be in no doubt whatsoever that the government means what it says regarding how this nation deals with illegal maritime arrivals. If you attempt to come to Australia by illegal maritime means, you will be turned around or taken back. If you are rescued at sea, you will be safely turned around and the most that you might hope for is to be taken to Papua New Guinea or Nauru for the purposes of being assessed and processed for potential settlement outside Australia or return to your country of origin. You will never settle in Australia. To those waiting in Indonesia, Sri Lanka, Vietnam, Pakistan, Afghanistan, Iraq, Syria and elsewhere, seeking to come to Australia by illegal maritime means, and who listen very carefully to what is said by ministers and senior officials, let me be very clear: The path is shut, with no exceptions.

Regrettably, some think that if they wait this state of affairs will change. The government has given very clear instructions to me in this matter: The policy will not change and the department has to gear its efforts and allocates is resources accordingly.

The department is well seized of the need to find durable solutions for all who are the victims of exploitative people smugglers, those on Manus Island and Nauru and those in Australia, who, having arrived by illegal maritime means, are now not eligible for permanent settlement and further, in some cases, may not be owed protection at all. No amount of moral lecturing by those who seem not to comprehend the negative consequences of an open-borders policy will bring forth those solutions. There is no compassion in giving people false hope. All
that can be done is being done. I speak here of quiet diplomacy in relation to developing options for possible third-country settlement, and the quiet persuasion of those not owed protection to go home.

With regard to transferees and refugees in regional processing centres, the department will continue to ensure that adequate medical services are provided to those who require them. Transferees and refugees temporarily in Australia for medical treatment or accompanying those in need of treatment will be returned to Nauru and Papua New Guinea, as the case applies, at the conclusion of their treatment, noting that determinations on this will be made on a case-by-case basis. As the Prime Minister, the minister and others have said, we will exercise appropriate discretion and compassion, but we will do so quietly. Avoidance of fanfare and gesture is crucial, lest others be encouraged to game opportunities to get to Australia or to remain here.

I cannot stress strongly enough to this committee the imperative that I and my officers face in measuring everything that we say very carefully, such that our words cannot be twisted by those people smugglers who would seek to convince their so-called clients that Australian policy is becoming more accommodative. Yielding to emotional gestures in this area of public administration simply reduces the margin for discretionary action which is able to be employed by those who are actually charged with dealing with the problem.

I turn now to immigration detention assurance. The commissioner will speak in more detail in a moment about reforms to detention operations that he has set in train. My role as secretary is to support him in those endeavours and to ensure that the department maintains an independent internal assurance function in relation to detention operations. As I have previously advised this committee, we have in place a separate, independent team, which is headed by a senior executive service officer, which provides advice on the management and performance of the immigration detention function. This team also supports an independent child protection panel, which advises me as secretary on issues pertaining to the wellbeing and protection of children in our care.

Acknowledging the significant value of external and independent feedback in critically examining our operations, we have continued to build positive relationships with external oversight bodies to improve the way in which we deliver our services. In this regard, we have received valuable advice from the Australian Human Rights Commission, the Commonwealth Ombudsman, the Australian Information Commissioner, the Australian Red Cross and others.

I turn now to reform of the department. As senators would be aware, from 1 July 2015 our mission changed fundamentally, with the amalgamation of the nation's immigration, citizenship, customs, border protection and maritime security functions and the establishment of the new integrated department and the Australian Border Force as its enforcement arm. Today, our new departmental mission is to protect Australia's border and to manage the movement of people and goods across it. Our role is to manage our nation's border processes by which we oversee the flow of people and goods to and from our nation. In other words, we are Australia's gateway to the world and the world's gateway to Australia. On occasions, we will need to act as gatekeepers and, as necessary, protect the border by all lawful means. However, the daily operating mode of the department will be to act as the open conduit of Australia's engagement with the world around us for the purposes of trade, travel or migration. The amalgamation of immigration and customs has been successfully accomplished, while the department has continued to manage growing volumes in terms of trade, travel and migration. To take but one example: in January 2016, the month just past, we assessed more than 100,000 visitor visa applications ahead of Chinese New Year celebrations—the first time we have ever cracked 100,000 for that period and an increase of 17 per cent on the same month in 2015. A noteworthy point to draw to attention is that 83 per cent of these applications were processed well within five working days, which is our service delivery standard. This and other praiseworthy accomplishments are a testament to the men and women of the department and the ABF. I should like to pay tribute to our staff, who every day successfully deliver immigration and customs functions for the nation while keeping us safe through their work at the border.

Reform integration activities are, however, ongoing. We are committed to building one culture and one organisation, an objective which includes continuing to consolidate and streamline functions across the portfolio. Our integration reforms are large and complex. They affect around 14,000 staff across the portfolio, as well as our financial, legal, infrastructure, technology and organisational policies and processes. The department continues to improve its internal service delivery by developing a range of initiatives designed to improve the efficiency of back-of-house services, and integration has enabled efficiencies to be made through the removal of duplication and through improved business practices. As a result of these efforts, savings over the forward estimates period will be $270 million, comprising a return to government of $200 million and a departmental reinvestment fund of $70 million for ongoing reform. By the end of this financial year, it is our expectation that the bulk of the integration effort would have been completed, with the exception of some core elements such as full IT
integration and property consolidation, which, due to inherent complexities, will necessarily require additional time and investment.

We are also scoping our major reforms into the future beyond the end of the financial year. To this end, I have dedicated senior resources to defining, managing and communicating our future operating model over the next 10 years. This will support our investment decisions and guide our capabilities to ensure that we can respond quickly to the volatile external environment in which we work. I will report on these reform efforts in future appearances before this committee. In the meantime, however, I might briefly lay out the reform task for the committee. In a highly connected global environment we will need to encourage increasingly seamless cross-border movement. A new flow model of the Australian border is already emerging in the form of our increasing capacity to deal with rapidly growing volumes of visitors, migrants and goods, trendlines which will only continue to increase as the world shrinks and Australia's global linkages broaden and deepen. Our ability to achieve this in the future will be crucially dependent on our best asset—which is our people—being supported by ever-improving capabilities such as real-time data fusion, enhanced information sharing with intelligence and law enforcement partners, biometrics, intelligence-based targeting at high-risk border movements and quick response interdiction. Such capabilities will increasingly allow us to concentrate our interventions in relation to lower risk border movements and to concentrate our efforts where they can make the most difference in terms of enforcing our laws, protecting our community and helping to ensure our nation's security.

I conclude with some remarks on our enterprise agreement. We are keen to develop an enterprise agreement that delivers the greatest benefits to the largest number of employees and one which also recognises the challenging nature of our reform and integration environment, our increasing operational demands and, of course, our budgetary constraints. The previous offer, which was rejected late last year, was developed with a view to keeping employee reductions to an absolute minimum over the life of the agreement to ensure that we had sufficient resources to carry out our duties as set by government. To make the previous offer affordable a reduction of 184 employees would have been required over the life of that agreement. The unavoidable reality is that a larger pay increase will now require more employee reductions. I am keen, as is the commissioner, to ensure that these reductions are kept to an absolute minimum. Bargaining has recommenced and I trust that we can bring this matter to a prompt resolution.

**CHAIR:** Thank you, Mr Pezzullo. I understand that you have copies of that for us which you can deliver after the commissioner has given his opening statement. Commissioner Quaedvlieg?

**Mr Quaedvlieg:** Thank you, chair. With the committee's indulgence I also have a short statement of about seven to eight minutes. I will read that out and then I am happy to table a copy for the committee. It has now been seven months since the establishment of the Australian Border Force. I explained to the committee in October last year that the ABF's operational remit is an amalgamation of the operational functions of the former Customs Service and the former immigration department. I outlined some of the ABF's operational priorities at that time. Good progress against those operational priorities is being made. On the back of record drug seizures of 7.3 tonnes last year, the ABF continues to make significant detections of major drugs, predominantly methamphetamine, otherwise known as ice, at Australia's border. For example, only last month, in a joint operation with the Australian Federal Police and the New South Wales police service, we seized 500 kilograms of methamphetamine and precursor chemicals arriving in three sea cargo containers from China into Port Botany. The size of this seizure illustrates the continuing threat of methamphetamine importation to Australia's community.

Another example is the work of our counter-terrorist unit teams across Australia's international airports. We have increased the number of CTU officers from 80 to 100. Their primary role is to assist security and intelligence agencies by monitoring and intercepting persons from travelling to unlawfully participate in foreign conflicts, and to manage those persons seeking to return to Australia from conflict arenas. In the first seven months of this financial year, our CTU officers have spoken to and assessed almost 110,000 inbound and outbound passengers, resulting in 315 off-loads; they have recorded 1,100 outcomes from those actions, including referrals to security and intelligence partners and the collection of intelligence; and they have detected more than $3 million in undeclared currency.

I will outline more detailed progress against ABF operational priorities to the committee as the year advances. However, I want to use the remainder of this opportunity to briefly update the committee on a number of organisational reforms which I made reference to during last October's hearings and which the secretary alluded to in his opening comments.

On immigration detention, the committee may recall the ABF's assumption of responsibility for the management of onshore immigration detention facilities on 1 July last year. It is our assessment that the network...
of detention facilities, processes and general operations was not appropriate to optimally manage the changing cohort and new complexities arising from the 2,000 detainees we have responsibility for in our onshore detention network at any given point in time. We have therefore embarked on a substantial remediation program to improve the security, safety and amenity of these operations. Deputy Commissioner of Operations Michael Outram can provide more detail of this comprehensive reform program. However, I will provide some examples of the improvement program to give the committee a sense of the scale of the improvements.

We are conducting a review and a remediation program to improve the safety, security and amenity of all physical facilities. We have instituted compulsory training courses for ABF officers working at detention centres, which incorporate input and delivery from NGOs and oversight bodies such as the Australian Human Rights Commission, the Commonwealth Ombudsman, the Minister's Council on Asylum Seekers and Detention, and the Child Protection Panel. All detention operating policies and practices are being comprehensively overhauled and rewritten. We are developing new risk assessment tools and alternative community monitoring mechanisms with a view to using held detention as a last resort and reducing the number of detainees in the network. We have newly appointed specialist superintendents at our detention centres onshore as the single point of accountability, reporting ultimately to the deputy commissioner of operations. We have introduced a national decision-making model for placement of detainees across the national network, and we are working closely with our service providers—primarily Serco and IHMS—to improve standards in the delivery of security, medical and recreational services across the entire network.

So we are on an improvement path, but much is still left to be done in this area, which is inherently challenging, as is evidenced by the disturbance at the North West Point facility on Christmas Island in November last year. While we regained control of that facility within 36 hours, our review of the circumstances leading up to the disturbance recommended a number of improvements in security operations at the centre, all of which are in the process of being implemented.

I will now turn to our maritime capabilities. The last few months have seen the ABF complete the establishment of our maritime patrol fleet. In December we completed the build and commissioning program for our new Cape class fleet, with the eighth and final vessel coming into service. These purpose-built vessels, constructed in Fremantle, provide us with superior range, speed, endurance, passenger-carrying capacity and state-of-the-art communications in the execution of our maritime duties. In conjunction with the completion of our large hull vessel, the Ocean Shield, and a full complement of aerial surveillance assets, we now operate the largest and most capable maritime surveillance and response fleet Australian civilian authorities have ever fielded—one which is able to be deployed rapidly and efficiently from the new ABF berthing facility and marine base, which we recently opened at the East Arm Wharf in Darwin. Working in partnership with Defence, under the auspices of ABF's Maritime Border Command, we have achieved substantial operational successes in Australia's maritime domain, both in Operation Sovereign Borders, encountering illegal maritime people-smuggling, and against other civilian maritime threats, particularly illegal foreign fishing, where we have undertaken a number of successful disruption missions.

I now turn to airports. In the first six months of this financial year, we have processed more than 20 million passengers through Australia's airports, confirming our forecast of continued and substantial growth in passenger volumes. The recent Christmas period, for example, saw a record 3½ million passengers arrive and depart across our border. In response to this volume challenge, we are both injecting additional processing officers into the airports and implementing technological solutions for improved, seamless, automated processing of passengers.

This financial year, in the first six months, we have recruited an additional 225 officers to undertake front-line operational work in our airports. All have been trained in airport processing and will be directed to undertake this work as required. We have also invested heavily in the installation of smart gates. At Sydney Airport, for example, working in partnership with the Sydney Airport Corporation, we have just completed the installation of the largest bank of automated departure smart gates existing anywhere in the world. At the outbound departure point at this airport, an outbound passenger will see a line of 24 smart gates in sequence, which can read both e-chip and non-e-chip passports for self-help passenger processing. These gates are operating at a cycle rate of 25 seconds—that is the throughput rate for a passenger—and, for the month of January, they cleared more than half a million passengers at Sydney Airport without a hitch. The gates are now being actively installed in Brisbane and Melbourne airports, and by the end of this calendar year we will have over 90 outbound smart gates across our airport network.

I will turn to workforce. We continue to invest in developing the capability of the ABF's 6,000 strong workforce. Some examples: since 1 July, six Border Force officer training courses have commenced, and several of those officers have already graduated from the ABF College as the first cohort of ABF officers who are able to
be flexibly deployed across both Customs and Immigration functions. We are rolling out mobile devices to our front-line officers to enable them to upload and download data in the field, as opposed to them being tethered to their office desks. We are harnessing and building specialist teams to focus on border related enforcement activities. Some examples are Taskforce Cadena, to combat the exploitation of working holiday makers, and Operation Balneary, which is focused on the removal of unlawful noncitizens from the community.

Finally I turn to collaboration. No ABF activity happens without collaboration with international and domestic partners, industry and the public. We have an active international engagement program. Our recent signing of a memorandum of understanding with the Thailand office of narcotics control to share intelligence on the movement of drugs across international borders, particularly from South-East Asia, and operational collaboration with Papua New Guinea to combat to illegal fishing and indentured labour in the regional fishing industry are two examples of this engagement.

Domestically, we have strong partnerships with enforcement agencies, with 37 ABF officers out posted to policing entities, task forces and joint operations. An illustration of the effectiveness of these arrangements is a taskforce which has achieved the cancellation or refusal of the visas of 64 organised crime figures, predominantly outlaw motorcycle gang members, impacting the Australian community through their involvement in serious and organised crime. Leveraging our visa compliance powers, many of those persons have already been removed from Australia, while the remainder are on a removal pathway.

Finally, our collaboration with industry for the improvement of facilitation of trade and travel is one of our most profound reform programs. I briefly mentioned advances in traveller facilitation when I spoke of our airport reforms, and certainly our collaboration with the aviation industry is vital to that reform. However, one of the most fundamental reform programs ever undertaken in trade facilitation in Australia is our Trusted Trader program. Sometimes referred to as an authorised economic operator program, or AEO, it is a trust based system which allows accredited reputable traders to benefit from low-touch, seamless and economically advantageous preferential treatment in the facilitation of imports and exports across the border. The Australian Trusted Trader program, which we launched in July last year with a pilot project of four industry participants, has now grown to 22 participants. Through this pilot we are at the cusp of accrediting Australia's first ever trusted trader who will shortly enjoy the benefits of this evolution in Australia's border trade clearance. The ATT project will grow to approximately 1,000 traders, representing 30 per cent of Australia's two-way trade by 2020.

I conclude by thanking the committee for allowing me to place on record this short statement highlighting the progress of the ABF in the first seven months of operation. Thank you.

CHAIR: Thanks, Commissioner Quaedvlieg. Thanks very much, gentlemen, for those opening statements; hopefully they will obviate some of the questions we may have had.

Can I just say, on behalf the committee, and indeed on behalf the people of Australia—I am sure I can do that—thanks very much to the officers from both your areas. The Customs and Border Protection people at times put themselves in danger for our safety and, although many of us only see them at the border posts, we know a lot goes on behind. We thank them very much for everything they do, Commissioner.

Secretary, I say the same to your people. They have a very, very difficult job to do in managing and making decisions, decisions that at times are very, very difficult ones in relation to immigration. I might say that all the committee would not always agree with everything they do, and certainly some of the committee do not agree with the actual policies they are required to implement, but, that notwithstanding, the committee as a whole, appreciates the work that those people do in very difficult circumstances.

Having said that, those statements are very useful. They are getting longer and longer every time, though, which prevents the committee from asking questions they are interested in. I just refer to the committee. The first section we have in the program is Australian Border Force. It is normal with that we question those opening statements, but if we do that will cover the whole program and we are not really going to get through them in order. I leave it to you whether you want to question the opening statements now or at 11:45 as was listed, or whether you want to go straight on to Australian Border Force or whether you want to do it the other way. I am happy either way.

Senator KIM CARR: Thank you, Mr Chairman. You are correct. These statements are becoming longer and longer. It is now half an hour into proceedings and we are yet to ask a question. The officers have gone to a fair bit of trouble preparing these statements; the least we can do is follow them up. To facilitate that, could we actually have a copy of them?

CHAIR: We are getting a copy.

Senator KIM CARR: Yes, presumably that will take a little while longer again.
CHAIR: No, I think they all have them.

Senator KIM CARR: Do they? I am pleased. Perhaps I could start with one matter—

CHAIR: Just let me be clear on that.

Senator KIM CARR: No, my intention is to pursue the matters that have been raised in these statements.

CHAIR: Okay, as long as we just understand, though, that will cover the whole of the program and so the program is not going to be terribly useful.

Senator KIM CARR: Yes, that is right. As we know, the published program was a guide, nothing more.

CHAIR: Yes. All right, over to you, Senator Carr.

Senator KIM CARR: I would like to actually start by saying that they were quite long and lengthy statements but they have not covered some matters which I would have thought the department might wish to comment on.

Mr Pezzullo, there is a very serious matter—namely, the leaking of National Security Committee documents from your department. Lateline on 4 February published what it reported to be a very detailed—in fact, it would appear to have copies of a national security document. It may well be in draft form but it was nonetheless a national security document being prepared for the National Security Committee of Cabinet, marked 'Protected', 'Sensitive' and 'Cabinet'. It is reported that neither the minister, nor his staff, nor the Prime Minister, had actually viewed the document. Can you confirm that that is correct?

Mr Pezzullo: I can confirm that a document that was being prepared within the department, at that stage of its preparation, for circulation amongst other departments, and discussion with other departments and agencies, appears certainly—judging by the material that has been published by the ABC—to be in the hands of persons not authorised to have that document. As a consequence, the matter has been referred to the Federal Police as a potential criminal breach. That is point one.

On point two, I can confirm that the document at the point in time of its creation—because we can obviously judge the version of the document that the ABC appears to have—was internal to the bureaucracy and had not been sent to ministers or their staff. That includes the Prime Minister and his staff and my minister and his staff.

Senator KIM CARR: Thank you. The matter, as you say, has been referred to the AFP. Can you tell me the date on which that referral occurred?

Mr Pezzullo: In terms of my personal knowledge of it, when one of my staff drew my attention to—if not to the program itself, then to the preview of the program that afternoon. I might just ask Deputy Secretary Noble, who has carriage of this matter within the department to perhaps refresh my memory as to when she told me.

Ms Noble: Yes, that is correct. Lateline had put some inquiries in to our minister's office on Thursday night, so our minister's office called me to ask if we knew what document Lateline possibly had. That was at about 6.30 on Thursday night. Then I called the secretary almost immediately.

Senator KIM CARR: When did you discover that the document had in fact been leaked?

Mr Pezzullo: In terms of my personal knowledge of it, when one of my staff drew my attention to—if not to the program itself, then to the preview of the program that afternoon. I might just ask Deputy Secretary Noble, who has carriage of this matter within the department to perhaps refresh my memory as to when she told me.

Ms Noble: Yes, that is correct. Lateline had put some inquiries in to our minister's office on Thursday night, so our minister's office called me to ask if we knew what document Lateline possibly had. That was at about 6.30 on Thursday night. Then I called the secretary almost immediately.

Senator KIM CARR: Where are reports that Fairfax have also got the document. Is there a separate AFP inquiry into that leak?

Mr Pezzullo: As best as we can ascertain—and it will be for the investigative authorities to look into this further—the document that is on the web appears to be the same document. When other outlets say that they 'have obtained' said document, it is not clear if they are reporting off the document that they found on the web or if they have a separate copy of it.

Senator KIM CARR: I see.

Mr Pezzullo: In any event, I am sure the Federal Police would take it as an omnibus referral that pertains to the same document, irrespective of which media outlet purports to have it.

Senator KIM CARR: It may well be that they are simply referring to the website document.
Mr Pezzullo: I cannot be sure, but there appears to be a single document that has been regrettably disclosed in an unauthorised fashion.

Senator KIM CARR: Who initiated the preparation of the document?

Mr Pezzullo: Senator, I am not really at liberty to go into a lot of detail, simply because to do so would necessitate the canvassing of matters internal to the cabinet by definition, because on its face it is obviously a document being prepared for the National Security Committee of Cabinet. Suffice to say that the document itself makes reference to its status as a so-called comeback pursuant to an earlier decision of the NSC. There is no point denying that, because that is apparent on the face of the document.

Senator KIM CARR: It is stated, yes.

Mr Pezzullo: It is stated, but beyond that I am not really prepared to go into much detail.

Senator KIM CARR: How many departmental officers had access to the document?

Mr Pezzullo: That is not in my personal knowledge. In any event, to the extent that we have undertaken preliminary inquiries—how many people saw it, who created it, on whose system was it and who transmitted it—those are really now properly matters to be laid before the Federal Police.

Senator KIM CARR: You mentioned the Department of Social Services. Would any other agencies have access to the document?

Mr Pezzullo: At the point in time that that document was created, it was created for the purposes of discussion with other agencies. Ms Noble will correct me and refresh me. She briefed me in detail over the weekend. That document went out to a number of other agencies in what we describe in the business as a ‘pre-exposure draft’.

Senator KIM CARR: Are you able to tell me which agencies received the pre-exposure draft?

Mr Pezzullo: I might take that on notice, only from the point of view of wishing to consult with colleagues in the Federal Police about their level of comfort.

Senator KIM CARR: I am interested to know whether all attention should be focused on your department.

Mr Pezzullo: It certainly shouldn't be. That would be unfair to the officers involved. This is not an aspersion; I know that you are seeking to assist by giving me the opportunity to indicate that officers from other departments had access to it. I can confirm that that is the case. As to whether it was a dozen agencies, eight, 10 or 15, I might just defer on that matter to the investigation that is now on foot.

Senator KIM CARR: I notice that the minister and his office have denied having any access to the document, not having seen the document.

Mr Pezzullo: I can confirm that. That is right.

Senator KIM CARR: So they did not see a draft? There were no briefing papers sent up?

Mr Pezzullo: No. We do not do briefing papers in that sense. We do submissions, and there were no submissions sent to the minister or his advisers.

Senator KIM CARR: And no-one in the minister's office was aware of the construction of the document?

Mr Pezzullo: I do not think you can draw that conclusion. Without wishing to canvass the detailed and specific instructions given to us by either the cabinet or one of its committees: on its face, it is obvious that there had been an instruction given to the minister through cabinet committee processes and then in turn the minister passed that instruction onto his department, as you well know, to prepare the document. There would have been an awareness that this was a task, as it were, or homework, as it were, for the committee.

Senator KIM CARR: But there must have been some conversation following that cabinet committee instruction. It is a come back document, as you say. There must have been cut some conversation with the minister's office about the preparation of the document.

Mr Pezzullo: If you are now asking me about conversations—as opposed to briefings, submissions or notes—I cannot rule out, nor could you reasonably expect me to rule out, discussions over the telephone or other oral discussions. You asked me earlier about the transmission of documents to the minister. I can confirm that the minister has not seen, and did not see at the time, the document in question—nor had his staff. As to whether members of Ms Noble's policy group engaged with members of the minister's staff to get maybe a bit more precision or a sense of the nature of the task, I certainly could not rule that out and that would be just in the ordinary course.

Senator KIM CARR: Thank you. Ms Noble, can you assist me in that matter? What was the level of communication with the minister's office?
Ms Noble: Since the leak, we have obviously asked our staff to go through their recollections about any engagement with the minister's office either in writing or verbally. Only very recently, on 27 January, can anyone recall having a conversation with one of the minister's advisers. That was principally about the process: when we expected to be able to provide the document and what the time frames were.

Senator KIM CARR: So you can confirm: there was nothing in writing in regard to the preparation of this material prior to the 27th, in which there was a conversation about the process for the preparation of the document.

Ms Noble: That is correct, based on our ability to work through this with all of our staff so far.

Senator KIM CARR: That is the best information at this point.

Ms Noble: That is right.

Senator KIM CARR: I see. Thank you very much. How long do these leak inquiries take, as a rule?

Mr Pezzullo: In my experience, this is a matter for the investigative agency, which is the federal police at the federal level. It is variable and it is really something that perhaps needs to be canvassed with the Australian Federal Police.

Senator KIM CARR: But we cannot expect an answer soon, can we?

Mr Pezzullo: You are operating to a criminal standard of proof. It is a serious breach of relevant provisions of the Crimes Act and, potentially, other acts of parliament. It is criminal and people could go to jail, so I presume that they will take the time they need to ensure that everything is done appropriately.

Senator KIM CARR: We will return to this matter at the next estimates round. Can I ask you about another matter that I thought you would have canvassed in your statement. That is, the matter relating to the MV Portland.

Mr Pezzullo: But you are inviting me to make longer statements here.

Senator KIM CARR: I am always happy to listen to the information that you have to provide, as you know.

Mr Pezzullo: Thank you.

Senator KIM CARR: The question has arisen in relation to MV Portland and the Australia crew there who were removed from the Alcoa plant in Portland. I understand the department is familiar with this incident?

Mr Pezzullo: I have got a broad awareness of it. I might ask the commissioner if he is across the matter of the MV Portland in more detail.

Mr Quaedvlieg: I have a broad awareness of it as well.

Senator KIM CARR: The Australian crew was removed from the vessel on 13 January and replaced with a foreign crew—that is, seven Indian nationals, as I understand it—at 1 am in the morning, escorted by about 30 security guards. I am interested to know what the role of the department was in that operation.

Mr Pezzullo: I have got a broad awareness of it. I might ask the commissioner if he is across the matter relating to the MV Portland in more detail.

Mr Quaedvlieg: As far as I am aware, the Australian Border Force had no involvement in that particular incident.

Senator KIM CARR: The department surely had a role in regard to the visa arrangements for the Indian crew, though. Would that be a fair conclusion to draw?

Mr Pezzullo: We might take it on notice through the course of the day, but, without drilling into the details, it certainly would be the case that any competent authority would be able to reach into the department on the visa side to ascertain the bona fides—whether someone has a right to be in Australia or the right to transit through Australia. That is certainly the role that the department would play. I am sorry I do not have the recall in my mind; I did not prepare on this particular matter. I do apologise. I just need to remind myself as to which jurisdiction was being exercised here, and then perhaps we could take it from there. Perhaps you could lay out the matters of concern.

Senator KIM CARR: The crew that had been on board the MV Portland were all Australian citizens and they had all been cleared by customs and immigration officials to depart Australia for anticipated voyages to Singapore. My concern is that, on being forcibly removed and abandoned at the Alcoa wharf, those Australian citizens arriving back in Australia have not been cleared or authorised by customs and immigration to re-enter Australia. Is that the case?

Mr Pezzullo: Sorry, Australian citizens?
Senator KIM CARR: Yes.
Mr Pezzullo: They cannot be barred from re-entry.
Senator KIM CARR: Yes, but they normally have to go through some customs procedure.
Mr Pezzullo: All Australians, irrespective of how you—
Senator KIM CARR: How does that occur?
Mr Pezzullo: Irrespective of how you depart and return, everyone is lawfully obligated to go through a customs clearance, that is for sure. But there is no question of your visa status, because, by definition, you are a citizen.
Senator KIM CARR: Is there a question around whether or not customs had a responsibility that has not been fulfilled in regard to the Australian crew who were removed from the vessel?
Mr Quaedvlieg: I would doubt that. I am not familiar with the exact details of the incident that you are referring to, but all persons coming back through what we perceive as the primary line need a level of clearance. Whether that was done on a face-to-passport match or through some other method, I cannot tell you, in relation to this incident. I will have to take that on notice.
Senator KIM CARR: Will there be any record of these Australian citizens re-entering Australia?
Mr Quaedvlieg: There should be, yes.
Senator KIM CARR: But there will not be, if they have not been cleared.
Mr Quaedvlieg: I do not know. As I said, I am not familiar with the incident and I will need to take that on notice.
Senator KIM CARR: Perhaps you can tell me this: were the Australian crew registered as having re-entered Australia?
Mr Pezzullo: I think the best course is to take it on notice. Given it is relatively early in proceedings, if it is acceptable to you, chair, we will try to clear that up through the course of the day.
Senator KIM CARR: In terms of the crew that were put on the vessel, what visa arrangements were made for those people?
Mr Pezzullo: I think that follows on. We have taken the question on notice, as it were, through the day. If we cannot get answers to your satisfaction through the course of the day, we might need to take it on notice more formally.
Senator KIM CARR: Of course, I appreciate that.
Mr Pezzullo: We will take on notice two questions: the border clearance of the Australian citizens—
Senator KIM CARR: And the exit arrangements for the foreign crew.
Mr Pezzullo: And their visa standard.
Senator KIM CARR: Particularly whether or not they had Maritime Crew visas at the relevant time.
Mr Pezzullo: Subject to being able to come back to you through the course of the day—and if it is acceptable to the committee, through you, chair—we will try and acquit that through the day.
Senator KIM CARR: Thank you. I will follow those through.
Mr Pezzullo: Just to be clear: the vessel's name was the MV Portland?
Senator KIM CARR: Yes.
CHAIR: Mr Pezzullo, you mentioned visas for Chinese immigrants with a five-day turnaround.
Mr Pezzullo: Or less than five days.
CHAIR: What is the five days?
Mr Pezzullo: That is the service delivery standard that we aspire to. You make your visa application, it is assessed, and you are granted a visa within five days of fewer.
CHAIR: Does that apply to other Asian countries as well? Is five days the average?
Mr Pezzullo: I think it is pretty general. I might ask Mr Williams to come and assist. He is the acting deputy for our visa group. The point I was making in my statement was that in this past month of January is the first time
that we had cracked 100,000 applications granted. 83 per cent of those 100,000, so 83,000, were granted within five days. I might ask Mr Williams to elaborate.

**Mr Williams:** The service standard is split for different countries, depending on perception of risk. Generally speaking, for higher risk countries it is up to 30 days. China is actually one of those countries, although we far exceed that service standard. It is very much an outer standard.

**CHAIR:** So even though they are a high-risk country, you are still doing it within five days?

**Mr Williams:** We were able to do it much quicker. That is the case with China.

**Mr Pezzullo:** We are very practised at it.

**CHAIR:** Well done. I know it is a policy decision, not the department's decision, that we have visas for certain countries but not others, but it is, as you know, a constant source of annoyance to China and some other Asian countries about the—

**Mr Pezzullo:** Just to be clear for the record, Australia has a universal visa system for all countries—even New Zealanders travelling here under trans-Tasman travel arrangements have a nominal visa. The question of how you can expedite things like online lodgement and how you can expedite the paperwork to give it a very light-touch visa, is what we are constantly working on, including with China. This government made announcements last year in terms of streamlining visa processes for our Chinese visitors, and those reforms are in train.

**CHAIR:** Again, I realise these are policy questions, but over Christmas I was on a cruise ship in the South Pacific, and I am always amazed that you need no visa to get into French New Caledonia or Vanuatu or other South Pacific nations, but clearly we do not reciprocate with any of them coming to Australia.

**Mr Pezzullo:** It has been a longstanding and indeed bipartisan position, going right back to the establishment of the department in 1945, that we have always had visas. The trick in the modern age is how do you ensure that those visas can be applied for quickly, expeditiously, increasingly through digital forms and increasingly through what we refer to as a light-touch approach.

**CHAIR:** Is the application fee for a visa the same everywhere in the world?

**Mr Pezzullo:** No. There are differences according to the type of visa. I might ask Mr Williams to elaborate.

**Mr Williams:** That is right. For a general visitor visa the fee is the same everywhere.

**CHAIR:** What is it?

**Mr Williams:** I think it is $130, but I will double check. There are some other visa categories which do not attract fee. For example, for an electronic travel authority there is a $20 fee to do it online.

**CHAIR:** What is an electronic travel authority?

**Mr Williams:** That is a visa that is available for certain countries where there is a totally electronic process, and the visa is done quite quickly online.

**CHAIR:** Would the Chinese applications be one of the $20 ones.

**Mr Williams:** No, they are a general visitor visa, with the $130 fee that I mentioned.

**CHAIR:** Does the visa and passport section of the department operate at a profit? Or don't you have a budget for that within the department?

**Mr Williams:** We have a budget within the department for it. The fees that are collected go straight to the Treasury—to consolidated revenue.

**CHAIR:** But you do not keep a notebook of how much your wages and equipment costs and how much you recover?

**Mr Pezzullo:** We do. We can account for both our outlays and the fees coming into the Treasury and to other areas.

**CHAIR:** Do you operate at a profit, to use a crass term?

**Mr Pezzullo:** We collect more fees than our expenses are.

**CHAIR:** I will not ask the details of that. Commissioner, in relation to people smugglers, at this committee's hearing last week on another inquiry it was revealed that a Bangladeshi man paid US$1,000 to a people smuggler, which we then ascertained was about four times the average annual income in Bangladesh. So it was quite a substantial sum of money paid by someone to a people smuggler. I think this was evidence given by Amnesty International. Are you able to tell me, without breaching any confidences, what the range of money is, as far as you are aware, that is paid to people smugglers for illegal entry into Australia? Do you have some figures?
Mr Quaedvlieg: I can give you a generic answer. The price of a people-smuggling voyage, if you will, does suffer from elasticity. Its econometrics are pretty much the same as with any product or service. During mid-2013, when there were a significant number of SIEV ventures to Australia and many thousands of asylum seekers, the price of a voyage from Indonesia to Australia was in the vicinity of US$10,000. Since the Operation Sovereign Borders model has been put in place, that price has dropped significantly. People smugglers are struggling to find customers, and therefore the price drops. We are seeing fares being offered as low as US$2,000. I was not familiar with the example you just gave,

CHAIR: It was evidence given by Amnesty, I think. If not it was the Law Council.

Mr Quaedvlieg: I accept that. There is a price range in those two parameters.

CHAIR: Although its $1,000, according to Google that is four times the average annual income for a Bangladeshi. In Australian terms, it is probably $300,000. Is your information relatively recent, without again going into any details which might impact—

Mr Quaedvlieg: Yes, it is.

Senator KIM CARR: Mr Pezzullo, can I turn to the second page of your opening statement, where you say:

No amount of moral lecturing by those who seem not to comprehend the negative consequences of an open borders policy will bring forth those solutions …Avoidance of fanfare and gesture is crucial … Yielding to emotional gestures in this area of public administration simply reduces the margin for discretionary action.

You are referring to the premiers there, are you not?

Mr Pezzullo: No, not specifically at all. It is a statement made generally, with general application.

Senator KIM CARR: So the premiers' statements over the weekend would not fit into that category?

Mr Pezzullo: It is for others to judge whether they fit in or do not fit in.

Senator KIM CARR: Who did you have in mind?

Mr Pezzullo: I did not have anyone particularly in mind.

Senator KIM CARR: It was just a generalised statement, was it?

Mr Pezzullo: Yes. A policy position, if it is based on universal principles, has to be articulated universally, not dependent on the waxing and waning of commentary in social media and all the rest of it. If you have, as the Prime Minister described it yesterday, a policy that is tough—and indeed, to paraphrase him further, one that sometimes cannot really be described, in parts, other than as harsh—it has to be applied universally. The moment you have a chink of light, the moment you give someone a clue as to how to game the system, you will put people's lives in danger.

Senator KIM CARR: The Premier of Victoria's letter has received considerable publicity. What is the department's response to that?

Mr Pezzullo: It is a letter from the Premier of state of our federation to the Prime Minister. The department does it not has its own view on it. The department applies government policy.

Senator KIM CARR: What is the government's response to that?

Mr Pezzullo: Prime Minister was asked about that yesterday, I think. My minister has made a commentary on it. The point that they have both made is identical with the thrust of my opening statement, which is that the more this is talked about publicly, the tougher we have to be in articulating the resolute of the logic of Operation Sovereign Borders. It takes away any capacity, subject to case-by-case determination, to come to practical arrangements in particular cases where that is applicable.

Senator KIM CARR: Are you saying it reduces your discretion?

Mr Pezzullo: Completely.

Senator KIM CARR: What is the process for the returning of the 270 asylum seekers currently in Australia to Nauru?

Mr Pezzullo: I will ask to be joined by Deputy Commissioner Briscoe. Ms Moy can join me as well. We will go through a process, which is always ongoing, of taking advice in the first instance from medical practitioners. They will advise us on the primary medical issue, that is to say the issue that saw the persons in question brought to Australia. Depending on how their care and recuperation is going—in some cases they have illnesses that are very serious and do not have any early prospect of resolution, while in other cases they are fit and well—in terms of the primary medical condition that saw them brought here, we will work through those in a staged fashion. It is an ongoing process. They will not be, does not need to be and should not be a bulk determination.
What has changed is that with the bringing down of the decision known as M68 the department is on a very clear legal footing that it is able to return persons. Whilst those proceedings were on foot the minister of the day had decided to enter into a voluntary self-obligation to not return such persons, and a number of persons were part of those undertakings as they were joined to the case. That now has been lifted. Beyond that I am not going to go into the specifics of individual cases, firstly because they are all going to be intrinsically private, and secondly because I do not want to pre-empt the legal and operational processes that we now need to go through other than to say that a single bulk determination that says, 'The High Court has brought down its; you all have to leave in one plane load' is not appropriate, because of the different stages of recovery of some of these folks, and it is not sensible. It will not be pursued in those terms.

**Senator KIM CARR:** Do you have any estimate of when these returns will occur?

**Mr Pezzullo:** They will necessarily be staged, because they are conditions based, based on a case-by-case consideration primarily, as I said, of the medical condition that saw the persons repatriated to Australia for care. In some cases, and I will check with the deputy commissioner and with Ms Moy, we are talking about cancer or all sorts of long running illnesses. In other cases there may have been an acute injury which at that time could not have been dealt with on Nauru, but has now been dealt with. As we improve the medical facilities on Nauru, with the agreement of the Nauru government and in support of their role as the processing authority, there will be less and less opportunity and requirement to repatriate people to Australia. I might pause there and just ask the deputy commissioner perhaps to add to my answer.

**Ms Briscoe:** This secretary has pretty much covered it. There are a range of reasons that people were brought to Australia. In many cases their medical care continues. For some, we have indications from a medical provider that some will need more than six months' medical treatment. As the secretary mentioned, it varies in each case.

**Senator KIM CARR:** What is the earliest time at which you will expect to see people being returned?

**Mr Pezzullo:** I think it is best if we keep our counsel on that, simply because those questions are both for decision makers who are delegates. They have delegated authority and do not really need any nudging from me in an open hearing. They will make their decisions in due course.

In trying to answer your question as best I can: in some cases, if the medical treatment has been attended to, the court case has come down and the need for the undertaking to some extent has been, shall we say, 'eliminated' because the court has found in favour of the executive on this, it is possible—if we just work through that logic without identifying cases—that some people, by definition, are ready to go within days, because their treatment has been attended to and the only thing that was holding them back was the commitment the executive had given to the court not to return persons until it had concluded its deliberations. In some cases it might be weeks, in other cases it might be months and, regrettably, in some cases it might be for reasons to do with very long-term and indeed potentially terminal illnesses. Some folks, I suspect, will be here for quite a while. It is all dependent on their medical condition.

**Senator KIM CARR:** Is after six months what you are thinking?

**Ms Briscoe:** There are a range of cases. Some people may be fit to travel soon, and for others the time may be greater than six months.

**Senator KIM CARR:** What is the earliest time at which you will expect to see people being returned?

**Mr Pezzullo:** I think it is best if we keep our counsel on that, simply because those questions are both for decision makers who are delegates. They have delegated authority and do not really need any nudging from me in an open hearing. They will make their decisions in due course.

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**Senator KIM CARR:** An article in *The Age* on 4 February quotes Mr Garfield Prowse as informing the Prime Minister and the Minister for Immigration:

> The department continues to work closely with the government of Nauru regarding the welfare of children, …

And:

> … the department "takes steps" to ensure all school-aged children in any form of detention were enrolled in school.

I am wondering if you can provide the committee with specific details on how the department works with the Nauruan government with regard to the welfare of children?

**Mr Pezzullo:** We are talking here about the children who are in Nauru, who are the subject of schooling and—

**Senator KIM CARR:** They would not be the ones in Australia, so they would be the ones in Nauru—

**Mr Pezzullo:** I am just being clear because we have moved from one category to another. I might ask Ms Moy to address that question. Mr Prowse does work for Ms Moy. I did see a media report to the effect of what you have just said. I do not know what the context of his remarks were, but Ms Moy might be able to add more.

**Ms Moy:** With regard to education in Nauru: the department does work closely with the government of Nauru which, obviously, as a sovereign nation has the lead on education. We also work very closely with the Department of Foreign Affairs and Trade, which funds up to $3.2 million per annum under the Nauru Department
of Education strategy. So there is quite an amount of Australian aid on the DFAT side, which you could talk to them about in more detail.

But in terms of the Department of Immigration we have been working with the Department of Education in Nauru in enhancement of the school infrastructure, building eight new classrooms. That is approximately $9 million. That is estimated to be completed by the end of April 2016. We work with Nauru, supporting them by providing school counsellors and by providing 11 teachers through the Brisbane Catholic Education Office. At the beginning of each school year, and more broadly in terms of strategy, the government of Nauru talks to us about what plans they have in terms of the numbers of children, the ages of the children and the education direction. We also assist with the University of New England, which has a campus in Nauru, as well as the University of the South Pacific. So there is quite an amount of work done at all five schools, from the primary through to the secondary and then into the tertiary and vocational areas.

**Senator KIM CARR:** How many children who were placed on Nauru as detainees, or in families of detainees, are not attending school?

**Ms Moy:** There are a number of children who do not attend school. The numbers who are attending school at the moment are very similar to the numbers who attended in the educational facility which was in the regional processing centre. The numbers have not changed dramatically.

**Senator KIM CARR:** What percentage is that?

**Ms Moy:** I will pull that percentage out for you. The number of children who are attending school really does relate to parental involvement. The five counsellors who are provided do work with both the schools and the parents. They assist the parents in engaging with the school and therefore assisting the children. But at the end of the day, parental responsibility is difficult. I will get that information for you, if you will just be patient with me for a moment.

No, I do not have the actual percentage but I will get that for you during the course of the day.

**Senator KIM CARR:** What is the number then?

**Ms Moy:** I do not think I have the number either. I did have the numbers in a previous brief.

**Senator KIM CARR:** You may find it in your notes.

**Ms Moy:** I will find it and give it to you.

**Senator KIM CARR:** Does that include preschool children?

**Ms Moy:** Yes, it does—from age 4.

**Senator KIM CARR:** It is from age 4. The compulsory schooling in Nauru does not commence till age 7.

**Ms Moy:** From age 4.

**Senator KIM CARR:** Is it a significant number not attending?

**Ms Moy:** I would say it is probably about 50 per cent, yes, but I will get the exact number for you.

**Senator KIM CARR:** Thank you very much. I asked about schooling but I also asked about the welfare of children. How does the department work with the Nauruan government with regard to the welfare of children.

**Ms Moy:** In terms of the welfare of children, other than the educational facilities, there are also our service providers, Connect Settlement Services, who work with the children and the families who are refugees who have settled. There is also Broadspectrum, who work within the RPC3. The programs and facilities that are provided for children, in terms of activities and co-educational activities in the RPC3, are equivalent to preschool activities within Australia for the younger children. Older children who should be at school are encouraged to go to school. Other than that, there are also the medical facilities that are provided. There is the child protection unit, which has been stood up by the Department of Home Affairs in Nauru, and also the gender violence unit. The gender violence unit and the child protection unit work together in the Department of Home Affairs. We provide support primarily in terms of funding to the child protection unit and the gender violence unit, which operates 24/7, offering counselling to refugees, transferees and all Nauruans.

**Senator KIM CARR:** I think the general public would have been shocked by the reports of sexual violence that arose in the High Court case proceedings. The rape of an infant was one matter that was given particular attention. How satisfactory do you think our efforts are, as the Commonwealth of Australia through the Department of Immigration, in protecting the welfare of children on Nauru?

**Ms Moy:** Sorry; the rape of an infant?

**Senator KIM CARR:** A five-year-old.
Mr Pezzullo: At this point it is probably worth making a few comments about that because that was concerning. It was not a case known to us. Ms Moy personally, at my direction, followed up with the medical practitioner. Ms Moy has some interesting information to put before the Senate. It would be very helpful indeed for advocates and those who are very passionately engaged in this issue to get their facts right, because it does create an unnecessarily adverse—

Senator KIM CARR: Are you saying the claim of the rape of a five-year-old was untrue?

Mr Pezzullo: Yes, in some cases it is not what it seems. In some cases, upon further investigation, it is often a matter that has been previously looked at.

Senator KIM CARR: I am more than happy to—

CHAIR: Senator, your time has finished, but, as it turns out, I was going to pursue that line in any case. Senator O'Sullivan can have this, but, as it turns out, I was going to pinch a couple of his minutes. Can you give us those details, Ms Moy? I chair the committee where we have all the advocates before us on various cases, and they are all allegations. I always ask which have been proved. Perhaps in that general context you can indicate to me. We see a lot of media reports and advocacy groups making allegations. How many of them have been proved? How many do we know are real?

Mr Pezzullo: I will ask Ms Moy to answer in a way that attempts not to identify the child. Could you go through the analysis that you did late last week, Ms Moy?

Ms Moy: It was quite a concern to read in the paper or hear on 7.30 of the rape of a five-year-old child. We have not had any allegations of the rape of a five-year-old child or the rape of a child at all prior to that. I did contact the paediatrician from the Royal Children's Hospital in Sydney to discuss with her the case and to try to identify the child for our purposes to ensure that we had all of the information we could. I am very keen not to give detail that will even identify this child to themselves if they were listening to information in the media. The child was not five. The allegation was of a sexual assault by another child who was about two years older, which was a physical skin to skin contact. It was not allegation of rape by the child. The child is more than double the age of five, without identifying how old the child is. All allegations against a child are terrible, and we do not condone any assault or alleged assault of a child. The issue had been brought to our attention at the time. The case was investigated by Mr Moss in his report. It had also been investigated by the child protection panel. The child protection panel's investigation determined that the department's responses to the actions were correct. The allegations were raised by the parent. At the time that the allegations were raised, support services were wrapped around the family, both medical and welfare and counselling. The child was moved to Australia for further treatment in terms of counselling within a month of the incident, I think it was. The child is now living in the community with his family.

CHAIR: Where?

Ms Moy: In New South Wales. He remains in Australia. In respect of the treatment that the child is receiving, I think we would all say that the Royal Children's Hospital is world class. He is receiving treatment that we would consider appropriate. We hope to be able to have the child not damaged at all by being identified as being the person who is being spoken about in the media.

Mr Pezzullo: In other words, no rape of a five-year-old child occurred, even on the word of the concerned doctor, once we cross referenced it. The doctor has done the right thing and came back to Ms Moy very promptly late last week. As I understand it, she was uncertain as to how the media reporting, through some process of transformation, had turned the matter that she had raised into a rape of a five-year-old child.

CHAIR: No doubt that factual report will get the same headlines as the allegation, but that is not a question for you, Mr Pezzullo.

Mr Pezzullo: Somehow I doubt it.

Ms Moy: I should have mentioned that the paediatrician that I spoke to, the doctor involved, did not say that child was five, and did not necessarily say that the child was raped.

CHAIR: As your officers would know from long experience, allegations are quite outlandish. Was the attacker a local Nauruan or someone who was in detention themselves?

Ms Moy: It was not a Nauruan. It was a child transferee within the regional processing centre.

CHAIR: I will not go any further, as it might identify people. Could I go back to some other things that you were talking to Senator Carr about. In relation to the teachers and counsellors that you mentioned and the about 50 per cent who are not attending school, is it because their parents will not let them?
Ms Moy: I could not speak for the parents. I know that we have undertaken a lot of work with parents to ensure that they understand the schooling system in Nauru. It could be different from their previous experiences. The work that is undertaken by the school counsellors is to ensure that the children are comfortable at the school and integrate and understand the customs, learn the language of Nauru, who use both Nauruan and English, and also to work with the parents to help them understand how their children can progress through Nauruan schooling whilst they are in Nauru.

CHAIR: About how many children in detention centres are of school age?

Mr Pezzullo: While Ms Moy looks for those facts, it is also important to recall that on Nauru there is no closed detention anymore. It is an open centre, by decision of the Nauruan government. The centre has switched its operating mode to being more of a hostel, for want of a better word, where you go about your business during the day, whether it is going to school or elsewhere, but then you come back at night where you can get a meal, a bed and a shower, then the next day you start again. It is what is called an open centre. There are no detainees.

CHAIR: I do not need you to be precise. You will not be held to it. I am just trying to get and idea of the scale.

Ms Moy: In relation to the age of refugee and transferee children on Nauru, there would be around 50 who are of school age.

CHAIR: Do you have any idea of the school-age population of Nauruans?

Ms Moy: No. I would have to take that on notice.

Mr Pezzullo: The size of the cohort?

Ms Moy: We could find that out during the day.

CHAIR: Would it be 1,000?

Mr Pezzullo: The population of Nauru is around 8,000. I guess we could work it out, depending on their demographic split. I think it is best if we take it on notice.

CHAIR: How many teachers does Australia provide to the schools in Nauru? You said they provide Brisbane tuition teachers to all children attending Nauruan schools, not just to the transferees?

Ms Moy: That is correct. All children are enrolled in Nauruan schools. There are five Nauruan schools.

CHAIR: These teachers would be teaching Nauruan kids as well.

Ms Moy: They are teaching and assisting. They mentor and assist and sometimes teach as well. They mentor and assist the Nauruan teachers and assist with the development of curriculum and pedagogy more broadly.

CHAIR: And there are a total of five Australian-trained teachers in Nauru?

Ms Moy: There are 11 teachers and five school counsellors. The school counsellors are the liaison between the parents, teachers and children. Eleven teachers are dedicated to the educational side.

CHAIR: Do you have any idea of how many teachers there are in Nauru? I am interested in that.

Ms Moy: I can find that out for you.

Mr Pezzullo: If it assists the committee, to answer both Senator Carr's earlier question and yours, we will come back through the course of the day with the size of the overall school population, which will answer your question, and also the number of teachers. That will give you a sense—

CHAIR: I just want to get a sense of the size of the contribution—

Mr Pezzullo: We will also establish the correct number, whether it is 50 per cent or lower, of those not attending school for whatever reason. I am not sure that we will be able to fully break down the reasons. It might be worth coming back with a breakdown, probably not after the morning tea break but perhaps in the early afternoon.

CHAIR: Is the official language of Nauru or pidgin or something else?

Mr Pezzullo: They certainly speak very good English. I am not sure what the official language is.

CHAIR: What do they teach at school as the main language? That is what I am getting at.

Mr Pezzullo: I am advised by my colleagues at the table that it is English.

CHAIR: Rather than pidgin.

Mr Pezzullo: Their standard of English is very good in the meetings that I have been in. I do not know if they speak anything else.

Ms Moy: They speak Nauruan at schools, as well.
CHAIR: Is Nauruan a sort of pidgin English?
Ms Moy: It would be considered Nauruan language.

Senator O'SULLIVAN: I want to go back specifically to the allegation about this child and then in a more general sense. Who made the allegation? I know the answer to my own question, but I want to open a line of questioning. Who made the allegation in the open forum of the media that it was a five-year-old boy who had been raped?

Mr Pezzullo: As Ms Moy made clear earlier, it was a matter that was confidentially reported some time ago. She might quickly go over those details again. As you might recall from earlier proceedings, it was looked at by Mr Philip Moss, the former Integrity Commissioner, who did a report for me almost a year and half ago. It is an old case, if I can use that term.

Senator O'SULLIVAN: But this allegation—

Mr Pezzullo: When we got to the child's identity, Ms Moy was very properly being not ambiguous, but certainly imprecise and cautious in some respects. When we established that the media reporting as recently as last—

CHAIR: Senator O'Sullivan's question was, who made the allegation that it was a five-year-old?
Mr Pezzullo: We would have to go back and look at the media articles that reported—

Senator O'SULLIVAN: The media talks about a paediatrician named Karen Zwi.
Mr Pezzullo: We are certainly in touch with the doctor who made the claim. I think that is the doctor's name. But as Ms Moy made clear, the facts that she has related to us are no different from—I expect, unless the case is not as I understand it to be—those she briefed the media on, and there is no five-year-old child. It is a figment.

Senator O'SULLIVAN: So the paediatrician, Karen Zwi, has briefed the media with a—

Mr Pezzullo: I do not know that, but if she is referenced in quotes—

Senator O'SULLIVAN: She is quoted in the media, saying she is concerned by the state of this five-year-old child.

Mr Pezzullo: If she is referenced in quotes I assume that she has spoken—
Ms Moy: Sorry, Dr Zwi did not identify the child as being five-years-old.

Senator O'SULLIVAN: She is attached within an article. The point of the article is that the paediatrician is concerned about a five-year-old child having been raped and returned to detention. That is the context of the article. There is only one child in the article and only one paediatrician in the article. I am trying to get to: does the paediatrician suggest that whatever briefing or engagement she had with the media did not include reference to a five-year-old child?

Mr Pezzullo: Without disclosing too many confidences—we are trying to dance on the head of a pin here—I think that is essentially what—

Senator O'SULLIVAN: So the media is—

Mr Pezzullo: She has briefed the department that she does not understand how the reference to a five-year-old emerged. I am trying to be as fair to the doctor as I can. Is that what she conveyed to you, Ms Moy?
Ms Moy: That is correct.
Mr Pezzullo: So that is what she has conveyed to us.

Senator O'SULLIVAN: As you would appreciate, these things are simply not helpful. They are repeated in the Senate. I sit and listen to a diatribe of these allegations every day, and if they are completely unfounded it completely grounds the arguments made by some advocates for these people.

Mr Pezzullo: I would go further: it is getting to a point where there is advocacy parading as journalism. That is actually deleterious to a sensible discussion about these matters, and that was more the point that I was going to in my opening statement when Senator Carr asked what I had in mind. I think we have gone beyond journalism when you have certain segments of the media undertaking, essentially, pamphleteering of an almost political nature. In that context, the facts just get bent and it is completely unacceptable.

Senator O'SULLIVAN: I imagine your department, quite properly, monitors the performance of the House of Representatives and the Senate also?
Mr Pezzullo: We do not monitor its performance, I can assure you.

Senator O'SULLIVAN: Sorry, not performance.
Mr Pezzullo: We certainly observe proceedings, yes.

Senator O'SULLIVAN: You would often hear allegations made under privilege, particularly in the Senate. When you hear the details of those allegations, do you find that they do not fit with any case that you might know of?

Mr Pezzullo: In fairness to senators who might be reliant on the accuracy, ethics and standards of journalism of our reporters, it is open to any senator—including in these proceedings and others. You do not need any authority from the department. If they see an allegation it is perfectly within the rights of a senator to raise it. My concern is about the original reporting; if it is so skewed then of course that is going to be—

Senator O'SULLIVAN: That is bad enough, but if we have senators in my Senate who do not spend one minute looking at the integrity of a statement they are going to make that is of serious concern to me. Recently in the Senate, in relation to this matter, I heard cries at our government: 'You allow children to be raped and you are going to return them into that environment.' It is fair to say that that is not true.

Mr Pezzullo: I make no comment on what senators say. In terms of the allegation that my department is somehow complicit in overseeing a regime where children are raped and then returned to a brutal regime of detention, I reject that utterly. It is for the Senate to deal with how it behaves and how individual senators behave; it is not for officials to make comment on.

Senator O'SULLIVAN: So you would agree with the statement that there is no evidence whatsoever, anywhere in your scope of knowledge, that would support the allegation that a five-year-old child was raped either in the time frame of the allegation or at any other time in detention while they have been in the care of—

Mr Pezzullo: That is correct, because we have checked with the person who is concerned, and she is concerned from the point of view of being in a position of having good faith concerns when she identified the identity of the child in question. Again, I just want to be cautious and imprecise. It did not stack up with what was reported in the media at all.

CHAIR: And it was investigated by Mr Moss a couple of years ago.

Mr Pezzullo: And subsequently—and I will check this in detail—it was even investigated through police investigation.

CHAIR: Thank you all. We will now take a short break.

Proceedings suspended from 10:30 to 10:46

Senator HANSON-YOUNG: Mr Pezzullo, could you inform us as to whether there have been any transfers of persons form Australia back to Nauru in the last seven days?

Mr Pezzullo: I will need to take this element on notice. I am very confident that there has been no transfer back of persons who were somehow connected to adjoin to the M68 proceedings—

Senator HANSON-YOUNG: The 267?

Mr Pezzullo: The persons joined with the plaintiff known as M68 have not been returned. Whether there have been other transfers just in the ordinary course of persons not joined to those proceedings I will take on, as it were, quick notice—that is to say, I do not need a lot of time to check. But the two deputy commissioners for support and operations can perhaps assist me with that, and if they do not know straightaway then we will take it on notice.

Mr Outram: No, there have not been any returns to Nauru in the last week.

Senator HANSON-YOUNG: How many people are in Australia who are considered to be transferees, either from Nauru or from Manus, who are not part of the M68 case, in addition to the 267 people?

Mr Pezzullo: To answer the question I will need to also probably reflect on the M80 proceedings that pertain to Manus. Does that go to your question as well? I will take some advice from Ms Briscoe. Perhaps persons who are transferees in Australia from either Manus or Nauru, who are not joined to either M68 or M80—I think that is the best way to couch that answer.

Ms Briscoe: I have total numbers, but I do not have the breakdown right at hand of those not part of those proceedings. We will get that very quickly for you.

Senator HANSON-YOUNG: That is great. Can we have the total number you have for now?

Ms Briscoe: The total number from Nauru in Australia is 295. It is a combination of 280 transferees and 16 refugees. And from Manus it is 36—34 transferees and two refugees. They are the total number in Australia.

Senator HANSON-YOUNG: Thank you. And you will get the breakdown for us.
Ms Briscoe: Yes.

Senator HANSON-YOUNG: Thanks very much. Mr Pezzullo, I was hoping that the Chief Medical Officer, Dr Brayley, could come to the table, if he is around.

Mr Pezzullo: Perhaps you could ask me the question and I will decide which of my officers give answers.

Senator HANSON-YOUNG: I would like to ask about his role in terms of—

Mr Pezzullo: About his role? Yes, I would be delighted if Dr Brayley were to join us. I might just very briefly initiate the answer and then pass to Dr Brayley. Once it became apparent to the commissioner and I that we probably needed to strengthen our health advice—our medical services support advice and practice—we took a decision last year to create a single chief medical officer for the entire department. There previously had been CMOs, as they are called, who specifically focused on detention health, to take one example, or visa related health issues—all the systems pertaining to the health checking of prospective migrants and visitors to Australia. We thought the area required more senior attention and indeed attention by a highly qualified specialist Senior Executive Service officer. So, we went through a recruitment process, and Dr Brayley was appointed pursuant to that process. But if it pleases the committee and it pleases you, Senator, I might hand over to Dr Brayley.

Dr Brayley: I might just spend 30 seconds introducing myself, because this is my first appearance before the committee as the Chief Medical Officer of the Department of Immigration and Border Protection, and as the first Surgeon General of the Australian Border Force I advise the secretary and the commissioner directly. I hold a bachelor of medicine, a bachelor of surgery and a master of health services management. I am a fellow of the Royal Australian and New Zealand College of Psychiatrists and hold an academic status appointment as associate professor of health management at Flinders University, Adelaide. I previously held the statutory role of chief adviser of psychiatry in South Australia to the Minister for Mental Health, along with the role of director of mental health in the state's Department of Health, and for seven years I served as South Australia's public advocate for people with mental illness, intellectual disability, brain injury and dementia, as well as undertaking a public guardian function. So, that is my background. I am overseeing a coordinated clinical governance function in the department and can talk more about the establishment of the division that I am leading, if you would like to hear more about that.

Senator HANSON-YOUNG: Thank you. I am interested in what you have seen in your short time in this role thus far in terms of the medical conditions of children being held in immigration detention.

Dr Brayley: That is a subset I guess of observations of medical conditions in general, and the services that the department contracts through IHMS. So, I might start there. There are the general impressions that I can make, in the time I have been in the role, and then there is the question of specific quality measures. Ultimately I wish to establish a clinical governance framework for dealing with complaints, reviews, detailed performance analysis and best practice standards. My general impression of the health services has been very positive—of the skilled clinicians I have met. They know their patients and have an interest in their clinical situation and care. For example, recently I was visiting Wickham Point and we went through a number of specific cases that had been raised by the AHRC, with both physical and mental health issues. And the clinicians were attending to issues. They knew their patients and the therapy that would be required in referrals that might need to be done. The delivery of care is in excellent facilities. I know you asked about children and adolescents, but the Manus Island facility, which is perhaps the newest, is an excellent purpose-built facility. The support for the care comes through the parent organisation, International SOS, and I have visited their call centre, where they have access to specialists. The same sort of support we might have when we are traveling or that mining companies get in dealing with care in remote facilities is being provided. Having said that, quality can always be improved. There are mental health teams at the sites with clinicians who have child and adolescent skills, psychologists or nurses who have those backgrounds visiting, and, for example, a child psychiatrist. The question I was asking and looking at during the Wickham Point visit was: what extra mental health services could be provided? Was there sufficient in light of the recommendations that the paediatricians made through the AHRC? And I was looking at what plans could be put in place to increase access if required to local child and adolescent mental health services.

Senator HANSON-YOUNG: I understand there are service contracts with IHMS in order to deliver those services. I want to ask a question about the ongoing impacts on the mental health of children of the detention itself. The children are already suffering stress, anxiety, depression as many of the clinicians have identified and as is borne out in evidence given to the department. Is it acceptable that children remain in that environment? I want to know whether it is that environment that is impacting on their mental health in such a negative way.

Dr Brayley: I can give you some more specific information about the mental health of children in detention.

Senator HANSON-YOUNG: That would be great.
Mr Pezzullo: Whilst Dr Brayley finds his notes, obviously his appointment is testament to the fact that we are focused on these issues. The commissioner and I were keen to have in an internal sense a very senior clinician who could help us interpret all the various claims including by those who have got differing motives in this area. Dr Brayley does a terrific job helping us sort through highly technical matters that we do not have any particular expertise in. The question of the ongoing detention of persons of course is a clinical matter, an operational matter and a policy matter, so I would ask Dr Bradley to limit himself to answering in relation to the clinical dimension.

Senator HANSON-YOUNG: All I am asking, from a medical perspective, is whether keeping a child in detention when detention is harming them is acceptable.

Dr Brayley: This information is in the context of the government and the department's concerted efforts to remove children from detention, from very large numbers to smaller numbers. But even, for example, at Wickham Point between the time that that AHRC and I were there, there were fewer children in Wickham Point. The scientific evidence is that detention affects the mental state of children. It is deleterious and for that reason wherever possible children should not be in detention. That has been measured a number of different ways. We have seen some tools that the Australian Human Rights Commission used and that paediatricians used. We carefully looked at their use of those tools. I have sought extra advice. There are some nuances about how things can be done but essentially that analysis was a robust analysis on consideration.

Our department uses the strength and difficulties questionnaire, which is a questionnaire commonly used in mental health in Australia as part of the national minimum dataset. That has been applied to children and their parents onshore and also there are some preliminary initial results for transferee children in Nauru. I should just quickly mention what the strength and difficulties questionnaire is. This was decided before I arrived in the department but I think it was an excellent choice. It is a brief behavioural screening questionnaire about three to 16-year-olds. There are several different versions that are available but it basically has 25 items: emotional symptoms, five items; conduct problems, five items; hyperactivity inattention, five items; peer relationship problems, five items; and pro-social behaviour, five items. So one is looking at pro-social behaviour strengths and the others are the difficulties that are added up to provide information about the person's level of difficulty. For those below the age of 11, the strength and difficulties questionnaire is completed by parents but it can be asked directly of older children.

The summary is—I am not reading from the full report—of 45 children at a number of different centres in Brisbane in four different onshore centres. Forty-five parents completed the parent version of the strength and difficulties questionnaire and 67 per cent scored their child in the abnormal category. Eighteen children between 11 to 17 years completed the self-report version of the strength and difficulties questionnaire. Of the total difficulties score, 33 per cent scored in that abnormal category and 22 per cent in the borderline category, so at the children's self scoring, 33 per cent; at the parents scoring, 67 per cent. I have inquired about the significance of that difference but it is quite well recognised that parents will identify problems in their children that children themselves will not identify.

Senator HANSON-YOUNG: That is understandable.

Dr Brayley: Some early initial results for transferee children in Nauru is similar with 71 per cent of parents scoring their child in the abnormal category, and 16 per cent of the children scoring themselves in the abnormal category or 25 per cent in the borderline category.

Mr Pezzullo: I should add, it is for all of those reasons based on scientific inquiry and based on an understanding of the literature that it is the government's policy that it will do whatever possible within the ambit of the policy to get children out of detention. Those who are repatriated to Nauru do not go back to detention; it is an open centre. The handful that are left in Australia, as we have covered in previous proceedings and might even revert back to through the course of the day, is now in single digits. We are working as carefully as we can with relevant families to try to come up with arrangements where, even if one or both parents have to be held in detention for security concerns, which the department is well briefed about as is the minister, accommodative arrangements are put in place so that the children are outside of detention. Mr Dutton has made it very clear to both myself and to the commissioner that wherever possible he wishes to see children out of detention, and we are proceeding accordingly.

The question of having any children in detention of course is a factual matter that needs to be determined on each case. If you had a standard policy, as I intimated earlier, that no child would ever go into detention irrespective of how they got here, that would just open the door for many more to arrive. We have had that experiment conducted in our country and we know how many children went into detention as a result. These are very delicate balances and I hope Dr Brayley has given this committee some confidence and assurance that we are actually not taking a lay view but quite a detailed clinical and specialised view of these matters as well.
**Senator KIM CARR:** Turning to the Save the Children issue. On 15 January a report was released by the government that actually vindicated the staff of any wrongdoing, saying that there was no evidence that they had acted outside of their duties. Would you agree with that assessment?

**Mr Pezzullo:** Are you referring to the original Moss review?

**Senator KIM CARR:** On 15 January this year.

**Mr Pezzullo:** I think you are referring to the document prepared by Associate Professor Doogan. In a report to me he certainly found that there was no basis for having any concerns about the conduct of the staff, such as would have caused them to have been terminated, in terms of their employment, in the way that they were terminated.

**Senator KIM CARR:** What action are you taking now?

**Mr Pezzullo:** We are working through those issues basically with Save the Children directly, but also in some cases with appointed legal representatives. We need to understand the extent to which there is, in direct legal terms, a liability as opposed to, if I might use this phrase, the vibe of the thing. That is a matter for lawyers to work through. They are diligently doing so and I do not propose to comment in too much detail on those proceedings. The matter is in the capable hands of Dr Charker, our chief operating office, who also oversees our legal function. I might ask Dr Charker to give the committee a general update on the state of proceedings.

**Dr Charker:** I am entirely in agreement and in accordance with the secretary's initial comments there. We have accepted all the recommendations of the Doogan report and we have been implementing them progressively. We are quite well advanced in much of that work. In particular, we have been engaging very actively with Save the Children Australia and former SCA staff, through their legal representatives. Again, we are trying to aim to settle their claims as expeditiously as we possibly can.

The department has engaged with the government of Nauru to have the removal orders revoked. We have also developed a standard operating procedure to ensure that in the future we obtain legal advice before invoking the relevant contract clause allowing the department to require a service provider to remove staff from the provision of services.

As I said, we are well progressed so far. We remain absolutely committed to ongoing cooperation with Save the Children, and of course the legal representatives of those former employees who are impacted. We are negotiating any potential settlement of the claims, as indicated, as quickly as we can, in a manner that is consistent with our obligations under the Commonwealth Legal Services Directions.

**Senator KIM CARR:** Can you remind me what the claim is?

**Dr Charker:** There are several claims with which we are dealing. Due of course to legal in confidence matters I cannot go into the details of those claims, but I would simply note that there is a claim being made with regard to Save the Children itself in a corporate capacity, and there are claims with regard to the affected former SCA staff, which are being managed in turn through their legal representative.

**Senator KIM CARR:** This is claims for compensation?

**Dr Charker:** These are claims for various outcomes, of which compensation may be a part.

**Mr Pezzullo:** If I could add, I do not think it would be prejudicial to future legal proceedings, because even the redacted version of the Doogan report makes it very clear that on the basis of the allegations that were originally the trigger point for this matter, the allegations that had come from a field report prepared by contractors who—and I will use paraphrasing quotation marks here—that Save the Children staff were acting as much as advocates and in some cases even further, 'coaching, inducing or encouraging transferees to potentially self-harm' so that they would get favourable—

**Senator KIM CARR:** This is the alleged intelligence report?

**Mr Pezzullo:** It is more than alleged. It is a document that does exist.

**Senator KIM CARR:** I say alleged, ironically, that it is an intelligence report.

**Mr Pezzullo:** I see. Very droll. I missed the ironic reference. Moss did a more general review of our delivery of services on Nauru, pursuant to how we handled allegations of harm, child abuse and the like. We have canvassed the Moss report many times before this committee. He recommended that this matter in particular be looked at from the point of view of how the department handled—including in terms of its advice to then Minister Morrison—the decisions that it took in terms of the execution of certain clauses under the contract to, as it were, have these staff members removed. Was that done in a manner that was procedurally fair? Were they afforded natural justice? Did they have a chance to respond to these claims that they had been 'coaching transferees to self-
harm. And to the point of a claim—again without being particular about what is likely to be involved, because that goes to future proceedings around potential liability—it is in that general area of how the staff were treated from the point of view of natural justice and how their rights were potentially infringed from that point of view.

Senator KIM CARR: The minister also made a number of statements at the time, so it was not just a question of the department's—

Mr Pezzullo: I am sorry, which minister?

Senator KIM CARR: Minister Morrison.

Mr Pezzullo: As I recall it, I would need to look at the transcript, and I think he might have been asked subsequently. As I recall it I was head of customs at the time. He made some comments that he was concerned about the allegations and that he had asked his department to deal with those allegations in an appropriate manner.

Senator KIM CARR: I take it the minister has rung the affected people and offered his apology?

Mr Pezzullo: I hope he has not, because I would not counsel him to do that, frankly.

Senator KIM CARR: Why not?

Mr Pezzullo: This is a matter for the department. It is the department that handled the original—you say in an ironic tone—‘intelligence report’. It was the department, as both Moss and Duggan subsequently make clear, who are concerned about an increasing level of dysfunctionality in the relationship. There was no trust essentially, and at the point of this information being received the department decided—it is quite clear from the two reviews that have been done into this matter—to move to have the services of the staff members in particular terminated in the sense that they were no longer required. So this is a matter for the department to deal with, and if there is any statement of regret or remorse or indeed apology, that will be something that I will give contemplation to.

Senator KIM CARR: The department—not you—was comprehensively wrong. It made allegations which directly affected people's reputations and had people deported, based on incorrect information.

Mr Pezzullo: And in those circumstances it is a matter for the department—

Senator KIM CARR: Surely the people concerned are entitled to at least an apology.

Mr Pezzullo: They might well be, and when you have these matters where you are trying to establish liability in particular terms it is sometimes the case that not only is compensation involved but also some sort of appropriate statement of redress is involved. I am not going to pre-empt that, notwithstanding my respect these proceedings and my attempt to be as comprehensive as I can in my answers. And that is a decision in the end that I will take as the leader—I was not at the time—of the department which is the corporate entity that is the subject of these proceedings. It is not the minister—the present one or the previous one.

Senator KIM CARR: Given that you have maintained this argument that various people have been advocating on behalf of detainees, this actually lead to a situation where this level—

Mr Pezzullo: I am not sure I have maintained a position on that, I have just observed the fact that there are people who are very passionate about this issue who advocate.

Senator KIM CARR: Yes. But it can lead to conclusions which are incorrect, which is clearly the case with regard to the Save the Children staff. The allegation was that these contractors had acted unethically, improperly, mischievously and dishonestly, and they lost their jobs as a consequence and were deported. And it was demonstrated that that whole line of inquiry was wrong. To what extent does the department's attitude towards advocates affect these types of situations?

Mr Pezzullo: I am sorry; I am not trying to be obtuse, but I do not understand the last part.

Senator KIM CARR: My question relates to whether or not people wanted to see Save the Children employees in a certain light. It gave credibility to an intelligence report which was clearly wrong.

Mr Pezzullo: I understand the logic. I think that is demonstrably able to be counted by the fact that for good or ill Save the Children were appointed initially as the key service provider in the general area—and I would have to get the scope clear from Ms Briscoe and her staff—of the provision of welfare services and counselling and the like. And I think they were engaged to do other things as well. So any sense that the department has some inbuilt bias against service providers who might also, in a small 'a' sense, act as advocates is demonstrably false, because otherwise we would not have been in a relationship with Save the Children.

The comment—I think it was a comment more than a question, but I will try to think of it as a question—that you made towards the end relates to whether the relationship had gotten to a point where members of my department—in a period before I took up the secretariatship, at least, so I am going off second-hand knowledge—in a sense wanted to see these members of Save the Children in a negative light and whether they wanted to
believe, as it were, a field report that had come in saying, in paraphrase, 'I have reason to believe that these Save the Children staff are going beyond care and welfare and are coaching the asylum seekers, coaching transferees and in some cases almost encouraging them to self-harm.' I reject that there is a culture, if you like, of not working with SCA, because clearly we do. In those circumstances—irrespective of what was in the mind of any decision maker who sought their removal or who sought the termination of their employment, executing various clauses in the contract—the best course is always not to act off any emotion in any event, if that is the question you are asking me.

Essentially Doogan's findings boil down to this: employ procedural fairness, put the claim, put the allegation, and say to the affected party or potentially affected party, 'It is alleged that you are encouraging people to self-harm; what say you?' That is standard. It has nothing to do with our attitude towards advocates for asylum seekers or, if you like, the culture of my department as it was then or the culture now. It goes to sound administrative decision making and sound administrative practice. If you employ—without dragging it out, because one of the issues involved in administrative processes is that they can take an inordinate length of time—and if you give a person a right to be heard and a right to provide a response, either individually or through their corporate entity, I think the essential lesson for me as secretary—and no doubt the commissioner will join me in this—out of the Doogan review is: follow due process and be completely dispassionate, and the room for error is accordingly reduced.

I am not sure if that is an answer to your question, but I think you are trying to ask me about the attitude of persons at the time who were employed by the department before I was its secretary.

**Senator KIM CARR:** Mr Pezzullo, I sat through the evidence from those personnel that were dismissed from Save the Children, and they detailed the way in which they were treated. In your inquiries, will you be examining the actions of officers of the department on Nauru and in Australia to ascertain whether or not there was fault on their part—administrative fault within departmental officers' actions—in the way in which these personnel from Save the Children were treated?

**Mr Pezzullo:** Essentially, in relation to Dr Charker's answer, that is exactly in a sense what we are doing now by establishing in quite precise terms what the basis for any legitimate claim might be. We have to have a view of own liability—

**Senator KIM CARR:** Yes, of course you do.

**Mr Pezzullo:** because otherwise why would you ever close out a matter rather than saying 'I'll see you in court'? So of course we will have regard to those matters.

**Senator KIM CARR:** What action would be anticipated to be taken against officers that have been in breach of standard Public Service procedure, as you have outlined, about duty of care, about natural justice and about proper procedures to establish whether or not people get treated fairly within the Australian Public Service.

**Mr Pezzullo:** I understand the question. I will take advice from Dr Charker, who has an even stronger level of comfort than I have here, because she joined the department even after I did, so she is completely removed from these matters. She both oversees our legal function and advises me on the extent to which our officers follow due process. If there is cause for me to have a look at—and I think you are going out to the question of individual conduct rather than, if you like, corporate conduct—

**Senator KIM CARR:** Policy.

**Mr Pezzullo:** Sorry?

**Senator KIM CARR:** It is distinct from policy.

**Mr Pezzullo:** Corporate conduct. The department executes its functions as a corporate entity, and officers who are delegated with certain authorities exercise that authority not capriciously and off their own back; they exercise their authority in the name of the department. If that is all disposed of in the one action, which would be my preference, through coming to terms—and I do not want to speculate about the detail—then that will be dealt with. If, during the course of that resolution phase, Dr Charker or anyone else wishes to draw to my attention the fact that further action needs to be taken of a more specific character then of course I will consider it. But at this stage what I am contemplating this matter to be is a resolution of how the corporate entity, known as my department, dealt with this matter.

**Senator KIM CARR:** In regard to the regional partners and possible resettlement of people that are currently on Nauru and are there as a result of Australian government actions, what actual countries have been approached?

**Mr Pezzullo:** Beyond the occasional and episodic references made to such matters by both my minister and other ministers, including the foreign minister, I do not know that I am in a position, without referring back to
ministers, to volunteer to you a conclusive list or an exclusive list, as it were, of the countries that have been approached. By definition, if there are discussions on foot which are at a particularly delicate state or stage and we have given assurances about confidentiality, I would not name those countries anyway.

CHAIR: So you will take it on notice?

Mr Pezzullo: I think this is one case where I need to refer to a minister and also to take it on notice.

Senator KIM CARR: Thank you.

CHAIR: There was a report in *The Australian* newspaper, I think it was, that the number of incidents of self-harm had dropped dramatically. Can you give me the source of that? What are the facts about that?

Mr Pezzullo: I am happy to speak to facts. Deputy Commissioner Briscoe, assisted by perhaps Ms Moy, can assist. Ms Moy in particular might have a more granular view of the level of self-harm incident reports that have been received.

Ms Briscoe: Can I just clarify: are you referring to offshore Nauru or onshore?

CHAIR: Well, tell me about them all. There was a report in *The Australian*, which unfortunately I have not brought with me, although I thought I had, but again I would rather get the actual facts of the matter rather than rely on any newspaper report, even in a paper as authoritative as *The Australian*.

Mr Wright: In terms of actual self-harm statistics, from January 2015 through to June 2015 there were 55 reported cases. In the second half of the year there were 47 reported cases.

CHAIR: And that is in Nauru?

Mr Wright: Correct.

CHAIR: What about Manus? Do have statistics on that too?

Mr Wright: Yes. For Manus for the same time period, from January to June 2015, there were 24 reports of self-harm, and in the last six months there were 16 reports.

CHAIR: And what about internally, within Australia domestically, from people who are—

Mr Outram: In the year from 1 July 2014 to 30 June 2015 there were 597 actual cases of self-harm. In the first six months of this financial year there were 245. So it is from around 600 at the moment trending to about 500.

CHAIR: Each incident of self-harm is fully investigated by someone, I assume.

Mr Pezzullo: It does vary. Reports of self-harm which occur within either Manus or Nauru are principally a matter for the local authorities. We do assist, because we provide services there of a medical and other character. Incidents of self-harm within the immigration detention network that is under the operational supervision of the commissioner are assessed by Australian authorities. Perhaps the commissioner or his officers might want to speak about the onshore network first.

Mr Quaedvlieg: I will defer shortly to the deputy commissioner of operations, but the answer to your question here is yes. Whenever there is an actual self-harm or an attempted self-harm, the first respondent normally is our Serco workforce within the centres. They are then assisted in terms of resolution of the patient through the IHMS service providers and then aftercare and investigation of the causal factors. Any welfare that needs to be wrapped around the detainee is then a joint decision, including both contract service providers, ABF staff and departmental case managers.

CHAIR: Someone has kindly given me the newspaper report. It says that in the three months after the ban on family members that was implemented in September, there has been a dramatic fall in self-inflicted injuries—coming down to zero, I understand. Is that accurate? This is reported in the—

Mr Pezzullo: We will check that. It sounds broadly right, but we will take it on notice and come back to you.

CHAIR: The figures in Nauru are 55 and 47—that is for which periods?

Mr Wright: The 55 was from January 2015 through to June 2015. The 47 was from July 2015 through to December 2015.

CHAIR: Can you tell me what those figures are from September 2015 through until the end of December?

Mr Wright: Twelve. There were zero reported for the month of December.

CHAIR: And 12 for October and November?

Mr Wright: There were three in September, seven in October and two in November.
CHAIR: Are there any broad statistics on whether the self-harm is done by older people or younger people, men or women?

Mr Pezzullo: I am sure we would have that data. It might be useful both to get that data and to remind ourselves what was published by The Australian and try to reverse engineer the numbers they seem to be working on.

Senator KIM CARR: You should go to the source. Ask them what they provided The Australian.

Mr Pezzullo: We might just look at the article first. We are sort of boxing at shadows.

Senator KIM CARR: It might just save you a bit of time, that's all.

Senator LEYONHJELM: You may want to take this on notice as well. Given what appears to be, from the numbers you have just read out, significantly more instances of self-harm at domestic detention centres than on Manus or Nauru, would you like to provide the committee with a ratio? What proportion of self-harm relative to the number of detainees is there in each of those three locations?

Mr Pezzullo: We will need to take that on notice. You need to do it on a ratio basis because the absolute numbers are different.

Senator LEYONHJELM: I understand. That is why I suggested you might like to take it on notice.

Mr Pezzullo: We will take it on notice.

Senator O’SULLIVAN: My question is not necessarily directly related to self-harm. Have you noticed over time that there is trending with behaviour? For example, as the result of certain incidents or events, or a collection of incidents or events, we have had to react in a particular way that might seem to be favourable to the people in detention. Have you seen evidence of any trend in mental care with that?

Mr Pezzullo: I am sorry. I missed the first part of your question.

Senator O’SULLIVAN: I am looking at behavioural trending. I see it often with my grandchildren. If an event occurs and they think that is favourable to them, does a bit of a trend run through the trainees, self-harm being an example? If someone harms themselves and they are airlifted the next day to Australia, where they have an honest but mistaken belief that their chance at permanent residency is increased—have you picked up on any trending? I am not necessarily seeking a scientific answer; I am just asking—

Mr Pezzullo: Just building on what the officer previously advised, the trend is heading in a positive direction, in the sense that in the month of December for the first time in everyone's recollection the number was down to zero. If you look at the months preceding, it is all downwards. Both anecdotally and logically, when you change policy in this area, you can effect behaviour. I am conscious of the exchange and the discussion that Senator Carr and I just had about the different inducements and motivations that people have. It is always hard to unpick that and you would not want to generalise.

This certainly has become clear to my officers, and the data does bear it out—and in response to Senator Macdonald, I think you will see whatever graph or chart we provide bears this out as well—when the minister gave certain directions to limit the number of returnees to an absolute minimum. Obviously, he takes advice and we discuss these matters, but it was done by the department essentially from a humanitarian impulse. If a child, an adolescent or a family member is sick, it helps in the convalescence to have one or two intimate relatives there—obviously, a mother with a small child or a father with a small child.

But there is the practice of larger family groups being repatriated. Again, I want to be very careful in my words here because everyone's motivation is different and it is hard, ultimately, to get down to what is in someone's psychological state of mind. But, logically, if one person is sick but you have several family members, including intimate family members and, in some cases, aunties, uncles and cousins, you potentially do have a circumstance arise where perverse outcomes can manifest whereby people think, 'It's regrettable that Johnny has got sick, but we are all going to Australia.' I am speaking anecdotally here—you invited me to answer you in those terms, so I will—but word gets out that that is a way of coming to Australia. To some extent, the proof in the pudding is then being joined to High Court cases, which is the kind of the next step in the process to, as it were, try to hook yourself into a permanent outcome.

That is completely understandable at one level. No-one is suggesting for a moment that if a policy and an administrative arrangement provides, if you like, incentives for people to behave in particular ways, who can ever really critique them? It is no secret—breaking news, hold the front pages—most people on Manus and Nauru want to come to Australia. They want to live in a circumstance where they are going to have a better life and that is what they thought they were purchasing when they parted with their $5,000 or $10,000 to the smugglers. Is it a
surprise then that, perversely, some people might be motivated—and I am not casting any specific aspersions in relation to any individual, particularly when your child is sick.

As a parent myself, I know you can be beside yourself and you want to do whatever you can to get the situation remedied. But when other members of the family have to come along as well and then they are joined into legal proceedings, you would have a little suspicion that it is possible, only possible—and this is a working hypothesis based on theory of human behaviour—that some people might see that as an opportunity to also advance the possibility of securing a migration outcome; of course they are not being cynical about the child's health. Hold the front pages if that is stunning news, but that is what I think might well be going on in some cases, yes.

Senator O'SULLIVAN: I want to come back to something that may have been asked and answered—if it has been, please just tell me that I have been absent from the room, and I will refresh my knowledge from the Hansard. With respect to the remaining children in custody, there has been this tremendous reduction in the number of children in custody—

Mr Pezzullo: In detention, Senator.

Senator O'SULLIVAN: in detention, sorry, over a period of time. Of the children who remain, is there a percentage of them whose release from detention may have as much to do with circumstances of a guardian or a parent as opposed to them themselves?

Mr Pezzullo: It is nearly always exclusively a function of family relationships—absolutely. Perhaps there might be one or two—the commissioner will correct me—but I cannot think of too many cases where there is an adverse security, law enforcement or significant behavioural concern about the child themselves; it is nearly invariably the case—and I think we are down to seven or eight, Commissioner?

Mr Quaedvlieg: Eight.

Mr Pezzullo: where there is a difficulty associated with either mum or dad, or in some cases both—uncertainty about identity, including in the circumstance where identity has to be established for security and other grounds; known, or strongly suspected, law enforcement concerns about previous behaviour, and, in some cases, sometimes violent behaviour, where matters are still being resolved. I think, if I remember rightly, Commissioner, there is one case, for instance, of an unacquitted murder allegation. I did answer this previously, but I will just give you the quick summary: Mr Dutton has made it very clear, as indeed had Mr Morrison as minister before him and I suspect ministers before them, that, wherever possible, to try to come up with an arrangement, which obviously has to be, ideally, undertaken with the consent of the family, to have the children, and maybe one of the carers—or, if both parents have to remain in detention, maybe a family member or some kind of sponsor—manage their care in a vicinity close to detention, so that they can then have visitation and the rest of it. But, wherever possible, get the children out. Perhaps the commissioner might wish to add to that, but that is the general policy that we are applying.

Mr Quaedvlieg: Just to reiterate the point: where we have offered a permutation of a model where children can be released into the community under the care of one of the parents or guardians, there have been occasions where a family unit has elected not to take up that option and remain in detention as a family unit.

Senator O'SULLIVAN: I think that was my time.

CHAIR: Senator Hanson-Youn, then Senator Leyonhjelm—for a short period time, he tells me—and then Senator Carr.

Senator HANSON-YOUNG: I would just like to continue with some of my questions to Dr Brayley, if he could come back to the table. We got cut off.

Mr Pezzullo: Sorry, did you say Dr Brayley?

Senator HANSON-YOUNG: Yes, please. I had not finished before my time had run out earlier.

Mr Pezzullo: If it is the same line of questioning, I will ask the doctor to return.

Senator HANSON-YOUNG: You have these health assessments that you went through—and thank you for outlining them. My question goes to: what type of advice is given before somebody is transferred back to Nauru or Manus Island? We know that people come to Australia on medical advice that they need assistance in some way, or as part of a family cohort because one of the individuals within the family unit needs assistance. What advice do you give, if any, before an individual is transferred back offshore?

Dr Brayley: Generally the advice would be sought from me in specific instances. The treating clinicians would determine whether a person is fit to fly, they have had their treatment, they have been discharged from hospital. I know that with the work that my colleague Cheryl-anne Moy will be doing, she will be engaging me in that process.
Senator HANSON-YOUNG: Is there a form that says: this person is fit for return to Nauru—tick? How does the process actually work?

Dr Brayley: There is written advice that I could—

Mr Pezzullo: I should say, at this point, that, in combination, the two deputy commissioners have control of the overall process, because these persons are temporarily within our jurisdiction. I might just ask the two deputy commissioners, and they can flip a coin as to who wants to go first. The clinical element, whilst critical, is not all encompassing.

Senator HANSON-YOUNG: I am actually only interested in the clinical element at this stage.

Mr Pezzullo: Then we will limit ourselves to the clinical side. But you asked about who makes the decision. It is taken on advice, but the doctors are not the decision makers about the actual logistics of things like safety on the aircraft, whether there is a degree of potential non-compliant or violent behaviour and the like. They are also factors that go into the decision to repatriate. But if you are asking exclusively about clinical matters, the doctor will continue his answer.

Senator HANSON-YOUNG: Thank you. Is there a form on which you have to agree that somebody, in relation to medical issues, is fit for return to Nauru or Manus Island?

Dr Brayley: There is not a particular role where I have to agree. In my short time in the department I have been involved in many people's situations, but that has actually been transfer to Australia, and those people have been getting treatment and therapy. I have not been involved in the return decision at this point, but I expect that I will be consulted about those decisions.

Mr Pezzullo: But that is a function, as I stated earlier, that as long as M68 was on foot, the minister entered into undertakings not to return such persons. Dr Brayley joined us subsequent to that decision. We have not been returning persons who are joined to the case—and most of them are, for reasons I specified earlier. They all seem to come here for both medical treatment and legal advice. As we now ramp up the process of return, as discussed earlier, on a case-by-case basis, the clinical dimension will obviously be critical. But so will those other dimensions that I talked about earlier, without going into the specific techniques and tactics that we would employ. But the overall policy is as I stated in my opening statement: everyone will go back in due course—and. Dr Brayley and his staff, as well as our contracted medical specialists, will be involved in those decisions. So this is a prospective role that he is going to be doing.

Senator HANSON-YOUNG: Will an individual be returned if the doctor's advice is that they should not be?

Mr Wright: Could I just put in: you cannot process—

Senator HANSON-YOUNG: Hang on: I would just like an answer to that question first, if I could.

Mr Pezzullo: I would need and would want to understand the basis of the concern. If the doctor is misadvised as to the level of medical support that is going to be available on Nauru, where they do not necessarily have the full visibility, I will ask Dr Brayley to engage with that clinician. It is very hard for me as secretary overseeing—and I will just speak in broad terms here. We have one project underway, which is in two stages: a $26 million upgrade to the Nauru hospital, which will be a gift by the Australian public to Nauru, with paediatric, cancer, CT, obstetrics and other services. I, as the person responsible for ensuring that the policy is enacted and there is value for money in how we deliver those services, would want to very, very closely understand why the doctor in question does not think that the equivalent services would be provided, especially when the original illness or injury has been dealt with. In those circumstances I would ask Dr Brayley, as both the Chief Medical Officer and the Surgeon General of our department and the Border Force, to engage with the issue and ensure that all requisite services are available on the ground.

Senator HANSON-YOUNG: Mr Pezzullo, let me just be very clear: there is no doctor's veto on the return of people to Nauru?

Mr Pezzullo: Doctors always provide advice, and you act on that advice. As you know—perhaps you know, perhaps you do not know—we all go to hospitals and we are seen by three or four different doctors. Between them they are a bit like lawyers at times: They have five or six different opinions. So my job is to ensure—and I am not medically qualified—that I have people who work for me who directly understand the policy and the overall parameters in which we are operating, who can then advise me, clinically, to say, 'I have looked at this. On balance, the appropriate care can be provided on Nauru. They are going back.'

Senator HANSON-YOUNG: Dr Brayley, do you have any evidence to show that sending back children who are displaying signs of anxiety and stress about the return to Nauru would damage them even further?
Dr Brayley: I think this is where, as cases are considered by the department, situations will be referred to me. I can look at those. If I need to get further child psychiatry advice, I could obtain that as well. The question will relate to individuals and whatever trauma they may have experienced and the nature of that trauma, and it would not be possible to make a blanket comment because of people's different situations.

Senator HANSON-YOUNG: Are there cases you have come across thus far in your role where your advice would be that sending an individual to Nauru would create further harm?

Dr Brayley: There are cases of people with post-traumatic stress disorder and depression where these questions would need to be carefully considered. I have not considered that particular question because it is all so new and recent since the High Court brought down its decision on Wednesday, and I have not been asked to consider that question in relation to individuals.

Mr Pezzullo: Mr Dutton has made it very clear that the advice that he has provided to this department is to ensure that the policy is applied, but is done so on a case-by-case determination intrinsic to that position and intrinsic to the minister's direct guidance to me as a secretary and to the staff who work in support of this program, both in the department and in the ABF, and we will exercise discretion sensibly. For the reasons I articulated in my opening statement, we are not going to sit in this committee—and I am not suggesting for one moment that this is what you are seeking for us to do—but, if you think that our answers are slightly lacking in precision, it is because we want to deal with these matters in strict confidence, partly due to medical privacy but also to ensure that people who might be a lot more cynical than you are not sitting there thinking, 'Ah, this is how I'll stay in Australia.' It might surprise you and it might shock you, but I am sorry to say that people do think like that. I find it repugnant, myself, and I do not impugn the motive of any parliamentarian in that regard, but there are others who behave in that fashion.

We will make sensible, empathetic and compassionate decisions based on information placed before us. In some cases, the depression, stress or anxiety relate to the original matters that they witnessed in their countries of origin. I have been very open this morning, and the minister has been open and others have been open, that prolonged periods of detention are in no one's interest, and Dr Brayley laid out some of the clinical evidence that supports that thesis. We certainly do not have a policy, as is repugnant to me, that effectively amounts to saying to Dr Brayley, 'Go hard, go harsh, and don't be compassionate.' I reject that out of hand; it is repugnant. We will make decisions carefully and in confidence—not in the glare of publicity.

Senator HANSON-YOUNG: Dr Brayley, do you believe you have the authority to stop somebody who would be damaged by being transferred to Nauru from being sent?

Dr Brayley: My role has a clinical governance authority over the standards and quality of the health services delivered. I also have to give health advice to the secretary and to the commissioner that might affect broader policy issues. The secretary will get clear health advice from me, but, as I say, my accountability is the quality of the health service delivery and the giving of advice. I am not the decision maker in this regard.

Senator HANSON-YOUNG: Do you know how many of the children of the group of 90, who are currently part of the 267 cohort, are displaying signs of depression, anxiety or have other long-term medical issues that they are here in Australia for?

Dr Brayley: I am aware of specific cases where there is a need for paediatric follow-up, child and adolescent mental health service follow-up, and people continuing to get treatment either through IHMS or referral to the local hospital or clinic. How that might relate to the question we are discussing now in terms of whether these are long-term, severe conditions or other conditions that will respond quickly to specialist treatment, for example—I cannot tell you that breakdown.

Mr Pezzullo: Senator, if we take that on notice, we might be able to give you—in a way that obviously does not identify individuals; and I know that you are always sensitive to that as well—a further and better answer on notice.

Senator HANSON-YOUNG: That would be helpful, thank you. Dr Brayley, in your medical view, for a child that is suffering anxiety and PTSD and has displayed signs of self-harm, is Nauru an appropriate place for that child to be sent?

Dr Brayley: What we can say is that, for a child with those conditions, being in detention is not the right place for a child, and every step needs to be taken to remove a child from detention. The question about the broader policy issues for refugees and transferees on Nauru, the open centre arrangements, how life is operating there, need to be broadly considered by the department, taking into account the health advice that comes up through the
practitioners and the advice that I am asked to give when there is a question about interpreting it or further opinions required.

Senator HANSON-YOUNG: I know you have not been in the role for an awfully long time, but obviously the issue of children in detention is as hotly debated now as it has ever been. Paediatricians have gone on the record and said that the developmental issue, particularly for babies in detention, is something of severe concern—not being able to go through those normal stages of learning to crawl, learning to walk, even just the sheer environment that they have been put in. Mothers have talked about not being up to put their children down. How does a child learn how to crawl when the camp in Nauru is covered in white rock? I have been there; I have seen it—that is exactly what it is. Are those issues by paediatricians being put to you, or do you have a plan in place to go through those cases that are coming up over and over again, particularly for babies born into these environments?

Dr Brayley: Some of the particular cases involving developmental delay have been put to me, which is one of the reasons that I have seen it as important for children to have access to a multidisciplinary team, because not all of these issues of combination of developmental delay and anxiety can be dealt with, say, by a psychologist or a psychiatrist. It may be necessary to have an occupational therapist or a speech pathologist involved to address that. So those questions about developmental delay were raised in the AHRC report, because as well as using a psychiatric instrument there was a paediatric instrument that was used. That then affects the sort of care that is provided while children are still in detention. But of course it is a further driver for moving children to community detention.

CHAIR: Thank you, Senator Hanson-Young. Dr Brayley, just to be clear, you do not act as a clinician; you do not see people yourself personally, do you? It is all advice on reports of others?

Dr Brayley: Yes, that is right. I have a health administrative role, so I need to interpret the advice that is given and sometimes get other sources of opinion. I occasionally have met asylum seekers and refugees in different circumstances or sat in on interviews—

CHAIR: As part of your job?

Dr Brayley: As part of my job, but I have not actually conducted the interview or provided the clinical care myself.

Senator LEYONHJELM: I would like to return to the issue of the numbers of children in detention. Late last year in a meeting with the Prime Minister, it was explained to a number of the crossbench that quite a number of the children in detention are there because their parents are, as you explained earlier, subject to a negative security assessment or for other reasons. It has been decided that they need to remain in detention, but also often only one parent is subject to that determination and that there is nothing to prevent a second parent and the child leaving, but they just refuse to do so.

Mr Pezzullo: That tends to be our experience, yes.

Senator LEYONHJELM: The suggestion was made to the Prime Minister at the time: why aren't they compelled to leave detention, if it is agreed—and this is an if—that the detention environment is not optimum for the child and perhaps not for the other parent? They may in fact be better off if they are compelled to leave detention and benefit from it, irrespective of their wishes. The Prime Minister said that he would seek advice on that. I am just wondering whether he has sought advice and, even if he has not, whether you have a view on that.

Mr Pezzullo: On both fronts, I am going to be very cursory in my response for exactly the same reasons as I have been cautious about other answers. If I signal anything in these proceedings, Senator—they are watched intently. There just seem to be people who make not a living but certainly spend their whole lives watching these sorts of proceedings and parsing every single word that ministers and senior officials say. That leads to behavioural responses, and I am not going to be in a position where I am accountable or responsible for something that does not need to occur.

Suffice to say, I am aware of the meeting that you refer to. I am aware of the point that you raise, because it was conveyed to me and it is something that has been the subject of response back to the government. I am going to leave it there. So you raised the point. The PM said he was going to take advice. He has.

CHAIR: This committee is saying: tell us the pros in favour of forcing parents to split; and what would be the arguments for and against so that—I am not asking you what advice you would be giving the Prime Minister—

Mr Pezzullo: Understood, Chair. But, given that the numbers of children in detention are so dramatically reduced, there are so few people left in this circumstance that they are very easily self-identified but also identified by persons around them that it is difficult to speak in the hypothetical without, in a sense, speaking to
them through these proceedings. Suffice to say, any attempt to forcibly remove someone would only be done with the best interest of each and every one of the parties. It is a dramatic step—a very dramatic step. I am not suggesting for a moment that it is something that you would either rule in or out. It is something that you would want to weigh very, very carefully. There are pros and cons.

If the children are being exposed—and I need to be very careful here, because there are literally so few children in this circumstance—to harm, that is a factor. If their development is being constrained, that is a factor. If their rights and their individual entitlements are being somehow affected, that is a factor. But, against that, you try to keep families together. It would be better if they took, through their own consent, a decision to leave. That would be far better than any forcible removal.

**CHAIR:** Thank you. Sorry, Senator Leyonhjelm—your questions.

**Senator LEYONHJELM:** Thank you, Chair. I will change the subject to the Australian Trusted Trader. Has that been asked before—

**Mr Pezzullo:** It was mentioned in the commissioner's opening statement. The commissioner is also the Comptroller-General of Customs and it is perhaps something that he is best placed to respond to once you have asked your question.

**Senator LEYONHJELM:** I wonder if you could fairly briefly explain what the obligations of an Australian trusted trader are. What are the grounds by which they become an Australian trusted trader?

**Mr Quaedvlieg:** Yes. I am joined at the table by First Assistant Secretary Linda Geddes, who has control over the program. In the broad, the way I described it in my opening statement is a trusted trader program—or an AEO program as it is otherwise known around the world—is one of trust. We ask the trusted trader to go through an accreditation process, and that is quite a rigorous process in terms of assuring us that it has knowledge of its supply chains and it can assure us that those supply chains are not vulnerable to criminal or other exploitation. After a period of rigorous examination, it is a self-accreditation process in the first instance. We then check that accreditation process. If we believe that further investigation is required for that accreditation, we will do so, but at some point or other along that sequence, presuming all the criteria have been met, someone will be accredited as a trusted trader. They will then be allowed to operate with less touch by the border authorities—facilitated trade, if you will—and various other preferences that Ms Geddes can explain to you.

However, occasionally we do need to assure ourselves that the original basis of the accreditation is still valid, and that requires an audit and compliance program that sits over the top of the Trusted Trader Program. That is normally done in partnership in collaboration with the trusted trader entity or can also come in the form of a random audit. There is also the option for an accredited trusted trader to self-disclose that it does not believe that it any longer meets the criteria of a trusted trader and to suspend its own accreditation until such time that it remediates where it thinks its vulnerability is in the supply chain. Alternatively, through our intelligence and enforcement audit and compliance activities we identify that the accreditation is in question. We will engage with the partner. We will point out where we think the vulnerability is and we will give the entity and opportunity to remediate that in order for it to retain its accredited status. That is it in the broad in terms of principles. I will ask Ms Geddes if she has anything to add.

**Ms Geddes:** I have nothing further to add unless you have specific questions.

**Senator LEYONHJELM:** I think Mr Quaedvlieg has answered where I was going with this, which is: if in a random audit something were identified as not meeting the criteria, what would be the consequences for the trader?

**Ms Geddes:** The consequences would be more working with the industry partner to try to rectify that issue as early as possible rather than something that is stick-like.

**Senator LEYONHJELM:** Is there a significant incentive for traders in general—importers and exporters—to become trusted traders? What are the incentives that would induce them to join the program?

**Ms Geddes:** This year, from 1 July we are in the pilot year, which is designing and developing the program. We are working with industry on a range of benefits to a fully accredited trusted trader. That could be anything from streamlined reporting to duty deferral to the light-touch experience that the commissioner talked about. We are continuing to build those benefits. The other thing that we are working through is mutual recognition with other programs overseas so our exporters can tap into the benefits of other countries. So there are a range of benefits that would appeal to industry to be part of the Trusted Trader Program.

**Mr Quaedvlieg:** To add to that answer: there is both a direct monetised benefit and an indirect monetised benefit. In terms of the indirect, the ability for entities to trade with less interference at the border leads to greater
trade movements across the border and ultimately leads to the bottom line and adds to Australia's economic prosperity. But there is also direct monetised benefit. For example, one of the benefits is for entities to be able to aggregate their reporting at the end of a period. That reduces significant administrative burden. As Ms Geddes mentioned, there is also the issue of deferral of duty. That essentially means that an entity can acquire its duty on imports at the end of a period, which in turn leads them to be able to use that capital for other investments in the firm. So there are both direct and indirect monetised benefits.

Senator LEYONHJELM: You have an aspiration of quite a high number of firms joining the program. Does the feedback suggest that that is realistically achievable?

Mr Quaedvlieg: There are various perspectives on whether all of the benefits are achievable by all entities. We want to make the Trusted Trader Program available for small, medium and large enterprises. Some will obviously benefit to a greater degree; some of the larger enterprises with high-volume transactions who do not then have to acquit this single import consignment reporting and can defer duty are obviously going to be greater beneficiaries. But we do not want to make that exclusive to the large entities. We want to make sure that the program is all-inclusive. I have to say, though, that in the broad the Trusted Trader Program is receiving a lot of positive commentary in industry. There is a queue of entities to join the pilot, if you will. Our intent, as I mentioned in my opening statement, is by 2020 to have 1,000 or so entities under this umbrella. That amounts to 30 per cent of our import and export trade. So there are great aspirations and a lot of enthusiasm, but not everyone is going to be happy about it.

Senator LEYONHJELM: All right.

CHAIR: Senator Carr.

Senator KIM CARR: I was asking about the question of discussions with regional partners and possible resettlement countries. Mr Pezzullo, you said you would take on notice the status of negotiations with other countries. Have there been any discussions with the UNHCR?

Mr Pezzullo: We are always in discussions with the peak body for refugees on all sorts of matters.

Senator KIM CARR: I am specifically concerned about finding third-country resettlement options for the people that are on Nauru.

Mr Pezzullo: There have been discussions on foot about what durable solutions for persons in regional processing look like, and they have been on foot for a very long time—indeed, going back to the days of the so-called Malaysia Solution under the Gillard government and subsequently—because, one way or another, whatever third party arrangements are arrived at need to have some kind of involvement, passive or otherwise, and endorsement, active or otherwise, from the UNHCR, because, of course, they administer the convention overall. So have there been discussions about all manner of matters concerning the finding of durable solutions? Absolutely.

Senator KIM CARR: I was more interested in contemporary discussions rather than historic ones. Perhaps you can enlighten me about contemporary conversations.

Mr Pezzullo: They are ongoing. They reach back in time, they are always on foot and they extend into the future.

Senator KIM CARR: When was the last time there was a conversation with the UNHCR about finding third-country resettlement options for people who are on Nauru?

Mr Pezzullo: Those discussions are ongoing. We have senior representatives in Geneva. We are asked. On occasions, we proffer. We are asked about things like: 'With the High Court decision known as M68, what does that portend?' Our officers have a positive, constructive and open engagement with UNHCR. Obviously, they operate—

Senator KIM CARR: Can you tell me the date at which these conversations last took place?

Mr Pezzullo: I will ask Mr Vardos, who is the appointed deputy secretary who is running the program.

Essentially, there are two groups that we are working with. Sorry, the commissioner's capability with social media
is distracting me at the moment! We are working with two groups—those who are directly referred to us by UNHCR and then other prospective persons who will come here under sponsored arrangements under our humanitarian arrangements. But I will ask Mr Vardos to just break that down for you, Senator, and to also update you on progress.

Mr Vardos: We are running on two tracks. There are grants being made to persons who are coming under the regular refugee and humanitarian program, and there are 13,750 in the current program year in total, of which 4,850 have been earmarked for Syrians and Iraqis affected by the Syrian conflict. In parallel with that, there is this supplementary initiative announced in September last year to bring in an additional 12,000 persons. So those programs are running in parallel. The 4,850 will be delivered by 30 June, because it is a program-year commitment, and the 12,000 will run in parallel over this year and subsequent years. As of the end of January, our staff have interviewed and 'assessed in' as being basically eligible for a visa 7,416 persons. Of those, 324 have been granted visas under the base program—that is, the annual refugee and humanitarian program—and a further 200 have been granted visas under the Syria initiative.

Senator KIM CARR: Of those 200, how many are actually in the country?

Mr Vardos: Senator, 26 have arrived in country. There are a range of factors that impact on travel. We have no direct control over when visa recipients travel to Australia. There has always, traditionally, been a time lag between grant and arrival.

Senator KIM CARR: Sure. So, of the 12,000 offer, 26 have arrived. Do you have any sense of when the others will be arriving?

Mr Vardos: The 12,000 initiative, as I have indicated, is additional to the annual program—so we have to deliver the 4,850 by 30 June. Now, it is the minister's prerogative as to how many places, if any, in next year's refugee and humanitarian program are allocated to Syrians and refugees. But the 12,000 runs in parallel, over the top of those annual ones.

Senator KIM CARR: That is right. It is an additional number, is it not?

Mr Vardos: It is additional.

Senator KIM CARR: Yes. So in total we are talking about 16,000.

Mr Vardos: Well, in the current programming, you could extrapolate and say 12,000 additional, however long that takes, plus the 4,850. In the next program year, there may well be another specific allocation within the regular program—and the year after that. So the government has made forward commitments under the refugee and humanitarian program for the next two program years in total, but the component parts of those next two programs have yet to be finalised.

Senator HANSON-YOUNG: We were told originally that most of them would be resettled by the end of the financial year.

Mr Pezzullo: I am sorry to have to repeat myself from earlier incarnations. Sometimes headlines and sometimes interpretations of words are not the actual decision—

Senator HANSON-YOUNG: Words from the minister's mouth?

Mr Pezzullo: No. Well, I was standing next to him, so maybe I heard something differently. But the 12,000 program does extend over multiple financial years. It is a function of the security checking, the identity checking and then, moving to the more logistical matters that Mr Vardos has drawn attention to, organising flights et cetera. So the program will be delivered as and when is appropriate. It will extend certainly beyond this financial year; I can give you that absolute, confirmatory answer. Whether it has to extend much beyond that is really a function of our processing. Security checks are paramount. Identity checks are paramount. We are not going to resile from those, and there will be no-one getting in under the radar who has not been checked.

Senator KIM CARR: So how many years will it take you to secure the 12,000 additional places?

Mr Vardos: It is not possible to predict how long that will take. Our posts in Amman, Jordan; in Beirut, Lebanon; and in Ankara, Turkey are where the principal interviewing and processing takes place and, supported by our post in Dubai, are all working at full capacity. We have sent additional staff. We have occupied all additional offices. So we are operating at full capacity. I just cannot predict how long it will take to deliver the 12,000 on top of the annual program that may be determined by government.

Senator KIM CARR: Do you have any staff in Syria?

Mr Vardos: No.
Mr Pezzullo: We do not need them to be there for these purposes. They work from our principal regional headquarters in Dubai and then they are deployed across Turkey, Lebanon, Jordan and other places.

Senator KIM CARR: Have you had any additional funding for the administration of these 12,000?

Mr Pezzullo: I will just check with Mr Vardos. I do recall some funding being allocated, but whether that was in the administered program for the benefits subsequently—

Mr Vardos: There have been estimates put forward. I would have to defer to the chief finance officer to give you the details, Senator. On a whole-of-government basis, our component part is upfront. The real serious costs are incurred post arrival with the range of benefits.

Senator KIM CARR: Sure. They are agreed settlement costs, but what does it cost for the processing? Given that we have had 26 people—

Mr Pezzullo: We will ask Mr Groves. He is always very keen in estimates proceedings to actually speak to budget figures.

Mr Groves: We received funding—it was announced as part of the announcement—through the MYEFO and additional estimates process. Immigration itself received additional resources of $33.8 million. Currently that is scheduled over the 2015-16 and 2016-17 financial years. The costing itself was a whole-of-government costing, and there are a number of other agencies that contribute to that process. What I have told you is just our component.

Senator KIM CARR: So the $33 million is anticipated to be spent over a two-year period?

Mr Groves: As reflected in the current additional estimates, yes.

Senator KIM CARR: Of course if the program runs beyond 2017 you will be requiring additional moneys.

Mr Groves: Additional moneys or we would be looking to potentially move some of that funding.

Mr Pezzullo: Rephrasing would be more likely.

Senator KIM CARR: I see. How many additional staff does that bring?

Mr Groves: I do not have that information with me. I do not think it was significant. I think it was only 15 or 20, but I will take that on notice.

Senator KIM CARR: So where is the $33 million spent?

Mr Groves: A lot of that is on administered expenses overseas to support the processes and a lot of the checking that needs to be done in the processing. The actual ASL was small, but I would have to check.

Senator KIM CARR: Have additional staff been engaged?

Mr Vardos: We have supplemented our existing posted resources. These are people who go on three-year postings to the region. We have supplemented those resources with short-term missions, which can last a matter of months or a matter of weeks. It is subject to a range of factors, including availability of office accommodation. We are not the only ones who occupy those offices.

Senator KIM CARR: How many staff have been reallocated on a short-term basis?

Mr Vardos: I would have to take that on notice. I was looking for that figure before I came to the table, and I do not actually have it.

Mr Pezzullo: We will take it on notice.

Mr Vardos: Someone else may have it, but I do not.

Mr Pezzullo: We will take it on notice.

Senator KIM CARR: Are they new people or have they been reassigned from existing—

Mr Vardos: They are existing departmental staff who are experienced decision makers. They could be working in any number of areas. They are people who are competent in the art of refugee interviewing and decision making.

Senator KIM CARR: Has there been any impact on the department's capacity to undertake core functions?

Mr Vardos: No.

Senator KIM CARR: So these are people who are surplus to requirements, are they?

Mr Vardos: No, they are not surplus to requirements; they are taken from other positions and there are backfilling arrangements. There are a range of measures that can be put in place. Yes, a gap is created when you draw someone out to allocate them to a special task, as we have on hand at the moment, and operational areas that are affected put their own arrangements in place through higher duties or other arrangements to backfill.
Senator KIM CARR: So 26 people have arrived and you have issued visas to 220. How many applications have been assessed?

Mr Vardos: As I mentioned, we have screened in or assessed in 7,416 persons as of the end of January. They are effectively in the pipeline waiting for health, character and security clearances.

Senator KIM CARR: Over what period of time were those 7½ thousand applications assessed?

Mr Vardos: Since the initiative was commenced in September last year. I came on board towards the end of September, and some work had been done. But you could effectively say that, since the government made its announcement in September last year, the department has cranked up and interviewed 7,416 persons.

Senator KIM CARR: Of which you have only issued 200 visas.

Mr Vardos: In addition to the 324 under the base program, they are allocated either to the base program—the 4,850 which need to be delivered by 30 June—or the Syrian initiative.

Senator KIM CARR: Either way you look at that, you have a very high number of people being interviewed and a very low number of visas being issued.

Mr Vardos: Yes.

Senator KIM CARR: Why is that?

Mr Vardos: The security checking processes are comprehensive, they are meticulous, there is no exception and there are no shortcuts. It is the security-checking process that has effectively delayed us in granting visas, but the visas are starting to flow.

Senator KIM CARR: How many applications have been rejected?

Mr Vardos: Off the top of my head I could not tell you how many have been rejected, but what I can say to you is that if there is an issue that arises in respect of an applicant that we cannot resolve in the short term we deprioritise that application and then move on to the next person. So it does not necessarily mean that someone is rejected. It just means that they are deprioritised until the issue can be resolved.

Senator KIM CARR: The commentary in the media has been around families. Are you looking at any fighters?

Mr Pezzullo: Fighters?

Senator KIM CARR: Fighters. People engaged in the civil war itself.

Mr Pezzullo: They are certainly not coming here.

Senator KIM CARR: Have any of the applications come from people who have been engaged directly in the military conflict?

Mr Vardos: I cannot answer that question without delving into the individual decisions around the 7,416. But the secretary is right. If there are any issues relating to any security, or indeed character or criminality issues as well, they will not get a visa.

Senator KIM CARR: Of the 7½ thousand applications you have processed, 222 visas suggests to me that a very high number of people have a problem with their applications.

Mr Vardos: I would not deduce that. It is just a slow process as we work through. Our security checking processes involve both Commonwealth agencies—the ones you would expect—and international partners.

Senator KIM CARR: Other governments?

Mr Vardos: Other governments.

Senator KIM CARR: Who tell you they have a security problem?

Mr Vardos: They will tell us if a person we are interviewing has come to their attention, for whatever reason.

Senator KIM CARR: So it is predominantly on security grounds that these applications are not being processed?

Mr Vardos: No, I cannot confirm that. It could be a whole range of reasons. It could be health reasons. It could be character reasons.

Senator KIM CARR: On what categorisation have you not proceeded with their applications?

Mr Vardos: I would have to take that on notice.

Senator KIM CARR: I would like to know whether it is health reasons, security reasons or character reasons—in other words, they are criminals, I presume.
Mr Pezzullo: To foreshadow an element of the response we will give on notice, with the change of our departmental arrangements, and particularly with the establishment of an enhanced intelligence function, including more officers cleared to see more highly sensitive material, and able to share that, including with international partners, we have put in place in terms of our nation's history probably the most rigorous security screening process since we established the department in 1945. That includes biometric checking and identity checking, including through classified data sources that I am not in a position to go into any detail about, with foreign governments. As a result of that heightened and more intensive scrutiny, the processes that have to be established to undertake that, particularly with foreign governments, were put in place late last year by Mr Vardos and his colleagues. That might have caused a lag of some period of time. But as those clearances come through we will be able to grant more visas. The bottom line is that we make no apology for undertaking even closer scrutiny of folks coming from one of the most violent conflicts on the face of the earth. So we will give you a breakdown. We will give it to you in aggregate terms so as not to identify individuals, and we will do it on notice.

Senator KIM CARR: In regard to the recent commentary about lessons learnt from Lebanon, given the civil war in Lebanon, which led to a similar—

Mr Pezzullo: The lessons learned? In relation to the unauthorised disclosure—cabinet submission.

Senator KIM CARR: If you wish to go to the specific document. Has the department undertaken any study of the lessons learnt from the civil war in Lebanon, which had many similar patterns to it that we are seeing in Syria?

Mr Pezzullo: Not in my time as secretary have we commissioned original research. I know, because I have had cause to ask for a literature review and search to be undertaken from what happened in the 1970s with that particular program. We have had the benefit of some of the research available to us rather purposes. But it also informs Mr Vardos's work.

Senator KIM CARR: Given the level of foreign involvement in that engagement, surely there are lessons to be learnt from that?

Mr Pezzullo: Absolutely, Senator. The key lessons relate to screening. In the 1970s, just on very basic issues around computer checking and the sharing of databases, just the technology was so different in any event, and perhaps there are colleagues in the department whose institutional memories go back that far. So that is one set of lessons.

We are in a different world, but also we are in a different world from the point of view of the sequencing. Mr Vardos talked about an initial screening in, which deals with the prima facie claims that a person might have. What is the nature of their persecution? Are they in a persecuted minority in an area where previously there might have been tolerance? There might have been cohabitation. Now, because of the vile actions of Daesh and other violent terrorist groups, they are in a position where a return is not feasible. So that checking is done, but then it is sequenced, as Mr Vardos said, with identity checking—because just because someone says they are a particular individual does not mean they are—health checks, security checks and character checks. It is the sequencing of those checks that is being done in this program in probably the most comprehensive fashion we have ever undertaken. Certainly, relative to that program in the seventies, it would be unrecognisable. The nature of the checking would be unrecognisable to ministers and officials who might have had an involvement in that program.

CHAIR: Thanks, Senator Carr.

Senator KIM CARR: Can I just finish on this. In terms of the question on notice—

CHAIR: We will come back to you later.

Senator KIM CARR: It is a simple question: can you provide information about where the officers have been transferred from to take on this additional work?

Mr Vardos: Okay.

Senator O'SULLIVAN: Just to tidy up this general issue, would it be fair to say that the department has thought through very, very thoroughly all the issues involved with processing refugees from Syria?

Mr Pezzullo: Yes, I believe we have.

Senator O'SULLIVAN: And do you believe you are not only in tune with government policy but alive to perhaps some of the public awareness around, specifically, bringing refugees from Syria?

Mr Pezzullo: We understand that there is a high level of public interest in the matter, and obviously we follow the public debate. But obviously, as creatures of the executive, our job is to execute the policy of the day as given to us by the government. But I will not insult your intelligence. Of course we are aware of the debate that is in the
community at large, but our specific marching orders come from the government of the day, and we are executing its policy to the letter.

**Senator O'SULLIVAN:** I imagine that you are paying a very, very high order of attention to see that we do not have any infiltration of this cohort of refugees by individuals whose behaviour may well not be in the national interests of Australia.

**Mr Pezzullo:** I can assure you that we are alive to many security and other risks. Terrorism is certainly one of them and a very high profile one. There have been instances, regrettably, already in Europe where it is apparent that those that we are confronting in the Middle East, particularly in Syria and Iraq, are using migration flows for their own purposes. That is not to say that it is particularly prevalent or it is particularly predominant amongst the groups moving, but one or two are all you need. So, yes, we are alive to the possibility of terrorists attempting to get through by this means. We are also, of course, alive to other factors—criminality, character issues, health issues. The establishing of someone's identity in and of itself might not be portentous of criminality or terrorism, but, because someone has a false identity, that is a flag itself. So there are a range of flags that we are concerned about, but certainly infiltration by Daesh or other Islamist fighters is very high on our priority for screening, yes.

**Senator O'SULLIVAN:** I also assume that our people, the people involved in this due process, are in close and collaborative contact with other allied nations—can I use that term?—as they process their tentative refugees also.

**Mr Pezzullo:** Yes, And I can assure you in terms of both the Commonwealth and state and territory authorities that we work very collaboratively. It would be no secret—and there is no point making a secret of this—that we obviously work very closely with ASIO, who are probably our principal partner in this regard. That is not, if you like, an incidental or minor transactional engagement on occasion. It is deep. It is structured. It is very intense. I do not want to particularise it, because that goes to the nature of ASIO's capabilities, which I should not and indeed do not wish to talk about in public.

We also work very closely with like-minded immigration and border authorities, who are all going through the same kinds of checks. We swap notes. We swap information as to methodology, as to which screening techniques are working and which perhaps are not so useful. We also engage with other elements of the intelligence and national security community, yes.

**Senator O'SULLIVAN:** I imagine nobody is putting pressure on your department to condense this work. It has been suggested that this would all be done somehow in this calendar year.

**Mr Pezzullo:** Far from it, Senator. In fact, we take our instructions from the government, so we are—how shall I put this?—immune from media and other pressure. We frankly do not care. I do not want to be disrespectful, but there are people who live in a world of commentary and social media and whatever—

**Senator O'SULLIVAN:** I know some of them.

**Mr Pezzullo:** and then we just turn up to work and do our jobs. The government is—

**Senator KIM CARR:** You do not create any of the public commentary or provide advice to the media or try to channel any of this information, do you, Mr Pezzullo?

**Mr Pezzullo:** I would not even know how to begin. Our job is to give effect to the government's policy. The government have been very clear. Far from there being 'any pressure to condense'—I think that was your phrase—the government have been very clear. Yes, they wish to be compassionate and extend the humanitarian hand of assistance that has been spoken about by both the former Prime Minister and the current Prime Minister as well as others such as my minister and Foreign Minister Bishop, who was at a conference recently where humanitarian pledges were made. Yes, we are going to deliver it, but we are not going to compromise security. The government have been very clear that they expect those twin imperatives to be met.

**Senator O'SULLIVAN:** Good. I would not have anticipated anything else. Can I take you back to your opening statement, where we talked about the messaging. It is very important, and from someone as senior as you it is a very powerful message to the smugglers. Beyond this exercise, where you get an opportunity to comment publicly about how our government will not—how resilient we are with respect to the policy—

**Senator KIM CARR:** Here we go. Here we go.

**Senator O'SULLIVAN:** do you engage in any—

**Mr Pezzullo:** Sorry, Senator, I am being provoked by Senator Carr.

**Senator O'SULLIVAN:** Yes, he does that to me also.

**Senator KIM CARR:** I am fascinated by this answer.
Senator O'SULLIVAN: Do you also engage in programs offshore, for example, at a more international level to make sure that our message is well and truly out there in this world where the propensity for this is much higher?

Mr Pezzullo: Indeed we do. Perhaps I might draw to your attention that the relevant officers will be here for the segment on Operation Sovereign Borders, if you wish to pursue the detail. I do apologise to the chair; we have jumped around a bit, but—

CHAIR: No, it has nothing to do with you.

Mr Pezzullo: I can only answer the questions that I am—

CHAIR: It is for the committee to deal with your opening statements, and we are still doing that.

Mr Pezzullo: To assist Senator O'Sullivan: the details might be best interrogated under Operation Sovereign Borders. But in general terms, as we have explained to this committee before and as has been laid out in our budget papers and the like—and also as explained by Generals Campbell and Bottrell as the two commanders, previous and current, of Operation Sovereign Borders—yes, we use a variety of social media and other strategic communications avenues, as they are called. We do not engage, as we have explained before, in domestic marketing, as it were, or advertising in the domestic jurisdiction. Our focus is on the overseas jurisdictions, and obviously we use a variety of techniques, some of which are known in the trade as free media.

So, when a government position is re-articulated or a statement of resolve is reinforced, we will ensure that, through social media, the web and dedicated internet channels, that message is certainly projected. Prime Minister Turnbull and Minister Dutton are the principal spokespersons for the government, but obviously Minister Bishop and others play a key role. But, beyond the projection, as it were, of statements of government policy, we also have more structured communications—pamphlets, internet pages and other means. Some of the detail I am just seeking to recall, but maybe when General Bottrell and his staff are here we can get into a level of detail that might be of interest to the committee.

Senator O'SULLIVAN: I will leave the balance of my questions about that program until then. I want to ask a more general question that still relates but relates to broader topics. Do you find that when individual advocates or advocacy groups go about plying their trade, where the information that they put out there is either patently false or holds out hope and promise, that makes the job more difficult in terms of the messaging? Do you find that the audience—being the smugglers—get a conflicted view of what is coming out of Australia; that they might encourage them to box on and that there is hope yet?

Mr Pezzullo: It is certainly a vibrant area of discussion in any democracy—and you have seen this in Europe as well. People have very different deeply held views and, in some cases, very passionately held views. In those circumstances, is it the case that the public debate or public commentary can sometimes go down paths that do not have much of a connection to the truth or to facts? Yes, that is certainly the case. I suppose in fairness to them some of the advocates would argue that about government operations too.

In that environment of passionate, intense and rather interactive messaging, some groups say close the borders, other groups say open the borders and other groups say this, that or the other. Whether there is a court case on, whether there is a change of minister, or as we have seen in the past a change of Prime Minister, is it the case that exploitative smugglers—I do not put any of the good-hearted persons of faith and passionate ideology on this issue in this category as they have their own reasons for pursuing these debates and that is to be set aside—and cynical transnational criminals in today's internet age are very savvy about following developments in a way that did not really apply even in the late 1990s or early 2000s period when the so-called Pacific Solution was in the ascendancy? Certainly it would be a space age away from what happened with the outflow from Indochina, for instance, in the seventies or eighties.

Today, you have professional human trafficking and people smuggling syndicates who treat human beings as commodities and they will absolutely give people false hope on any pretence. I think the premise of your question relates to the activities of so-called advocates. It could be something like 'Don't worry there is no way this government policy will sustain a judgement of the High Court'—to take an example—and that will be put about as a marketing opportunity. I alluded before to the communications program, where we get feedback through field surveys and through both qualitative and quantitative surveys which we have talked about in these proceedings over the years. We are happy to resume that discussion when Operation Sovereign Borders is on. We saw references to—and I will use quotes here because it relates to the comments that were put about rather than my lack of respect for the office holder—'Morrison has gone. There's been a change of minister. The Australian policy has changed.' So they did not have another run at that. Some people who perhaps are a bit more cautious say, 'Well hang on. I want to wait and see.' Others say, 'Okay, this is my chance to get to Australia.' Similarly, we
saw it in the change of prime ministers and again that all gets deflated. Mr Turnbull made it very clear that his policy is as strong and as resolved as previous policy. He has reiterated that in previous days. Then you see court cases and so on and so forth.

Senator O'SULLIVAN: The burden of my question is just slightly different—and thank you, that was a very useful response. I want to set aside those advocates who may hold an honest but mistaken belief and put them in a category—for example, an advocate who thinks that a five-year-old was raped and that we are about to return them when in fact it was untrue; as opposed to an advocate who knows it is untrue and may well have invented the statement. We have seen this in campaigns about environmental management, from the animal liberation movement, the anti-abortion movement and so on. These are people who are prepared to join with lawbreakers and to say whatever they need to say to create an environment that is meant to persuade people to do things that they think will take them to their ends. My question is: are you alive to the potential of that? Do we have settings in place—I am not looking for the detail—that might help us monitor that sort of behaviour?

Mr Pezzullo: If there are any issues around the breaking of laws, that would be a matter for other agencies. Irrespective of the stridency of the advocacy or its, on occasion, very loose connection to reality and truth—on occasion we are aware there is distortion of facts about which we know the truth—we take all claims very seriously. I think we have a record, and I would say this about my predecessors as well, of taking all allegations in good faith. Sometimes they come to us from parliamentarians. Sometimes they come to us from issue-specific groups, such as refugee action groups. Other times they come to us from doctors—we talked about one such example earlier today. My preference is to take, at least on initial blush, all allegations, all statements of concern and all statements of criticism as if they have been made in good faith. If it subsequently comes to light that a matter has been fabricated, then obviously, depending on whether laws have been broken or not, action can be taken. But our starting point is to take all allegations as being, until proven otherwise, factual and made in good faith.

Senator O'SULLIVAN: Do you think there will come a time when it is important for us to resist this behaviour, this propaganda that is put out there? I have discussions with very decent Australians who have a view about stopping the boats but who, for their own reasons, are ignorant of the 1,200 lives—men, women and children—lost on the high seas. You might note that there is never a mention of that by anybody who continues to resist our policy of stopping the boats. But when you share that with ordinary folk, they are surprised by the numbers. When you engage with them on it, they really start to contemplate it differently. Do you think there will come a time when we should—you should—start to set in place a program to make sure that all Australians have an opportunity to be informed of all the facts as they go about their daily lives and consider these issues about refugees, arrival of boats and so on?

Mr Pezzullo: At the risk of threatening even longer opening statements, I would contend that our role is principally to support the government of the day. These are sensitive, delicate matters of public policy that are the subject of different views that can be contested within our vibrant democracy. In the end it is for those at the most senior levels of the governance of our nation, the parliamentarians, to debate and resolve these matters. All we can do in that context is support that process.

Estimates is one forum in which we are a little bit more visible and observable than might otherwise be the case—and bring on 11 pm is all I can say from that point of view. We deal in and provide factual reports. We are not ourselves advocates; we do not have a policy bias; we work for the government of the day to implements its policy after we have given the government advice. Is there more we can do in, say, our annual report or in other statements to put out more facts about, for example, as you heard this morning, the level of care provided and the attention given to clinical governance matters? Yes, perhaps we can intensify our efforts and that might further assist in the debate—and it is a debate. It is one of the top two or three issues that tends to dominate public commentary at any one time, and that is understandable. But our job is not to be active participants in a public debate but to support the government of the day and, on occasion—such as in these sorts of proceedings—to answer questions to the best of our ability. I am sorry I cannot give a more detailed answer than that. But that is the nature of our democracy and that is our role in it.

Proceedings suspended from 12:45 to 13:48

Senator HANSON-YOUNG: Mr Pezzullo, last week we heard that the government had an undertaking that no person from the group involved with the 267—the High Court case—would be removed without 72 hours notice being given. Does that commitment still stand? Has any notification been given? And how will that work, if people are going to be sent back in groups or individually?

Mr Pezzullo: The undertakings have been entered into by the minister on behalf of the Commonwealth of Australia. It is not his intention to withdraw those undertakings at this point, because the undertakings related to
the case that was on foot. Obviously that case has now been disposed of. But his instructions are that the undertakings remain on foot, and that is the basis upon which we are proceedings. I think I stated before the break, but I will just restate it, that, simply from the point of view of the medical conditions that are involved, the state of treatment that people are undergoing, their recovery from procedures and the like, it was never in contemplation and nor is it in contemplation that there would be, as it were, a mass lift of persons, whether they are joined to the proceedings or not. The fact that they are joined adds an additional legal step, but to answer your question about how the process will now unfold, assessments will be made about their care. Some of that was discussed earlier, before the break, when Dr Brayley was at the table. Advice will be taken, noting that the services on Nauru are being enhanced, including through a multistage enhancement to the hospital and health services there, the deployment of additional staff and the like.

So, this is never a static question, and if some of the multidisciplinary assistance that Dr Brayley was speaking of earlier can be provided efficiently and effectively on Nauru then that will be a factor in decision making—some of the multidisciplinary medical care and attention that he referred to. So we literally are now at the point of working through each and every case; has the original ailment, for want of a better word, been treated? If the treatment is still on foot, how long will that reasonably take? And then, if there are no other factors to take into consideration, including some of those questions of anxiety and stress that were mentioned earlier, once those factors are all taken into account then the legal position is enlivened. And at that point we have not settled a final view, because these matters no doubt arose in the minds of some of the representatives of not just the plaintiff but others after the emphatic decision of the court. They have been kind of thinking about their own position. So, we are in respectful discussions with a number of parties about what we are willing to accommodate.

But I go back to what I said before the break: the ultimate policy objective has to be delivered. All persons, when they are fit to travel, will be sent back to Nauru. That is both policy and law. And then, within that, individual determinations will be made on a compassionate and empathetic basis.

Senator HANSON-YOUNG: Could I ask about the 37 babies who have been born here? They are connected to the broader group of 267. What type of assessment will be made as to whether it is appropriate to send those babies to Nauru?

Mr Pezzullo: I have not looked at each case myself, but there are members of staff as well as our contracted service providers who know of the cases in detail. These are the babies who were born here, so obviously they were not repatriated to Australia; they have been born here subsequent to the mother and possibly the father coming here for treatment. If there is no reason to delay their return because of the health of, say, a sibling—which might have been the original cause of repatriation—the health of mum or the health of another extended family member who might be here in Australia—and if they themselves do not have any medical condition that we would otherwise treat in Australia, then the assessment will be that they will go back as a family unit, noting, and this is the point I was making before the break, that the question of care medical services and medical support is a dynamic one. The government has authorised us, and we are currently partway through, a multistage redevelopment of the Nauru hospital and health clinic. Deputy Commissioner Briscoe and her staff will have details.

So, that would feature in any consideration, because obviously if you have a capacity to provide early childhood services or postnatal services on island that maybe did not exist six months ago then you would make a different decision now about whether a baby is going to go back. If those services are further enhanced and built upon in months to come, then the decision-making criteria will change again. I do not mean to provide a lengthier answer than I absolutely have to. I am just trying to convey to you that it is a dynamic decision-making environment. As the services improve, more children can go back more expeditiously.

Senator HANSON-YOUNG: Out of the 267 people, if that court case had not been on foot, and the undertaking of the 72 hours waiting for the case to resolve, how many of those people do you understand would have already been transferred back to Nauru?

Mr Pezzullo: I might need to take some advice. The other way to look at the question and to derive the answer is: of those who were subject only to the 72-hour period—the block, as it were—how many were ready to be returned the morning after the court case? I am struggling to recall. I think it is in the order of a fifth to a quarter. If Ms Briscoe has that information, she will give it to you now, otherwise we will take it on notice.

Ms Briscoe: What I can add to that is that this changes on a daily basis. It is related to the fit-to-travel assessments that are regularly done and updated. If the number were 100 today, it could be different tomorrow. That could be as a result of further medical advice, as a result of an appointment being scheduled or moved so that the person needs to remain here to attend an appointment. So that number does change on a daily basis.
Mr Pezzullo: Senator, we will take the question on notice, because, as an objective fact, if we take the morning-after test—I mean in the sense of the morning after the court judgement—we will come back in a way that does not breach privacy, and I do not think this would, with the aggregated number of those who potentially were fit to fly or return on that day, subject only to the fact that the Commonwealth is, if you like, binding itself not to do so because of the ongoing application of the minister's undertaking. So perhaps the best way to answer the question is on notice and in those terms, if that is acceptable.

Senator HANSON-YOUNG: Thank you. Yes, that would be. It sounds as though it was a relatively small number in terms of percentage, from what Ms Briscoe has outlined already.

Mr Pezzullo: We will come back to you on notice.

Senator HANSON-YOUNG: Can we have an updated figure on the number of people in Nauru, including a breakdown of men, women and children?

Mr Pezzullo: In total?

Senator HANSON-YOUNG: In total.

Mr Pezzullo: While Ms Briscoe goes to her spreadsheet, you are asking both for transferees who are not yet determined to be refugees, as well as refugees, in total—

Senator HANSON-YOUNG: Yes.

Mr Pezzullo: split between those two categories, and then, as best as we have it, men, women and children?

Senator HANSON-YOUNG: Yes.

Ms Briscoe: For Nauru, the highlight numbers—as I am trying to find the detail—are 840 refugees and 357 transferees.

Senator HANSON-YOUNG: So 840 refugees—people who have been assessed—and Ms Briscoe has told us 357 transferees. What happened to the commitment to have everybody processed within the end of that particular week in October? Why have we still got 357 people who have not had their claims finalised?

Mr Pezzullo: That is principally a matter that would need to be answered by the authorities within the government of Nauru. They conduct the assessment and we provide support to them, as was painstakingly laid out before the court in the High Court case, so we do have officers who assist. I would not want to speak for the government of Nauru, nor do I care to speculate. Perhaps there is a capacity issue. They made a judgement about the throughput of processing, and it is a remarkable achievement, albeit from a rapid start with the resumption of regional processing. You could argue that they have done extraordinarily well to, out of 1,200 persons—and I am just using round numbers here—have 840 assessed as refugees.

I do recall, at least towards the back of my mind, that there was a commitment that some of their officials might have given that they would in good faith and with best endeavours try to get everyone through the system.
You are right, I think, they did say by the end of a particular week—I am not disputing that, of course—but if the government of Nauru wishes to provide any further information to this Senate through engagement with us, then we will take that on notice. Off the top of my head I do not have an answer, and nor would I care to speculate.

Senator HANSON-YOUNG: I must admit that I find it a little extraordinary that you are making decisions as a government about negotiating third country resettlement, trying to work out where people can go and who will take them, and yet you have no information. I am sorry, but it feels like there is disinterest in why 357 people still have not even had their claims assessed. They have been there for nearly two and a half years.

Mr Pezzullo: I can assure you that there is no lack of interest—perhaps it is just the long morning. I understand the point, Senator. I will see if Ms Briscoe has any further particulars.

Ms Briscoe: While I do not have exact numbers, of that 357 there will be quite a number that have had their initial determination made, and they will be going through some sort of appeal process. There will be some that have not received their hand down because they are part of a family where family members are in Australia for medical treatment.

Senator HANSON-YOUNG: Have we got the breakdown?

Ms Briscoe: It is coming.

Senator HANSON-YOUNG: We were also going to get the specifics in relation to the Nauru and Manus people who are here in Australia who fall outside of the—

Ms Briscoe: Oh, yes. I have that number. The number from Nauru who were not subject to M68 is 62, and the number from Manus that are not involved in the M80 proceedings is 12.

Senator HANSON-YOUNG: How many of those women who are still here in Australia are subject to medical treatment because of a sexual assault or abuse?

Ms Briscoe: I do not have that. I will take that on notice.

Senator HANSON-YOUNG: Someone must be able to get that today, surely.

Mr Pezzullo: We would have to break the data down, Senator. If we can do it today, we will.

Senator O’SULLIVAN: Could I ask that the data include alleged sexual assault, as this is where it has been established that there is evidence of sexual assault.

Mr Pezzullo: Indeed, Senator. We will look at it.

Senator HANSON-YOUNG: My question is about the medical transfer of those people who doctors have sent here because of the results, not just people who have said they have been raped and therefore they have jumped on a plane.

Mr Pezzullo: We will dig into the data through the course of the afternoon.

Senator HANSON-YOUNG: Thank you.

Senator LINES: I wanted to ask you some questions about Perth Airport. What amount is spent by the ABF at Perth international airport annually?

Mr Pezzullo: The amount spent in terms of salaries and expenses?

Senator LINES: Yes, the whole kit and caboodle.

Mr Pezzullo: All the staff at our airports work either directly for the commissioner as uniformed officers or they are seconded to the regional command that is overseen by the commissioner. I might ask him to open the batting.

Senator LINES: I just want to make sure we are covering off on everyone.

Mr Quaedvlieg: The secretary is correct: I do not have that figure to hand. It will take some calculation. It is not something that we, in the ordinary course of our performance monitoring, measure as in airport by airport. We will undertake our best endeavours to take that question on notice and respond to you before the due date.

Senator LINES: You understand that it is all staff I am asking for?

Mr Quaedvlieg: Understood.
Mr Pezzullo: We can respond, because we have what is called a blended workforce. Even if a non-uniformed officer whose, if you like, home is the department, the data can be sliced and diced such that it is one single workforce unit called the Perth Airport.

Senator LINES: Great; thank you. What amount is collected in Passenger Movement Charges at Perth international airport annually?

Mr Quaedvlieg: Again, it is a question I will take a notice, unless the chief financial officer has that information to hand in his pack. I am sure he is readily looking at that now, but I do not have an answer to hand.

Mr Groves: Sorry to be an anticlimax, but we do not track Passenger Movement Charge collections by airport. All Passenger Movement Charges are collected by airlines and normally as part of the ticket price et cetera

Senator LINES: Can you track it by airlines that land and depart from Perth?

Mr Groves: No, we do not track it by that.

Senator LINES: You have no idea?

Mr Groves: We could probably do a rough calculation based on movements through the airport and on the Passenger Movement Charge, being the $55 per departure. Certainly we could do that but we do not track the collections per se.

Senator LINES: Your estimate will do. We understand that since the recent upgrades to Perth Airport there are now 16 outbound immigration counters.

Mr Quaedvlieg: Again, I will defer to the commissioner.

Mr Quaedvlieg: It sounds right, but before I commit to that on *Hansard* I will take the caveat that I will check it and I will correct it in due course.

Senator LINES: Does someone in the room have the answer?

Mr Quaedvlieg: Potentially; I will see if they do.

Senator LINES: That leads me to my next point, which is in relation to answers to a question on notice—and I am referring here to No. 2075—which shows the outbound control point is staffed by between one and six officers with an average of three throughout the day.

Mr Quaedvlieg: Without looking at the rosters, I cannot confirm that one way or another.

Senator LINES: That is what you gave us to question on notice 2075.

Mr Quaedvlieg: That is quite possible. The thing to understand with airport operations is that they are dynamic. Airline schedules change. They concertina and spread out. That answer was probably correct in the context of the time it was given. Whether that is still valid today, I just do not know.

Senator LINES: Given that you cannot give me any other answer, let's assume the answer to question on notice 2075 was that the outbound control point is staffed with between one and six officers with an average of three throughout the day.

Mr Quaedvlieg: Yes.

Senator LINES: Is this contrary to the agreement between ABF and Perth Airport prior to the expansion of the international terminal?

Mr Quaedvlieg: I can answer that question. There is no agreement per se between Perth Airport and the Australian Border Force, although having said that—as an aside—I recently had discussions with the now-departed Perth Airport CEO, Brad Geatches. He was trialling a new compact arrangement, if you will, with service providers in and around the airport in terms of how we can better provide quality to passenger facilitation. We were going to embark on a pilot program. Whether that still holds for the current CEO, I do not know.

In terms of performance measures, though, at that key performance indicator level, we do have a national standard that we clear passengers at a certain percentage of a certain period of time. What I can say to you is that in terms of Perth Airport, comparative to the rest of the network, not only do we hit that standard but also we over-perform.

Senator LINES: In a pilot program, would staffing of outbound immigration counters be one of the matters that you would settle between ABF and Perth Airport?

Mr Quaedvlieg: Absolutely, although we need to be careful that that is not the only metric in terms of performance success. As I mentioned, applying a simply numeric model to airport operations is inherently dangerous because of the scheduling effect I spoke about before. Brad Geatches and I spoke about how we could
not dispense with numeric performance indicators altogether but how we could deliver a better passenger experience, which went not just to the speed at which passengers were facilitated. I often make the point that the customs and immigration functions at airports are just one part of a very complex ecosystem. Measuring the success of passenger facilitation on one part of the ecosystem in a very linear way, as you have just described, does not actually go to improving the monitoring or the quality of the performance. So 'yes' is the short answer. It is a consideration, but it is a very complex environment that we need to do better at in terms of the way we partner with airports.

Senator LINES: Typically, I have not made any comment about the broad operation of Perth Airport.

Mr Quaedvlieg: I understand that.

Senator LINES: I am simply seeking the outbound numbers. When you say 'compact arrangements', I have two questions: what do you mean by that? And, secondly, you mentioned a numeric key performance indicator. Are those numbers publicly available, and can they be made available to the committee?

Mr Quaedvlieg: Yes, they are. On your first question, it is not just the metrics in terms of how fast, in what period of time and how well passengers are processed from the time they turn up at the outward control point or, for that matter, at the inbound control point. For example, one of the things that we discussed was the embedding of an Australian Border Force supervisor in a central operational cell at Perth Airport. So the airport operator is going to run an actual command centre. The agreement that I struck with the CEO was to place a supervisor in that command centre so that as we have undulations of passenger flows, depending on schedule inconsistencies and concertina effects—which I mentioned earlier—we could then respond with more agility and bring in workers from outside the airport flexibly. They could surge to periods of peak processing and then they could ebb away and attend to other duties. The compact is around a whole better partnership with Perth Airport. In respect of your second question—

Senator LINES: Let me do a follow-up there. Has this discussion between you and the former CEO of the airport and your agreement to run a pilot program arisen because Perth Airport has not been satisfied with the service provided by the ABF?

Mr Quaedvlieg: No, that was not how it was couched to me. In my normal stakeholder engagement I meet with all the airport CEOs, including the Perth Airport CEO. We have discussions at a high level in relation to how we are partnering at the airport and we were thinking creatively about how we could do things better.

Senator LINES: Why did this need arise to run a pilot program? Obviously something was not quite tweaked—

Mr Quaedvlieg: No, no, not at all. Brad Geatches was quite progressive. He thought he would try something that he had seen globally. He wanted to make Perth Airport one of the most competitive airports in Australia and he sought my assistance with that. I am willing to experiment and move away from what are pure numeric indicators to something that is a bit more quality assured.

Senator LINES: Are the numeric KPIs publicly available?

Mr Quaedvlieg: Yes, they are. They are more formally applied to the inbound. There is a 92 per cent target rate for passengers being cleared in half an hour. That is from the time the airport door breaches to the time they clear the line. The outbound is a little bit less formal. I think it is around about the 14- or 15-minute mark. We are looking at ways that we can measure the throughput from a passenger turning up at the portal to the outward departure point—in some airports that is like a hoarding and a doorway—to the point they clear the primary line. At the moment, in the main, we measure that manually by having supervisors do test cases as passengers move through, but with the advent of technology—I will give you an example of that: a lot of airports are wrapping a wi-fi system around certain parts of the airport. We can leverage off the wi-fi system to record passengers going through that portal and measure them as they go out, so we have data that helps us measure that a little bit better and then obviously adjust our performance.

Senator LINES: Why are the average wait time statistics measured differently, as you just described, in relation to inward and outbound ABF control points?

Mr Quaedvlieg: It is a legacy of the ability of airport operators to measure accurately the time that an aircraft door is opened on arrival at an aerobridge, whereas in reverse, on the outward control point, we are reliant on passengers turning up, checking in and coming into an outbound departure point. There is no natural measure point other than introducing the electronic technology that I mentioned.

Senator LINES: Given that ground staff respond to the knock from flight crew, you would think they would be able to measure when the door opens.
Mr Quaedvlieg: If that is correct then that is why it is easier to measure the inbound timings. Just to qualify that, with the complexities now arising in the aviation industry—taking Sydney Airport as an example—there are many airlines now, because of scheduling and the curfews, that are arriving off terminal, so the aircraft doors are breached a long, long way away at another setting, and the measurement starts at that point. It takes time to transport those people into the primary terminal for clearance. It is an example of why it is unreliable to rely solely on metrics in terms of the old standards.

Senator LINES: Is a true that Customs at Perth airport have been reduced to the point that you are dependent on staff doing overtime?

Mr Quaedvlieg: No, that is not true. In fact, Western Australia was one of our first regional commands under the Border Force when we stood it up that was permitted to adopt a flexible deployment model. As I mentioned before, if there is a requirement to surge into an airport because suddenly we have peak arrivals that we were not planning for our regional commander has a capacity to draw on existing staff in the broader Perth metro region to surge in. Yes, absolutely, from time to time all around the network, where we have to supplement using overtime we will. That is a very valid workforce performance.

Senator LINES: Can you have a look at the overtime proportionately between Perth airport and your other airports.

Mr Quaedvlieg: I can. Would you like that answer on notice?

Senator LINES: Yes. Senator Macdonald, I would like to go to bargaining.

Mr Quaedvlieg: That is the secretary.

Senator LINES: I have put this on the public record at these committees before, but I am advising that my partner is an organiser with the federal public sector.

Mr Pezzullo: Thank you.

CHAIR: I am not sure where bargaining comes in the program.

Senator LINES: It is Border Force bargaining.

CHAIR: Fine, then it comes in Border Force.

Senator LINES: I understand the department has finalised the proposal to go out to a second staff ballot after approval or input from APSC. You have a second agreement ready to go.

Mr Pezzullo: Certainly. We have re-engaged on bargaining after the voting down of the first offer. I might ask Dr Charker, who is both the deputy secretary of our corporate group and the Chief Operating Officer of both the department and the ABF, to advise you as to where the proceedings are at. She is leading our negotiating team. So I might just ask her to advise you as to where the proceedings are at.

Dr Charker: The secretary is correct. We are at those final stages, if you like, of finalising the second offer. We have not yet fully finalised every single last element of it, because we recommenced a period of bargaining last week, and there are, as you would expect, issues that have cropped up during that period and also things that we have put on the table for consideration by the bargaining representatives that we are still working through at this point. But clearly our intention is to work expeditiously in this space to give our staff the opportunity to vote on the second offer.

Senator LINES: And I understand that in the first ballot there was a 91 per cent no vote from an 82 per cent participation?

Dr Charker: That is correct.

Senator LINES: I just want to talk about the surge team—I think that is how you refer to it. There have been a lot of media reports about the department deploying the surge team during key points of industrial action. What has the cost of deploying the surge team to cover the industrial action been?

Mr Pezzullo: The chief operating officer might have that information; otherwise, the CFO might. Dr Charker?

Dr Charker: We have not yet fully finalised every single last element of it, because we recommenced a period of bargaining last week, and there are, as you would expect, issues that have cropped up during that period and also things that we have put on the table for consideration by the bargaining representatives that we are still working through at this point. But clearly our intention is to work expeditiously in this space to give our staff the opportunity to vote on the second offer.

Senator LINES: I am particularly interested in relation to the surge team to understand the full cost. For example, if we use Perth, I understand that members of the surge team were flown to Perth. I would like to know
what their down time was, so the periods that they actually worked as opposed to the periods that they were
sitting in an office. Where do you normally sit them when you are waiting to deploy them?

Dr Charker: That will depend, as you have alluded to, on where they have been sourced from. Where it is
technical to do so we may source surge staff into, for example, an airport from another facility which may be in
the same location geographically, in which case you would expect travel costs to be proportionally less. However,
in other instances they may have been sourced from other locations—for example, national office—so we will
take that on notice. To the second part of the question about the proportion of time actually working: I am not sure
whether we have data which are at a level as granular as that, but when we seek to provide a response to your
question we will aim to look at that and provide as full a response as we can.

Senator LINES: Do surge team members go on a roster?

Dr Charker: They may, depending again on the particularities of the industrial action with which we were
dealing with last year. Some industrial action may only be for a short period, perhaps a day; others may be for a
more protracted period. It would very much depend on that. It would also depend on the nature of normal
operations in, for example, an airport which currently operates in a roster environment, and therefore surge staff
would similarly potentially also need to operate in a similar environment.

Senator LINES: In relation to the industrial action, who would have made the decision to fly members to
various airports? Where is that decision made?

Mr Pezzullo: The commissioner and I jointly signed off on our operational strategy to deal with protected
industrial action, so within the framework of our leadership we gave authority to both the chief operating officer,
who deals with the legal and industrial issues, and, through the commissioner, to the deputy commissioner for
operations, who deals with daily deployment. You ask, 'Who decided?' We made a decision that—obviously on a
cost-effective basis; obviously we do not want to burn a budget that we do not otherwise have to—with a
reasonable use of resources that can be justified, if it was required to fly staff members in from interstate, the
deputy commissioner was so authorised. The commissioner may want to elaborate on the criteria for that. But
obviously, if it could be done, as Dr Charker alluded to, by redeploying a multiskilled and multidisciplinary team,
say—in the case of, I think, the question you are asking about Perth—within the greater Perth region, then yes,
under the Border Force model. This would not have been possible prior to the integration of Immigration and
Customs. We are doing it not for reasons to do with dealing with PIA, although it has a beneficial consequence in that regard—but

Senator LINES: What is PIA?

Mr Pezzullo: Protected industrial action—sorry.

Senator LINES: Right.

Mr Pezzullo: So if you are a former Customs officer, to take one example, who has traditionally worked on
the waterfront and you are particularly skilled in that regard but you want to broaden out your career and take on
other opportunities, we are training staff across multiple modes. So therefore you might well be qualified to work
at an airport and, frankly, if it is cheaper to deploy someone within Perth from, say, the waterfront to the airport
then that is what we will do. But I might just ask the commissioner, perhaps, to take—

CHAIR: Senator Lines, you are well over your time. I assume there is a fair bit more to go on this, is there?

Senator LINES: Yes.

CHAIR: Okay, well, we will come back to you later.

Senator LINES: Thanks, Senator Macdonald.

Mr Pezzullo: My apologies to the commissioner: I just got it to a point where he was—

Senator LINES: He was just going to answer the tail end of my question.

CHAIR: Was he—okay—

Mr Pezzullo: Sorry, Chair, I do not mean to be disrespectful at all. I have been chastised by the commissioner
once already today for 'over priming'.

Senator LINES: This was in relation to the tactics.

Mr Quaedvlieg: Would you like me to complete the answer?
CHAIR: Yes, if it is an answer to a question already asked.

Mr Quaedvlieg: I have an answer in both the context of the quantification and the cost, which I will come back to in a second. But just to underline the secretary's point: the surge team it is not a 'team' as such. In anticipation of extended protected industrial action in the 18 months leading up to it we trained a number of persons across the organisation—across the national network—to provide a surge capacity if required, and that is what we drew upon during the course of the protected industrial action that was taken between June and December.

In terms of the conditions of that, that is Dr Charker's area. But the deployment sits with our assistant commissioner of strategic border command, who would determine at any point in time and depending on where the protected industrial action was to deploy resources around the country.

In terms of costs: this is in totality, not airport by airport; we do not have that level of granularity. For the period of protected industrial action between June and December 2015, I can advise you that the break-down for employee expense was $1.867 million and that supplier expense, which includes travel, was $835,854. That gross cost was then offset by unpaid leave for employees who were taking PIA—they were not paid for that. That left a total net expense for surge capacity supporting operations during PIA during that period of $646,514.

CHAIR: Okay. We might come back if there are further questions on that later. Just going back to the conversation earlier about the 'five-year-old' boy who had been raped: can anyone tell me what happened to the attacker? Was he prosecuted by the Nauruan authorities? Is he in jail now? Has he been deported back to his own country? Or what—

Mr Pezzullo: I think that Ms Moy might have some further information on that. Once she established the identity of the child in question I think she was able to work back in terms of the chronology of the event.

CHAIR: I am just interested in what happened to the offender—

Mr Pezzullo: Yes.

CHAIR: who is no longer an 'alleged' offender. Quite clearly, the information that you have is that he did commit a crime. I am just wondering what happened to him.

Ms Moy: I would not go so far as to say that he was no longer an alleged offender; the matter is for investigation by the Nauruan police force. I do not have information to say that he has been found guilty or otherwise in terms of evidence or of moving forward. It is probably not something I can comment on because it is a matter for the government of Nauru and the Nauruan police force. I can say that the individual was identified and reported. There were actually two separate individuals. In terms of further information about action taken against the offenders or whether or not it is finalised is a matter for the Nauruan police force, and to date I do not have information to say that it has been finalised.

CHAIR: So it is still subject to an ongoing investigation?

Ms Moy: It would be quite difficult for the Nauruan police force to investigate. The child was removed and brought to Australia not long after the event so it may be difficult as well for further investigations.

CHAIR: It is not an alleged victim. The information you have got from the doctor is that there was an assault by somebody so there is a victim, not an alleged victim.

Mr Pezzullo: I think the discussion earlier, Ms Moy, was there was skin-on-skin contact.

Ms Moy: That is what was alleged by the child—that it was skin-on-skin contact.

CHAIR: Was that the doctor's terminology—skin on skin?

Ms Moy: No, that was the child's.

CHAIR: Was that evidence reported to the doctor who reported it to you?

Ms Moy: Yes. The issue is an allegation was made—

Mr Pezzullo: Not of rape, it has to be said.

Ms Moy: So an allegation of, let's say, sexual assault was made. The child was brought to Australia for treatment, not necessarily related to a physical injury. It is very difficult without providing too much information that may identify the child. I apologise, I do not mean to be obtuse. That allegation to date is still not proven. It is still under investigation by the Nauruan police force. As the alleged victim is no longer within Nauru, it may be very difficult for that to be finalised in a period of time that we would be looking at for answers.

CHAIR: Are you able to clarify that the treatment the alleged victim received by medical people was not necessarily related to the alleged assault?
Ms Moy: It was not physically related.

CHAIR: But perhaps psychologically are you saying?

Ms Moy: That is correct.

Senator O'SULLIVAN: To avoid any confusion, it would be fair to say that there is an absence of either corroborating evidence or physical evidence such as scientific serological specimen detected or something to that effect. This is purely a statement, an assertion made—and I draw no inference from it—by a child. The matter is under investigation but there is no independent corroborating evidence to your knowledge?

Ms Moy: You could say that, adding to that that we would still take every allegation against a child very seriously.

Senator O'SULLIVAN: I accept that. Let us move away from this particular topic so that we do not put you in a position. But typically when someone alleges that they have been assaulted, particularly a sexual assault, there is a due process that happens with swabs and samples and all sorts of things. It is a big job. Did that occur?

Ms Moy: What I can say in that area is that the allegations were not made in a period of time that would have allowed for any evidence.

Senator O'SULLIVAN: So there is an absence of physical evidence perhaps due to the lapse of time between the event and the complaint.

Ms Moy: That is correct.

CHAIR: When was the complaint made? Was it made in Nauru or was it made when the alleged victim was in Australia?

Ms Moy: The complaint was made in Nauru and it was some weeks after the alleged event.

Senator O'SULLIVAN: And not recently?

Ms Moy: Not recently,

Senator O'SULLIVAN: Was that a self-motivated complaint by the victim or are there any other associated issues with that such as they met with an advocate or someone outside the family?

Mr Pezzullo: I am not sure that we know. We take such complaints on face value, whatever motivates the complaint. What we do know, given my evidence earlier and Ms Moy's evidence, is that there is no five-year-old child, there is no allegation of rape, and there is certainly no five-year-old child who has been raped who is due to be returned.

Senator O'SULLIVAN: With respect, my question feeds into the line of questioning that I was pursuing earlier. I think sometimes we need to collect some data in relation to what the genesis of some of these complaints is, see if there is a course of conduct with advocates or a particular advocate or a particular group of advocates who take the ball under their arm and run with it when in fact there is no ball at all, no game, no whistle.

Mr Pezzullo: In the interests of being entirely precise as best as we can be we might take on notice a review of the initial incident report; who made the report. I am not sure it will exactly shed light on who might have motivated the making of the report and, as I said, we just take the reports of such matters on face value. Ms Moy has already indicated that the report was made at some period after the alleged events occurred. What we do know, just from the age of the child and the nature of the original complaint, is that there is no five-year-old child, there is no report of a rape.

Senator O'SULLIVAN: Important. Do you have data on how many complaints are made versus the number of prosecutions that result from those complaints—of all assaults, sexual assaults—

Mr Pezzullo: Recalling always that the relevant criminal jurisdiction is the one of Nauru, we will need to take that on notice whether our officers keep parallel statistics that mirror, if you like, statistics kept by the Nauru justice department—I think it is their home affairs department from memory. I think the short answer is yes, we probably would be able to access that information, not that that it is sovereignly held by us but we could probably access, if you like, the number of incident reports which—I think your question goes to being of a sexual nature: a rape, assault—

CHAIR: Any offence.

Senator O'SULLIVAN: Any offence. The question of an offence.

Mr Pezzullo: Any offence. Okay, we will look at it from the point of view of the log of the reports that are put into the system from whatever source, because they come in from different sources. The matter is then always referred, if there is a potential offence at play under Nauruan law, to the Nauru police. What they then do with it
in terms of case management and taking matters to prosecution is something we would not necessarily know ourselves but we can make best endeavours to get that information.

Senator O'SULLIVAN: I do not want to burden you with all this. I am not one of the ones who drops a one-line sentence on you and causes you three hours of research. Do you have a sense of it? Do you have a sense of whether this is a hive of criminal activity or just a hive of complaints that results in less—

Mr Pezzullo: I do not know that there are a lot of prosecutions on foot but again it will not take three hours to find out, it is probably just a phone call or two, but we might see what more information we can provide to the committee.

Ms Moy: We will do that; we will take that on notice.

CHAIR: Senator O'Sullivan's point is right. I sit through innumerable hearings of this committee, not in this form but in the references form. We hear continual complaints. In the Senate itself we hear colleagues making allegations of all these issues. Whilst I accept your point that it is the Nauruan criminal system that is responsible, not you, I think it would probably be useful if—like the five-year-old boy who has been raped—to bring some accuracy to this debate and not just let those who would tell any sort of lie to get any sort of headline have their say unselected. I am sorry the issue about the five-year-old boy has not come to light before. I would have hoped perhaps the minister might have issued a media release about that when it became obvious that the allegation was wrong.

Mr Pezzullo: Sometimes these matters mysteriously come to light in the lead-up to estimates. As part of the research to prepare myself, the commissioner and the minister—obviously as a member of the House—these things come to light. It is strange how these things do arise. That is one comment that I will make.

CHAIR: I was not really asking for a comment. I was just saying that perhaps it is useful, as Senator O'Sullivan suggested, to try and get some statistics.

Mr Pezzullo: I apologise for interrupting, but if it does assist, you will recall that a year or so ago we did provide information to this committee which goes directly to this point. Maybe we could refresh and revitalise that information. I am going off my memory, so I trust I am not misleading the committee. As I recall the cases reviewed by Mr Philip Moss, the former Integrity Commissioner, went to the question of how many discrete individual cases of potential criminal conduct had occurred—not just sexual assault, but assault and the rest. As I recall it, I think we did come back to the committee in terms of numbers of persons charged and numbers of prosecutions on foot. It might be not a simple matter but a straightforward matter of working with our colleagues in Nauru to update that data, should they be open to the suggestion, of course, as it is a sovereign nation.

Senator O'SULLIVAN: Where I was taking my question is—and this is not an assertion—is that I think we need to defend ourselves a little bit more strongly in this space. It is in the national interest for the people of Australia to know that your department does a sterling job and the very best it can in the circumstances. I for one am tired of sitting in the Senate and having these assertions yelled out across the chamber. I am going to start defending this a little more strongly. I really think we need to resist these people. It is getting out of hand. They can say what they like with impunity both in the public arena and under privilege. Personally, I think we all need to defend ourselves a little bit more strongly in this space. It is in the national interest.

CHAIR: I have to ask if you have a question.

Senator O'SULLIVAN: Do you agree? Thank you for the prompt there.

Mr Pezzullo: I think I am entitled to take that as a comment. I might leave it at that.

CHAIR: My question, and perhaps it is to the minister, is why is it that when these outrageous allegations are made, there is not more direct evidence, like we have had this morning, that gives the facts in relation to these outrageous allegations?

Senator Cash: Unfortunately, like with anything, the government does often present the facts of the case, but they are not necessarily reported. That is why I think these estimates hearings are so important, to give you that opportunity to get the facts on the record.

CHAIR: Just finally from me on those issues—I think Senator O'Sullivan was heading this way too—who actually reported this incident we are talking about several weeks later, I think you said, after it allegedly occurred? Was the alleged victim himself, their parents or some other relative? Or was it an advocacy group or Serco? Who reported it?

Ms Moy: It was the child's parent.

CHAIR: Do you know if any reason was given as to why it took 'several weeks' to make the report?
Ms Moy: I believe that child did not disclose to the mother for a considerable period of time.

Senator O'SULLIVAN: That is typical.

CHAIR: I am getting some professional police advice here. Perhaps I will not pursue that further. We will leave that there. Are there any more questions on the opening statements? We have the cross-portfolio issues to go.

Senator KIM CARR: I enjoy a good opening statement. I think it was very comprehensive. More detail!

CHAIR: Senator Lines is halfway through asking some questions on the Australian Border Force. We will go back to her. We will close discussion on the opening statements, noting Senator Carr's congratulations to you, Mr Pezzullo, and my hesitation, as they seem to be getting longer and longer.

Mr Pezzullo: He was trying to teach me earlier the notion of irony.

CHAIR: Senator Carr is not a very ironic person.

Senator KIM CARR: I appreciate the rhetorical flourishes!

Australian Border Force

CHAIR: We are now moving on to Australian Border Force. When we have finished with the Australian Border Force we will move to cross-portfolio issues, acknowledging that we have done both of those in connection with the opening statement earlier.

Senator LINES: Going back to the bargaining, as I indicated in an opening to a previous question, Border Force staff have rejected the government's attacks on their rights and conditions. Why is it acceptable that senior public servants and politicians should get a rise of two per cent with no trade-offs, no cuts to conditions and rights, yet when it comes to hardworking Border Force workers they are expected to accept a two per cent offer after an 18 month delay and give up significant rights?

Senator O'SULLIVAN: You should give them yours.

Mr Pezzullo: I am the employing authority. Under the act, all the employees other than the commissioner, who is an independent statutory officer, are my employees. The recent determination that flows through to statutory officers and others is not a matter that I am really competent to talk about. I can assure you that it came out of the blue and was announced to us through the standard communication that that tribunal employs.

Senator LINES: But you are competent to speak about the cuts that you expect Border Force workers to take.

Mr Pezzullo: I do not know what you are trying to link here. If you do not mind, let us break down into what I am responsible for. With the commissioner, who is the operational commander of the Border Force, we are crafting, within the government's bargaining framework and parameters, the most generous offer we can possibly put on the table, noting that this is round two and noting that the first offer was, it has to be said, resoundingly rejected—91 per cent, with a high participation rate, speaks with itself. You might not have been party to earlier proceedings over the last six months or so, but the commissioner and I are working very hard to ensure that the trade-offs that are necessarily required to ensure that productivity is enhanced in order to fit within the parameters that we are set, to ensure that the work can still be accomplished, to ensure that the least amount of reduction is effected in terms of FTE reduction, and that the most generous package within those parameters can be afforded is exactly what we are doing at the moment. I reject utterly any suggestion that we are unreasonably putting propositions to our workers to endure unreasonable cuts to conditions. We are trying to make the most generous offer we can within our parameters. As Dr Charker indicated to you before, we are in the current situation of finalising our offer, subject to the early engagements that we have had, with the second round of bargaining which is now on foot.

Senator LINES: Given that you repeated the figure—a 91 per cent No vote out of a very high participation rate—do you not think that what you are putting forward is unreasonable? If that is what you are really suggesting here, you are well out of touch.

Mr Pezzullo: You are asking me a triple negative there. The offer that we are putting is as reasonable and as generous as we can craft within the government's parameters. Initially, as I suspect you would be well aware, the most that could be offered in terms of salary by agency heads and departmental secretaries was in the vicinity of 1.5 per cent, in terms of the headline cash offer. The Minister for Employment in the Turnbull government, who happens to be sitting at the table, decided, through whatever collective process of determination you came to, Minister, to vary those parameters. I think that was quite early in your tenure, Minister.
Senator LINES: Well, let me continue with my questions. The most recent proposal contains a number of cuts to conditions, allowances and rights. It also proposes a pay system that would see people doing exactly the same work and working alongside someone else doing exactly the same work, each being paid differently. Would you be tabling these cuts if they were not prescribed in the government's bargaining policy?

Mr Pezzullo: The minister can speak for the government's policy and the government's bargaining framework. In terms of the package that we have derived: true enough, within the parameters of the framework we are seeking to make the most generous offer that we can.

The specific matters that you are starting to detail relate to a couple of issues that are in tension here. One is that you have two different agencies that have come together during the course of the bargaining period. One had a particular set of pay scales—namely, the former Customs and Border Protection Service. The former Department of Immigration and Citizenship, or the Department of Immigration and Border Protection, had a different set of pay scales. How you reconcile those scales over time; how you trade-off giving workers a general pay increase but also deal with anomalous situations of the type you have described—in some cases with quite ancient allowances that have not been reviewed for many, many years and that in some cases are not at all connected with contemporary work practices; and how you, at the same time as blending a workforce, preserve traditional benefits that have arisen through two different streams, as it were, of entitlements is very complicated, yes.

It is difficult to give you a headline response other than to say that we are trying to preserve as many benefits as we can and to make the package as generous as we can make it.

Senator LINES: Is it equitable that people get paid differently for doing exactly the same job?

Mr Pezzullo: If the officers in these so-called 'blended' teams have come from the two different historical agencies—one Customs and one immigration—then they bring with them their salaries—

Senator LINES: I am not talking about what they bring with them; I am talking about your recent proposal—

Mr Pezzullo: But we have one workforce. We are not putting a differentiated package to ex-Customs officers and ex-immigration officers.

Senator LINES: No, but you are putting forward a proposal which means that two workers doing exactly the same job would be paid differently.

Mr Pezzullo: I understand the point of your question. It is not, if you like, a conscious design of the package as it is crafted. What you are asking is, 'All things being equal, is a consequence of the fact that a person of a particular Public Service classification in the Department of Immigration previously had a lower salary than a person in Customs'—unless you did a massive uplift of the salaries of former immigration officers, whether or not they had the skill, the capacity or the aptitude to attract that uplift—'such that we would be grievously in breach of the government's bargaining policy?' That is going to be a natural consequence—

Senator LINES: What? That they will have different pay?

Mr Pezzullo: No—until people improve their skill levels over time, get promoted and all the rest of it and you start to get to more equalised working arrangements.

Senator LINES: But that is not the question I asked. You said you understood my question—

Mr Pezzullo: Yes.

Senator LINES: My question was: for two people doing exactly the same job, under your proposals they would get a different monetary outcome. That is either a 'yes' or a 'no'.

Mr Pezzullo: Going into negotiations, if one person's salary is $100,000 and another person's salary is $110,000 and they both get two per cent then you can answer the mathematics of that question yourself, Senator.

Senator LINES: So the answer is 'yes', that you are proposing that workers doing the same job would receive different salaries?

Mr Pezzullo: I understand the point that has been made by others, including the union—and thank you for declaring your interest in the matter previously—making that claim. But, by definition, if you have brought a blended work team together—

Senator LINES: I am not speaking for the union.
Mr Pezzullo: I know, I—

Senator LINES: I am simply asking a question at Senate estimates, to which I am entitled to get a response.

Mr Pezzullo: You most certainly are.

Senator Cash: Senator Lines, you are getting an answer.

Mr Pezzullo: The question of wages entitlements and conditions is very complicated; it is very difficult to give yes or no answers. They cannot be doing the same job prima facie, insofar as a former Customs officer—former—who brings a different set of skills to the job that is currently being done certainly should not be docked salary and go backwards; so they are going to retain that salary. For a former Immigration officer who is asked to come up to, say, the standard of being an investigator or to operate in the new arrangements that we have and who brings, potentially, a lower salary, in terms of local management, consideration will have to be given to additional training for that officer and to supporting them to operate at the level that is expected.

Senator LINES: So are you answering yes or no to my basic question?

Mr Pezzullo: I have to give you an answer that has many more words than yes or no, I am sorry.

Senator LINES: At the end of the day, if two people are doing exactly the same job—

Mr Pezzullo: And I am saying to you that, by definition, they cannot be, because the former immigration department did a very different job from the former customs service.

Senator LINES: So you are saying there will not be anyone doing the same job as someone else, yet receiving less pay?

Mr Pezzullo: It would be impossible to see on day one that someone would be doing exactly the same job as someone else, when you have blended teams and when the immigration department did very different work from the customs service. Now, I am sorry that takes more words than simply yes or no, but that is the factual answer to your question.

Senator LINES: So, in relation to the proposed agreement, some current provisions, including current hours of work, allowances—some of which you describe as ancient—

Mr Pezzullo: Some are.

Senator LINES: and key workplace rights—for example, consultation on changes to shift rosters—will be removed from the agreement. It also creates a composite allowance that will see a number of staff lose pay. Is that correct?

Mr Pezzullo: No.

Senator LINES: No. So no-one is going to lose pay?

Mr Pezzullo: Going back to the start of that part of your question, the offer is as yet, obviously, a provisional one. As Dr Charker made clear, we have engaged in bargaining in good faith. We have raised certain new issues that attempt to deal with the concerns expressed in relation to the first offer. The union, other representatives and staff who are representing themselves have come back with issues, ideas and proposals that they wish to discuss. There is no final offer in that sense. So, when you say 'the offer that you have put on the table', it is still provisional. Does it remove, in some cases, antiquated allowances and replace them with composite arrangements? Yes. For anyone who suffers detriment as a result of that—because a composite allowance might well aggregate, in cumulative terms, a greater amount of money that was being received by an individual officer—we are prepared to look at preserving that monetary level for those officers in particular, and we have crafted a package that attempts to do that. But, over time, yes, it is our intention to move to a composite allowance which reflects modern practice. Yes.

Senator LINES: At first you said no, nobody would lose pay, and now you are saying, 'Yes, we will look at'—

Mr Pezzullo: I just said that those who, for historical reasons, might have been receiving more money in a cumulative sense, if you add up all of their allowances, versus the composite and they therefore would suffer detriment—

Senator LINES: Well, that is the question I asked you.

Mr Pezzullo: I said they would not suffer detriment. Going forward, in terms of new starters or people changing jobs, will they be required under this agreement to work under a composite allowance? The answer is yes.

Senator LINES: So new starters—
Mr Pezzullo: So how could they personally have—

Senator LINES: working alongside existing employees will get a different rate of pay.

Mr Pezzullo: Senator, as you would know, whenever you go through a transformation that involves the amalgamation of agencies, the harmonisation of pay scales and how to deal with historical allowances, you are always going to have anomalous situations which—

Senator LINES: I asked about new starters.

Mr Pezzullo: Yes. So, if a new starter comes in who has not been in either the customs service for 30 years or the immigration department for 30 years and was not the beneficiary, over time, of the accumulation of obsolete allowances—which now are better dealt with through a composite allowance which also recognises that those officers will be better supported through training and skilling in a way that they were never supported before—that new starter, yes, will go on to the new salary arrangements.

Senator LINES: Which will be less than, in some cases, the pay of existing staff.

Mr Pezzullo: As those jobs are no longer undertaken in the way that they are undertaken. But we accept that, for reasons to do with people's mortgages, and they have to pay school fees and the rest of it, we preserve their benefit, which is attached to them personally. But over time, as the nature of the work changes and as the support for those workers is radically changed in terms of support through learning, development, education and training, so they become better qualified and more effective officers for us, yes, everyone will work on the new pay scales.

Senator LINES: That is not the answer to my question. The question I asked you was: you have a new starter—

Senator Cash: Senator Lines, I do not think you can dictate the answer to your questions!

If this agreement gets up, will they be on different rates of pay, where the new starter could conceivably be earning less? That is just a yes-no. Please do not repeat the preamble to the last time I asked this question.

Mr Pezzullo: As we go through the transitional arrangements—

CHAIR: Can I just interrupt here. Are these in the line of hypothetical questions? What might happen in the future, what might be offered, what might be accepted?

Mr Pezzullo: Not entirely.

Senator LINES: I do not think he needs your protection, Senator Macdonald.

CHAIR: I am not trying to protect him. I am trying to move the committee along. If we are just going to get the same question, which is a question not in accordance with standing orders—

Mr Pezzullo: It is not entirely hypothetical. To Senator Lines's point, there is a draft proposal on the table which is the subject of bargaining. It is on the table in quite detailed terms. Dr Charker?

Dr Charker: Yes, very—clause by clause.

Mr Pezzullo: So these are not entirely hypothetical questions. They attach to both current workers—

CHAIR: Well, can you answer them, then? It seems a simple question. If someone gets this pay and someone gets that pay and they do the same job, there is a difference, yes.

Senator LINES: Thank you, Senator.

Senator Cash: Chair, with all due respect to the secretary, the department of immigration and the former Customs, now the Australian Border Force, are in a very unique position because you do have the combining of two different portfolios into one. The secretary is merely trying to contextualise the answers to the questions.

Mr Pezzullo: That new starters will go on to whatever emerges—

Senator LINES: All right. Let me ask you another question. If an existing staff member who is not on the composite rate did HDA or went and did a secondment for a period of time, doing another job, when that person comes back to their substantive position, will they go onto the composite rate?
Mr Pezzullo: That is getting very hypothetical. For the period that they are doing HDA, would they be the beneficiary of—

Senator LINES: No, I am not asking about the HDA. I think I am being very clear here. Let us say I work for the agency. I have looked at the current proposals. I either go on HDA or take a secondment for a short period of time to do another job. When I go back to my substantive position, if these arrangements get up, will I go onto the composite rates?

Mr Pezzullo: I see. Thank you. If, at the time that the agreement is struck, you are a worker who is listed as having your benefits preserved, you will never lose those benefits for the period of your tenure. If you are not entitled because we have not recognised—

Senator LINES: Sure. Let us just talk about those whose benefits you have preserved. They do HDA and they come back; what happens?

Mr Pezzullo: They will keep their old allowances.

Senator LINES: You said the preserved benefits were subject to discussion. So you are not guaranteeing them outright?

Mr Pezzullo: We are not guaranteeing them outright, because we are in good-faith negotiations. But we have indicated that because we recognise, particularly on the legacy—as we call it—Customs side, there will be officers who have been on allowances for a period of time that will no longer be covered by the composite allowance. The commissioner and I recognise that they have mortgages and they have other living expenses, so they will be preserved. We have not finalised the agreement, obviously. But we have made a very clear commitment that we are not going to resile from—that that preservation process will be put in place.

Senator LINES: But not for all staff? Presumably, that is part of the negotiation.

Mr Pezzullo: It is part of the negotiation, and in the end it will go to the allowances themselves, all named allowances that go back in time to various previous agreements; whether a person is on them currently; and how long they have been on them. They cannot have been on them for a day and then get a windfall forever. We will have to work through that on a case-by-case basis.

Senator LINES: One of the difficult issues here is taking away the rights of workers to have a say in rostering provisions, providing certainty around working hours. Obviously, that impacts on families. The changes that you are proposing will mean that people can have their rosters changed at short notice and they will not get a say in those changes. That is not the sort of change you would—

Mr Pezzullo: I am not sure that is right. I will just check. I think this goes to the question of consultation around—

CHAIR: Again, it seems to me you are involved in a negotiation, and you are being asked here for definitive answers on things you are going to negotiate.

Senator LINES: No, the government has put its views on the table, so there is a view there about roster change.

Senator Cash: Senator Lines, the government has a bargaining framework under which departments then negotiate. I think the point the chair is making, though, might hopefully bring an end to this line of questioning. This is currently the subject of negotiation. That is it. Everything you are saying is the subject of a negotiation through the bargaining representatives. You are right; the agreement may be voted down. That is what a negotiation and then going to a vote are all about.

Senator LINES: I was asking about the government's proposals, which I understood—

Senator Cash: The government does not have proposals.

Senator LINES: from the officials are almost finals. Do those proposals include a shortened consultation around rosters?

Senator Cash: Sorry, Senator Lines, the government does not have any proposals. That is not our role.

Senator LINES: It is very sensitive, obviously. We have the minister interfering and we have the chair interfering.

Senator Cash: No, no. I am happy to sit back and listen—

CHAIR: We are not doing the negotiations.

Senator Cash: but when you get something blatantly wrong I feel that I should step in to ensure that, if you are going to ask—
**Senator LINES:** I am asking about the government's proposals.

**Senator Cash:** Senator Lines, I am sure you have been the subject of negotiations before. You would therefore, I hope, understand that the government presents the framework in which the varying departments then enter into the negotiations, so the government does not put proposals as such in relation to agreements on the table. If you want to reframe your question in terms of the department's current proposals then that is fine, but the government does not have any proposals. We have a bargaining framework. That is it.

**CHAIR:** Did I hear someone say the department has a written offer on the table?

**Mr Pezzullo:** We have a provisional offer because it is the subject of bargaining.

**Senator Cash:** It is the subject of bargaining at the moment.

**Senator LINES:** But does that include—

**CHAIR:** It is public knowledge?

**Mr Pezzullo:** I do not know that it is public.

**Senator LINES:** Does it include shortened roster—

**CHAIR:** I do not think it is appropriate for estimates committees to start being the negotiator between the unions and the government in this—

**Senator Cash:** It is the role of the bargaining representatives.

**Senator LINES:** I am not negotiating; I am just asking the questions. I ask the question: does the department have a proposal which includes shortened consultation around rosters?

**Mr Pezzullo:** There is a tabled offer—it is not public, to answer the chair's part of the question—that deals with consultation around—

**CHAIR:** A tabled offer that the employers and their unions are aware of?

**Senator Cash:** Correct.

**CHAIR:** So it is public as far as those—

**Mr Pezzullo:** To the bargaining parties.

**CHAIR:** Well, you should just refer—anyhow, it is not for me to answer your questions. Senator Lines, I have been more than generous. You have had well over your 15 minutes. You can come back if you are not finished.

**Senator LINES:** That is my last question, so if I could get it answered—

**CHAIR:** Yes, okay.

**Senator LINES:** Are there proposals on the table which look to shortened consultation around rosters?

**Mr Pezzullo:** I am not sure that I agree that it is shortened, but I might ask Dr Charker just to describe it in neutral terms. What is the consultative mechanism that we are proposing?

**Dr Charker:** We essentially are proposing to not duplicate in multiple areas in the proposed EA the classical Fair Work provisions around consultation required of us. That does not mean, however, that there will not be consultation around rostering or that it will be shortened at all. In fact, we have gone to some lengths to ensure that genuine consultation is explicitly named in the draft enterprise agreement for any sort of major or significant change which could affect our workforce. Changing a roster arrangement is a very significant change, as you have noted, for shift workers, so our full expectation—and this has been discussed—would be that that consultation clause would certainly be triggered on the event of a proposal to change a roster. However, we are not proposing to duplicate the consultation provisions several times within the draft EA in an attempt to try to cover all the possible areas in which it could be enlivened.

**Senator LINES:** How many jobs would the department need to cut to meet the requirements of the government's bargaining policies?

**Senator Cash:** Senator Lines, if you are going to put questions to the officials, you could at least frame them correctly. Again, the government sets the framework.

**Senator LINES:** How many jobs is the department planning to shed?

**Mr Pezzullo:** As I said in my statement to this committee last October, which was on the eve of the putting of the first offer, we calculated that over the life of the agreement the first offer—that is to say the rejected offer—would result in FTE reductions of 184. And, as I said on the record this morning in my opening statement to this hearing of the committee, a more generous offer logically will require greater reductions, but the commissioner and I are working very hard to keep those reductions to an absolute minimum.
Senator LINES: Thanks. Thanks for the indulgence, Senator Macdonald.

Senator Cash: Chair, could I just ensure that the record correctly reflects something that Senator Lines referred to when she first opened this line of questioning. She referred to the two per cent pay rise that had flowed on to departmental heads—obviously secretaries. I am sure Senator Lines is aware that that two per cent is set by an independent tribunal.

Senator KIM CARR: Mr Pezzullo, I did not quite catch the last hedge there. I am told that you are required to remove 680 people to meet the government's bargaining framework at two per cent. Is that correct?

Mr Pezzullo: I cannot recall any numbers in that area.

Senator KIM CARR: 680. Can you confirm that number. Is that correct or otherwise?

Mr Pezzullo: I will ask Dr Charker to see if we have done any sorts of calculations, noting that the final position has not yet been settled with the bargaining parties.

Senator KIM CARR: Sure, but has the figure of 680 been used anywhere within the department?

Dr Charker: Yes. On our current calculations, as the secretary has already indicated today, for the current new proposal that is in negotiations at the moment, a combination of some productivity savings and job losses of 680 would be required to fund it. We would anticipate that many—certainly as many as possible, at least—would be gained through natural attrition, but I cannot give you specific numbers on that.

Senator KIM CARR: Thank you.

CHAIR: Does anyone have questions on the Australian Border Force as such?

Senator KIM CARR: Yes, I do. Commissioner, perhaps you could enlighten me here. I saw a report that it cost $6 million to rebadge the Australian Border Force. Is that correct? I saw the report; that is correct, but the cost of $6 million?

Mr Quaedvlieg: I will ask either the chief operating officer or the chief financial officer to come and talk to you about the breakdown of that. There was a degree of rebranding that was required in terms of uniforms and signage and way finders et cetera at the airports. Six million dollars is part of that, but I will just ask one of our financial people to step you through very quickly what the actual costs were.

Senator KIM CARR: Thank you.

Mr Quaedvlieg: Deputy Secretary Rachel Noble can assist you with that.

Ms Noble: That is correct. It is $6.3 million.

Senator KIM CARR: What was the $6.3 million spent on?

Ms Noble: To break it down: it was spent on all of the uniforms, including the protective equipment for Border Force officers; vehicle, aircraft and vessel labelling or signage; airport, seaport and wharf signs and building signs, including onshore detention centres; public information materials; forms, stationery and identification tags; and some corporate gifts.

Senator KIM CARR: So it was mostly on uniforms and signs. Is that the broad areas?

Mr Quaedvlieg: Yes, it is.

Senator KIM CARR: Refresh my memory on the uniforms. Are they made in Australia?

Mr Quaedvlieg: I will take that on notice. I think I saw a label, actually. They may have been, but I will take that on notice.

Senator KIM CARR: Thank you. I will be pleased if they are.

Mr Quaedvlieg: I will come back to you on that one.

Senator KIM CARR: And, if they are not, a whole series of other questions flow from that. I also saw a report that you spent $16,000 on flags. Is that true?

Ms Noble: I have to take that on notice.

Mr Quaedvlieg: I have no idea. I have not seen that expenditure, but we will take it on notice just to be absolutely 100 per cent sure. There was a requirement to change the Customs flag to a Border Force flag. Whether that cost $16,000 I do not know.

Senator KIM CARR: And the uniforms? What do they cost?

Mr Quaedvlieg: I think they make up the bulk of the $6 million. I think it is around five, but I will just get—

Senator KIM CARR: I am told 5.6. Would that be correct?
Ms Noble: I have a breakdown of the uniforms including the protective equipment, which in 2014-15 was $6.12 million, and in 2015-16 it was $180,000, making a total of $6.3 million.

Senator O'SULLIVAN: Do you mind if I have some qualifying questions?

Senator KIM CARR: Yes, sure.

Senator O'SULLIVAN: Would that have included the figure for what would have been expended on those sorts of things anyway in a normal annual event? If so, do you have a sense—

Mr Quaedvlieg: No, not entirely. This required a changeover of uniform for 5000-odd staff, I think it was. There was a critical mass expenditure which was the one-off uniform change over from what was an old Customs uniform to a uniform for the Australian Border Force.

Senator O'SULLIVAN: It still would have included annual expenditure in that category. It would not be separated, would it?

Mr Quaedvlieg: I think it would be offset because we would not then spend this financial year—

Senator O'SULLIVAN: That is similar to what I am saying. So there would be a cost each year for uniforms, flags, badging and so on.

Mr Quaedvlieg: There is an ongoing cost—

Senator O'SULLIVAN: And it is embedded in that figure.

Ms Noble: I think the indication is the 2015-16 figures, which are 180,000. I need to correct my testimony. I apologise. That list that I read out before actually totals $9.864 million. The $6.3 million refers to the uniforms and protective equipment. I apologise.

Senator KIM CARR: I would like a list, if I could please, of the where that $9.6 million comes from and how you get to that figure. I am hearing that the ABF spent $25,000 on branded notebooks. Is that true?

Ms Noble: We will have to take that on notice. I do not have that breakdown in front of me.

Senator KIM CARR: I am told that $10,000 was paid to a private contractor to destroy the old stationery. Is that correct?

Ms Tressler: I am Charlotte Tressler, FAS Corporate Services Division and the portfolio change and reform division. That is actually incorrect. Any old stationery was destroyed internally by the department at no additional cost. That $10,000 was the purchase cost for envelopes.

Senator KIM CARR: Oh, it was for envelopes?

Ms Tressler: Yes.

Senator KIM CARR: I see. It is a lot of envelopes.

Senator O'SULLIVAN: It is less than what you would spend in your office in a year.

Ms Tressler: There were around 82 boxes.

Senator KIM CARR: But mine has particularly valuable information provided to the public. Is that correct: $10,000 on envelopes?

Ms Tressler: That is correct. It was around 82 boxes.

Senator KIM CARR: The $9.6 million is all in this financial year, is it?

Ms Tressler: No, it was $9.864 million, and it is since 2014-15 and 2015-16.

Senator KIM CARR: Does border enforcement come into this section?

Mr Quaedvlieg: No, it is in a later segment.

Senator KIM CARR: I will come back to that later. I think that is all I have for administrative matters. Do we have any word from and with regard to the MV Portland? Is there any information provided that is coming our way?

Mr Quaedvlieg: I have just been handed a document, which I have not yet read. What date were you inquiring about in relation to the activity of—

Senator KIM CARR: The matters I referred to were on 13 January this year.

Mr Quaedvlieg: The information that has just been given to me is on 12 January this year. ABF officers were on board the MV Portland where they conducted outward vessel clearances.

Senator KIM CARR: They conducted outward vessel clearances? So the deposed crew were cleared were they?
Mr Quaedvlieg: The vessel departed on 13 January.

Senator KIM CARR: Yes.

Mr Quaedvlieg: All crew on that vessel, comprising 10 Australian and six Indian crew members were immigration clear prior to departure. The six international crew members all held maritime crew visas.

Senator KIM CARR: I want to be clear about this: you are saying that as far as your office is concerned, all of the deposed crew were cleared by customs and immigration officials?

Mr Quaedvlieg: For clarity and precision, the information I have before me is that when the vessel MV Portland departed Australian waters on 13 January, there were 16 crew on board. That compromised 10 Australian crew members and six Indian crew members. The latter cohort, the Indian crew members, all held maritime crew visas. That crew was immigration cleared.

Senator KIM CARR: That is the people going out of the country?

Mr Quaedvlieg: That is correct.

Senator KIM CARR: I am interested to know what procedures were put in place for the crew that were taken off the vessel.

Mr Quaedvlieg: Understood, Senator. I am scanning this document as I respond to your questions, and that is not contained in this advice. Can I further take that on notice and seek to get back to you prior to the end of this?

Senator KIM CARR: Right. That was the point of the question. Those people, I am told, are concerned about what their status is—not having been officially recognised as re-entering the country.

Mr Quaedvlieg: I understand. You are interested in the inbound clearance.

Senator KIM CARR: And whether or not they have actually been cleared by an authorised Customs officer to re-enter Australia.

Mr Quaedvlieg: I understand. I will take that on notice.

Senator KIM CARR: Of the crew that departed, what dates were their visas issued?

Mr Quaedvlieg: I do not have that information before me. I will take that on notice.

Senator KIM CARR: You may not want to name individuals, but I would like to know the dates on which their visas were processed. Were they processed individually and on a particular day, or were they processed at different dates?

Mr Quaedvlieg: When you say processed do you mean the date of issue?

Senator KIM CARR: Yes.

Mr Quaedvlieg: I will get the department to track that answer down for you.

Senator KIM CARR: Where were they issued, and was there a senior officer involved in the processing of those visas?

Mr Quaedvlieg: We will take all those subsets on notice.

Senator KIM CARR: Did any senior departmental officer have contact with the visa processing staff about the issuing of those visas? I want to know the process by which the visas were issued and if there was any contact with any minister's office.

Mr Quaedvlieg: I will take that on notice.

Senator KIM CARR: What was the nature of that ministerial involvement?

Mr Quaedvlieg: Yes.

Senator KIM CARR: With regard to the crew, is it fair to describe the work as being highly specialised?

Mr Quaedvlieg: I do not think I am in a position to give you a factual answer. I do not know what their work is.

Senator KIM CARR: I would be interested to know what types of visas were issued then.

Mr Quaedvlieg: They were MCVs—maritime crew visas.

Senator KIM CARR: That was the only visa issued?

Mr Quaedvlieg: Yes, I think it is subclass 988.

Senator KIM CARR: Is the $400 visa the one that is referred to? Is that the same visa?

Mr Quaedvlieg: I am not sure. You are asking about the maritime crew visas—
Senator KIM CARR: Yes. In what country did they apply for those visas?
Mr Quaedvlieg: We will take that on as a subset.
Senator KIM CARR: What date did they apply?
Mr Quaedvlieg: I think you have asked for that before?
Senator KIM CARR: I mean the date on which the applications were made, as distinct from the date on which they were processed.
Mr Quaedvlieg: I understand.
CHAIR: Do you deal with visas?
Mr Quaedvlieg: In terms of the issuance of the visa it is departmental. We are just an enforcement, but in the absence of First Assistant Secretary Jim Williams, whose division looks after this area, I will take the questions on notice on his behalf.
CHAIR: Okay, we are coming to those areas later.
Senator KIM CARR: On the issue of the riot at Christmas Island in December—
Mr Quaedvlieg: It was November.
Senator KIM CARR: There was no incident on 9 December at the facilities on Christmas Island?
Mr Quaedvlieg: I will just check. If you are speaking of the major disturbance, that was on 9 November. I will check with the Deputy Commissioner of Operations on whether there was another disturbance.
Senator KIM CARR: Okay, my notes could simply be wrong.
Mr Quaedvlieg: They would appear to be. I suggest to you that they are wrong. It is probably 9 November that you are looking for.
Senator KIM CARR: What is the status of the investigation into the circumstances regarding that incident if, as you say, it was 9 November?
Mr Quaedvlieg: It is a two-part answer to that. The investigation in relation to the conduct of alleged criminal acts in terms of damage, assaults or carrying on in an affray are matters that you should put to the Australian Federal Police. They have carriage and lead on that investigation. In terms of a review that was conducted both by the service provider, Serco, and the independent assurance function that the secretary spoke of at the opening of this hearing, under the Integrity, Security and Assurance Division, those internal reviews have been undertaken. A number of recommendations were put to the secretary and me in terms of improvements at the facility, and those have been then translated into an implementation plan and they are in the process of being implemented. They go to issues of better use of intelligence, better governance arrangements and hardening of facilities.
Senator KIM CARR: What has the cost been to repair the facility?
Mr Quaedvlieg: The latest estimation I saw was $10 million.
Senator KIM CARR: Does that include the hardening of the facility or is that an additional expense?
Mr Quaedvlieg: I believe not. I might ask Deputy Commissioner Cindy Briscoe to break that down. I think the $10 million label was in terms of the remediation of the damage that was imposed upon the facility, and I think the hardening may be over and above it. But I am not sure. I will just defer to Deputy Commissioner Briscoe.
Ms Briscoe: Immediately following the disturbance, our staff and contractors did an on-site assessment and estimated the damage to be in the order of $10 million. To date, we have expended $3.4 million on rectification, and further estimates to get to full recovery would be in the order of about $7.6 million. That does not include the hardening.
Senator KIM CARR: How much extra do you wish to spend on the facility then to do the hardening, as you describe it?
Ms Briscoe: I do not have that information to hand. I can take that on notice.
Senator KIM CARR: What is the nature of the additional work that you want to undertake?
Ms Briscoe: Installation of security gates over a range of roller doors; some more heavy-duty furniture and the attachment of the furniture; other shutters, particularly around medical facilities; security screening; fencing; an upgrade of the inner perimeter fence. The estimate of those works is $7 million, but they are all just proposed and estimates at this point.
Senator KIM CARR: I presume that normal public works approval processes will need to be undertaken for that to be extended?

Ms Briscoe: I am not entirely sure if those works will be subject to the Public Works Committee.

Senator KIM CARR: Can you take that on notice?

Ms Briscoe: I can take that on notice.

Mr Quaedvlieg: To answer your question, the normal Commonwealth procurement guidelines will be followed. I do not think the quantity is of such a nature that it requires a Public Works Committee approval, but the normal Commonwealth procurement approval guidelines will apply.

Senator KIM CARR: Is the centre now fully operational?

Mr Quaedvlieg: Yes, it is fully operational. There are still areas to be remediated—some of the common areas to bring back to the amenity that they were before—but the centre was fully operational in the days after the disturbance.

Senator KIM CARR: I understand that some people were transferred to mainland detention facilities. Are all the detainees now back on the island?

Mr Quaedvlieg: No, they are not. Let me qualify your premise. A number of persons were removed from Christmas Island, or from the North West facility. A number were placed or re-placed into detention facilities onshore; others were placed into correctional facilities to manage them until we had the centre back under control and back into full operation. Not all of those persons have been returned to North West Point. We did transport a number of detainees off the island. Deputy Commissioner of Operations may have more detail if you are interested in those, but we did take a number off the island and put them in various facilities around the country.

Senator KIM CARR: Is it your expectation they will be returned to Christmas Island?

Mr Quaedvlieg: Not necessarily. Decisions in relation to placement are dynamic. They go to issues of risk, behaviour, context, environment, mood, atmosphere et cetera. Some may be returned. North West Point is one of our most secure facilities and certainly helps us with managing what we call the high to extreme risk cohort. Certainly it features within our future plans for detention. But again, as I say, some of those persons who were moved off the island may have a different security rating or risk rating now. Some may have been removed offshore. If you are asking me, 'Are all 200-odd detainees that were on the island at the time of the disturbance to be returned to the island?' I would say the answer is no.

Senator KIM CARR: From those 108, how many were New Zealanders?

Mr Quaedvlieg: In the incident?

Senator KIM CARR: Yes.

Mr Quaedvlieg: Yes, we do. Let me preface my answer: of the people involved in the incident—there were around 200 detainees on island, or just shy; I think there were 196 to 198—about 180 participated in the disturbance. It was a big cohort. There was obviously a hardcore cell that actually behaved more egregiously than others, but we certainly have a breakdown by nationality of everyone that was on the island, in the facility, at the time.

Senator KIM CARR: Do you have a breakdown of the countries of citizens who were involved in the incident?

Mr Quaedvlieg: Yes, we do. Let me preface my answer: of the people involved in the incident—there were around 200 detainees on island, or just shy; I think there were 196 to 198—about 180 participated in the disturbance. It was a big cohort. There was obviously a hardcore cell that actually behaved more egregiously than others, but we certainly have a breakdown by nationality of everyone that was on the island, in the facility, at the time.

Senator KIM CARR: From those 108, how many were New Zealanders?

Mr Quaedvlieg: I am going from memory now, but this is sort of rough: I think there were around 50 odd New Zealanders in the cohort at the time, so about a quarter of the cohort were New Zealanders.

Senator KIM CARR: Of the people involved in the incident—because what you are saying is that of 200 folks, 108 were actually involved in the incident—that is only half.

Mr Quaedvlieg: 180 were involved in the incident.

Senator KIM CARR: 180? Not a 108?

Mr Quaedvlieg: 180 of the 200. Yes, it was quite a large disturbance.

Senator KIM CARR: I see.

Mr Quaedvlieg: To answer your question more precisely, of the quarter or so of New Zealanders who were in that cohort, maybe a dozen or so were involved in the hardcore group. These are not precise figures but I am trying to give you some sense of the premise of your question.

Senator KIM CARR: There was one person, Mr Fazel Chegeni, who I understand escaped the facility—is that correct?
Mr Quaedvlieg: Mr Chegeni escaped the facility on the Saturday prior to the disturbance; yes, that is correct.

Senator KIM CARR: How did that happen?

Mr Quaedvlieg: An number of converging circumstances, as is often the case with escapes. Our service provider conducted its own review and it found some faults, which I do not intend to canvas on the public record for reasons you can appreciate. But, it again goes to the issue of technology, training and various other protocols that could have been done better. With the convergence of those circumstances, Mr Chegeni managed to escape.

Senator KIM CARR: I am told that two of the Serco guards in the control room in the detention centre at the time of the escape had not performed in this role before. Was that one of the findings of the review?

Mr Quaedvlieg: My understanding is that it was not so much the training, it was the operation of the centre on the evening that Mr Chegeni escaped. Not so much training, and I cannot comment on the training of the individual officers involved, but it would appear that their manner of operation on the evening certainly contributed to the escape.

Senator KIM CARR: This facility is described as a maximum security facility, is it?

Mr Quaedvlieg: I would not term it as a maximum security facility, if you are talking in comparison to correctional facilities, no. It is certainly at the higher end of our security arrangements in terms of detention, but is any centre infallible in terms of escape? The answer is no.

Senator KIM CARR: How many people have escaped from it?

Mr Quaedvlieg: From North West Point, very, very few—less than a handful. It is very rare that persons escape from this particular facility. I think there was a riot sometime in mid-2000 that a number of persons breached it and got out, but they did not escape as such.

Senator KIM CARR: Given the location of Christmas Island, no-one has gotten off the island, have they?

Mr Quaedvlieg: No-one has got off the island.

Senator KIM CARR: How many detainees are currently on onshore detention, including on Christmas Island?

Mr Quaedvlieg: In totality, as of the end of December figures, there are 1,792 detainees on onshore detention.

Senator KIM CARR: How many of them are children?

Mr Quaedvlieg: I will ask Deputy Commissioner Briscoe to respond to that, but just let me chapeau the response. There are two cohorts of children currently on onshore detention. By far the largest cohort are those of transitory persons. That has been dealt with in detail today. They are due to be returned to Nauru at some point. In terms of non-transitory persons, I think we are talking less than 10. I think there is about eight or so, but I will get Deputy Commissioner Briscoe to give you that precision.

Ms Briscoe: So the number in held detention is 86 and the number of transitory persons subject to return to Nauru is 69 of those 86.

Senator KIM CARR: Thank you. How many are unaccompanied minors?

Ms Briscoe: I will have to check that on notice. There may be one, but I will need to double-check that.

Senator KIM CARR: How many people who are in detention are due to have their visas cancelled or have had their visas cancelled on character grounds?

Mr Quaedvlieg: Unless we have that information to hand, I think we can come back to you fairly swiftly with that, potentially before the close of day. I am just checking the deputies on my left and right.

Mr Outram: In terms of the section, it is 501.

Senator KIM CARR: Sorry?

Ms Briscoe: I can do it centre by centre: at Villawood, 147; at Maribyrnong IDC, 31; at Christmas Island, 75; at Yongah Hill, 106; at Perth IDC, 13; at Brisbane ITA, 14; at Wickham Point APOD, 16; at Perth IRH, one; and at Melbourne ITA, two. I am sorry I have not got the total there, but that is the number that we have.
Senator KIM CARR: How many of those are New Zealand citizens?

Mr Outram: I should qualify that these numbers as of 31 December. I cannot say how many of these are in the 501 cohort. We could probably come to that. There are 183 New Zealand citizens in onshore detention facilities. Most of those would be, I suspect, in the 501 cohort.

Senator KIM CARR: How long have they been there?

Mr Outram: I could not give you a precise number. Obviously, it is case by case.

Senator KIM CARR: You must have some statistic of it.

Mr Outram: I do not have a particular breakdown for the New Zealand cohort.

Senator KIM CARR: If you could find that out for me; and how many of those, for instance, have been detained since the last estimates.

Mr Outram: I will take that on notice.

Senator KIM CARR: Thank you. I am interested to know the average length of stay in detention, particularly for people who have had mandatory cancellation of visas on character grounds.

Mr Outram: What I can say in aggregate—I cannot break these down to particular cohorts—is that, at 30 December, the average time for people in held detention facilities was 445 days.

Senator KIM CARR: That is all onshore, isn't it?

Mr Outram: That is all onshore.

Senator KIM CARR: If we go back to what you told us in October: from 1 November 2014 to 30 September 2015, there were 146 New Zealand citizens who had been removed. Can you provide an update on those figures?

Mr Outram: If I can just take that one on notice. I will probably come back to you very quickly, but I will just need to do that.

Senator KIM CARR: Thank you. Given the level of interest this has generated across the Tasman and here in the Australian media, I noticed there were some comments from New Zealand MPs about this matter. Of the 146 who were removed, had they all served custodial sentences in Australia?

Mr Outram: I can. Just bear with me one second. Sorry, removals going back to what point?

Senator KIM CARR: The advice that we were given in October was from 1 November 2014 through to 30 September 2015. I am looking for an update on those statistics.

Mr Outram: If I can just take that one on notice. I will probably come back to you very quickly, but I will just need to do that.

Senator KIM CARR: Thank you. Given the level of interest this has generated across the Tasman and here in the Australian media, I noticed there were some comments from New Zealand MPs about this matter. Of the 146 who were removed, had they all served custodial sentences in Australia?

Mr Outram: The 106 removed between 1 November 2014 and—


Mr Outram: Unless the deputy commissioner happens to have that to hand, I think we might need to take that on notice.

Senator KIM CARR: If you could, what is the pattern in terms of duration of sentence?

Mr Outram: The legal parameters in section 5 are what obviously set the threshold trigger for section 501, which is the 12 months jail term.

Senator KIM CARR: So they are all in excess of 12 months?

Mr Outram: Yes, and I may defer to the legal team on this, but there are two parts to the provision. One is based on a prison sentence for a particular kind of offence—for example, including child sex offences. The other one is a character cancellation provision. We would have to work on the breakdown of those numbers.

Mr Williams: The section 501 power to cancel is enlivened in a mandatory sense if the person has been convicted for a crime and sentenced to 12 months or several crimes that add up to more than 12 months imprisonment. And there are some other provisions around behaviour that give rise to a discretionary cancellation power.

Senator KIM CARR: So you do not have to serve 12 months to invoke the discretionary powers?

Mr Williams: That is right. But most of the cases are the mandatory cases that have served 12 months or more.

Senator KIM CARR: Have any of those that are currently being detained not served a custodial sentence of 12 months?

Mr Williams: It is possible there might be some who are subject to discretionary cancellation. We would have to check.
Senator KIM CARR: Can you give me that information as to how many?
Mr Williams: Sure.
Senator KIM CARR: How are they determined? Can you give me a list of the criteria for the determination?
Mr Williams: We can do that on notice.
Senator KIM CARR: I am told that there are over 500 cancellations for people currently incarcerated—is that the number? Are there over 500?
Mr Williams: I might defer to my Border Force colleagues.
Senator KIM CARR: How many cancellations are you anticipating will have to apply?
Mr Outram: That is a different question.
Mr Quaedvlieg: Sorry, Senator, just to be precise—you have two questions there. One is how many 501 cancellations are currently held in detention, and then you asked about prospective cancellations.
Senator KIM CARR: Yes. You must have a rough—
Mr Quaedvlieg: I might defer to Assistant Deputy Secretary Williams in the first instance for the latter question and that will give the Deputy Commissioner, Operations time to look up how many 501s we currently have in detention.
Mr Outram: That is the list that I read to you in terms of how many we have held in detention. I have already provided that.
Senator KIM CARR: I am interested to know are there any other folks in jail that may well have this provision applied to them?
Mr Pezzullo: The answer is yes.
Senator KIM CARR: How many would that be?
Mr Pezzullo: Just dealing with the New Zealand case alone, on average approximately 30 persons come out of prison a month who have served prison sentences of that amount or more. For so long as the law is written in the way that it is written we will be considering their applications for a reversal of the cancellation for an indefinite period going forward, for so long as there are people in jail.
Senator KIM CARR: When did this provision become law?
Mr Pezzullo: If my memory serves me correctly, and Mr Williams and others will correct me, I think the parliament passed the laws in December 2014. Royal assent might have been some period after that, in the January-February timeframe of 2015, and so it has been on the statute books for approximately a year.
Senator KIM CARR: That is what I mean, so this is a relatively new provision?
Mr Pezzullo: About a year or so.
Mr Williams: That is correct.
Senator KIM CARR: Is the 30 people coming out a month the number that we could assume is appropriate for this 501 cancellation? Is that 30 people in total in Australia leaving jail every month, roughly.
Mr Pezzullo: Roughly, yes. We have already taken on notice how many are held in detention as of today, the day that you are asking the question, effectively going back to 30 September; we have already taken on notice how many New Zealand citizens have been removed, so that is the other part of the question that we have taken on notice; and in terms of as best as we can advise on notice, and I hate to use this term, there is stock of the population if you like that we know to be in prison who will trigger a mandatory cancellation upon serving their 12 months. We will also take that on notice and come back to you.
Senator KIM CARR: Have there been any appeals against section 501?
Mr Pezzullo: There have certainly been some cases that go to 501 as a matter of fact. Whether the specific mandatory cancellation matter has been litigated I will need to remind myself. I will take advice from the chief lawyer. I am reminded that 501 has been the subject of appeal all the way to the High Court in terms of the application of the powers that are enlivened under 501. The Crown won that case in the High Court.
Senator KIM CARR: When was that resolved?
Ms De Veau: The case of Mr Vella was two applications in the High Court of recent months. One was in October; one was in November. One related to an appeal in relation to a Federal Court case where Mr Vella was unsuccessful in an attempt to have a character cancellation based on an association ground, so it was not a mandatory case. It was a discretionary case and a decision of the minister. He sought to appeal that case in the
Senator KIM CARR: So there was no decision of the court; it was just a refusal of leave.

Ms De Veau: The first one related to a refusal to consider out of time. The other was a refusal for special leave.

Mr Pezzullo: The first decision, in effect, meant that the Federal Court’s earlier decision remained on foot, which means that the minister’s decision to cancel this person’s visa remains substantive.

Senator KIM CARR: I am wondering if the High Court has considered the constitutionality of these provisions of the legislation?

CHAIR: Perhaps the lawyer could explain what special leave to appeal to the High Court—

Senator KIM CARR: I understand what special leave means. I am asking a specific question. Has the High Court considered the constitutionality of section 501?

Ms De Veau: The constitutionality of the provision was one of the grounds that Mr Vella sought to have adjudicated upon in the High Court. That leave was refused. I am unaware of the court considering in a full hearing the constitutional question of the mandatory provisions. Indeed, Mr Vella’s, of course, was not a mandatory provision—it was the application of 501 on character grounds—but a discretionary ministerial decision based on character by criminal association rather than, I think, the particular provision that you are concerned with, which is the mandatory cancellation based on imprisonment.

Mr Pezzullo: I think it is also worth pointing out—Ms De Veau will add to my understanding of these matters—that the statutory construction under 501 has itself evolved over time. Cancellation provisions on character grounds have been in the Migration Act for as long as we have had a Migration Act. To be fully comprehensive in responding to your question: I think it is fair to say that there are many cases on the books that go to earlier forms of cancellation. As I understand it, they have always upheld the constitutionality of general cancellation. As for the specific construction of 501 as it is contemporarily expressed, that was dealt with in the way that Ms De Veau has described it in the Vella case. But the general question of the constitutional basis for dealing with what the Constitution terms ‘aliens’ is the subject of many cases going back some decades.

Senator KIM CARR: Has there been a right of appeal not to the court but to the minister for any administrative action the department has taken on a cancellation on 501 character grounds?

Mr Pezzullo: Yes indeed, the statute is in fact construed in those terms. If you serve a prison sentence of 12 months or more or you are convicted of any form of child sex offence, the law states that your visa is cancelled. Effectively, as you walk out of the prison, you are an unlawful noncitizen. But the statute also provides for—Ms De Veau will remind me whether it is named to the minister or something that he has chosen not to delegate—the minister to have the power to consider what is called a revocation of that mandatory cancellation. He has advice put to him by the department about the extenuating or exceptional circumstances that might be applied. He exercises his judgement and discretion under 501 as to whether to decide that the cancellation remains on foot or to revoke it, in which case that person is able to remain in Australia. Perhaps the way the statute is construed is better explained by Ms De Veau.

CHAIR: Is that the 501 visa you are talking about?

Mr Pezzullo: Or the 501 power to cancel a visa.

Ms De Veau: Section 501 deals with the refusal of a visa or cancellation of a visa on character grounds. That is the starting position. It can be done by the minister’s delegate or it can be done by the minister. Different circumstances are attached to each. One relates to ‘with natural justice’; the other is in circumstances where natural justice does not need to be afforded to the position. Of course, both types of decisions are administrative and the subject of judicial review. In relation to the mandatory provisions, which are the newer provisions that I think Senator Carr has been referring to, the secretary is correct in saying that built into the legislation is an ability to seek for the minister to make a decision to revoke the automatic application of the provisions. That happens frequently and indeed is also a decision that is subject to review.

Senator KIM CARR: How many times has that happened? Given that these are new provisions—since January last year—how many times in the last year has the appeal provision through the minister been exercised?

Mr Pezzullo: I might ask Mr Williams or Ms Dunn if she has the information. We would have for you either directly now or on notice later this evening the number of mandatory cancellations that have been effected since, I think, February 2015.
Senator KIM CARR: Can I get that in a minute? Let me see if we can get this clear.

Mr Pezzullo: Then there is a subset of that: the number of those persons who have sought revocation. We would also have that.

Senator KIM CARR: Let's hear it then.

Ms Dunn: Since 11 December 2014, 561 New Zealand nationals have had their visas cancelled, most of those—533—under mandatory cancellation provisions. Sixty-nine per cent, or 367, have requested revocation of the cancellation decision. Seventy-three have had their revocation requests finalised and 36 have had their visas reinstated.

Senator KIM CARR: So 36 had an appeal upheld.

CHAIR: An appeal to the minister.

Ms Dunn: That is right—a revocation request.

Senator KIM CARR: Were there any other provisions for appeal other than the minister?

Ms Dunn: After the revocation process there is a judicial appeal process if the minister has made a decision.

Senator KIM CARR: I see. That is the ministerial process, but you cannot go to the judicial until after the ministerial. Is that correct?

Ms Dunn: That is correct.

Senator KIM CARR: Can you tell me if the person—

CHAIR: Of the 73 that were finalised, 36 have been reinstated. Of the others, how many have sought judicial review?

Ms Dunn: We do not have that. We can take it on notice.

CHAIR: Is it some?

Ms Dunn: It is a small number.

CHAIR: Okay.

Mr Pezzullo: We had best take that on notice without speculating.

Senator KIM CARR: Is it the case that, having an automatic revocation, you leave the country? Can you start the appeal process offshore?

Mr Pezzullo: Yes. In the case of specifically New Zealand citizens, the minister has made clear publicly that, because of the special travel arrangements that attach to New Zealand citizens, they are free to leave having initiated a review of their cancellation. Of course, should the cancellation be revoked or overturned, they are free to come and go pursuant to the trans—

Senator KIM CARR: Come and go?

Mr Pezzullo: If they are successful in having the cancellation revoked, they are reinstated, as it were. All New Zealand citizens have a right to travel under what is known as a 444 visa. There is nothing to prohibit them from leaving—not returning—pending the consideration of that revocation.

Ms De Veau: As a matter of law, the fact that a person was not currently present in Australia would not preclude them from seeking remedy in an Australian court.

Senator KIM CARR: What were the grounds for the 36 who had their applications upheld?

Mr Pezzullo: We are starting to get to a point where—I am not saying that individual cases will be easily discerned, but—

Senator KIM CARR: They must have grounds, though.

Mr Pezzullo: There would be grounds. I think the best course of action would be to take that on notice as part of a subset of your more general questions, which are: how many have been cancelled and how many revocations have been upheld? In answering those questions, we will, as best we can, describe the grounds.

Senator KIM CARR: How many times has the minister invoked section 501 as distinct from the department?

Mr Pezzullo: The mandatory provision is automatic. There is no invocation by anyone. It is a matter of law that, upon conviction and the bringing down of a 12-month sentence—

Senator KIM CARR: The minister does not have to individually—

Mr Pezzullo: It is mandatory. I will just check with Ms De Veau, but it is by operation of law, is it not?
Ms De Veau: Yes. As I indicated earlier, there are a number of provisions in 501 that lead to cancellation, one of which is the automatic cancellation based on the period of imprisonment.

Senator KIM CARR: I am interested in the one that is not the automatic one. I think the officers have already spelt out that there are other grounds.

Mr Pezzullo: Character.

Senator KIM CARR: Yes, that is one where the minister has the capacity—

Ms De Veau: to make a personal decision? That occurs—

Senator KIM CARR: How many times has that happened?

Ms De Veau: We would have to look at that.

Mr Pezzullo: We will take that on notice. We deal with thousands of cases—I am not suggesting we deal with thousands of 501 cases—so it would be better if we took it on notice and put some rigour behind the data we give you.

Senator KIM CARR: I have had cases brought to my office where people have claimed that they have had travel documents provided and then revoked when they left the country. Has that happened?

Mr Pezzullo: I am not sure about the cases you are referring to, but in the publicly notorious case of Mr Vella, his visa was revoked while he was in a foreign jurisdiction and he has never been able to get back.

Senator KIM CARR: The proposition was put to me that you are actually encouraging people to leave the country by telling them that it is okay for them to come back, but when they get out of the country their visa is withdrawn.

Mr Pezzullo: That is confusing two different issues. In the case of New Zealand citizens they, unless we have blocked their return, have essentially free travel. It is not quite free travel, but they have an entitlement to get on a plane and, without holding a visible visa, arrive at a border control point. Unless an officer in the ABF stops them, they have a reasonable expectation that they can come and go under what is known as a 444 visa. Every other person is required to hold a visa in their hand. No-one is the subject of any deceptive practice—I am inferring you are suggesting that; I am not sure you are saying it.

Senator KIM CARR: It has been clearly put to me that the department has provided advice only to revoke it when the person has left the country. You are saying that that does not happen?

Mr Pezzullo: As I said, in the case of the New Zealand citizens, in recognition of our special bonds and travel arrangements, we have given people, through an abundance of caution, the comfort that, if they want to have their cancellation reviewed whilst they are offshore—that is to say, principally, in New Zealand—and their cancellation is reversed, they can come back as if it were status quo ante. Everyone else has to have a visa and no-one is given misleading information, I can assure you.

Senator KIM CARR: What is the daily cost of detaining someone in a facility on Christmas Island?

Mr Pezzullo: If the commissioner does not have that to hand, some of his officers may have that information

Mr Quaedvlieg: I do not have that information and I suspect it is not lying around anywhere on a spreadsheet. It might be something we need to calculate, so, with your indulgence, I will take that on notice.

Senator KIM CARR: That is fine. Thank you very much. That concludes my line of questions in that area, but I have others—

CHAIR: For Australian Border Force?

Senator KIM CARR: I believe so. Just to make sure—

CHAIR: Thanks, Senator Carr. Your time is up now in any case. That was 45 minutes. I thought you were getting to the end of it. I have a couple of questions along the same line. I did not want to interrupt Senator Carr. The 501 applies to everybody, not just to New Zealanders?

Mr Pezzullo: That is right.

CHAIR: Regarding the statistics you have given on New Zealanders, do you have the same statistics for other nationalities as a group?

Mr Pezzullo: If we took it on notice, I am sure that we would have that data, yes.

CHAIR: To give me some sense of perspective, would it be more than 561 or less or about the same?

Mr Pezzullo: The New Zealand group is certainly the largest group simply as a function of absolute numbers present in Australia at any one time, but beyond that I would prefer to take it on notice.
CHAIR: Those 561 have come out of jail or have previously served 12 months or more, and, on the coming into force of this legislation, their visas were immediately cancelled. Is that correct? They then had the two options: one to go into immigration detention for being in Australia without—

Mr Pezzullo: Unlawfully—

CHAIR: Unlawfully—or return to their country of origin. Was 561 the total number of New Zealanders who were affected by that legislation upon coming into—

Mr Pezzullo: I cannot necessarily recall what the evidence was before. I will ask the officer to repeat the evidence.

Ms Dunn: Five hundred and sixty-one New Zealand nationals have been cancelled since the legislation came into effect and 533 of those were under the mandatory cancellation provisions.

CHAIR: How many of the 533 are now in detention?

Mr Outram: All I can say is that, from 1 July to 31 December 2015, the total number of removals following a section 501 cancellation was 206 voluntary removals from detention and nine were involuntary. The total number of those that were New Zealanders was 165 voluntary and seven involuntary.

CHAIR: What does 'involuntary' mean?

Mr Outram: When somebody does not want to go. They do not volunteer to go, so we deport them. Ostensibly, we put them onto an aeroplane and send them back with their travel documentation. If you look at the section 501 cancellation provision, 152 is the total number of New Zealand nationals who volunteered to go back and five were involuntary.

CHAIR: With the claim that 561 are being detained forcibly in Australian detention centres, it is correct to say that every one of them could, should they choose to, leave detention and leave the country tomorrow? Is that right?

Mr Outram: Yes, the New Zealand cohort.

CHAIR: If they said they would go back to New Zealand, do we pay for them or do they pay for themselves?

Mr Outram: The return is paid for by us. We pay the expenses of putting—

CHAIR: By the Australian taxpayer?

Mr Outram: We pay to return people. It is not just New Zealanders. For our return operations, we generally pay the returns costs for sending people back to their country of origin.

CHAIR: Do we pay anything else—taxis to and from the airport or—

Mr Outram: It depends on the operation. In some operations we would use a charter because there would potentially be a lot of people on one aeroplane. At other times it may well be that we would send an escort with them because they are a particularly high risk and we need to escort them to the country of origin. In other cases it may well be simply the provision of an airfare, travel documentation and expenses. It is case-by-case.

CHAIR: Again, do not give away anything secretive, but, for someone who is an at-risk person who really does not want to go, are they restrained with an officer on the flight back to, in this case, New Zealand?

Mr Outram: Possibly. That is a risk based decision. Of course, we have to take that decision in conjunction with the Office of Transport Security and the airline. Ultimately, the pilot is responsible for the passengers and crew on the aeroplane. There are a whole lot of considerations about what we put in place to ensure the safety and security of the aeroplane.

CHAIR: Of those still in detention, because they choose not to go home, how many of the 533—I think you told us 367 have sought revocation by an application to the minister. What about the difference between 533 and 367, which is 167, I think—whatever it is, 166? They have neither sought revocation nor taken legal action?

Ms Dunn: Some of those people have not taken any sort of appeal action and have chosen to go home. That is the number that have been cancelled since the legislation first came into effect. The number in detention is now considerably lower than that number.

CHAIR: Than 561?

Ms Dunn: Yes.

CHAIR: I see. Can we go back—I thought that was where Senator Carr started. How many New Zealanders, particularly, who have a mandatory cancellation are still in detention as at the last date you have got?

Ms Dunn: I do not have the figure for mandatory cancellations, but 174 New Zealanders who are currently in detention have had their visas cancelled for character reasons under section 501.
CHAIR: These figures are getting confusing to me and perhaps to everyone else. Of those who had their visas mandatory or cancelled on character grounds, 367 have applied to the minister for revocation, and those 367 remain in detention until the minister determines their case—is that right?

Ms Dunn: Some of those people choose to go home. I do not have the number with me right now, but a number have chosen to go home and have had successful revocations since they returned to New Zealand.

CHAIR: And so they are able to come back?

Ms Dunn: Yes.

CHAIR: I am wondering which of those who have had cancellations but have not sought revocation are still kept in detention? Do you have a figure for those at the present time?

Mr Quaedvlieg: Senator, I am wondering, if it would help you, if we took it on notice and provided to you in tabular form all of those categories that you just described that sets it out in a quite simplistic sense?

CHAIR: I think that would be useful right across the board and, while you are doing it could you, without involving you in too much work, do that in relation to others besides New Zealanders as a bulk group?

Mr Quaedvlieg: That should not be too difficult. Thank you, we will take that on notice.

CHAIR: The question I am really resolving is that there are still some people on Christmas Island or elsewhere, who have neither applied for revocation or agreed to go home, have apparently made the decision to sit forever in a detention centre.

Mr Quaedvlieg: That would not happen. We would ultimately remove them, because they are unlawful noncitizens but, in terms of where they sit in their linear sequence of status, we will come back to you in tabular form of those categories cut by New Zealand national and other nationalities.

CHAIR: Because with New Zealand we can return them—the New Zealand Prime Minister actually publicly said he would take them back. So there will come a time very shortly where, if you have not applied for revocation, you will be removed, so you will not be on Christmas Island or anywhere else.

Mr Quaedvlieg: Correct.

CHAIR: Getting back to Senator Carr's original questions about Christmas Island—and you may have answered this—were the statistics of the ringleaders whether they were principally from New Zealand?

Mr Quaedvlieg: There was a core group that I mentioned earlier about a dozen or so New Zealanders in the broader core group of around 20. It depends on your definition of ringleader, but a significant core of the instigators were of New Zealand nationality, yes.

CHAIR: People—and when I say 'people' I mean New Zealand shock jocks, I think it were—spoke to me and indicated that there were New Zealanders with 30-year-old marijuana convictions whose visas had been cancelled 30 years after the event. I indicated that I thought that was unlikely. That could not be possible. Unless they were on character grounds, I guess.

Mr Quaedvlieg: Maybe I can illustrate through the North West Point cohort. Having looked at the 50 or so New Zealanders in that cohort at around the time of the riot, I had a look at each individual's case history in terms of criminal convictions. What I can say to you is that there were historical convictions for minor offences but those were normally—in fact, the large majority—in accompaniment with more recent convictions for much more grievous offences against the person into things such as attempted murder, murder, rape et cetera.

CHAIR: So there was an instance given to me—I have forgotten the name—of someone who had a 30-year-old possession of marijuana conviction. What you are saying is that that in itself—unless they were jailed for more than a year, which could have only happened in Queensland 30 years ago, unless they were jailed more than once a year—they would not have their visa cancelled for that reason.

Mr Quaedvlieg: I would not have thought so, without knowing the individual case. But the criminal histories that I have seen attached to individuals subject to the 501 cancellation, whether conviction or character based, have had significant criminal histories with significant egregious offences.

CHAIR: I asked this last time and I got the cute answer saying, 'This is a matter for the New Zealand government.' Can anyone tell me if New Zealand has the same sort of arrangements for Australians who are convicted of major offences in New Zealand? Are they returned? I accept the answer that was given to me that it is a matter for the New Zealand government.

Mr Pezzullo: I think it is a matter of fact. I think last time I checked, perhaps prompted by your question, no, they do not have a mandatory cancellation regime that is linked to the duration of a prison sentence. Again, I stand to be corrected on that. I do recall checking that, and I am pretty sure that they do not have the same regime.
CHAIR: We will now finish with Australian Border Force.

Senator Kim Carr: Who does outcome 2?

CHAIR: Outcome 2 is 'Support a prosperous and inclusive society, and advance Australia's economic interests'.

Mr Pezzullo: That is mainly the department. I should foreshadow that under outcome 1, because we are an integrated department, the department runs with policy, for instance, on border enforcement, but it is the APF that, if you like, enforces our laws—border management, similarly. I am sorry, chair, to do this to you, but we are an integrated and blended department, so it is not easy to say, 'Well, the Border Force has been dealt with,' because subsequently there might be matters where the border force—

CHAIR: Do not apologise to me, secretary. I am just trying to get as many of your very efficient and clever officers out back to their real work rather than sitting around twiddling their thumbs while we are here to do other things.

Senator Kim Carr: No, it is a very important part of their real work, surely.

CHAIR: Once they are finished with them, though, they are better off going back to more productive work.

Senator Kim Carr: To watch us on TV in case something gets mentioned.

[16:14]

CHAIR: Now we move on—whether or not the border force people stay or not, which is a matter for you, secretary, and the commissioner—to cross-portfolio/corporate/general. I understand Senator Hanson-Young has some questions in that category.

Senator HANSON-YOUNG: Thank you, chair. I wanted some more information about the statistics in relation to the numbers of individuals, including children, in the various places. I wanted to know how many children in detention in Australia today are Nauru transferees.

Mr Pezzullo: I think Deputy Commissioner Briscoe gave that answer earlier, but you might not have been here. I might just ask you to go back to her evidence.

Ms Briscoe: Yes, it is 69.

Senator HANSON-YOUNG: That is children in detention?

Ms Briscoe: That is correct.

Senator HANSON-YOUNG: How many children are living in the community who are listed as Nauru transferees?

Ms Briscoe: The number of children in community detention is 205, not necessarily all from Nauru.

Senator HANSON-YOUNG: Can you tell us how many are from Nauru?

Ms Briscoe: The number of children in community detention who are prone to return to Nauru is 38.

Senator HANSON-YOUNG: How many of the children who are from Nauru—that is the 69 in detention, or the 38 in community detention—are here because they have medical concerns, as opposed to being attached to a family member?

Ms Moy: I would have to take that on notice. I do not have with me the exact number of children who have the medical issue versus the number of adults.

Senator HANSON-YOUNG: Do we have somebody at the table, Mr Pezzullo, who could tell us how many children have been diagnosed as having anxiety, depression or any other mental health problems?

Mr Pezzullo: I would link that to the question we have already taken on notice from your earlier questions. We said that we would on notice come back with a breakdown as to children in our care—those who have been returned to Australia—who have got those conditions. I will just check what we took on notice compared to the words you have just used. But we will just add whatever words you have just used—so, anxiety, depression—

Senator HANSON-YOUNG: Or other mental health problems.

Mr Pezzullo: We will give you an omnibus response on notice.

Senator HANSON-YOUNG: This question is slightly different to the other one, because I am asking about all children and not just those out of the 267.

Mr Pezzullo: Sorry. Earlier today we were talking about the Nauru children, if I can use that term.

Senator HANSON-YOUNG: Yes.

Mr Pezzullo: Now you are asking?
Senator HANSON-YOUNG: I am asking how many children overall are in Australian detention or in Nauru—all the children. How many of those?

Mr Pezzullo: Noting that there are no children in detention in Nauru, certainly not under our care. So, children in Nauru, whether they are transferees or refugees, and transferred children who are in Australia temporarily for medical, or they are accompanying medical cases? Did you also ask about the Australian onshore detention network?

Senator HANSON-YOUNG: Yes.

Mr Pezzullo: Noting that there are quite a small number of children—

Senator HANSON-YOUNG: Once you have taken out the other transferees, yes.

Mr Pezzullo: Okay. We will come back on notice with those three categories. We will use a general lay definition—is it mental health issues that are of principal concern?

Senator HANSON-YOUNG: Yes.

Mr Pezzullo: Inclusive of anxiety and depression?

Senator HANSON-YOUNG: Yes.

Mr Pezzullo: We will come back on notice.

Ms Briscoe: If I could just correct something. The number I gave you for children in detention was the accompanied children. The total number, accompanied and unaccompanied, is 288 in community detention. Apologies.

Senator HANSON-YOUNG: Which means, effectively, 83 unaccompanied, I imagine?

Ms Briscoe: 205 accompanied and—

Senator HANSON-YOUNG: 83—

Ms Briscoe: Yes.

Mr Pezzullo: But just to be clear, these are not just children from Nauru.

Senator HANSON-YOUNG: No, I understand that some of those children would be worked into the caseload legacy—

Mr Pezzullo: That is correct.

Senator HANSON-YOUNG: Could I have some figures on how many children have alleged to have been physically abused or assaulted who have been transferred from Nauru?

Mr Pezzullo: Senator O’Sullivan asked I think pretty much an identical question earlier today, so we will wrap that into the same question on notice.

Senator HANSON-YOUNG: He asked about sexual assault. I am asking—

Mr Pezzullo: I think he broadened it.

Senator HANSON-YOUNG: Did he—okay.

Mr Pezzullo: I think he broadened it to include any suggestion of criminality, including physical assaults.

Senator HANSON-YOUNG: In the last estimates session, in October, you gave me some figures around the actual self-harm cases. They sounded different to what was read out earlier today. Could we have some clarification around that? In October you told this session that there have been 74 cases of actual self-harm on Nauru in the first six months, so that would have been from January to June, and we are getting these figures in October. That sounds different to what you had reported earlier today. I am wondering why there is a discrepancy.

Mr Pezzullo: The officer in question might return to the table. It sounds broadly similar—whether there was some delayed reporting or whether some reports came to light subsequent to—

Senator HANSON-YOUNG: It was 74 cases of actual self-harm—

Mr Pezzullo: In the first six months?

Senator HANSON-YOUNG: In the first six months.

Mr Pezzullo: I do recall that exchange from last October.

Senator HANSON-YOUNG: That was 74 from Nauru and I was given 34 incidents on Manus.

Mr Pezzullo: I do recall that evidence. I will ask Mr Wright to refresh his memory. He would not have been the officer giving the evidence—

Senator HANSON-YOUNG: No, I do not think so.
Mr Pezzullo: Has that been your evidence earlier today?

Mr Wright: I would have to know what the actual period is. If you went from January to October, my quick maths is about 73 instances of actual self-harm in Nauru—

Senator HANSON-YOUNG: It was quoted that it was the first six months of the year, so I imagine that is January—

Mr Pezzullo: What is your count?

Mr Wright: My count for the first six months for actual self-harm in Nauru is 55.

Mr Pezzullo: There is a plausible explanation there—we will come back on notice. It might be that when we do the reviews there are multiple reports of one incident, and you get the phenomenon of duplicated reporting. The numbers that we gave you in October I am absolutely certain would have been given to you in good faith and would have been based on the best information to hand. If those number have now, it appears, come down by some 20 reports, it might be the case, and will take this on notice, that upon investigation by the relevant authorities, or by quality checking by our own staff, it is possible that three or four or five reports might have come in on the same incident, and they all get amalgamated into one report, I suppose.

Senator HANSON-YOUNG: Could I ask for an update. I was also told in October that there were 10 cases of sexual assault against refugees living in the community in Nauru, and an additional nine from women inside the camp.

Mr Pezzullo: I recall us taking that on notice and I think coming back to you after consulting with authorities in Nauru. Are you asking for an update?

Senator HANSON-YOUNG: Yes, I am asking for an update to those figures.

Mr Pezzullo: I will see if Ms Moy has further and better particulars.

Senator HANSON-YOUNG: That was obviously for what we knew up to October.

Mr Pezzullo: Yes.

Senator O'SULLIVAN: Could the senator be invited to clarify whether these are allegations of sexual assault, rather than making a statement that 10 people were sexually assaulted. This is the whole focus of my point on this. We are out in the open and people are listening. They will take from that that there were 10 events of sexual assault, as opposed to complaints.

Senator HANSON-YOUNG: I am just reading what I was given last time.

Mr Pezzullo: In fairness to the senator, I think last time we did agree that we would use the phraseology of 'allegations'. So, to keep an apples and apples comparison, I will see if Ms Moy has an update—

Senator HANSON-YOUNG: Cases that have been reported?

Mr Pezzullo: That is right. Cases that have been reported, which by definition means that there is an allegation put. I will see of Ms Moy has an apples and apples update.

Chair: That is useful. As an addition to that, could you add how many of those are actually proven?

Mr Pezzullo: Yes. I think in fact to the senator's earlier request we agreed to consult with colleagues to see how many prosecutions have been opened, how many have been brought before trial and how many convictions have been—

Senator O'SULLIVAN: And indeed how many are still under actual investigation.

Mr Pezzullo: Yes, we took that on notice earlier. Is there an update on the specific question of the allegations?

Ms Moy: There is. In terms of allegations of assault within the Nauru RPC since last estimates, there were zero.

Mr Pezzullo: Zero further reports?

Ms Moy: Zero further reports—correct. In terms of within the community there were four allegations of sexual assault harassment against an adult and one sexual harassment assault of a minor, in terms of allegations. So that is a total of five since last estimates.

Senator O'SULLIVAN: There are two separate complainants, one who complained that on four occasions they were the subject of sexual harassment?

Ms Moy: No, there were four individual occasions—so there were four individuals—of adults sexual harassment or assault alleged.

Senator O'SULLIVAN: Can you separate that?
Ms Moy: I can say that there is one male and three females.

Senator O’SULLIVAN: No, but I mean an allegation of assault versus harassment.

Ms Moy: I do not mean to be obtuse, but the definition of assault and harassment is put together because the complaints are generally, or can be, either of the nature of sexual assault or inappropriate touching, inappropriate contact or inappropriate phone calls—so they are put together. On notice I can separate them out for you.

Senator O’SULLIVAN: So you are suggesting that there is a physical encounter in each of those four, as opposed to sexual harassment, which could occur over the width of this room, for example?

Ms Moy: That is correct. I can get the rate on notice for you.

Senator O’SULLIVAN: Thank you.

Senator HANSON-YOUNG: Going back to a question that was asked by Senator Carr earlier, there was a conversation around the escape from the Christmas Island detention centre. Was there any reporting of a hole in the fence that the Border Force staff are aware of?

Mr Quaedvlieg: No, none.

Senator HANSON-YOUNG: No-one inside your department has reported that to anyone at any level?

Mr Quaedvlieg: Not only was there no report, but there was no hole.

Senator HANSON-YOUNG: There were reports in relation to New Zealand offering to take 150 of the asylum seekers that are held offshore. That was part of an arrangement under the previous government, the Gillard government. The New Zealand minister has been quoted as saying that it is up to Australia to take up that offer. Mr Pezzullo, where is that up to, and is it true that Australia has rejected New Zealand's—

Mr Pezzullo: I would not characterise it like that. New Zealand Immigration Minister Woodhouse, as I recall, indicated in recent days that Australia had to that point declined to take up the offer. That is an accurate description of our discussions with New Zealand in the past on this matter.

Senator HANSON-YOUNG: That Australia declined to take up—

Mr Pezzullo: Declined at the time, given that at that time the need to ensure that Operation Sovereign Borders was successfully put in place—all of its features: offshore processing, turn-backs and the like—the concern expressed to the government of New Zealand at the time was that it might create a pull factor, so Minister Woodhouse, the relevant New Zealand minister, has reflected publicly that as a result of our concerns, and I do not take issue with his description of the historical exchanges, about so-called pull factors being created at that time we thought it best not to take up the offer, which was very positively received. It is still the case that New Zealand's positive and proactive efforts to assist us in working through what is a difficult and vexed issue were appreciated then and continue to be appreciated.

Senator HANSON-YOUNG: Are they still in negotiations with you in terms of third-country resettlement, or is it the decision that it is too much of a pull factor, as you have described? I am trying to work out whether this is history or whether this is current thinking.

Mr Pezzullo: I am trying to work out ways to answer your question both accurately but in a way that does not prejudice any discussions that may or may not in future emerge. When you asked if we are still in negotiations, we do not deal with our New Zealand cousins like that and they do not deal with us like that. We have ongoing conversations all the time about all manner of things—security, border issues and people smuggling—and I would not want to characterise that in the sense that we are in negotiations and then kind of broke off the negotiations. It would mischaracterise the way in which we deal with these matters. It is much more like a discussion within a family.

Senator HANSON-YOUNG: Are they considered still to be an option for third-country resettlement?

Mr Pezzullo: I think the New Zealand minister has made clear that some of the historical places have been cross-allocated to another program. I think he has made reference to the fact that these are now allocated to the intake of Syrian displaced persons, and I think he has also said Iraqi displaced persons. Beyond that it would really be for the New Zealand government to describe the status of those historical places. I am just repeating what the New Zealand minister has said publicly.

CHAIR: Senator Hanson-Young, your time has expired and we are taking a break. Do you have just a couple more questions or are there more?

Senator HANSON-YOUNG: There is a fair bit more.

CHAIR: We will take a break and come back to Senator O'Sullivan.
Senator O'SULLIVAN: With indulgence, Chair, I think my questions are just slightly off subject, but they are a continuation of the line that Senator Hanson-Young—

CHAIR: That was what she was doing.

Senator O'SULLIVAN: I just want to go back, if I might, briefly to the issue of these complaints and statistics, because I really think there is a case to be built that we need to look more thoroughly at some of these issues. Has there been any evidence that some of the behaviour—we will refer to it as 'behaviour' rather than suggest it is a criminal offence—might be more acceptable within the cultures of some of the people who find themselves in detention? As we bring different cultures together, they have different attitudes to different things. Is there any evidence that some of this is comfortable within another culture that might be uncomfortable in our culture or the standards that we expect?

Mr Pezzullo: I do not think that there is any evidence to hand, recalling that if these incidents occur on Nauru we are always a supporting player; we are not a lead player in the investigations. So if you are asking about Nauru, I just put that qualification. If you are asking about the Australian immigration detention network, then we are obviously the lead authority. I do not know, Ms Moy, if there is a pattern whereby, through the investigative process, statements are made: 'It's permissible in our culture to touch people in a particular way.' I dare say that I do not think that any culture permits or condones vicious and violent sexual assaults or rape, particularly penetrative rape.

Senator O'SULLIVAN: We have countries where it is common to marry a girl off at nine years of age to an uncle, so I mean—

Mr Pezzullo: Sure. Understood. I might just ask Ms Moy: is there any analysis that has been done of some of the cultural factors that might explain, or at least contextualise, some of the lower threshold behaviour? I cannot imagine that really vicious, violent behaviour is condoned by any culture, but, anyway—

Ms Moy: To my knowledge there has not been analysis done in terms of a cultural breakdown of reports of incidents. There has come to our attention at times, when we are in a support role to Nauru, that being aware of cultural differences is quite important—in terms of what is generally permissible in the Nauruan culture may be different in the Australian culture or in another culture of a person on Nauru. There has not been analysis as such as to which incidents might fall into a category of a cultural issue, but there has been a lot of work done in Nauru by the Nauruan government in terms of cultural training for the Nauruan children within the schools about what is acceptable in terms of an integrated society in Nauru. They have done a lot of work in the Department of Education—

Senator O'SULLIVAN: I am probably more interested in the refugee types in the centre itself. Whilst I understand this is a detention centre that is administered by Nauru, we do have a special interest in what is happening in this place. We are getting slapped around down here over events up there, so it is a special interest. My question is more specific: have there been people who have come from another country and are in Nauru, where their culture might explain a physical or verbal interaction between two people that we might find completely inconsistent with our laws, or how our society operates, but is culturally accepted within their world?

Mr Pezzullo: If we do not have evidence to hand, we should say 'no'.

Ms Moy: The secretary is correct. There is no analysis to that degree of incidents that have occurred between individuals.

Senator O'SULLIVAN: I will put the question this way: would you consider having that knowledge as being a value-add to our obligations to administer these things to the extent that we are?

Mr Pezzullo: It adds value in this respect: as Ms Moy has said that, it has taken a period of time, including through responding to things like the Moss inquiry that we have talked about in this committee before, and particularly as the Nauruan government has moved to an open centre model, which, essentially, is not for permanent purposes, because Nauru is not party to an agreement that sees permanent settlement occurring. But, for all intents and purposes, as transferees go through the process and become refugees, they will be there, depending on the availability of durable solutions involving third countries, for up to 10 years. That is the agreement. Essentially you are, if you like, forming an integrated society in schools, churches, or other places of worship, and hospitals, where you have the Nauruan Indigenous population—for want of a better phrase—or the local population; you have an increasingly integrated population, because people move about freely; they form
associations; they form friendships; they join clubs. Some of the transferees and refugees, if I am not mistaken, Ms Moy, have set up businesses?

Ms Moy: That is correct.

Mr Pezzullo: So you have, essentially, in effect, a migration program emerging out of what was originally offshore regional processing. It is not a permanent program—I just want to stress that—because the agreement that we have with the government of Nauru is to then support Nauru in finding durable off-island solutions down the track. It is a relatively small place, and you cannot just simply significantly expand the population without consequences. So, as Ms Moy said: is there value-add in being attentive to cultural differences? Yes, from the point of view of things like gender violence, social inclusion and the like. I think earlier today Ms Moy gave some evidence about some cultural awareness training for service providers, teachers—I think you made reference to the police, if I am not mistaken?

Ms Moy: Yes, that is correct.

Mr Pezzullo: The senator has asked a very specific question about assault, but could you just repeat, very generally, what we are doing in the area of supporting Nauru with cultural awareness.

Ms Moy: The Nauru government has, very early, seen this as an issue themselves. They run a cultural awareness program not only in the RPC but also within the community. That is with all areas—their own administration and, as the secretary said, the police, schools, hospital et cetera. The other issue is that there are a number of cultural liaison officers. We have cultural advisers within the RPC who support the government of Nauru to manage the RPC, and they are of the same culture as the people who are transferees and refugees within Nauru, so that they fully understand the culture. That also helps with the integration, not only within the RPC itself but within the general community. There is also a cultural liaison program, or CLOs as well call them, with the government of Nauru that involves not only the local Nauruans but refugees who are employed as CLOs to assist people within the community with specific issues. It might be as easy as helping someone who gets lost when they are out on open centre and does not know where to go or how to get somewhere; dealing with other cultures; or dealing with integration with Nauru law, practices, protocols and those sorts of things within the culture.

Senator KIM CARR: Mr Pezzullo, how many SES staff have left the department in each of the following years: 2012-13, 2013-14, 2014-15, and 2015-16 as year-to-date?

Mr Pezzullo: If Dr Charker has this information to hand she will provide it. Of course, in the period since 1 July 2015—that is to say, the current financial year—you are talking about an SES group that is the amalgam of the previous immigration department and the former customs service: a roughly 150-strong SES. In those prior years going back to 2012-13 I am taking your question as pertaining to the former immigration department.

Senator KIM CARR: Yes.

Dr Charker: What I do not have here are the figures that go back prior to 1 July 2015. Noting the secretary's comments, they do relate to two separate organisations, or, if you are mainly interested in immigration, just the one. I certainly do have some figures here for you on SES movements from 1 July 2014 to 30 June 2015—the previous financial year—and also half of the current year, that is 1 July 2015 to 31 December 2015. I can provide those to you if that would help?

Senator KIM CARR: That would be helpful, and the rest can be taken on notice.

Mr Pezzullo: With a note saying 'the former department'.

Dr Charker: Yes. In relation to the 2014-15 figures, as the secretary has just reminded me, obviously the amalgamation of the two organisations formally occurred at 1 July 2015, and so whilst you do see a lot of SES movements in the figures for 2014-15, a number of those relate to machinery-of-government changes which, of course, relate predominantly to the merger itself. So some of those figures are going to be inflating some of the movements, but to give you a sense: the total number of SES coming in—commencing either as a brand-new commencement; being promoted and therefore commencing at a new level; or coming in due to a machinery-of-government change—was 37. The total number of SES going out in 2014-15, either as a transfer to another APS agency; because of age retirement reasons; or SES section 37 retirement reasons—was 25. I do not have breakdowns here of those numbers. I may have some information about 'by agency', but I will just finish the first part of your question first, which also goes to the current financial year. The SES movements pertaining to the current financial year—which are since integration so we are now at least dealing with one organisation—are that we have seen 59 SES movements in. In fact, looking quickly at my notes, it looks as if 21 of those are attributable to integration—so they have come about due to a machinery-of-government change—and we have seen 21 going out. Again, that is due to a range of reasons including transfer, retirement, resignation et cetera.
Senator KIM CARR: I take it you can provide the other information on notice.

Dr Charker: Certainly in prior years that would have required being provided on notice.

Senator KIM CARR: Turning to the policy division, how many of the staff who currently work in the policy division or its equivalent have been there from 30 June 2015?

Dr Charker: I do not have that information; I am sorry.

Mr Pezzullo: We just need to clarify terms, too. There is a policy group headed up by Deputy Secretary Noble, who is not available at the moment. She heads a group that consists of a number of policy divisions—an Immigration and Citizenship Policy Division; an international policy division. To assist me in understanding the point of your question, are you interested in the entire group, or a particular division within the group?

Senator KIM CARR: The whole group. The whole group would be helpful.

Mr Pezzullo: Dr Charker, working with her colleague, Ms Noble, will take it on notice at the group level.

Senator KIM CARR: I am interested to know what the corporate history is in terms of the policy advice.

Mr Pezzullo: It is an excellent corporate history. A number of excellent longstanding immigration officers have been promoted—people who are very high calibre. They have been joined in a blended construct by officers who have joined us from other departments including, from memory, Foreign Affairs, Defence and perhaps others as well.

Senator KIM CARR: So you can give me a breakdown of staff within that?

Mr Pezzullo: Sure.

Senator KIM CARR: I do not want to know the names, but I would like to know what the length of service has been.

Mr Pezzullo: As public servants, or as officers of the—

Senator KIM CARR: No, in immigration policy.

Mr Pezzullo: We can do immigration policy from a number of points of view. Officers of the former department, I think, is what you are asking.

Senator KIM CARR: Mmm.

Mr Pezzullo: There should be no suggestion in anyone's mind about the sole repository of wisdom about how to deal with these intractable, complex and, in some cases, longstanding problems that have suffered a want of a solution—no doubt despite the best efforts of people who have had longstanding careers in this field. Everything can be dealt with with a fresh perspective as well. If you are asking me about people with expertise in immigration policy who are also members of the department, we will give you a very concise answer.

Senator KIM CARR: No, I am interested in the policy divisions, not the general department. I do not want to know the work history of every officer in the blended department. I am interested to know whether or not there has been a clean-out of the policy advisory roles within the new structure.

Mr Pezzullo: We will take that on notice. I think the only way to really give that answer by way of proxy is to advise who of the current group of leaders has been in the department for particular periods of time—they might not have been in the department at the levels that they currently serve; that is to say they have been promoted—and in other cases who has joined the department perhaps since the merger on 1 July 2015. I think that is the only way to address the question. I cannot think of any other way to address your concerns about a so-called clean-out.

Senator KIM CARR: All right. Let's see how you go with the answer and we will come back to it.

Mr Pezzullo: We will give it a go.

Senator KIM CARR: What I am trying to establish is whether or not there has been a purge.

Mr Pezzullo: Senator, you asked me this last time.

Senator KIM CARR: And I will continue to ask it until I get a straight answer.

Mr Pezzullo: I have given you a straight answer, and I will just give you another—

Senator KIM CARR: You have told me that it is not the repository of all knowledge, if I recall.

Mr Pezzullo: No. Like in any policy area, my secretary brothers and sisters are always looking for a combination of long-serving officers who have served for a long time in their department. But they are also looking for people who bring a fresh perspective either from other government agencies or sometimes from the private sector. Variety is a very good thing.

Senator KIM CARR: Yes.
Mr Pezzullo: A very good thing indeed.

Senator KIM CARR: I am interested in two things: the question about the militarisation of this department, and—

Mr Pezzullo: I do not understand what that term means.

Senator KIM CARR: We have had this ongoing discussion, and we will continue to have it. I am interested to know to what extent the new structure has provided an opportunity for there to be a removal of officers from the department.

Mr Pezzullo: No-one has been removed in the sense that I think you are—

Senator KIM CARR: No-one has been sacked, but there has been extraordinary turnover.

Mr Pezzullo: People have made their choices given the options that I presented to them, but also the nature of the work that was clearly evolving. As we discussed before—

Senator KIM CARR: Sorry, I am wrong about that. The secretary was sacked with the change of government. I would like to know how many officers have been shown the door.

Mr Pezzullo: As I have said to you consistently since my appointment as secretary there has been no purge as such. There has been a very open, transparent discussion about the future direction of the department. I have said to your previously, and for the benefit of other senators I will quickly repeat it: some officers chose to leave, for several reasons, and they have had very frank discussions with me. The bringing in of the Customs function, for instance: 'I joined a department that was not about goods.' That is fine. The department now is about goods, and the government has got a perfect democratic mandate to adjust the machinery of government as it sees fit. In some cases, I found cause to counsel people, to say, 'Do you really want to be so emotionally invested in that position that you cannot see your way clear to continue to work here?' 'Yes. I think it's time to hang up the spurs.' That is fine.

In other cases there was another machinery of government change that we have discussed before—the transfer of settlement functions and the multicultural function to another portfolio. In fact, the minister at the table, Senator Fierravanti-Wells, the Assistant Minister for Multicultural Affairs, is a minister of that portfolio as well as ours. For some officers—I do not limit this comment solely to SES officers—if you had been in the department for 25 or 30 years doing that line of work you can understand in any empathetic way that that would be an emotionally confronting and difficult experience. In some cases those officers either went to the social services portfolio, where they are flourishing and no doubt doing very good work. Some of them chose to change their career direction and stay with us and some of them chose to take the opportunity to do something different with their lives. They are two examples. I could give you more and still try to be general so that I do not particularise individuals.

None of those discussions fit by any stretch of the imagination the word 'purge'. Purge is what Stalin did in the thirties. You and I have had cause in the past to discuss our common historical interest in that period of Soviet history. There has been no purge. He knew how to do a purge, and that is not what we are doing.

Senator KIM CARR: No. You are much more sophisticated, aren't you.

Mr Pezzullo: I do not know how many time to answer the question: no, we are not sophisticated Stalinists.

Senator KIM CARR: Let us have a look at what your answer is and we will pursue this matter. I am surprised at how many people have left the department.

Mr Pezzullo: I have to say, having heard the numbers for the first time myself from the chief operating officer, the net flow has been positive in. When you say that you are surprised at the number of people who have left, as Dr Charker has indicated, that has to be offset against the number of people who have come in. Your new line of concern, which is understandable, is: 'What's happened to your corporate knowledge?' That may or may not be apparent on the numbers that we give you in our response, and no doubt we will continue this conversation the next time you ask me.

Senator KIM CARR: I would like to turn to outcome 2.

CHAIR: Is everyone finished with cross-portfolio and corporate general questions?

Senator HANSON-YOUNG: I have questions for outcome 1.

CHAIR: The next one on the program is Operation Sovereign Borders.

Senator KIM CARR: I have very a short series of question for the general.

Senator HANSON-YOUNG: I still have lots of questions about the detention network and the caseload legacy group. They are all in outcome 1.
Mr Pezzullo: Chair, if it is of any assistance, the IMA onshore management matter—sorry to use acronyms—can be dealt with under program 1.4 and offshore management and regional cooperation, again, IMA, is program 1.5.

CHAIR: Yes, that would. With that in mind, we will go on to Operation Sovereign Borders. I welcome Major General Bottrell to the table. Major General, did you want to make an opening statement?

Major Gen. Bottrell: I do have a short opening statement to deliver.

CHAIR: Okay. That has been the custom in this committee, so off you go.

Major Gen. Bottrell: I am commander of the joint agency task force for Operation Sovereign Borders. Chair, members of the committee, thank you for the opportunity to provide you with an update on activities under Operation Sovereign Borders policy since the supplementary budget estimates hearing in October last year. Operation Sovereign Borders has now been in place for more than two years, and it is working as intended. We have seen the successful return of 23 boats and more than 680 people to their country of departure. Most importantly, there have been no known deaths at sea during this period.

We now stand at more than 560 days since the last people-smuggling boat successfully arrived in the Australian migration zone, with the individuals on that last venture being transferred to the Nauru Regional Processing Centre. We have also increasingly strengthened our engagement with regional partners, either bilaterally or through the multilateral Bali Process. However, notwithstanding the success of Operation Sovereign Borders to date, we need to remain vigilant.

Despite the High Court finding that the Australian government's arrangements for regional processing on Nauru are legally and constitutionally valid, we know that people smugglers are still trying to use opportunities such as the recent court case to convince vulnerable men, women and children that Australia's policy has changed. This is clearly not the case. There has been no change to the government's position. The maintenance of a consistently robust approach to stopping illegal maritime ventures has seen the people smugglers' business model all but broken. However, they continue to try to circumvent our border control measures. We continue to reach out to the people who are thinking about paying people smugglers to enter Australia illegally to ensure they have a clear understanding of the dangers involved, as well as the nature of Australia's tough policies. These communications initiatives are making it harder for people smugglers to convince those vulnerable people to part with their money and to set out on unsafe journeys. Our communication efforts remain an enduring line of work because any void in communication will be filled by the misinformation and lies of people smugglers.

The Operation Sovereign Borders system of on-water deterrence remains strong and has recently been reinforced with the addition of the Ocean Protector—the sister ship of the Ocean Shield—which provides significant additional capability to enable the Australian Border Force to respond to immediate and enduring threats to our maritime security and sovereignty. As the commissioner indicated in his opening statement, the Australian Border Force now operates the largest and most capable maritime surveillance and response fleet Australian civilian operators have ever fielded.

Finally, I wish to acknowledge, again, the professionalism of the men and women of the Australian Border Force and the Australian Defence Force who work in the challenging and often dangerous on-water environment. I have met many of these men and women, and I am consistently impressed with their attitude, which typically enables them to balance the implementation of a tough policy without compromising safety. While many of their efforts are not in the public eye, they have much to be proud of for the manner in which they undertake their duties.

Chair and members of the committee, that concludes my statement. Thank you for your indulgence.

Senator KIM CARR: How many turn-backs have there been since the last estimates hearing?

Major Gen. Bottrell: There have been two since the last Senate estimates.

Senator KIM CARR: When did they occur?

Major Gen. Bottrell: They were in November.

Senator KIM CARR: Where were they intercepted? Are you able to tell us that?

Major Gen. Bottrell: We have not disclosed the specific details, suffice to say that they were immediately to the north of Australia and on the typical approaches that we see people-smuggling ventures.

Senator KIM CARR: There were media reports of a vessel close to Christmas Island, were there not?

Major Gen. Bottrell: Yes, there was.

Senator KIM CARR: Is that the one you are referring to?
Major Gen. Bottrell: One of those, yes.
Senator KIM CARR: And that is the date that was publicly available?
Major Gen. Bottrell: That is correct.
Senator KIM CARR: How many people were on board the vessels?
Major Gen. Bottrell: I will get you the detail. Just bear with me. On the one that you are referring to, there were 17 people.
Senator KIM CARR: And how many were on the other?
Major Gen. Bottrell: Three. Just so you are aware, they are reported typically in the monthly statement, which is released around the first week of the following month.
Senator KIM CARR: So they were reported in December?
Major Gen. Bottrell: Yes, they were released in the December report on Operation Sovereign Borders.
Senator KIM CARR: And, given that there have been no others, there has been nothing to report.
Major Gen. Bottrell: That is correct.
Senator KIM CARR: Yes. Can you tell me where these two vessels originated?
Major Gen. Bottrell: Both of these vessels departed from Indonesia.
Senator KIM CARR: Thank you very much.
Senator HANSON-YOUNG: Chair—
CHAIR: This is on Operation Sovereign Borders?
Senator HANSON-YOUNG: Yes.
CHAIR: Okay.
Senator HANSON-YOUNG: Major General Bottrell, you said there have been two turn-backs to Indonesia since the last estimates. Could you tell us about the reported boat that left India with six Sri Lankans reportedly on board but was stopped before it reached anywhere near our OSB responsibilities?
Major Gen. Bottrell: Are you referring to a media report?
Senator HANSON-YOUNG: Yes.
Major Gen. Bottrell: I think I am only across the same level of detail as you are—that there were reports of a venture that was disrupted by the Indian authorities and stopped from getting away.
Senator HANSON-YOUNG: Okay. So you have not been given any information by the Indian government at all about that vessel or you have not inquired into whether that is actually true?
Major Gen. Bottrell: No. We have been provided with no detail to corroborate that public information.
Senator HANSON-YOUNG: It was the Indian press, of course, that reported it.
Major Gen. Bottrell: Yes.
Senator HANSON-YOUNG: Is that something that you would try and find out whether it is true, whether that is happening, whether this is a new trend?
Major Gen. Bottrell: As is customary, the engagement that we have with other nations is not typically disclosed during these discussions. Suffice to say that we are in regular conversation with regional partners, and others more broadly, in order to try and undermine the people-smuggling trade.
Senator HANSON-YOUNG: But, in those conversations, you have not been given any information about that particular vessel?
Major Gen. Bottrell: The one you are referring to—no, I am not aware of any official information that we have received.
Senator HANSON-YOUNG: Are you aware of any other ventures like that in recent months?
Major Gen. Bottrell: We keep a very close eye on what is released in the media. There are often stories and reports of countries that are starting to get a tighter grip on people-smuggling ventures. You might recall as well, I think it was in September or October last year, that there were some reports out of Indonesia that they had also disrupted at least one venture and potentially others as well.
Senator HANSON-YOUNG: There was discussion last year around the change in vessels that Australia uses to facilitate the turn-back of individuals when intercepted, from the orange lifeboats to the wooden vessels. Has there been any work done by your department on whether they are the safest option available?
Major Gen. Bottrell: As I have referred to on numerous occasions, safety clearly is one of our highest priorities, and we continue in all of our procurement activities to make sure that safety is the primary driver for the solution that is fielded. That is about all I can really say in terms of the nature of the vessels provided, but you should be confident that safety is a key driver for it.

Senator HANSON-YOUNG: Are we only using wooden vessels now or are we still using orange vessels as well?

Major Gen. Bottrell: The only thing I can really say there is that we have a wide range of options that are available to us and those options continue to extend. Unfortunately I cannot talk you through the nature of the vessels or the options that we have to be able to assist with those returns.

Senator HANSON-YOUNG: Why can you not give us that information? I do not understand why it would be an issue of national security what type of vessel we have engaged and used.

Major Gen. Bottrell: If people smugglers become aware of the nature of a particular type of vessel that we might use to support a return, they may set out with ideas, plans or the means to be able to undermine that. So to be able to go into an activity and to have options available, depending on the circumstances at the time, will depend on what we might utilise. There are a number of considerations there of course. Unfortunately I cannot talk to you through those in this environment.

Senator HANSON-YOUNG: So you cannot tell us whether Operation Sovereign Borders has discontinued the use of the orange lifeboats?

Major Gen. Bottrell: As I said before, I think the point to take away is the options continue to expand rather than shrink.

Senator HANSON-YOUNG: Most people have seen pictures of the orange lifeboats. They have been documented in Indonesia as well as in Australia. I find it difficult to say that confirming whether or not they are still part of the fleet of vessels we use is in any way undermining your operations.

Major Gen. Bottrell: If I was a people smuggler and I knew what sort of vessel someone might put me into to return me then I would depart that location with a view to as to how I was going to undermine it. So I have no intention of providing that detail here where the people smugglers will pick that information up from.

Senator HANSON-YOUNG: Has there been any discussion with the New Zealand government around vessels that have either been en route or made any successful journeys to New Zealand?

Major Gen. Bottrell: I refer to my comment earlier that we are always talking to countries in the region about a range of issues. I cannot disclose the detail of those conversations.

Senator HANSON-YOUNG: How many vessels are you aware of in the last 12 months that have been en route to New Zealand rather than Australia?

Major Gen. Bottrell: Forgive me if I am going over old ground that you may already be aware of but the primary issue that people smugglers are struggling with at the moment is trying to convince these vulnerable people to actually get onto a boat so they will use any and all means to do that. We know they are peddling lies because the people smugglers, through our communications, are well aware of what the arrangements are. They know that they are not going to make it to Australia. What we know is that people smugglers are using New Zealand as a ruse to try and get people onto boats. In many cases they have no intention of trying to get to New Zealand. If they do get away, they typically find that the distance and the conditions are such or they have not provisioned it with sufficient fuel or food to actually make it in to New Zealand in the first place. So they always had an intention for it to head to Australia but they did not tell the passengers on board because they wanted to just get them onto the boat in the first place. We know that is a tactic that they have employed. New Zealand has appeared regularly in reporting between people smugglers trying to get people onto boats. Whether they have the means to be able to get them there or not, in a lot of cases, is unlikely.

Senator HANSON-YOUNG: How many people seeking asylum do you believe there are currently in Indonesia waiting for another option, waiting to move on from Indonesia?

Major Gen. Bottrell: I do not know what their intentions are but I am aware of the UNHCR figures. Someone may correct me but I think the figure is sitting at around just over 14,000 who are registered with the UNHCR.

Senator HANSON-YOUNG: I imagine if you are doing all your intelligence and are able to map the tactics we heard about before from the secretary—the marketing, effectively—you must have a sense of where that is being done in Indonesia to try and capture the interest of some of those people?

Major Gen. Bottrell: Sorry, I am not quite following your line of questioning.
**Senator HANSON-YOUNG:** You are quoting UNHCR figures. I am asking if your team, if your Operation Sovereign Borders unit, is aware of the intelligence of what is going on in terms of boat trips planned or people smuggling marketing, which was what was put to us earlier by the secretary. Who are they marketing to? Where are these people?

**Mr Pezzullo:** If I might just begin so that I can provide an accurate context around my answer. We never discuss intelligence matters. My earlier answer did not have any bearing on intelligence matters whatsoever. In terms of what we can follow through what we call ‘open source’ in our business—social media and the like—we know the attitude taken by smugglers because they go onto blogs, they go onto websites and are quite open about it.

To the point of the specific question of how do they then reach the relevant communities, General Bottrell can add to this answer but essentially, as we have discussed on numerous occasions in this committee, these communities tend to congregate. They tend to reside in place whilst they are awaiting an opportunity to come to Australia, particularly in Java but also elsewhere throughout Indonesia. These matters are also the subject of discussion and dialogue between ourselves and our friends and colleagues in the Indonesian apparatus, which, again, I will state we undertake without going into details. So we, through all of those discussions, have a reasonable idea of the localities where people congregate. There is mutual support if you are from the Sudanese community or the Somali community or the Iraqi community. There is a natural human drive to congregate.

They are also supported in many instances by the International Organisation for Migration. It has got a degree of insight into where they are, their mood, their current state of thinking and also the closeness with which they observe proceedings in Australia. In this internet age, it is quite remarkable the degree of interest but also the close attention that is paid to all sorts of things be it High Court decisions, Senate proceedings and the like. The general is then able to—without going into intelligence matters because we would never canvas those in these proceedings—craft what is termed a strategic communications campaign that deals with those efforts at marketing, which I did use. If you are interested, he could break that down further in terms of how he goes about targeting those communications.

**Senator HANSON-YOUNG:** I would actually be interested to know what we are doing to help deal with the 14,000 people in Indonesia. If we do not want them engaging people smugglers, if we do not want them to be jumping on boats then what are we doing to do help those people have some type of durable solution?

**Mr Pezzullo:** They are not jumping on boats because—to use another phrase—the bottom has completely fallen out of the market, and it is our intention to keep it that way. Potential travellers are completely deterred from parting with their money. In terms of assisting Indonesia, as the foreign minister and others have said recently, we are engaged with Indonesia through the Bali process to find durable solutions for persons who have moved within the Asia Pacific region.

A more global compact or a more global set of arrangements though need to be put in place to deal with those who have moved from outside the region into the region with a view to coming to Australia. We talked earlier in today's proceedings about Syrians, Iraqis et cetera. Our position remains. As our program to deal with globally displaced persons is rolled out, you can come to Australia through those means. You cannot come to Australia from Indonesia.

**Senator HANSON-YOUNG:** Even if you have been assessed by the UNHCR and referred by them?

**Mr Pezzullo:** We will engage with the UNHCR in the terms that Mr Bardos described earlier related to people who have been in camps, principally in Jordan—

**Senator HANSON-YOUNG:** Let me go back because I am conscious that other people are going to want to take time asking their questions as well. There had previously been a decision announced by the former Prime Minister Tony Abbott to not take UNHCR registered and referred refugees from Indonesia. Is that still the case? Is that still government policy?

**Mr Pezzullo:** The policy position and preference for operational reasons is to take particularly Syrian and Iraqi refugees from the Middle East.

**Senator HANSON-YOUNG:** Is there still effectively a ban, which was how it was described, on taking UNHCR registered refugees who are residing in Indonesia?

**Mr Pezzullo:** Our preference is to take such persons from the Middle East and other places. Now that we have defeated the boats, the next pull factor becomes getting to Indonesia because there is another way to, if you like, queue yourself into Australia so the policy position remains one of assisting Indonesia. We work with Indonesian authorities. We work with the IOM to make sure that people in Indonesia are as comfortable as circumstances can be and that they are given durable options to apply for settlement places in the appropriate manner. But our focus
at the moment is really to focus on refugees from the Middle East and elsewhere but not those who have travelled to Indonesia for the conscious purpose of getting on a boat to come to Australia, which is a path that is now blocked.

**Senator HANSON-YOUNG:** We have not resettled anybody since that statement was made?

**Mr Pezzullo:** I will need to take it on notice. There is a modest program. I just need to check the facts on notice. If there are any numbers at all, they would be minuscule.

**Senator HANSON-YOUNG:** If someone could check the figures over the dinner break, I would be really interested to know.

**Mr Pezzullo:** Our policy preference though is not to draw from the pool that is in Indonesia simply because it then becomes the new pathway to be pulled into Australia.

**Senator HANSON-YOUNG:** To be taken on notice perhaps over the dinner break, if I could have the figures on how many people have been resettled through a referral from UNHCR from both Malaysia and Indonesia in the last 12 months, I would appreciate that.

**Mr Pezzullo:** We will take that on notice. If we can answer it after dinner, we certainly well.

**CHAIR:** I think one of your officers might be heading towards a table with that information now.

**Mr Pezzullo:** We will see if they intend to continue on that path.

**CHAIR:** If they have got the information, we might as well get it now.

**Mr Kukoc:** The 2015-16 offshore program includes refugees in Indonesia who registered with the UN High Commission for Refugees prior to 1 July 2014.

**Mr Pezzullo:** You need to have registered by a particular date; is that correct?

**Mr Kukoc:** Yes, before 1 July 2014 and they will be included in the 2015-16 program.

**Senator HANSON-YOUNG:** How many are there?

**Mr Pezzullo:** If the data is not readily available, we can take it on notice.

**Mr Kukoc:** We can take the data notice given that it is a planning number. We can only advise on the visa grants until the end of December 2015. I need to get that data for you so I will take that question on notice, if you do not mind.

**Senator O'SULLIVAN:** Major General Bottrell, how long have you been in your current post here?

**Major Gen. Bottrell:** I commenced in the end of March last year after a couple of weeks handover with Lieutenant General Campbell.

**Senator O'SULLIVAN:** So it is coming up to your you first birthday there?

**Major Gen. Bottrell:** That is correct.

**Senator O'SULLIVAN:** Can I ask you how many souls have been lost on the high seas, drowning in their attempt to get to Australia under your watch?

**Major Gen. Bottrell:** None under my watch.

**Senator O'SULLIVAN:** Zero? No mothers or fathers or brothers or sisters or young children drowned at high seas under your watch?

**Major Gen. Bottrell:** None.

**Senator O'SULLIVAN:** Congratulations. With respect to the campaign that we operate to spread the policy position of this country with respect to our borders—and if you tell me you do not want to answer this question, you will cleverly get around it; I am not trying to get into the intricate grain of it all—how big is that campaign? I am going to call it a 'propaganda' campaign but it is not; that is just a useful word. But how big is that propaganda campaign? For example, do we have people based if you can tell me overseas who devote their entire day and their week and month and year into making sure this message gets out and about?

**Major Gen. Bottrell:** Certainly. If I can just make a comment in regard to your use of the term 'propaganda', in fact the key point to note here is that all of our communications are factual. The whole focus of the strategic communications campaign is about informing the people who would otherwise make a decision to get onto a boat. We go to some lengths to make sure that what we deliver is factual.

I will just talk you briefly through the detail. There are essentially four key messages that we are aiming to deliver. We are not communicating specifically to the people smugglers; it is the people they would try to convince to get onto a boat. Essentially it is about highlighting the reality of the hazardous nature of the actual
journeys in the first place; the financial risks that they take by engaging people smugglers; the deceptions and lies of people smugglers, noting that there are numerous scams that they run; and, in reference to my comments earlier about often marketing to say New Zealand, as opposed to Australia. Fourthly, we highlight—and we do not hide this—the consequences of illegal migration to Australia. We make it very well known what the actual policy is that exists at the moment.

That program is delivered across 13 countries in 18 languages, everywhere from Afghanistan through to Vietnam, and other countries in between obviously. We use television, radio, press, print, online, social media, billboards, transit advertising, roadshows, leaflets, stickers and community workshops. Depending on the community and the culture, some channels and some means work better than others.

That campaign was expanded in 2013 to cover all of those. In some cases we use Department of Immigration and Border Protection personnel who might be part of a post in that country. In a lot of cases we will contract a service provider to conduct the survey and provide the information, as the secretary mentioned earlier, or to actually deliver that information through various means.

Senator O’SULLIVAN: For a lay person looking at this, it has been an outstanding success—the campaign with the information—if you want to measure it in the reduction in attempts and the outcomes that you have. But do you independently look at the efficacy of this effort? Do you go and test or perhaps run a poll in a cohort of people in Indonesia to see whether they have heard the message, whether they have received the message and what impact it had on them?

Major Gen. Bottrell: Yes, we do. In fact it has been quite extensive over the years. I think some of this has been covered in previous Senate estimates. There is a regular program of research and surveys conducted. I can very quickly run you through a number.

There were research surveys undertaken up until 2015 with Stat Consultants across Afghanistan, Pakistan, Iran and Iraq. We had undertaken similar research through Red Elephant through Sri Lanka and Pakistan. There is regular feedback through the engagement of IOM, which is a two-way engagement in Myanmar and Bangladesh. We were looking at a specific issue there. We also have a broader program where IOM run a migrant outreach messaging program. One is in Indonesia. We also have IOM delivering information in Vietnam as well. So it is quite comprehensive across those areas.

We use essentially three tracks. Track 1 is a free-to-air—free media campaign. Track 2 is community liaison and outreach activities. Track 3 is a public information campaign. I would agree that it is an extremely broad program. There is a terrific little team that has pulled this together—well-resourced. And, I have to say, that targeting the people who are making the decisions, putting them at the core of the communications campaign, really is the success factor. We know that as soon as we stop doing that, people smugglers will fill that void. So the need to keep a consistent line of messaging across those various locations is important for us.

Mr Pezzullo: Senator, it is hard to quantify these things but, frankly, we have been in this game coming up to seven years now, and this effort is so effective it is probably worth a couple of warships to us in terms of the need to deploy assets. There is that ability to shape the environment, to make it very clear to people that they will lose their money; and previously, when the boats were flowing, that they could lose their lives. It is undercutting the confidence that a smuggler can create in the mind of someone who is perhaps operating on marginal hope; the smuggler tries to spin them into a greater level of hope, because all they want is their money. For the smuggler the outcome is getting the cash. So this is worth real capability to us. It does not completely obviate the need to undertake other measures; obviously you can never have a policy just based on one tool, but this is absolutely one of our most important tools.

Senator O’SULLIVAN: I think it has been an outstanding success and it continues to be. You need to take our congratulations to your staff. On the subject of staff, we have shown interest in this place before—and I certainly have—in relation to the impact on staff, which I imagine continues to impact on them, from that period when things were not quite as they are today. We are talking about the stress in the role, having to remove bodies of children and women and others from out of the sea. Firstly, I have a question about their general welfare. I imagine they are still within a system, still being supported?

Major Gen. Bottrell: I will refer this to the commissioner, but I will say that I have spoken to a lot of the men and women of the Australian Border Force and the Australian Defence Force who have been involved in this over the years. I think it is fair to say that a number of them will be carrying scars from what they lived through over their time, for various reasons. Obviously seeing fellow human beings suffer is a key issue. I know personally from the ADF side of the house that the measures to be able to deal with that are reasonably robust. I have looked briefly at what the Australian Border Force does, and I will leave it for the commissioner to comment but I think...
there is a reasonably robust regime there as well. But it is tough work. That is why I highlighted earlier the fantastic work that these men and women are doing—

Senator O'SULLIVAN: Hear, hear.

Major Gen. Bottrell: They are often in touch conditions and they are often behind the public eye and not seen.

Senator O'SULLIVAN: Before we go to the commissioner I suppose what I would like to know is—and I think I know the answer to my own question—but insofar as it could be measured, we would have to be in a better environment now; there would be perhaps even fewer active cases of staff who need support treatment or counselling?

Mr Quaedvlieg: Thank you for the question. As the secretary referenced, we have been in this game now for six or seven years, and it is fair to say that the majority of staff that are currently in our maritime operations are the same staff that were running these operations on the water for that period of time. In fact, when I joined Customs in mid-2013 we reached our peak in terms of operations on water, and they are still the same staff that are dealing with that volume of arrivals at the point where we were getting a SIEV, a suspected illegal entry vessel, every six hours. Yes, there were many safety-of-life-at-sea situations, there were many search-and-rescue situations and, yes, there were occasions where persons both deceased and still alive were pulled from the water.

I mentioned in previous evidence in hearings of this committee that I have a concern that while we have a very resilient workforce—it is one of the utmost professionalism and diligence in our maritime unit; every day when I deal with them I am impressed, both one on one or as an entire unit—as you well know, Senator, through your early career, post-traumatic stress disorder is not something that is always immediately evident. It has dormancy and it may come into effect or manifest at some later point in time in their careers. My concern is that the recent 2013 height is still relatively fresh and that there may well be causal factors for PTSD that may manifest at a later point in time.

You heard from Dr John Brayley earlier today and we talked about health, medical and clinical advice in relation to external clients—detainees. But, equally, he is also in parallel the Surgeon General of the Australian Border Force. I have asked him, when he has some spare capacity, to spend some of his clinical expertise in starting to examine the causal factors and the effect on our workforce—maritime in particular—and whether we cannot take any preventative action in terms of pre-emptive action now to prevent either future manifestation or the effect of PTSD at a later point in time.

Senator O'SULLIVAN: I expect that I speak for everyone—and I will close with just this little statement, if I can have the indulgence: just take back to them that there is a lot of really silent appreciation for what they have done. Sometimes the squeaky wheel gets heard, but I can tell you I think that the majority of us think they have done a splendid job. If you can, I would appreciate it if you could convey that on our behalf.

Mr Quaedvlieg: I will, Senator. That feedback is always appreciated, and I will pass it on personally.

CHAIR: Thanks, Senator O'Sullivan, that is certainly very true. We will finish on Operation Sovereign Borders. Thank you, again, very much, General Bottrell, and again for all the work that you and your team do. It is very much appreciated.

Gen. Bottrell: Thanks, Chair.

CHAIR: We will now move on to the Department of Immigration and Border Protection outcome 1:

Protect Australia’s sovereignty, security and safety by managing its border, including through managing the stay and departure of all non-citizens.

It is set out in programs 1.1 and 1.2 through to 1.5. We will just deal with them all together, I think might be the easiest way.

Senator HANSON-YOUNG: Can we have some figures as to what the current numbers are of those considered to be in the legacy case load?

Mr Pezzullo: In Australia?

Senator HANSON-YOUNG: Yes.

Mr Pezzullo: Yes—I will just be assisted in that endeavour by acting Deputy Secretary Williams and his associates—or one of them, at least!

The number of the so-called legacy case load is, in rough terms, 30,000. I will ask Mr Williams to break that down for you. Senator, were you asking about the overall number?

Senator HANSON-YOUNG: Yes.
Mr Pezzullo: It is 30,000.
Senator HANSON-YOUNG: I actually want the precise number.
Mr Pezzullo: You will get more precision from others.
Mr Williams: The numbers we have are: the legacy caseload is 6,000 illegal maritime arrivals who arrived prior to 13 August 2012 and 24,500 arrived who after that date.
Mr Pezzullo: Perhaps sum those for the senator: 30,000 and what?
Mr Williams: Thirty thousand, five hundred.
Senator HANSON-YOUNG: Have those figures changed at all in the last 12 months?
Mr Williams: Not to my knowledge. I will ask my colleague, Mr Kukoc to answer that.
Mr Kukoc: As we have started the processing of protection claims of the legacy caseload, some of them would have been finalised and they would have got either a TPV or a SHEV or have been finally refused. In that sense, they would drop off the caseload. Generally, we consider the total IMA legacy caseload that we are processing over the next three years to be around 30,500.
Senator HANSON-YOUNG: Have there been any individuals added to that category in the last 12 months?
Mr Pezzullo: Not as IMAs.
Mr Kukoc: No.
Senator HANSON-YOUNG: Not as IMAs?
Mr Pezzullo: There have been no illegal maritime arrivals—no.
Senator HANSON-YOUNG: But has anybody who was outside of that category now been added?
Mr Pezzullo: No, because it just deals with the so-called legacy caseload of illegal maritime arrivals.
Mr Kukoc: All those illegal maritime arrivals arrived after 1 January 2014 are subject to offshore processing, so they normally do not join the legacy caseload that we are processing onshore.
Senator HANSON-YOUNG: Are there any individuals who have previously been held on Manus or Nauru who are now eligible for a protection visa in Australia, even if that means a temporary visa?
Mr Pezzullo: There is no-one eligible. If you have been transferred to either Manus in PNG or Nauru for regional processing, it is a mutually exclusive category. If you are transferred, you are transferred from the jurisdiction of the Australian Migration Act and you come under the migration acts of either Papua New Guinea or Nauru, as is the case.
Senator HANSON-YOUNG: So there is not one individual who has been transferred back to Australia from either Manus or Nauru who has been invited to put forward an onshore application?
Mr Pezzullo: I am pretty certain the answer is no, there is no such person, but I will ask the officers to confirm that. I cannot see the legal circumstances under which that could arise, but I will check.
Mr Kukoc: There is a group of transferees for whom the government has made an arrangement or agreed with crossbench senators to bring them into the fast-track process as part of the arrangement for the passage of the RALC Act, the onshore protection act, and the protection and other measures bill. That group is, I believe, around 100 people and they are waiting for some decision. A legislative instrument will be brought into the fast-track for processing.
Mr Pezzullo: Those persons are in Australia.
Senator HANSON-YOUNG: Yes, they are in Australia now and now they are part of the legacy caseload group.
Mr Kukoc: Not as yet. The minister needs to make a decision and there needs to be a legislative instrument tabled in parliament before they could be brought into the fast-track process. Perhaps our colleagues from policy could outline the policy situation with that group. That was specifically part of the arrangements for the passage of the RALC Act and the onshore protection act, and the protection and other measures bill. That group is, I believe, around 100 people and they are waiting for some decision. A legislative instrument will be brought into the fast-track for processing.
Mr Wilden: As Mr Kukoc just said, there is a specific cohort that, once the minister has signed a determination, if he chooses to do so, will then be included in the overall number in addition to the 30,500 mentioned before.
Senator HANSON-YOUNG: This is the group as part of the negotiation with Senator Ricky Muir?
Mr Kukoc: That is correct.
Senator HANSON-YOUNG: That arrangement was struck in December 2014. We are now in February 2016. You are saying the minister has not lifted the bar to allow them to have their applications assessed onshore?

Mr Wilden: That is correct.

Senator HANSON-YOUNG: Why has it not happened yet?

Mr Wilden: I cannot speak for the minister on that. As you know, there have been several pieces of legislation that have been going through over the last year or so. But, as to why it has not been yet signed, I cannot speak for the minister.

Senator HANSON-YOUNG: The minister has the ability to lift the bar, to allow people to have an application put forward onshore. It is not a legislative requirement that—

Mr Wilden: It is a ministerial instrument, correct.

Senator HANSON-YOUNG: So the minister can do that.

Mr Wilden: Yes.

Senator HANSON-YOUNG: He made this arrangement, struck this deal, well over a year ago. So where are these people living? Are they in detention? Are they in the community?

Mr Wilden: I would have to take that on notice for that individual group.

Senator HANSON-YOUNG: Are there any other individuals who are waiting for the minister to lift the bar so that an application can be put forward onshore?

Mr Pezzullo: The whole point of the processing apparatus that has now been established under the legislation is that applications come forward that are shepherded by the department for the bar to be lifted; they are put to the minister in bulk, as I recall it, because there are so many of them; and the relevant division works through that case load as best they can. I will just get Mr Kukoc to further outline how he goes about that work.

Mr Kukoc: So far the minister has lifted the bar for over 12,000 people, and we have commenced processing for many of those. The bar is lifted on a gradual basis to enable orderly processing. Since the commencement of the fast-track processing, which was last year on 1 July, so in the last six or seven months, the minister has lifted the bar for over half of the fast-track case load of 24,500. The minister has lifted the bar for 12,155. For the rest of the case load, for the other case load, we expect the bar to be lifted in the coming months.

Senator HANSON-YOUNG: So the total figure of people in this group that either already have or will eventually have the bar lifted is 30,500?

Mr Kukoc: No. It is 24,500 people who are subject to the fast-track process, for whom the minister has to lift the 46A bar for them to be able to be processed for TPV or SHEV. The other 6,000 were people who previously lodged an application for a permanent protection visa and are, by legislation, deemed to have applied for a temporary protection visa, so they do not need—

Senator HANSON-YOUNG: They do not need the bar lifted.

Mr Kukoc: They do not need the bar lifted.

Senator HANSON-YOUNG: So is that exactly 30,500?

Mr Kukoc: It is 30,500 altogether—24,500 fast-track and 6,000 what we call transitional case load.

Senator HANSON-YOUNG: This time last year we were talking about a figure of just under 29,000—28,819. I am just wondering where all those extra people have come from.

Mr Kukoc: I will need to take that question on notice. We have the stats as of today.

Senator HANSON-YOUNG: I cannot see how it would have gone up, unless you are adding more people into either of those categories. I do not know where those people are coming if, as the secretary says, no IMAs are getting to Australia and, if they did, they would go to Manus and Nauru anyway. I am trying to work out how why we have gone up from 28,819 to now 30,500.

Mr Kukoc: It is probably to do with how we defined the various case loads in the IMA group. As you know, this case load has been subject to many policy and legislative changes. Some in the past were processed under the permanent protection visa legislation. Some were part of the non-statutory process and they were then brought into the statutory process. We finally have the legislative framework defined and we can now with certainty say that we have 6,000 people who are deemed to have applied for TPV based on their previous permanent protection visa application and 24,500 people for whom the minister needs to lift the bar to be able to brought into the fast-track process for TPV.
Senator HANSON-YOUNG: So that I am absolutely correct and sure about this: are the extra 100 people who are waiting for the minister to approve—which was part of the deal with Senator Muir—included in your figure of 30,500?

Mr Kukoc: I do not think so, but I will confirm that on notice. I think they will come on top of that.

Senator HANSON-YOUNG: So that we are talking apples and apples, could you give me the exact figures that the department had in February estimates last year for the same group of people? I just want to be clear that the figure I had then was 28,819.

Mr Kukoc: I remember giving evidence in the estimates in May last year and in October last year, and I was always operating on 30,500. I do not remember what happened in February. We will take this on notice.

Senator HANSON-YOUNG: Thank you. Out of that 30,500 group, what percentage of those are on current bridging visas?

Mr Kukoc: Most of them are actually in the community bridging visas. About 25,820 are on bridging visas. They are in the community. About 1,423 have expired bridging visas but are still out there in the community. They will be renewed bridging visas until they are processed. We have about 418 in community detention and around 393 in held detention.

Senator HANSON-YOUNG: Sorry; what was that figure of expired bridging visas?

Mr Kukoc: About 1,423.

Senator HANSON-YOUNG: Why are their visas expired?

Mr Kukoc: I think my colleagues from Border Force will be better placed to talk about that, but I understand bridging visas have an expiry date and then after they need to re-engage with the department and go through a process for another bridging visa grant.

Senator HANSON-YOUNG: So it does not just happen automatically?

Mr Kukoc: No, because we need to keep IMAs in the community re-engaged with the department. That is why they are given a bridging visa with a certain expiry date. They also have certain obligations towards the department in terms of maintaining their communication, contacts, address and all of that.

Senator HANSON-YOUNG: If someone's bridging visa has expired, how long does that last?

Mr Kukoc: Ms Dunn, First Assistant Secretary, Community Protection, is better placed to talk about bridging visas.

Ms Dunn: When people are released into the community on a bridging visa they are required to keep in contact with the department. Their bridging visas last for a particular time, depending on their personal circumstances. Some people disengage and do not keep in contact with the department, and their bridging visa expires.

Senator HANSON-YOUNG: That is a lot of people who are in the community without any type of visa—1,400.

Ms Dunn: I do not have those figures here with me at the moment—

Senator HANSON-YOUNG: That is just what we have been given.

Ms Dunn: Yes.

Mr Kukoc: At any point in time there may be people whose visa has just expired and they are in the process of contacting the department.

Senator HANSON-YOUNG: One thousand, four hundred people in the community without a visa?

Mr Kukoc: We are talking about 25,000 people on bridging visas, so given the short term of the bridging visa it is possible at any point in time that there are a number of people who are in the process of renewing their bridging visas.

Senator HANSON-YOUNG: What is the shortest and the longest time frame for validity of a bridging visa.

Ms Dunn: The period can vary from a few days, if somebody is making arrangements to depart, to—

Senator HANSON-YOUNG: Sorry—let me be very specific. I am talking about this group of people. I do not think we need to be cute about saying that people are about to depart. Let us be really clear about this group of 30,500 people.

Ms Dunn: Yes. It depends on the circumstances of the people involved, and it can be from a very short period to quite an extended period, for example, if they are currently at judicial review. There is no way that I can answer
that question. I could take it on notice and come back to give you an idea of the average or the range or whatever you would prefer.

Senator HANSON-YOUNG: I would like the average time and the range—the shortest and the longest periods of validity of the bridging visas for the case load group that have been granted.

Senator BILYK: I want to ask about the Manus Island RPC. What is the current number of asylum seekers that have been determined to be genuine refugees?

Mr Pezzullo: We might need to change over to some of the senior executives. Ms Briscoe, the deputy commissioner for support, gave those figures earlier today, so I might just ask her to refresh us all. It is somewhere in the order of over 700 that are determined to be refugees and somewhere in the order of 350 who are still going through the process in rough numbers. Ms Briscoe had that evidence, but you might not have been present though.

Senator BILYK: No—I am doing more than one estimates.

Mr Pezzullo: Indeed. So I might just ask the deputy commissioner to just repeat her earlier evidence. Sorry—did you say Nauru or Manus?

Senator BILYK: Manus to start with.

Mr Pezzullo: I think the deputy commissioner gave numbers for Manus as well with in any event.

Ms Briscoe: In relation to Manus Island, 472 are deemed to be refugees. There are 404 transferees and 46 that are 'final negative', so their processing is completed and they have not been found to be refugees.

Mr Pezzullo: And just at the risk of having mislead you—when I talked about 700-odd plus 350, that was for Nauru.

Senator BILYK: So where are those 472 people living now?

Ms Briscoe: There are 415 remaining in the RPC, and 50 are located in the transit centre at East Lorengau. Six have settled in the PNG community and there has been one refugee that has voluntarily returned home.

Senator BILYK: So how many have been settled in the community?

Ms Briscoe: Six.

Senator BILYK: In answers to question on notice SE 15-027, the department stated that this announcement, the announcement made on 23 October 2015, 'paved the way for settlement to commence'. So have those six been settled in the last three months?

Ms Briscoe: Yes.

Mr Pezzullo: Are you referring to the announcement by the government of PNG of the establishment of a settlement policy?

Senator BILYK: The national refugee policy, yes.

Mr Pezzullo: Yes. That would be from that time.

Senator BILYK: So that is the six?

Ms Briscoe: That is correct.

Senator BILYK: Did you say 46 have been determined not to be refugees?

Ms Briscoe: Yes.

Senator BILYK: And one voluntarily returned home?

Ms Briscoe: One refugee, yes.

Senator BILYK: And have any involuntary returns been attempted by the PNG authorities, do we know?

Ms Briscoe: Yes, there were two.

Senator BILYK: Are you able to tell me how many incidents have been in the RPC since last estimates?

Mr Pezzullo: What nature of incident?

Senator BILYK: Any incidents that have caused unrest?

Ms Briscoe: I will ask Ms Moy to come—

Mr Pezzullo: That have caused unrest?

Senator BILYK: Yes, or that have caused minor or serious injuries to detainees or staff.
Mr Pezzullo: I am not sure that there has been any unrest that fits that description since our last meeting, but Ms Moy might have a better recollection or facts to hand.

Ms Moy: The secretary is correct. In terms of unrest, we have not had any incidents necessarily involving groups of people that have caused any incidents. There have been some individual incidents with individuals but no major unrests.

Senator BILYK: When you are talking individual incidents, what are you talking about?

Ms Moy: Since last estimates, there have been allegations of three antisocial behaviours.

Senator BILYK: What would that be—being drunk or something? Sorry, I do not want to put words in your mouth; do you want to tell me what they might be?

Ms Moy: It probably would not be being drunk, but antisocial behaviour could be—

Senator BILYK: It is a pretty broad definition.

Ms Moy: It is quite broad.

Mr Pezzullo: Ms Moy, is that three since October?

Ms Moy: That is correct.

Mr Pezzullo: You would have that every hour down at Mooseheads, wouldn't you, here in Canberra? We might just need to check with the former chief police—

Ms Moy: I beg your pardon, Senator, I am looking at the ELTRC, which is the East Lorengau Refugee Transit Centre. They have had three since last estimates. In the Manus RPC, there have been 138 antisocial behaviour incidents.

Senator BILYK: In Manus?

Ms Moy: That is correct.

Senator BILYK: I still want to know what is deemed to be antisocial. Is using an expletive antisocial? Is being drunk? What is the definition you use for antisocial behaviour?

Ms Moy: There would not be anyone who would be drunk within the centre because we do not have alcohol; however, it would be classified as someone who may be pushing in the food line, when they are going to the mess. It could be, as you say, verbal abuse or verbal contact with someone else that was complained about by the other individual.

Senator BILYK: Can you give me a breakdown? You would have that information, wouldn't you?

Ms Moy: Of the 138?

Senator BILYK: Yes, of what level of antisocial behaviour they exhibited, if they were pushing, if they were using expletives—

Ms Moy: I would have to take that on notice.

Senator BILYK: Thank you.

Mr Pezzullo: I think a push might be an assault. We will check the thresholds and come back to you.

Senator BILYK: Have there been any medical emergencies since last estimates? If so, what was the nature of these emergencies?

Mr Pezzullo: We might have to take that on notice. There would be folks who, regrettably, have had seizures or have collapsed.

Senator BILYK: I am happy for it to be taken on notice.

Mr Pezzullo: We might just take that on notice, rather than—

Senator BILYK: There is a new medical facility there, isn't there?

Mr Pezzullo: There is certainly an enhanced facility. I cannot remember whether it is brand-new or—

Senator BILYK: Sure. If you are taking that on notice, you might want to take on notice for me also—I presume you cannot answer it now—what has been the nature of injuries and illnesses treated in the facility since the last estimates.

Ms Briscoe: Regarding a piece of information I do have, for the period July to December, we had three individuals transferred via air ambulance, so you could consider that as a medical emergency.

Mr Pezzullo: Where to?

Ms Briscoe: From Manus to Australia.
Senator BILYK: Because I have been in and out of the room—apologies for that; that is the life of some of us—I want to ask a few questions about Nauru as well. Shall I ask the same people?

Mr Pezzullo: Yes.

Senator BILYK: How many asylum seekers are still in the RPC?

Mr Pezzullo: I think we gave some evidence earlier today, noting that the RPC is now an open centre. It provides support for persons who are no longer detainees. But I will just see if either Ms Briscoe or Ms Moy have the numbers.

Ms Briscoe: There are 357 transferees.

Mr Pezzullo: Who take advantage of the services?

Ms Briscoe: Yes, the open centre.

Senator BILYK: How many children are in that?

Ms Briscoe: That includes 56 children.

Senator BILYK: How many of those people found to be refugees are still living within the RPC?

Ms Briscoe: In addition to that 357—so they are not yet found to be refugees—there are 180 who have been found to be refugees still living in the RPC.

Senator BILYK: Is that by choice or because there is no housing available for them in the community?

Ms Briscoe: That is related to the availability of settlement accommodation, which has been coming on in batches since November and will continue to do so.

Senator BILYK: As in houses?

Ms Briscoe: Yes.

Senator BILYK: You will have to take this on notice, I am sure. Just tell us how many houses are ready and what the time frame is for the rest of them.

Ms Briscoe: There are 840 living in the community. That does not necessarily tell you the number of houses, because people would be living in family groups.

Senator BILYK: I am interested in how long it is going to take for the 180 who could be living out in housing to be able to get there.

Ms Briscoe: I do not have that off the top of my head. I will take that on notice.

Senator BILYK: I saw an officer jump up at the back, so I am not sure if he has something there.

Mr Wright: As part of the RPC 3 redevelopment, 120 beds came on line in November 2015 and a further 132 beds—

Senator BILYK: That is in the RPC, though?

Mr Wright: That is in the RPC, yes.

Senator BILYK: I am interested in the 180 people who could be out living in housing who are not. There is no housing available for them yet.

Mr Wright: The RPC has been repurposed to be permanent settlement accommodation.

Senator BILYK: Yes, I saw that. But are these 180 people going to get housing?

Ms Briscoe: It is hard walled accommodation that is being built in a section that was the RPC. I am not sure you would call it a house as we would describe a house, but it is hard walled modular accommodation, as some of the other settlement sites are.

Senator BILYK: Is it self-contained for families?

Ms Briscoe: Yes. Mr Wright can describe the facility.

Mr Wright: Yes. There are separate bedrooms. It has a kitchenette and a separate living room. So they have been set up as accommodation for families. Some may call it a house; others may call it an apartment, but it is hard walled, air-conditioned accommodation.

CHAIR: Infinitely better than they left, I would suggest, in most cases. Does anyone have any stats on that?

Mr Pezzullo: You can surmise that.

Senator BILYK: If there are more questions on that specific housing situation, I will put them on notice. Are you able to tell me in regard to Nauru how many asylum seekers have been transferred to Australia for medical assistance since the last estimates?
Mr Pezzullo: I am not sure that Ms Briscoe gave the evidence about since the last estimates. I think she has given the aggregate numbers who are here for medical support and, in the answer to Senator Hanson-Young, the numbers of those who have then been joined to the legal case. But I do not whether you have the flying total or the evolving total since October.

Senator BILYK: If you want to take it on notice, can you give me a breakdown of how many were children, how many of the medical transfers were for instances of self-harm—

Mr Pezzullo: Since the last estimates?

Senator BILYK: Yes—

Mr Pezzullo: Okay—thank you.

Senator BILYK: and how many of the medical transfers were for instances of alleged sexual assault?

Mr Pezzullo: We have taken the aggregate number on notice from Senator Hanson-Young. So what we will do is particularise it pre-estimates—I think 23 October, or whatever it was—and post.

Senator BILYK: Great—thank you.

Mr Pezzullo: That will then answer both questions.

Senator BILYK: Who makes the final decision in regard to transferring someone for medical treatment?

Mr Pezzullo: Just to summarise the evidence given by officers earlier this morning: it is a collective decision. It is based on clinical medical advice. Our service provider is IHMS. They provide an initial view. That is now discussed—since his appointment—with the chief medical officer, who supervises and superintends clinical governance. In the end, administrative decision makers have regard to those medical advices within Ms Briscoe's group, and they make the delegated decisions about returns.

Senator BILYK: How long would the average length of stay in Australia for medical treatment be? Do we know that?

Ms Briscoe: I do not have that.

Mr Pezzullo: Again, I think we have taken that on notice in the context of the aggregate number, how long they have been here and what their conditions are. It might be best to now add the average length of stay as a subelement of that question. I think that is the best way to handle that.

Senator BILYK: How much does it cost to transport detainees between Nauru and Australia for treatment?

Mr Pezzullo: They are transferees; they are no longer detainees. I might see if Ms Briscoe has some information.

Ms Briscoe: It will depend on the way in which they are transferred. I do not have the numbers for either, but there is air ambulance, if it is an emergency, or a regular charter. That charter could be being used for multiple purposes, so I do not have a figure for an individual.

Ms Briscoe: It will depend on the way in which they are transferred. I do not have the numbers for either, but there is air ambulance, if it is an emergency, or a regular charter. That charter could be being used for multiple purposes, so I do not have a figure for an individual.

Mr Pezzullo: We will look at that, as best we can, on notice, noting that the rate of returns is reducing because of the enhancement of the medical amenity on the island. That will be further improved when both stages of the current redevelopment project that was mentioned earlier today—and I apologise, Senator; I cannot recall whether you were in the room or not. That will significantly enhance the organic medical capacity on the island, so over time the rate of transfers to Australia will reduce even further.

Senator KIM CARR: That sounds too extraordinary to be true. How many of the senior executive officers now in the department are wearing uniforms in the department itself?

Mr Pezzullo: In the SES ranks?

Senator KIM CARR: Yes.

Mr Pezzullo: The rough split probably equates to the rough split of the workforce. The overall workforce is 14,000, of which the ABF we are building to—Commissioner, I think you said 6,000?

Mr Quaedvlieg: Just under.

Mr Pezzullo: I might see if my colleague the commissioner agrees with me. Would that represent the split then within the SES? Is that the rough ratio?

Mr Quaedvlieg: Roughly, yes. We could take the numbers, but it is less than half. That is in the Australian Border Force component.

Senator KIM CARR: That is right. So, in the senior executive service, how many wear uniform?
**Mr Quaedvlieg:** Less than half in the Border Force, which means that it is even less across the entire department, proportionally.

**Mr Pezzullo:** We will take that on notice. There are designated positions within our blended, integrated senior executive.

**Senator KIM CARR:** If I could just see on a chart how many wear uniforms.

**Mr Pezzullo:** They have titles because they are sworn officers, from the commissioner down, so they are easily identified. In fact, a number of them are sitting at the table, as you can see. It will not be that hard to count those.

**Senator KIM CARR:** Thank you.

**Mr Pezzullo:** It certainly is less than half, as the commissioner said.

**CHAIR:** Do we have any knowledge of the types of places of residence that these people have before they embark upon their journey to Australia? Is that the sort of intelligence that is collected?

**Mr Pezzullo:** I would not characterise it as intelligence that is collected. Certainly, when persons are interviewed as to their claims, it is inevitably the case that matters of their living circumstances arise. As to how we catalogue that and how we, if you like, aggregate that data, I might just see if colleagues at the table can assist or other colleagues can come forward. The short answer is: yes, we might well have an awareness of their living circumstances simply because we have to interview them about their previous lives. Are you asking about things like housing and access to—

**CHAIR:** I assume many of them would allege that they came from refugee camps somewhere in the Middle East.

**Mr Pezzullo:** Some do, and some say that they have been living in remote areas, seeking to avoid other ethnic groups. There are all different sorts of life stories that people bring to these circumstances. I do not hear the rush of thundering hooves behind me. What we will do is take on notice whether we aggregate the data that we pick up through those interviews, to see if we can answer your question. I think we would have a sense of people's prior living circumstances, yes. How we capture that data I do not know.

**CHAIR:** Along the lines that we were talking of earlier today, there are allegations of substandard accommodation at Manus and Nauru. It certainly may well be substandard by Australian standards, although fully air-conditioned separate bedrooms and bathrooms do not seem to me to be all that different to what the average Australian family would experience. I just worry about these allegations of inadequate accommodation on those places and compare it with where these people have come from. I would imagine that most of them would think the sort of accommodation that is described would be palaces compared to what they have come from, if they are from a refugee camp, as I am sure many of them would claim. Are you going to take that on notice?

**Mr Pezzullo:** Mr Williams appears to be volunteering, so we will ask Mr Williams to have a go.

**Mr Williams:** I am volunteering, but I am not going to be able to offer you too much comfort. I am almost positive that we do not capture that data in the sort of aggregated way that we could report on sensibly, but it is certainly true that we do ask people for a lot of information about their previous living circumstances in order to make an assessment about their visa eligibility. It ranges from the sorts of questions we have to ask in some detail for refugee applicants to sometimes very basic information for other sorts of visas.

**CHAIR:** Is it worth, on notice, asking you to give us a general commentary on that, or is that just too difficult?

**Mr Williams:** We will do our best, but it is not the sort of information that—it is usually held on case files as part of the kind of text material that is held or in the computer in that sense. So we will have a go, but I do not want to give you false hope.

**CHAIR:** Do not spend too much time on it. I understand that Mr Quaedvlieg indicated earlier to the committee that he would not be available after the dinner break, which the committee accepted. Thank you for advising us. But there will be other officers here should things come up that need your assistance. We will continue with outcome 1.

**Proceedings suspended from 18:33 to 19:38**

**CHAIR:** Welcome to Senator Scott Ryan, who has joined us. We are dealing with outcome 1 in the Department of Immigration and Border Protection.

**Ms Dacey:** For your information, chair, the secretary has just had to pop out for a short period, so I will be covering for him for that time—just so you know the arrangement.
CHAIR: You will do it very well, I am sure.
Ms Dacey: We shall see. Thank you.

CHAIR: You have just about carried it all today. I should say that when he is present—by way of light-hearted comment, I might say. Well done.
Ms Dacey: Thank you.
CHAIR: Mr Outram has taken over the Border Force as well.
Mr Outram: Indeed.

CHAIR: Senator Madigan.

Senator MADIGAN: There have been a number of inquiries into Australia's offshore processing arrangements in recent years. We know from various reports produced by these inquiries that asylum seekers detained on Nauru and Manus Island have been exposed to rape, sexual exploitation and violence, and have extremely high rates of mental illness often leading to self-harm and occasionally suicide. There have been a number of recommendations made, including by Senate select committee, as to how some of these problems could be alleviated, yet very little seems to have changed. May I ask whether the department has accepted any of the recommendations made by those examining the issue and, if so, what steps the department is taking to implement these recommendations.

Dr Charker: Thanks, Senator. I can certainly handle that on behalf of the department, and then I will defer to my colleague Deputy Commissioner Briscoe for additional commentary. Just by way of preface, I would like to emphasise that the department takes all recommendations and the outcome of review works very seriously. We have been putting in place a number of steps over recent times to try to address and offer better quality of standards in services that we offer on behalf of the department, both onshore and offshore. But I will refer to Deputy Commissioner Briscoe or Cheryl-anne Moy for some additional information going to the specifics of some of the reviews and the particular recommendations that you have raised.

Ms Moy: Just bear with me for one moment while I find the correct brief. As the deputy secretary, Dr Charker, mentioned, the government and the department take the recommendations very seriously. The recommendations from the Senate Nauru select committee inquiry came to the department. We have accepted those recommendations that we are able to undertake. So, where the department is able to influence and enact a recommendation that is accepted by the government, we are able to do that. There also has to be the understanding that the regional processing centre and the refugee settlement in Nauru are run by the government of Nauru. We cannot enforce upon the government of Nauru any activities that they either are unable to undertake or do not agree with. So it is a delicate balance to ensure that we work with the government of Nauru to provide the best possible service and welfare environment through our service providers to the government of Nauru, as requested, but there are also going to be some issues that the government of Nauru will be responsible for, if they agree to take them on, or that they may not agree with.

Senator MADIGAN: Are you able to give us any examples of anything the department has successfully been able to do to protect men, women and children from being exposed to an environment that is self-evidently causing them physical and psychological trauma?

Ms Moy: The work that is undertaken with the government of Nauru is in various quarters. There is work undertaken, through the joint advisory committee, on the safety and security of residents in Nauru, be they refugees or transferees. That work is undertaken with the joint advisory committee, which has a number of experts who provide advice to the governments of Australia and Nauru as to how to manage integrations in these particular circumstances—people who have had experience with this or with security matters before.

I mentioned earlier in the sittings today that there is a considerable network of cultural liaison officers who work in Nauru—both Nauruans and refugees—on the safety and security of people within the settlements and within the general community. There is also a considerable amount of work done by Connect Settlement Services, who are the providers that Australia provides to the government of Nauru to provide welfare services, accommodation services and education services and to engage with people to get children to school—those sorts of protective behaviours that encourage parents to be more protective of children, which therefore increases the safety and security around children. So there is a lot of work done in creating self-agency for people to be able to look after their families. The open centre arrangements that commenced in October 2015 have not only considerably contributed to that in terms of the free movement of people in Nauru but also—as the refugee accommodation comes online and more people are out in the community in refugee accommodation, living in settlements or in houses in Nauru—provided families with a lot more self-agency in how they go about living their lives. There are about 297 people from the refugee community in Nauru who are in gainful employment.
Some are running their own businesses. There has been quite an amount of work done to encourage people to live their lives in a safe and secure way that also ensures integration within the community.

**Senator MADIGAN:** The decision of the High Court last week has cleared the way for the government to return 267 asylum seekers to Nauru. There are a number of individuals within this group who are known to have been victims of rape and child abuse. These individuals and many others within this group are deeply traumatised, yet the government has given every indication it will nonetheless return them to the environment that caused their trauma. Has the department planned for the return of these individuals, and are there any plans to enhance the trauma counselling services available at the detention facility in anticipation of their arrival?

**Ms Moy:** Both the minister and the secretary, and others giving evidence today, have confirmed that when somebody is clinically assessed as fit to travel back to Nauru—to the regional processing country—the consideration around the transfer of that person will be both compassionate and related to their individual circumstances. There are a number of people in that cohort of people to be returned to Nauru once the M68 legalities are sorted who will possibly not return for a considerable period of time because of their current issues. Some people may be ready to go earlier and some will not be ready to go for six months or more. Some are currently receiving trauma and torture counselling if that is clinically indicated as required for them; that service is also available in Nauru. But the movement of people is not planned as such. At the moment there is no list of people I am arranging to tick off. It is a case of looking at them case by case and seeing whether or not they are clinically indicated as being able to return at this point.

**Ms Briscoe:** In relation to health, the secretary mentioned earlier that considerable enhancements have been made to facilities, equipment and staffing through the Republic of Nauru Hospital. Last week, commissioned with the government of Nauru, there were a range of new facilities in the order of $13 million worth of upgrades which include facilities for mental health. Also, after the Moss review, there were a range of recommendations implemented to enhance safety and security within the RPC, as well as the setting up of further mental health services in the RPC. As the population has changed and more people are in the community, we have enhanced the services at the Republic of Nauru Hospital. To give you an idea, there are 12 mental health workers within the RPC and another seven in the Republic of Nauru settlement clinic. So we have continued to enhance the mental health support for people in Nauru.

**Senator MADIGAN:** Given there are no longer boatloads of asylum seekers arriving on our shores—which the government frequently cites as evidence of the success of its policies—and given the growing body of evidence that detention has long-term implications for the mental health of men, women and children alike, is there any consideration within the department of moving away from the extremely harsh policy settings currently in place? In particular, is the department planning or actively contemplating the release of children from detention as recommended by the Australian Human Rights Commission?

**CHAIR:** Senator Madigan, it is up to you to ask whatever questions you like, of course, but all of these matters were canvassed at length earlier in the day.

**Senator MADIGAN:** Okay.

**CHAIR:** Whilst you will get answers now, a lot of the preamble and the basis on which you are asking your questions were negatived by officials during the day. By way of help, I suggest that you might like to have a look at the *Hansard* of the day's earlier evidence because a lot of the things you are putting were refuted at that time.

**Senator MADIGAN:** Thank you, Chair.

**CHAIR:** That is by way of help—but over to the officers for a repeat of the answers.

**Ms Moy:** The number of children in detention has reduced considerably. The minister has made public statements and also given us his views on how we can move children out of detention. We continue to work to assess a number of people who are in detention at the moment. You would understand that children are not in detention for any reason to do with themselves. The reason generally attaches to their parents and the reason they are in detention. We are working through that at the moment. I have staff who are working full time on how we can reduce the number of children in detention and move them into the community, generally into community detention. There will be a number of children with parents who have adverse security issues. We continue to work through those. As was said in earlier evidence, with some families where there is one parent with a number of children, we have suggested the children be moved from held detention into community detention, but that has in some cases been refused by the family. So even in attempting to move some children from detention, we do have some parental objection. We are working through the issues involved in moving children out of detention and we think the numbers will continue to decline rapidly.

[19:51]
CHAIR: We will move on from outcome 9 to outcome 2: 'support a prosperous and inclusive society and advance Australia's economic interests through effective management of visa and citizenship programs and provision of refugee and humanitarian assistance'.

Senator BILYK: I will start with citizenship. Are you able to tell me how many citizenship applications are currently on hand?

Ms Dacey: To 31 December last year, conferral applications were 92,857, descent applications were 10,494, evidence applications were 19,973, resumption applications were 125 and renunciation applications were 119.

Senator BILYK: Are you able to tell me how many of those applicants have successfully sat the citizenship test yet have not attended a ceremony and made the pledge of commitment?

Ms Dacey: I can give you the number of tests and the number of clients who have sat the test, but I am not sure I could link it up to the gap between those numbers and those attending ceremonies.

Mr Williams: We do have figures on the number of people who are currently waiting for a ceremony. That would give you a rough idea. The number of tests administered in the year to 31 December was 63,785. That represented 52,379 applicants, because some people sat the test a couple of times. And the number of people waiting to attend a ceremony—this is a snapshot; I do not quite have the date for it—is, as at the end of December 2015, I think 21,194.

Senator BILYK: Even though Australia Day was in January?

Mr Williams: That is right. So, I think these figures—and I will confirm this on notice—are probably from the end of December. There were some 16,000 new Australian citizenship conferrals on Australia Day and in ceremonies around—16,200 or so. A lot of those would have been—

Senator BILYK: That leaves a gap of about 5,000 that have passed the test—

Mr Williams: Yes, there is always a bit of a gap.

Senator BILYK: but not yet attended a ceremony or taken the pledge.

Mr Williams: That is right, but I will just confirm that. If I have that wrong we will let you know on notice.

Senator BILYK: Thanks. And while you are doing that, maybe you could tell me, for the same question, how many sat the test but had not yet attended a ceremony or made the pledge for 30 June 2013, for 30 June 2014 and for 30 June 2015?

Mr Williams: I can tell you how many people sat the test in the financial year 2012-13.

Senator BILYK: I really want to know how many sat the test but had not yet attended a ceremony or made the pledge, because they have been getting concerns to us that there is a delay in being able to take the pledge—which of course you have to do to become an Australian citizen.

Mr Williams: That is right. I do not have the number of people waiting for a ceremony on that date that you nominated. We have only a snapshot for that most recent date in time.

Senator BILYK: Okay, but if you could take that on notice—

Mr Williams: Will do—for the—


Mr Williams: For each of those years; righto.

Senator BILYK: And perhaps you could provide that information by country of birth.

Mr Williams: Will do.

Senator BILYK: What is the median amount of time after someone has successfully completed the citizen test to gain citizenship?

Ms Dacey: The average number of days from approval to acquiring is 119.

Senator BILYK: What is the amount of time for the 10 per cent of applications that are shortest and longest in terms of time between successfully sitting the test and attending a citizenship ceremony.

Ms Dacey: You want the outliers—is that right?

Senator BILYK: Yes.

Ms Dacey: We would have to take that on notice.

Senator BILYK: That is fine.
Ms Dacey: Can you tell me how many ministerial determinations have been made under section 26(3), which is:
If the person is required to make a pledge of commitment and has not done so, the Minister may determine, in writing, that the person cannot make the pledge until the end of a specified period if the Minister is satisfied …
Are you able to tell me that for each of the years 2013-14, 2014-15 and 2015-16?

Mr Williams: Yes, on notice.

Senator BILYK: And, once again, perhaps you could do that country of birth as well. Thank you. Would all the determinations being made be made for a period of 12 months if the minister determines—26(3)?

Mr Williams: I would have to check that. I do not know the answer to that.

Senator BILYK: Okay; take it on notice. Are you able to tell me about the process behind the minister making a determination?

Mr Williams: No. It is not something I have a great deal of depth of knowledge about. Again, I could take it on notice and provide you an explanation.

Senator BILYK: Thank you. So, you probably cannot tell me then how applicants are notified about the determination?

Mr Williams: No, only on notice.

Senator BILYK: Once again, when you are taking this on notice—and I presume all the questions about determination are going to be taken on notice—can you let me know whether they have to acknowledge the determination, what factors are used in the determination and whether character and identity is included, and whether these factors have been assessed already for visa grants?

Mr Williams: Will do.

Senator BILYK: Has any recent national security legislation impacted on the process of issuing determinations?

Mr Williams: No. No national security legislation has impacted on that aspect.

Senator BILYK: There has been no change there at all?

Mr Williams: Not to that aspect, no.

Senator BILYK: That is all on citizenship from me.

CHAIR: I have a question on citizenship, but I will be very brief. Are the rules for New Zealanders applying to become Australian citizens different than for anyone else?

Mr Williams: No, they are not. New Zealanders do, though, need to acquire permanent residence before they are eligible for citizenship. So, a New Zealander who is in Australia on the usual status—New Zealanders carry the 444 visa that the Secretary mentioned earlier in the day—does not have permanent residence for the purposes of acquiring citizenship.

CHAIR: Just remind me what the 444 visa is.

Mr Williams: It is the visa that allows New Zealand nationals to come and go without restriction as to time or working conditions and things. People do not know they have one, but they do when they come in and out of Australia from New Zealand.

CHAIR: So, it happens automatically—

Mr Williams: It happens automatically.

CHAIR: and without the knowledge, very often, of—and the same applies in reverse, to Australians going to New Zealand?

Mr Williams: I think the situation is probably somewhat different. They probably treat Australians in a different manner. But I am not an expert on New Zealand's arrangements.

CHAIR: So, to become a permanent resident—

Mr Williams: A New Zealand citizen, just like any other foreign national, applies for one of the migration categories that are in the migration program—a skilled visa or a partner visa or something of that nature. And then once they have qualified in terms of the time they have spent as a permanent resident on that kind of visa, just like anybody else who has migrated to Australia, they have four years to wait until they are able to apply citizenship. They can then do it at that point.

CHAIR: So, you get your permanent residence visa, and then you wait four years and apply for citizenship.
Mr Williams: That is right.

CHAIR: And that is the same with every other person wanting—

Mr Williams: For every other foreign national on a visa, yes.

CHAIR: So, unskilled New Zealanders in Australia who do not have an Australian partner would find it difficult?

Mr Williams: Yes, probably on the face of it they may not qualify for a permanent resident visa or a migration visa unless they have skills or a particular family connection with an Australian. The vast majority of New Zealanders never acquire Australian citizenship, but they are able to travel to Australia without restriction and they are able to work in Australia—provided that they are of good character.

Senator BILYK: Just to clarify: there is no time limit on how long you can stay with the 444?

Mr Williams: That is right. There is no time limit.

Senator BILYK: So, as long as you are lawful—

Mr Pezzullo: New Zealand is the only country that falls into that category.

Senator BILYK: But as long as you are lawful you could be here for 60 years or 70 years or something.

Mr Pezzullo: Quite a long time, yes.

Senator BILYK: If you chose.

CHAIR: And you do not have to go back to New Zealand to apply for a permanent residency?

Mr Pezzullo: No.

Mr Williams: It might depend on the visa category.

CHAIR: So, apart from getting the vote, what advantage is there to New Zealanders to (a) applying for permanent residency and (b) becoming Australian citizens?

Mr Williams: Well, there is a range of rights and obligations associated with citizenship, beyond voting—the right to carry an Australian passport, and obligations around participating in Australia in a lawful manner and according to Australian values. Citizenship carries a lot of extra weight beyond the right to vote.

Mr Pezzullo: There are also restrictions on benefits, aren't there?

Mr Williams: There are some restrictions on things like benefits available through the social services net in Australia.

CHAIR: Can you say in a blanket way that New Zealand residents who are noncitizens are not entitled to any Australian benefits or tax concessions—

Mr Pezzullo: No, they get a range of benefits, but they are not as generous as what a citizen would get. There are some restrictions in terms of access. We are not experts in this, because this is not our portfolio, but I know that there are restrictions in access to certain entitlements that an Australian citizen has that a New Zealand citizen who is here for even quite a prolonged period of time, under a triple-four visa, as we call it, would be not able to access.

CHAIR: And the written test that they would have to do, as anyone else—

Mr Pezzullo: It is the same test.

CHAIR: Would I be right in assuming that an English-speaking, educated resident from across the ditch would probably find it easier than most to—I mean, that is a generalisation.

Mr Pezzullo: They certainly should be well versed in both the language and any issues around civics, because we of course have very similar parliamentary systems. But I might defer to Mr Williams and Ms Dacey otherwise.

Mr Williams: The pass rate for the test is around 97 per cent for all applicants from all countries. So, yes: a normally educated, articulate person should be able to pass the test. And if there are difficulties there is some assistance that people are eligible for, to help them.

CHAIR: And they would easily answer the question on who did the underarm bowling!

Mr Williams: I am sure they would, although it is not in the test!

Senator BILYK: While we are on visas, I might just move onto visas, if we still have the right people at the table. With regard to 457 visas, what is the current average time taken to process a 457?
Mr Pezzullo: I might defer to Mr Williams, but I might also seek assistance from Mr Wilden, if he is still in the building. Mr Wilden owns the policy and the regulation side, and processing time I think falls to Mr Williams's group.

Ms Dacey: Senators, I have just had a look, and I do not have any stats on processing times for you. I will keep looking to make sure it is not hiding somewhere else, if you want to continue with your questioning.

Senator BILYK: Okay, and perhaps you could take on notice the average in 2014-15, 2013-14, 2012-13 and 2011-12. I am sure you do not have that with you, so if you could take it on notice it would be appreciated. Now, it was reported on 28 January that the then employment minister, Eric Abetz, signed a letter supporting a party donor's application for a 457 visa for a family friend, despite that friend being involved in an immigration scam in the past. The question is, was Sam McGuid given special treatment after donating $44,650 to the Liberal Party?

Mr Pezzullo: I can answer as a general matter that no-one is given special treatment for anything, irrespective of how much they donate money to political parties. I will give you that as a general answer. In terms of the specifics, I am aware of the media report that the senator refers to. I am not prepared to canvass in any detail, just from a privacy point of view, the visa application itself, unless colleagues at the table have material that has been otherwise stated publicly or used in proceedings. But in terms of Senator Abetz's support for this gentleman, I really have no comment, other than to say that a donation to a political party would have no bearing at all. I in fact, I would be surprised if we even knew about any such donation, and it certainly would not contaminate our decision making whatsoever.

Senator BILYK: What about the fact that they have been involved in an immigration scam in the past?

Mr Williams: On the criteria for the visa, while support from third parties is useful, it is not determinative of the outcome. So, it would have been taken into account but probably would not have had a particular impact or bearing on the assessment. The main thing to focus on is whether the person is at the right skill level and has the right qualifications for the job, and that is what was focused on in this case.

Senator BILYK: What if they are of good character?

Mr Williams: The character provision is quite a technical provision that goes to whether or not they have associations with criminal groups or have a criminal record. That would only come into play if that was the case.

Senator BILYK: So, being involved in an immigration scam—

Mr Williams: Also, if there is evidence of fraud then there is a general power to refuse an application on the basis that some of the material provided in that application was fraudulent. So, that power does exist and is exercised for this visa category.

Senator BILYK: I might have some more questions to put on notice with regard to that or Senator Carr might too. While we are on 457s et cetera, I am told the department wrote to the law firm Maurice Blackburn and to the Shop, Distributive and Allied Employees' Union on December 2015 about persons on student visas who have been underpaid by employers, including 7-Eleven and Australia Post contractors. I understand the letter says the department:

… will not cancel visas for breach of work conditions where:

- the Panel advises the Department that they have determined the worker has a claim for underpayment and has cooperated with their investigations;
- there is no other basis for visa cancellation;
- and the visa holder provides a commitment to comply with visa conditions in the future.

Are you able to confirm that you have indeed written to Maurice Blackburn and the union in these terms?

Mr Pezzullo: I will ask Mr Williams to respond. At our last meeting in October, the substantive deputy secretary, Mr Manthorpe, outlined the likely position that we were going to take. We were obviously in discussions with both the company and the review panel that has been put in place, chaired by Professor Fels, who is looking at, on behalf of the company, the detail of these underpayments and related matters. The correspondence that you have described sounds quite accurate and certainly relates to a follow-up by Mr Manthorpe on the position he articulated last October. I might ask Mr Williams to answer.
Mr Williams: I might have some further material in another folder. Again, that does sound broadly accurate. We have written to stakeholders involved with that case in order to confirm that where visa holders come forward and have information material to the inquiry they would not jeopardise their visa status in order to be able to facilitate cooperation.

Senator BILYK: Can you confirm then that international students who come forward, as you said, with these complaints will not be deported for breaching their visa conditions?

Mr Williams: We can, provided they are cooperating with the inquiry and they have made suitable arrangements for their further stay in Australia. There have been about 12 cases, I understand, where we have facilitated such a further stay.

Senator BILYK: You pre-empted my next question. I was going to say how many students have come forward?

Mr Williams: There are 12.

Senator BILYK: You think about 12?

Mr Williams: That is right. There needs to be good faith on all sides, and we have agreed that we will take that approach.

Senator BILYK: So none of them have been deported?

Mr Williams: No.

Senator BILYK: In the letter that I mentioned the panel—what panel is that? Do you want me to read it again?

Mr Pezzullo: Yes, please.

Senator BILYK: The department: will not cancel visas for breach of work conditions where: the Panel advises the Department that they have determined the worker has a claim for underpayment and has cooperated with their investigations

Would that be Mr Fels's panel?

Mr Williams: Can I confirm on notice if I get it wrong? I do believe that is the panel chaired by Dr Fels.

Mr Pezzullo: We can improve on that. Ms Dunn is at the table and she can answer directly.

Ms Dunn: That is the staff-claims panel headed up by Allan Fels, which we would refer to as the 7-Eleven panel. The advice was provided to Maurice Blackburn on 11 December 2015.

Senator BILYK: Was that also provided to the Shop, Distributive and Allied Employees' Union on that date? Are you able to confirm?

Ms Dunn: Yes, it was.

Senator BILYK: On 11 December 2015?

Ms Dunn: That is right.

Senator BILYK: That is all I have with regard to 7-Eleven. I might jump to the Auditor-General report if I can.

Mr Pezzullo: Sorry, which one?

Senator BILYK: Managing compliance with visa conditions.

Mr Pezzullo: That is a combination of departmental officers and ABF officers.

Senator BILYK: I note that the Auditor-General found that while the department had a good idea of how many people overstayed their visas it did not have comprehensive information about the extent of visa holders' non-compliance with visa conditions. Can you explain how the Auditor-General reached this conclusion?

Mr Pezzullo: I think Deputy Commissioner Outram and the chief operating officer can probably speak to what the Auditor-General found in his report. Perhaps Mr Allen?

Mr Allen: Would you mind repeating the question for me, please?

Senator BILYK: Sure. I note the Auditor-General found that while the department had a good idea of how many people overstayed their visas—they had a good idea about how many—they did not have comprehensive information about the extent of visa-holders' noncompliance with visa conditions. So are you able to explain to me how the Auditor-General reached this conclusion?
Mr Allen: I can only answer by saying that obviously they had a look at the evidence that they collected through the course of the audit and came to that conclusion. I am afraid I cannot describe the mindset of the audit team which would have led them to that conclusion.

Dr Charker: I can possibly provide a little more information on the methodology of the process.

Senator BILYK: Thank you.

Dr Charker: The ANAO undertook quite extensive reviews of our existing policies and procedures. They also undertook visits to various departmental state offices and provided us with their preliminary copy of their audit report, which is standard practice. Obviously the department then had an opportunity to provide comment to their recommendations in that report. In that sense it was a standard audit procedure combined, essentially, with some work reviewing existing protocols and documents and also talking with relevant staff and personnel who clearly have knowledge of the particular issues that they were looking to investigate in this particular audit.

Senator BILYK: Has the department got plans or a strategy to address the fact that although you have a good idea how many people overstayed their visa you do not have that comprehensive information?

Mr Pezzullo: I might take that question initially on behalf of both myself and the commissioner. It is one of the critical planks in our reform program. It was one of the critical drivers behind the government's intention—indeed, stated objective—to bring more rigour, more enforcement capability and higher professional standards to the enforcement side of what had been traditionally a public service department. Your colleague Senator Carr is not here. I would really appreciate the opportunity to give this answer in his presence, but you might pass on my regards to him. One of the reasons we have introduced a uniformed element to ensure visa compliance is, effectively, for this reason. The audit report points to the problem. We have—and I will talk in terms of current volume—at any one time approximately two million people in Australia who are non-citizens with lawful permission. They might be here for a week for a conference. They might be here, as those New Zealanders that we talked about earlier, with rights to come and go. Within that group—that stock, if I can use that term—of two million people, we well know, because of our border entry and exit data, that there are approximately 60,000 people. So it is a relatively small fraction of two million, but in absolute terms it is a number that the government is determined to get down. We have about 60,000 people who have some degree of unlawful status. This number has been growing steadily over many years, over many terms of parliament and across governments of both political persuasions.

To ask an administrative department without law enforcement powers, without all of the enforcement capabilities that a police mentality and approach brings to the role of securing our borders, was, frankly, a stretch too far for the former department. One of the benefits that we get from bringing immigration and customs together is that you have a department that excels in the sort of work that Mr Williams and others spoke about earlier—administrative decision-making and technical competence in relation to the application of laws in, if I can say it in these terms, an administrative setting. Then you have colleagues who are uniformed, represented this evening by the Deputy Commissioner for Operations, Michael Outram, who is a former serving police officer, who then bring a different approach—you asked about our future strategy—that says, 'Okay, in terms of an enforcement strategy, what are we going to do to tackle serious noncompliance?'

Sixty thousand, which is the group at any one time—some people regularise, so they come in and say: 'Look, I've overstayed my visa. I'm sorry. Either extend it or send me home'. With other people, the clock ticks over; they go into unlawful status. That stock is roughly around 60,000, but regrettably growing just with population volume.

We are determined, the commissioner and I, under the direction of the minister, to get that number down. Our strategies are several-fold, and I will ask the deputy commissioner to speak in more detail. At the higher end of risk—that is to say, persons who have overstayed; they have essentially gone to ground, as it were—are potentially dangerous, violent criminals who are, for instance, associating with gangs. We know they have come because they have had a border entry, and we also know they have not left. The highest priority that the deputy commissioner will no doubt speak to is forming, for want of a better phrase, 'marshal teams' to work with federal, state and territory law enforcement to ascertain their whereabouts and particularly, if they are rolling with the most violent and dangerous gangs in our country, to use the full suite of law enforcement powers that we have to detect, to isolate and to deal with those people by application of the Migration Act. Essentially: 'You're unlawful; we can deport you. Off you go.'

Senator BILYK: How many people do you think are involved in that?

Mr Pezzullo: The risk work that the ANAO referred to in its report that you have quoted this evening goes to that issue. I do not know if the deputy commissioner has a definitive view of the numbers. There would be a small
but, to us, unacceptable number of people in that category—and some of them have been here for years. So in terms of historical comparisons across parliaments and across governments of all persuasions—

Senator BILYK: Are we talking in the thousands or are we talking in the hundreds?

Mr Pezzullo: I will ask the deputy commissioner to speak to that point.

Mr Outram: It is hard to put a definitive number on it. One of the reasons we are establishing an intelligence capability within the department is so that we can address those sorts of questions. Just to follow on from the secretary's points, we are talking about a continuum here. We have field compliance teams. Their focus is on achieving compliance, so they are still dealing with employers, labour hire intermediaries and migration agents to make sure we get good compliance outcomes.

If you look at the visa entitlement verification online system, for example, this is so that employers can check the status of their employees' visas, as can visa holders check their visas, to ensure they are compliant. For example, the number of registrations on VEVO as of 30 June last year was 78,000, compared with 72,000 the year before. That indicates that the level of compliance through that online system is improving; therefore, what we have to do is focus our very finite field compliance teams in the areas where they are going to achieve the best effect with their enforcement effort.

You may well have heard of Task Force Cadena. We established Task Force Cadena in June 2015—

Senator BILYK: Yes, I will come to Cadena a bit later.

Mr Outram: as a whole-of-government effort to deal with the organised and orchestrated migration fraud, exploitation of workers through the visa program et cetera through enforcement effort linking in with our key partners. Then, moving up the continuum even further, we are finding evidence of organised crime involvement in exploitation of the visa system. In that space we are working with the AFP, the Australian Crime Commission and others on more high-end investigative action. So there is a continuum, moving all the way from encouraging voluntary compliance right through to high-end enforcement action.

Mr Pezzullo: And if I can stress—I am sorry, Senator.

Senator BILYK: Sorry, I just need to clarify something, Mr Pezzullo, if I can. You have the field compliance teams. What was the next step?

Mr Outram: We have field compliance teams, and then we have what we call immigration and Customs enforcement teams—that is the next up—and then we have our serious and organised crime branch, and that really covers the continuum. All of those teams work closely with each other—they are supported by our intelligence division within the department—and they all work very closely with partners across not just the law enforcement spectrum in Australia and overseas, but also with a whole range of other government partners like ASIC, ATO and others.

Senator BILYK: I understood from the Auditor-General's report that it appears there has not been an effective risk and intelligence function since 2014, since the department's risk, fraud and integrity division was dissolved.

Mr Pezzullo: No, that is a reading that some people have put on that particular passage. As a matter of fact, there was a small division that did not particularly have what I would describe as an enterprise reach across all of the functions of the department that happened to have that title. It was not connected to high-end law enforcement and classified systems in the way that we would say we are moving to. It did not have the powers, for one thing. For instance, the consolidation of Customs and migration enforcement powers under the auspice of the Australian Border Force you see represented here did not exist at the time. The intelligence function was not at a divisional level. We have created a whole intelligence division, headed up by professional intelligence officers.

Contrary to Senator Carr's earlier point that I vehemently disagreed with and which I do whenever he raises it of allegedly having purged officers from the organisation, the very opposite has occurred. We have said that the future involves specialisation. To go to the point about intelligence, which was a small boutique function in that division that you have just named, if you are from an intelligence background and you can demonstrate credentials in the field of intelligence rather than being an immigration generalist you could head up a division, not a sub-branch. If you are an officer who has had a long and distinguished career in immigration without any intelligent specialisation, it will be very hard for you to compete with an intelligent specialist who will come in and build an intelligence system that I would recognise having come from the Department of Defence as what an intelligence system should look like.

We established a division in 2014 that purported to engage in the work of risk, fraud and integrity. It did quite well with limited resources and a limited mandate. Are we now generalising all those functions in the whole enterprise, creating whole divisions around border management investigations—the division that the deputy
commissioner just referred to—intelligence, analytics and biometrics? Yes. We have changed quite considerably and, yes, that division was abolished. It has been replaced by something far more significant and far more capable. God bless the workers there. Most of them have stayed on in the new structure. They have much better tools. The workers who performed that function previously are now appreciating the additional support, including financial and other technical support, that they now have.

Senator BILYK: So that division was abolished in 2014.

Mr Pezzullo: It systems were broken out into what I would consider to be proper international best practice.

Senator BILYK: When did the new entity get up and running?

Mr Pezzullo: Intelligence was one of the ones we started on early because it is such a critical function. The whole department merged with Customs on 1 July 2015. These blended are division started to emerge from 1 July 2015. However, we started the reform journey in the area of intelligence up to a year prior to that, anticipating the merger that was known to be coming on 1 July 2015.

I should add that the individual workers are first-rate. The people who worked in that division, from the divisional chief down, were first-rate. Were they supported by high-end intelligent systems, high levels of security clearance and connections to the sort of datasets that they required to do their jobs? At the time, no. So the Auditor-General was correct in that regard. Are they now so supported? Yes. Are the staff who have transitioned into those new roles relishing the additional firepower and capability that they have to assist the ABF with their task? Absolutely, you betcha.

Senator BILYK: Perhaps that is a place where you could have allocated some of the rebranding money.

Mr Pezzullo: Let me talk about the resources that have gone into reform, both under Mr Morrison’s leadership when he was the minister and under Mr Dutton since he took over. The reform program that we have is a multi-year reform program that will see a reinvestment and an investment of up to $700 million to re-engineer all of our capabilities. Did it cost us $6 million to rebrand uniforms to give the ABF the esprit de corps and identity that it now has? Yes. Will that result in improved performance in border protection outcomes? Yes. Will the savings to government far outweigh that investment in uniforms and new branding? Yes. Perhaps you were not here for my opening statement this morning.

Senator BILYK: No, I was. I definitely was.

Mr Pezzullo: For my opening statement, as you would well know then, the government gets a return from the efficiencies created by consolidation to the tune of $200 million, and the efficiencies in total amount to some $270 million. When you go through a merger, you have to make decisions about dress, appearance, uniform, insignia—yes. On the surface, it looks like a lot of money, but the consolidated budget is also $1.5 billion.

Mr Outram: The other thing that I might just add, if I could—

Senator BILYK: Yes, please.

Mr Outram: is that for the model itself, apart from the intelligence, previously the field compliance teams moved across to the Australian Border Force on 1 July, as the secretary has said. Before that, it was very much a regional tasking and regional-focused first teams. So we sort of followed the harvest trail, and those sorts of things. What we are now doing—and people sort of shy away from the ‘command and control’ words, but all they simply mean is that the tasking and the coordination is now centralised on a national level so that we can actually start to point our resources at the issues and the threats that we, nationally, think are causing the most harm or represent the biggest danger for us. So it is not just the intelligence branch level; it is also the whole command and control model that is shifting.

Senator BILYK: Just going back to the 60,000 unlawful visa overstayers, did I get a number on how many people might be involved in serious crimes?

Mr Outram: No. It is very difficult to say how many might be involved in serious crime.

Senator BILYK: Hundreds? Thousands? I cannot go any higher than thousands.

Mr Outram: I would be hesitant to put a number on it, but we would be talking a fairly large number. What we have done—

Senator BILYK: Sixty thousand is a large number. But are we talking 5,000 or—you must have some idea.

Mr Outram: Without having a metric to put in, what I would say is that we do frequently find people who are here on visas involved in criminal activity. Some of that criminal activity is serious and organised criminal activity. We have done a lot of work with the Australian Crime Commission. Of course they preside over the bulk of the nation’s criminal intelligence in relation to serious and organised crime. We do a lot of work with the
Mr Pezzullo: Lest there be any mistaken impression left, in our experience the vast majority of people who have overstayed have overstayed for what you might describe as incidental reasons—that is to say they are enjoying their backpacking, they are enjoying being here—

Senator BILYK: Some must be doing a lot of backpacking, because there were 15,550 people who overstayed their visas between five and 15 years.

Mr Pezzullo: Well, I was going to go on before you made that point. Some people fall in love, some people get different sorts of jobs that were different from the ones that they were authorised to get—there are all sorts of reasons why people overstay. I would not want you to have the impression that there are 60,000 violent criminals running around. In fact that—

Senator BILYK: That is what I was trying to find out.

Mr Pezzullo: No. Indeed.

Senator BILYK: I did not presume there were 60,000 violent criminals, but I thought I might be able to get a ballpark figure.

Mr Pezzullo: The vast majority of overstayers, as the deputy commissioner said, and as his other colleagues, such as Mr Williams, would attest to, we try to manage as do, say, our colleagues in tax—which is to come in voluntarily, to regularise your status. There is always a degree of discretion and compassion available in hard-luck stories or where, perhaps, love is involved, and all the rest of it. Generally speaking, you have to leave. But if we have to bridge you to allow you to regularise your affairs, we will. The sort of hardened element that is being mentioned—which of concern because it is mentioned in the Auditor-General’s report, as I recall it—is the element that will be targeted through these higher end intelligence-led operations that have more the character of, for want of a better phrase, policing. That is what the ABF is now doing. The Auditor-General himself recognises in his report that the significant changes brought about by the government’s decision to merge Immigration and Customs mean that, over time, this matter will have to be looked at again because it is going to be a completely different approach with new tools and new capabilities that will be employed in this area.

Senator BILYK: With the 15,550 I mentioned that have stayed between five and 15 years, are we actually cracking down on them? Are the uniforms doing anything about them?

Mr Pezzullo: Yes. I mentioned earlier in my answer that we are going to focus on those who also show up in serious and organised crime indices. The focus there is on risk. If you are an overstayer, yes, we want to regularise you, but, if you are involved in crime, and particularly violent crime, we want to deal with you, take you out and deport you. Whether you have overstayed by five years, 10 years or one day, if you fit that risk category, these guys will be coming after you. If, however, you have been here and you have overstayed five or 10 years but you are, shall we say, living quietly in the community—you might even be embarrassed by the fact that you broke contact with Immigration, as it then was, 10 or 15 years ago—we certainly would welcome an opportunity to have a discussion with you, and it would be a different sort of discussion from the discussion that violent criminals would have with us.

Senator BILYK: According to my notes, 17,370 cases were reported to have stayed 15 years or more. If I understand you correctly, unless they are a risk, they are not a priority to be sorted out.

Mr Pezzullo: You have got to prioritise your efforts in life. We will always prioritise, with finite investigative—

Senator BILYK: The department is going to be overwhelmed, isn’t it, if it has all these people contacting it?

Mr Pezzullo: You would be surprised—and this comes up in the people-smuggling space. When there is a different aura, when there is a different tone, when there is a different approach to how you are going about business, you would be surprised how you can modify people’s behaviours in different sorts of ways just by your standing. We are finding that people will want to engage with us in a manner where they clearly recognise that the people that they are dealing with are law enforcement officers and they are respectful of that, and that is a good thing—we always encourage respectful engagement with law enforcement. The gang members take a different attitude, so they are dealt with differently. But if a person has been here for over 15 years—and the Auditor-
General's data on that, I think, is pretty clear; I think you just put some of those figures down before the committee yourself—then this problem goes back to the approaches taken over many years. If they have not been regularised before now, it is not the creation of the Border Force or the disestablishment of a risk division that created that state of affairs, by logic. There has been an attitude which previous governments of both persuasions have taken, that the department was essentially an administrative beast. That approach was changed under this government, to this effect: the department will be both administrative in character and law enforcement in character. Hence you see the blended leadership sitting at the table.

Senator BILYK: I understand that. It is just amazing that there are 60,000 or 62,000 people who have overstayed their visas.

Mr Pezzullo: That number has been plateaued for quite some years.

Senator BILYK: What is happening?

Mr Pezzullo: That number has been plateaued for a long, long time. As I said, if we go after the dangerous, violent criminals, you might not see a big drop in the numbers, but, equally, if you work from the bottom, with those who are not violent—they are compliant; they want to comply—then you also might see a reduction in those numbers, through more voluntary nudges and approaches that you might take which are more in the nature of nudging people into voluntary compliance. Our preference is to deal with people quietly in a positive, collaborative fashion, but we also recognise that there are some people who are going to try to avoid our scrutiny, and we will go after them. We will go after them in the way that law enforcement goes after violent criminals.

Senator BILYK: I think we are sort of going round in circles a bit. I am a bit concerned that, if everyone thinks you are going to be nice, you have got the potential of about 32,000 people coming knocking on your door as overstayers. I am not sure how the department might handle that.

Mr Pezzullo: Given the reputation and the discussion around the Border Force that has already emerged, I think there is little doubt that serious criminals will think that they are going to be nice.

Senator BILYK: I am not talking about the serious criminals. I am talking about the 'lawful unlawful' overstayers—those that are behaving themselves but are still there.

Mr Pezzullo: They can come and talk to one of our friendly departmental or ABF officers, and we will sort out their affairs.

Senator BILYK: Mr Allen, I think it was, mentioned Taskforce Cadena. In the past three months this task force has undertaken five compliance operations, detaining 60 unlawful noncitizens and arresting three persons for breach of the Migration Act. This is what was said by the department at the last estimates. The task force is currently assessing 31 allegations of organised labour exploitation and has developed a target list of 65 entities, a priority cohort of which are 13 labour-hire companies. Are you able to give us an update on the action arising from those investigations since last estimates?

Mr Allen: I can give you an update to the figures provided at the previous estimates. Taskforce Cadena is a continuing activity and it is producing some strong results for the government. To date, there have been 10 section 251 warrants, which are the power of entry and search under the Migration Act, executed by the ABF and also 11 section 3E warrants, which are search warrants under the Crimes Act, executed by the Australian Federal Police with ABF involvement in the operation. To date, the activity has resulted in a total of 61 unlawful noncitizens being detained. The Fair Work Ombudsman has also been involved in all joint operations since the establishment of the task force in July 2015. The FWO provide fair work inspectors to the task force's operational activities. They help to identify and action any potential contraventions of the Fair Work Act.

The task force related operations have been undertaken across multiple jurisdictions, including Queensland, Victoria, New South Wales and Western Australia. The task force targets industries, including hospitality, education, agriculture, poultry and beauty services. Targeting for Cadena is not, however, limited by industry or immigration status.

There are a range of particular operations which has been undertaken which have achieved these results. The activity is ongoing. Part of the operations of the task force is to collate intelligence about these activities. To date, the task force has received around 124 allegations for assessment. From those allegations, 61 have been deemed to meet the task force thresholds of organised and significant illegal work, visa fraud and exploitation of foreign workers. The task force has referred a number of these allegations to other business areas within the portfolio or to the Fair Work Ombudsman for action.

Of the 61 allegations which have been assessed as meeting the thresholds, 18 have been referred to the Fair Work Ombudsman. As of 15 January 2016, the task force has developed 22 intelligence products for
dissemination to the Fair Work Ombudsman for endorsement or to our regional commands for operational planning. That is to our regional commands within the ABF strategic border command for further activity by our field compliance teams.

Mr Outram: I will add to that the task force continues to collaborate with a whole range of other agencies, including the Australian Federal Police, the Australian Crime Commission, the Australian Securities and Investments Commission, the Australian Transaction Reports and Analysis Centre, the Australian Taxation Office and local law enforcement agencies. We are currently working with the ATO, for example, to progress prescribing the task force within the Taxation Administration Act as a prescribed task force to facilitate the sharing of information between our two agencies. Cadena is already starting to get some rubber on the road. Prosecutions will take time, of course, as the assistant commissioner said. There have been a number of activities, warrants and other things, and there is a lot of intelligence being collected with a particular focus on entities like rogue labour-hire intermediaries and migration agents. Building that national picture, informing the targeting effort, pulling a whole range of agencies together from those compliance activities that the FWO routinely undertake all the way through to AFP investigations and warrants—task force Cadena is actually making a big difference.

Senator BILYK: Thank you. Mr Allen, if I heard you correctly, you said there had been 61 people detained. Is that correct?

Mr Allen: That is correct.

Senator BILYK: At the last estimates there had been 60 detained. Is that an extra 61 or an extra one since the last estimates?

Mr Allen: I am going to have to take that on notice and check to make sure that I am giving you the correct update number since the last estimates.

Senator BILYK: Okay, thanks. Has the task force undertaken any further compliance operations since the previous estimates?

Mr Allen: In terms of the dates of activity, the last estimates were in November?

Senator BILYK: October.

Mr Allen: Since then, there have been a number of additional activities which I understand are ongoing in terms of activities, including field compliance visits, joint activities with the Fair Work Ombudsman and that sort of activity.

Senator BILYK: Are you able to give us any update on those?

Mr Outram: I can say there have been operations in relation to karaoke bars and nail salons, for example, since that time. The task force continues to undertake operations in the field. We will identify for you how many operations have been undertaken since the last estimates, but certainly they were since the last estimates.

Senator BILYK: Thanks. That is probably all on Cadena.

I go to the temporary skilled migration income threshold. Are you able to tell me what proportion of all 457 nominations had a base salary of $53,900— you would probably have to take this on notice—in 2013-14, 2014-15 and 2015-16?

Mr Wilden: On notice.

Senator BILYK: What proportion of all 457 nominations had a base salary of $49,330 in 2011-12? In announcing the review of the temporary skilled migration income threshold on 23 December 2015, the minister's media release stated:
The TSMIT defines the salary threshold for jobs that can be filled by a 457 visa holder and is designed to protect Australian workers and ensure that visa holders are undertaking skilled employment.

How many Australian workers are being protected if the TSMIT has been on hold for over two years?

Mr Wilden: The TSMIT itself, set as it is at $53,900 for the last two years, is up towards the median wage, so it is well above minimum wage across just about every industry. That in itself is one of the protections for Australian jobs; the 457 salary element cannot be used to undercut Australian wages.

Senator BILYK: Unless you work at 7-Eleven, Pizza Hut, Myer—any of those.

Mr Wilden: To go to the earlier statements: they are not 457 workers.

Senator BILYK: What about working holiday-makers and the impact of backpacker tax? Is that your area too?

Mr Wilden: Yes.

Senator BILYK: Great. There were some questions that related to that published on 30 June 2015. How many working holiday visa applications were lodged in the 2015 calendar year?

Mr Williams: My program management friends may be able to help with the lodgement numbers.

Mr Williams: Lodged in the 2015-16 calendar years?

Senator BILYK: The 2015 calendar year.

Mr Williams: I do not have it by calendar years. I have 2014-15, which is the last full year.

Senator BILYK: Okay.

Mr Williams: There were 122,410 applications lodged across the two categories that make up—

Senator BILYK: 122,410. Would you have the 2013-14 year?

Mr Williams: I do not have those with me, no.

Senator BILYK: Perhaps you could take that on notice. Is that the last update that you gave me—2014-15?

Mr Williams: I am looking at the figures again. I notice that there are too many to show a comparison between the two halves of the year. That is only half of the year's numbers. I will need to take that on notice unless I can find them in another table. The figures I gave you were for the half-year from 1 July to 31 December 2014. The table I have was showing a comparison—

Senator BILYK: Sorry, July to December?

Mr Williams: That is right. That would be only half of the potential grants for that year.

Senator BILYK: In 2014?

Mr Williams: That is right.

Senator BILYK: You can take it on notice. Perhaps we could get it for the calendar years of 2015, 2014 and 2013, if you are going to take it on notice. Are you able to tell me: has the rate of application changed since 12 May 2015 until now, compared to the same period in the prior year?

Ms Dacey: Since 12 May specifically?

Mr Williams: For 12 May 2015—I cannot. I would need to take that on notice.

Senator BILYK: Have applications increased or decreased, and by what quantity and percentage? If you did not know that last answer, I am presuming you will have to take that one on notice too.

Mr Williams: There is a little bit of variation. They decreased a little bit in the 417 category, which is the working holiday visa, the traditional one. They have increased quite significantly in the work and holiday scheme because a number of new countries have been added to the scheme.

Senator BILYK: Can you give me some figures on notice?

Mr Williams: Will do.

Senator BILYK: Thank you. The July 2015 DIPB report shows working holiday visa applications fell by over 10,000 last year. Any idea why that might have been?

Mr Williams: That is right. That is in a traditional working holiday area. Our view on that would probably be that it is because it is a little bit sensitive to the global economy. If the Australian economy is doing better than
economies overseas, for people coming on a holiday this is quite an attractive visa because they can hedge their costs a little bit by knowing that they can work in Australia.

Senator BILYK: Except that applications fell.

Mr Williams: That is right—when the global economy improved after the global crisis. This is our analysis of it, but we probably need to go into it in more detail. Our thinking is that, as the global economy improved, the category became possibly less attractive to people from countries where their economy was in better shape than it had been.

Senator BILYK: Do you want to take that on notice in case there is anything else to go there?

Mr Williams: Yes.

Senator BILYK: The report shows that almost 13,000 fewer WHV visas were granted in 2014-15 compared to—I might put that on notice because I do not think I have actually got the number on the page that I am supposed to be on. I will give you that one on notice anyway without even asking it. How do you anticipate the demand for WHV visas will change as a result of the proposed backpacker tax?

Mr Wilden: It is a little hard to say because the nature of the backpackers is quite varied. If you look at the stock that is onshore at any time and the volumes every year, a lot of working holidaymakers come here and do not work or they work for a very short period of time to supplement. There are obviously those people who are looking to have a second year and have to meet their obligation to work for a period in regional Australia. It is very difficult to model, if you like, a possible implication there when we start to put tax upon that.

Senator BILYK: Where are the WHVs processed?

Mr Williams: They are generally processed in a processing centre in Australia, but some are processed in our overseas posts as well.

Senator BILYK: There is just the one processing centre, in Sydney or somewhere?

Mr Williams: Yes. The 417s are generally processed in Hobart.

Senator BILYK: Really? Well, there you go.

Mr Williams: We have a big visa processing office.

Senator BILYK: They must be doing a great job—that is all I will say—if they are in Hobart!

Mr Williams: They are doing an excellent job. Some of the work and holiday visa categories—the smaller one that is more market specific—tend to be processed overseas closer to where the applicants are. They are often managed carefully because there can be a cap applied, so it is best handled out of the one office in the market concerned or in the country concerned.

Senator BILYK: Are you able to tell me how many full-time-equivalent staff are engaged in this?

Ms Dacey: Sorry, we will have to take that one on notice.

Senator BILYK: Can you also tell me if this has changed at all since 12 May 2015 and, if so, by how many staff members and why?

Ms Dacey: Yes.

Senator BILYK: Thank you. Was the department consulted on the WHV tax changes before their announcement on budget night 2015?

Mr Wilden: I would have to take on notice any consultation process that may have occurred.

Senator BILYK: If you can, if you were consulted, can you also take on notice what the nature of the consultation involved.

Mr Wilden: I shall do so.

Senator BILYK: Did the minister make any representations to the Treasurer in relation to potential impact on demand for WHV or expenditure as a result of this measure?

CHAIR: I am not sure that this witness could answer on representations made to the minister.

Senator BILYK: But the minister is here.

Mr Pezzullo: I think the best course there is to refer that matter to the minister.

Senator Cash: Or refer it to the relevant minister.

Senator BILYK: If so, can we ask them what the nature of the representations was. Has the department undertaken any modelling on demand for WHV visas as a result of this change, and how will the department be monitoring demand?
Mr Wilden: We have not undertaken any modelling as part of the policy change for the new taxation. As I mentioned previously, one of the reasons is that, in the grant of a WHM visa, we do not ask how long you are going to stay or the purpose of your visit other than to experience Australia. So you can work, but you do not have to notify us if you do work, and that is why it is often difficult to get accurate data pre policy change. As to the amount of people who are already here on working holiday-maker visas, whether they are in the workforce and what taxation may apply to them—without going back to the tax office, to the employers et cetera—if you are in Australia and you are able to legally work, the tax office does not necessarily—and you would need to check with them—record the nature of the visa but only that you have work rights. So disaggregating that down to what the current situation is and then trying to model that would be virtually impossible.

Senator BILYK: I just want to be clear on this. You can come in on a working holiday visa, and you can work, but you do not actually have to tell the department if you are working at all?

Mr Wilden: No. That is correct.

Senator BILYK: Are you able to tell me, then, the total expenditure of a working holiday-maker visa holder during their stay? Do we have any data on that?

Mr Wilden: I will take it on notice. I think we have done some surveying, and we might have some figures, but I would have to take that on notice.

Mr Williams: There is a study—it is probably a bit dated now; it is probably six, seven or maybe eight years old—where there was some research done on that.

Senator BILYK: But nothing since?

Mr Williams: I do not believe so.

Senator BILYK: Do we know anything about the amount earned by a WHV holder during their stay?

Mr Wilden: No.

Senator BILYK: Because they do not have to tell you if they work?

Mr Wilden: Correct.

Mr Williams: If I recall correctly, that study indicated that a lot of the earnings were turned over whilst they were in Australia.

Senator BILYK: Are we able to know—and I am presuming we are not, if they do not have to tell you that they have worked—the number of jobs held by working holiday-maker visa holders?

Mr Wilden: We would have some data, which I will take on notice, for those who apply for a second working holiday, because they actually have to show evidence of what they did in their first year. But that is a small cohort of the total group.

Mr Williams: Also, it will be skewed, because you are only eligible if you are working in certain industries, so we will not have the full gamut of industries in which working holiday-makers are engaged.

Senator BILYK: But you can get us what you have?

Mr Williams: We can give you all that we have.

Senator BILYK: Thank you. That is all on WHVs. Just one quick question about tourist visa applications: can you outline the plan for the rollout of Mandarin-language visa applications and online visa applications across all categories, please.

Ms Dacey: A series of initiatives or pilots were announced as part of the north Australia white paper, including online lodgement of Mandarin. What was the other one you mentioned, Senator?

Senator BILYK: Online visa applications across all categories.

Ms Dacey: We are developing business processes and IT applications to support these pilots, rolling out at various times through this calendar year, with the goal to be full online lodgement for individuals from China by December this year.

Senator BILYK: So it should all be sorted by the end of the year?

Ms Dacey: Absolutely, Senator.

Senator BILYK: How are we going so far?

Mr Williams: As far as online lodgement is concerned, we are down to three, admittedly, big markets: China, India and Indonesia. Most of the rest of the world is now online for visa application. If they want to, we still offer
a paper channel for quite a few, because quite a lot of people prefer to come into our service delivery partner arrangements in 95 different places around the world, and that is often a paper supported process. Ultimately, and actually in a similar time frame, that will also be supported online. So we are moving into China, India and Indonesia. They just happen to be the biggest markets, particularly China and India, and we were cautious in making sure that the business process and systems and all those things were able to cope. All three of those places have some complicated industry dynamics that we want to make sure we get right. By the end of this year, early 2017, we will have it sorted out.

Senator BILYK: With regard to family visas, can you tell me how many partner visas were on hand as at 30 December 2015?

Ms Dacey: Lodged partner visas: 21,008.

Senator BILYK: Would you know the figure for 31 December in 2013 and 2014?

Ms Dacey: I am sorry, we will have to get those to you.

Senator BILYK: On notice, thanks.

Mr Williams: The 21,008 are the total number lodged by 31 December in that program year. I have a report on the on-hand number. I will keep looking for that.

Mr Pezzullo: Senator, are you interested in how many visas had been granted as at that date?

Senator BILYK: On hand, yes.

Mr Pezzullo: When you say 'on hand', you mean granted?

Senator BILYK: Granted, yes.

Ms Dacey: The granted number is 21,152.

Mr Williams: That is in the first six months of the program year.

Senator BILYK: What time frame is that?

Ms Dacey: 1 July to 31 December 2015.

Senator BILYK: It was 21,152, even though only 21,008 were lodged?

Ms Dacey: Yes, there would be a bit of a pipeline.

Mr Pezzullo: So lodged are yet to be assessed.

Senator BILYK: So more were granted than were lodged?

Mr Williams: That is right.

Mr Pezzullo: Lodged are on hand for review and assessment. So, by the time you get to 30 June this year, there will be what is called a full program year and we will be able to give you data after 1 July as to how many visas were actually granted. The officers are saying that, as at the midpoint of the financial year—that is to say 31 December—just a tad over 21,000 had been granted.

Ms Dacey: Correct.

Senator BILYK: Are you able to provide the total amount of money paid for visa applications currently on hand?

Mr Williams: We do have the total amount, as I understand it, under the visa program. The chief financial officer might have the number. I thought it was $1.8 billion.

Mr Pezzullo: Senator, are you talking about all visa categories?

Senator BILYK: Yes.

Mr Pezzullo: I am sure the chief financial officer—who lives for this moment!—will be able to address your question.

Senator BILYK: Give me the total amount across all categories, and then can you give me the partner visa?

Mr Groves: The amount collected in total in 2014-15 for visa application charges was $1.818 billion.

Senator BILYK: Billion?

Mr Groves: Yes.

Senator BILYK: Are you able to tell me for the partner visas?

Mr Groves: I do not have the detail broken up by category, I am afraid.

Senator BILYK: That is alright. Could you take that on notice?
Senator BILYK: Is the number of applications growing over time?

Mr Williams: Yes.

Senator BILYK: Is the number of applications growing over time?

Mr Williams: In the partner visa?

Senator BILYK: Yes.

Mr Williams: To give you an idea, in 2013-14 the number of partner applications lodged for the full year was 59,252. In 2014-15, the subsequent year, it was 55,814. So there was a minor reduction between one year and the next. As we previously advised, the first six months of this program year it was 21,008. If you extrapolate that across the full year, it looks like it will again probably come in a bit lower.

Senator BILYK: Around 40 give or take?

Mr Pezzullo: The mid 40s.

Mr Williams: So it is declining a little bit.

Senator BILYK: Peter McDonald, a member of the Ministerial Advisory Council on Skilled Migration and noted demographer, questions the policy merit of allocating a specific target of partner visas each year and recommended a demand driven system. What effect would this have on the number of partner migrant arrivals?

Mr Wilden: Peter McDonald was a former member of the Migration Advisory Council. He was a member of the last council. He is not currently a member of this council. As has traditionally been the case, the current partner program has a planning level. It goes between one-third and two-thirds—one-third for family, which includes the partner, and two-thirds for the skilled component. There is an enormous amount of modelling on the costs and benefits of the program itself that go into the budget process.

I am aware of Professor McDonald's views on demand driven or capped. I guess in some ways it is an observation. Given the nature of the pathways people have to come to Australia—they may be onshore when they lodge et cetera—if they then are on a bridging visa and have work rights, they are participating, paying taxes et cetera. Again, it very hard to say that there is a quantum benefit financially. Certainly, socially, people have opportunities to be together through other visas before they get granted their partner visa. As such, whether it is a planning level or it is demand driven, it would be very hard to get a modelling that says there is a specific financial or social benefit.

Senator BILYK: So the department has not previously considered a demand driven system?

Mr Wilden: As with many policy ideas, I am sure it has come up at some point in the past. Governments—certainly from living memory—have run a planned migration program which includes the family program—one element of that being partners.

Senator BILYK: What is an acceptable period to wait for a partner application?

Mr Williams: The time it is generally taking is around 13 months at the moment. It is partly a factor of required places and demand for the category.

Mr Wilden: I would add that, regardless of when you lodge and when your visa may be granted, it does not mean that you are not together, because applications are lodged offshore with people offshore and they are lodged onshore. Again, there are bridging visas and other options. So it is not that people would be separated by the length of the processing time.

Senator BILYK: They would be if they lodged offshore, though, if one was in Australia and one was offshore?

Mr Wilden: If they choose to lodge and be in different countries then, yes, they would be separated.

Senator BILYK: Is it possible to get a breakdown of how many people lodge offshore and onshore?

Mr Williams: Yes, we can give you that breakdown. If they do lodge offshore, there are options for visitor visas and other options. So it is quite flexible on those arrangements where we can be. So people can come and stay on a visitor visa and then return when their visa—

Senator BILYK: For a short period of time.

Mr Williams: That is right.

Senator BILYK: While their waiting for their application?

Mr Williams: That is right.

Senator BILYK: What is the cost these days for a partner application?
Ms Dacey: There is a couple of different categories. Partner (permanent) is $6,865, which is one fee for a combined temporary and permanent visa allocation; Partner (temporary) is nil fee; and Partner (permanent) 801, which is different from the other one, is the same fee—$6,865.

Senator BILYK: What is a Partner (temporary)?

Ms Dacey: It is category 8.20. It is under 'family', and it is until a decision is made on the corresponding subclass 801. So it is linked to one of those other two that I talked to you about.

Mr Williams: The process is a two-stage process for most partner cases. You apply for a temporary visa to start with and you are granted a permanent visa later, after you have had the chance to confirm that the relationship is ongoing. There is one fee that covers the whole process.

Senator BILYK: To be clear, you have got someone living in Australia and they have got a partner offshore and that partner can apply for a Partner (temporary) visa. Is that correct?

Mr Williams: That is correct.

Senator BILYK: And there is no cost?

Mr Williams: I think the cost is charged up front. So it is just that, nominally, one of them does not have a charge attached. The other one does. The charge would need to be paid at the time of initial application. I will confirm if I am wrong, but I believe that to be the case.

Ms Dacey: I think that is correct.

Senator BILYK: How much is that charge?

Ms Dacey: It is $6,865.

Senator BILYK: Then if your visa is granted you can come to Australia and wait for the permanent—

Mr Williams: That is right. It is two years, I believe.

Senator BILYK: Can people use that temporary visa to prove their relationship once they are in Australia?

Mr Williams: They can. That means that the department has accepted that their relationship exists or that there is evidence of that. The person is given a visa that allows them to come and stay, work, travel in and out of the country. Then after a period of time we go through a process to confirm that the relationship is still ongoing, and a permanent visa is granted that allows them to stay indefinitely.

Senator BILYK: In proving that relationship, is that the 18-month rule or the 12-month rule? Or is it something different to that?

Mr Williams: That is for de facto relationships and things like that, to get a sense of how long has this relationship been in place, so a period of time is helpful. There might be other evidence—shared expenses, shared savings, children—

Senator BILYK: Rental, whatever.

Mr Williams: Yes. It is different in every case.

Senator BILYK: I am happy to put the rest of my questions on notice, if you are finished.

CHAIR: I have one question before quarter past, if you are finished.

Senator BILYK: I am happy to put the rest on notice. I am sure the minister is happy with that.

CHAIR: Not as happy as I am!

Senator BILYK: Remember, Chair, that I have done that for you.

CHAIR: I always speak highly of you, Senator Bilyk.

Senator BILYK: I have heard you!

CHAIR: With regard to the tax on the backpacker working visa, I have had a lot of complaints, as I am sure have many of colleagues, that there will be many rural industries—particularly, in my case, in the north—that cannot get Australian workers and cannot get any other sort of workers. I cannot understand the reasoning behind this, and I know it is not your department, but if the backpackers stop coming because they are now paying tax from the first dollar earned, a lot of the crops will not be harvested. I see today that the government has announced an extension of the Seasonal Worker Program. Perhaps this is a question for the minister: is the intent behind that that it will make labour more readily available in those industries that might suffer quite a lot with the tax?

Senator Cash: No, that was not the policy intent. In fact, the policy itself was announced, I believe, on 1 July 2015 and it is now about to commence. Basically, we have received feedback and we are extending it out from
horticulture to agriculture and certain selected parts of Australia within the hospitality industry. It is very much an expansion of the aid program for those nations involved. It is a fundamentally different program to the work and holiday. It is also very much guaranteeing labour in critical periods, because it basically becomes that people work, they go home, they come back, they work and they go home. It is ensuring a supply of labour. Again, you have got to test the Australian labour market, et cetera, and you have got to do all of that. It was not done as a response to the backpacker issue. This quite a separate program.

**CHAIR:** It is just a nice coincidence.

**Senator Cash:** It is a separate program but one that has obviously been very much welcomed by the sector.

**CHAIR:** I like the hospitality thing, particularly as it relates to areas that are always in my heart. What is the definition of tropical North Queensland?

**Mr Williams:** There is a definition, for the purpose of the Northern Australia white paper, that we are working to for that purpose. That has some specific government deliverables attached to it, but there may be other definitions for other contexts. I believe—

**CHAIR:** It was something promised in the Northern white paper.

**Ms Dacey:** I am just checking for you. I thought it might have been as simple as postcodes.

**CHAIR:** Perhaps you better take it on notice so that, if I do not get the right answer, I will not be despondent after being happy at Senator Bilyk’s cooperation.

**Senator BILYK:** Don’t tell everybody!

**CHAIR:** We might call well enough alone. I thank officers from the Department of Immigration and Border Protection. Mr Pezzullo and all your team, thank you very much. Thank you to the Australian Border Force and all the other agencies. For those who did not get a chance to come forward, you will be as happy as I am. Thank you very much, we will see you next time. The committee stands adjourned until nine o’clock tomorrow, when we will deal with the Attorney-General's Department. Thank you to Hansard and the secretariat too.

*Committee adjourned at 21:16*