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SENATE

LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE

Monday, 25 May 2015

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

In Attendance

Senator Cash, Minister Assisting the Prime Minister for Women and Assistant Minister for Immigration and Border Protection

Executive

Mr Michael Pezzullo, Secretary, Department of Immigration and Border Protection
Mr Roman Quaedvlieg APM, Chief Executive Officer, Australian Customs and Border Protection
Mr Michael Manthorpe PSM, Deputy Secretary, Visa and Citizenship Management
Ms Rachel Noble, Deputy Secretary, Policy Group
Mr Michael Outram, Deputy Secretary, Border Operations
Mrs Marion Grant PSM, Deputy Secretary, Corporate Chief Operating Officer
Ms Cindy Briscoe, Deputy Secretary, Immigration Status Resolution Group
Ms Maria Fernandez, Deputy Secretary, Intelligence and Capability
Major General Andrew Bottrell, Commander, Joint Agency Task Force
Ms Kay Ransome, Principal Member at Migration Review and Refugee Review Committee
Mr Rhys Jones, Deputy Registrar, Migration Review Tribunal and Refugee Review Tribunal

Corporate

Mrs Marion Grant PSM, Deputy Secretary, Corporate Chief Operating Officer
Ms Maree Bridger, First Assistant Secretary, Executive Division, Australian Border Force Change Management Task Force
Ms Charlotte Tressler, First Assistant Secretary, Strategic Reform Office
Mr Craig Farrell, First Assistant Secretary, Support Division
Ms Miriam Judith Moore, Assistant Secretary, Litigation Branch
Ms Paula Goodwin, Acting First Assistant Secretary, People Division
Mr Steven Groves, Chief Financial Officer
Ms Jan Dorrington PSM, First Assistant Secretary, Integrity, Risk and Assurance Division (Chief Risk Office/Chief Audit Executive)
Ms Karen Harfield, First Assistant Secretary, Intelligence Division
Mr Matthew Yannopoulos, Chief Information Officer, ICT Division
Mr Randall Bruggeaud, First Assistant Secretary, Major Capability Division
Mr Gavin McCAirns, First Assistant Secretary, Research and Innovation Division
Mr Phil Thurbon, First Assistant Secretary, Digital Channels Task Force
Outcome 1: Protect Australia's sovereignty, security and safety by managing its border, including through managing the stay and departure of all non-citizens.

Program 1.1: Border Enforcement

Mr Michael Outram, Deputy Secretary, Border Operations
Rear Admiral Michael Noonan RAN, Commander, Border Protection Command
Mr Steve Lancaster, Assistant Commissioner, Investigations
Mr Kingsley Woodford-Smith, National Director, Border Management
Mr Peter Docwra, First Assistant Secretary, Border Force Capability Division
Mr Terry Price PSM, Acting Commander, Strategic Border Command
Major General Andrew Bottrell, Commander, Joint Agency Task Force

Program 1.2: Border Management

Mr Michael Outram, Deputy Secretary, Border Operations
Ms Sharon Nyakuenanga, First Assistant Secretary, Trade, Customs & Industry
Rear Admiral Michael Noonan RAN, Commander, Border Protection Command
Mr Steve Lancaster, Assistant Commissioner, Investigations
Mr Kingsley Woodford-Smith, National Director, Border Management
Mr Peter Docwra, First Assistant Secretary, Border Force Capability Division
Mr Terry Price PSM, Acting Commander, Strategic Border Command

Program 1.3: Compliance and Detention

Ms Cindy Briscoe, Deputy Secretary, Immigration Status Resolution Group
Ms Janet Mackin, Acting First Assistant Secretary, Status Resolution and Detention Operations
Mr Mark Painting, Acting First Assistant Secretary, Infrastructure and Services
Ms Robyn Miller, Acting First Assistant Secretary, Community and Settlement Services
Mr Terry Price PSM, Acting Commander, Strategic Border Command

Program 1.4: IMA Onshore Management

Ms Cindy Briscoe, Deputy Secretary, Immigration Status Resolution Group
Ms Janet Mackin, Acting First Assistant Secretary, Status Resolution and Detention Operations
Mr Paul Windsor, Acting First Assistant Secretary, Infrastructure and Services
Ms Robyn Miller, Acting First Assistant Secretary, Community and Settlement Services
Mr Terry Price PSM, Acting Commander, Strategic Border Command
Mr Stephen Allen, First Assistant Secretary, Community Protection

Program 1.5: IMA Offshore Management

Ms Cindy Briscoe, Deputy Secretary, Immigration Status Resolution Group
Ms Janet Mackin, Acting First Assistant Secretary, Status Resolution and Detention Operations
Mr Paul Windsor, Acting First Assistant Secretary, Infrastructure and Services
Ms Robyn Miller, Acting First Assistant Secretary, Community and Settlement Services
Mr Terry Price PSM, Acting Commander, Strategic Border Command
Ms Kylie Scholten, Acting Assistant Secretary, Offshore Operations, Status Resolution and Detention Operations

Program 1.6: Regional Cooperation
Ms Rachel Noble, Deputy Secretary, Policy Group
Mr Lachlan Colquhoun, First Assistant Secretary, International Division
Mr Robert Hoitink, First Assistant Secretary, International Protection Task Force

Outcome 2: Support a prosperous and inclusive society, and advance Australia's economic interests through the effective management of the visa and citizenship programmes and provision of refugee and humanitarian assistance.

Program 2.1: Citizenship
Mr Michael Manthorpe PSM, Deputy Secretary, Visa and Citizenship Management
Mr Jim Williams, First Assistant Secretary, Visa and Citizenship Management
Mr Kruno Kukoc, First Assistant Secretary, Refugee and Humanitarian Visa Management
Ms Rachel Noble, Deputy Secretary, Policy Group
Mr David Wilden, First Assistant Secretary, Immigration and Citizenship Policy

Program 2.2: Migration
Mr Michael Manthorpe PSM, Deputy Secretary, Visa and Citizenship Management
Mr Jim Williams, First Assistant Secretary, Visa and Citizenship Management
Mr Kruno Kukoc, First Assistant Secretary, Refugee and Humanitarian Visa Management
Dora Chin-Tan, Acting Chief Executive Officer, Office of the MARA
Ms Rachel Noble, Deputy Secretary, Policy Group
Mr David Wilden, First Assistant Secretary, Immigration and Citizenship Policy

Program 2.3: Visas
Mr Michael Manthorpe PSM, Deputy Secretary, Visa and Citizenship Management
Mr Jim Williams, First Assistant Secretary, Visa and Citizenship Management
Mr Kruno Kukoc, First Assistant Secretary, Refugee and Humanitarian Visa Management
Ms Rachel Noble, Deputy Secretary, Policy Group
Mr David Wilden, First Assistant Secretary, Immigration and Citizenship Policy

Program 2.4: Refugees and Humanitarian Assistance
Mr Michael Manthorpe PSM, Deputy Secretary, Visa and Citizenship Management
Mr Jim Williams, First Assistant Secretary, Visa and Citizenship Management
Mr Kruno Kukoc, First Assistant Secretary, Refugee and Humanitarian Visa Management
Ms Rachel Noble, Deputy Secretary, Policy Group
Mr David Wilden, First Assistant Secretary, Immigration and Citizenship Policy
Outcome 3: Advance Australia's economic interests through the facilitation of the trade of goods to and from Australia and the collection of border revenue.

Program 3.1: Border-Revenue Collection
Ms Rachel Noble, Deputy Secretary, Policy Group
Ms Linda Geddes, First Assistant Secretary, Trade, Customs and Industry Policy Division
Mr Kingsley Woodford-Smith, National Director, Border Management

Program 3.2: Trade Facilitation and Industry Engagement
Ms Rachel Noble, Deputy Secretary, Policy Group
Ms Linda Geddes, First Assistant Secretary, Trade, Customs and Industry Policy Division
Mr Kingsley Woodford-Smith, National Director, Border Management

Migration Review Tribunal and Refugee Review Tribunal
Ms Kay Ransome, Principal Member at Migration Review and Refugee Review Committee
Mr Colin Plowman, Registrar, Migration Review Tribunal and Refugee Review Tribunal

Committee met at 09:03

CHAIR (Senator Ian Macdonald): I declare open this hearing of the Senate Legal and Constitutional Affairs Legislation Committee. It is a public hearing. I welcome the minister, the Hon. Michaelia Cash, and Mr Pezzullo and other officers. The Senate has referred to the committee the particulars of the proposed expenditure for the 2015-16 budget for the portfolios of Attorney-General and Immigration and Border Protection and other related documents. The committee may also examine annual reports of departments and agencies appearing before it. These are budget estimates proceedings and the agencies to be examined today are from the Immigration and Border Protection portfolio, and because there is a transition from Customs into Immigration and Border Protection, any Customs questions will be dealt with this afternoon in the Australian Border Force.

The committee has set Friday, 10 July as the date by which answers to questions on notice are to be returned. The committee has also decided that written questions on notice should be provided to the secretariat by close of business on 5 June. Under standing order 26, the committee must take all evidence in public sessions, this includes answers to questions on notice. Witnesses understand that they are protected by parliamentary privilege. Officers and senators will be familiar with the rules. If anyone does have any need for clarification, the secretariat is only too happy to help with copies of the rules.

The Senate by resolution in 1999 endorsed the following test of relevance for questions at estimates hearings. Any questions going to the operations or financial positions of the departments or agencies which are seeking funds in estimates are relevant questions for the purposes of the estimates. There are no areas in connection with the expenditure of public funds where a person has the discretion to withhold details or explanations from parliament or its committees unless the parliament has expressly provided otherwise. The Senate has resolved that an officer of a department shall not be asked to give opinions on matters of policy, and should be given reasonable opportunity to refer questions asked to a superior officer or the minister. This resolution prevents only questions asking for opinions on matters
of policy and does not preclude questions asking for explanations of policies or factual questions about when or how the policies were adopted.

We draw the attention of witnesses to an order of the Senate in May 2009, specifying the process by which claims for 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 requirements. Instead, witnesses are required to provide some specific indication of the harm to public interest that could result from the disclosure of the information or documents—much of which would be self-explanatory, I would have thought.

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)

Senator KIM CARR: We could start with the chairman.

CHAIR: You cannot hear me, Senator Carr?

Senator KIM CARR: Well, I am having trouble hearing you read out these important resolutions in this most flippant manner. This actually requires some attention because there will be a matter, I understand, coming up later on, which goes directly to the propositions that you are canvassing now. So it would be helpful for the committee if we could actually hear what you are saying.

CHAIR: I am sure that all the committee members and those witnesses currently at the table are well aware of that, having been experienced in these matters. But if there are issues that arise we will deal them at the time, and thanks for alerting us.

Minister, would you and/or Mr Pezzullo like to make an opening statement?

Senator Cash: I will not, thank you.

Mr Pezzullo: I would prefer to make my statement at the start of the department’s evidence.

Migration Review Tribunal
Refugee Review Tribunal

[09:08]

CHAIR: Ms Ransome, would you like to make an opening statement?

Ms Ransome: I have a brief statement. As senators will be aware, the tribunals last appeared before the committee in February, so it is opportune to update you on some matters that have occurred since then. The tribunals have finalised close to 19,500 cases so far this financial year, and we will reach our target of finalising 21,000 matters for the year. The most MRT cases which were finalised were in the student refusal, partner and temporary work case categories, while for the RRT cases finalised were highest for applicants from Sri Lanka, China and India.

The two key objectives of the tribunals are to reduce the number of active cases and to reduce the age of those cases. Active cases are those for which an application for review has been lodged with the tribunals but remain undecided. We have made a lot of headway in getting our active caseload down. From a high of 22,000 active cases 2½ years ago, we now
have just over 14,000 cases on hand. We have managed to achieve this without any diminution in the quality of our decisions or the fairness of our processes. Processing times for MRT cases have also improved, in some cases significantly. The time it takes from when an applicant lodges an application to when they receive a decision for MRT cases has improved by 20 per cent in the past 12 months. The most significant improvements in processing times are for student refusal, permanent business, student cancellation and nomination or sponsor approval cases. These are both very good outcomes.

What this means for our applicants is that they are receiving a consistently high level of service and speedier finalisation of their cases. The dedicated staff and members of the tribunals have achieved these outcomes through a range of new work practices, like expanding the hearing list format in the MRT caseload, continued use of member specialisation and changes to decision writing. An online lodgement facility was launched in 2014 and is now the preferred mode of lodgement for new applications, at around 65 per cent. Further innovations and efficiencies are being pursued in 2015 with initiatives, including extending the use of hearing list to new parts of the caseload, greater electronic communication with applicants and increasing the functionality of the online lodgement facility, and updating our case management system.

Further efficiencies are also expected to flow, following the commencement last month of the Migration Amendment (Protection and Other Measures) Act—that act gave the tribunals new powers which will assist us in achieving our statutory objectives of providing fair, just, economical, informal and quick merits review. As senators will be aware, the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act establishes a fast-track assessment process to assess the claims of some 30,000 people who arrived in Australia by boat between August 2012 and December 2014. This act, which came into effect on 18 April, establishes a new form of merits review for persons within this cohort whose claims for protection are rejected by the department.

The Immigration Assessment Authority has been established as an independent statutory office within the Refugee Review Tribunal. The IAA is headed by me, as principal member of the Refugee Review Tribunal, and comprises a senior reviewer and a number of reviewers. The IAA is tasked with providing a limited form of merits review, with restrictions on applicants being able to raise new claims or provide new evidence at the review stage. We have done considerable work to date in establishing the new office, including the development of procedures, fact sheets for applicants about the new process and a new case management system. Following a selection process and consent of the Minister for Immigration and Border Protection, the senior reviewer is to be appointed shortly, with reviewers to follow. It is expected that the first cases will flow through to the IAA early in the new financial year.

This is the last time that I will appear before the committee as principal member of the MRT and RRT. Senators will be aware that the parliament recently passed the Tribunals Amalgamation Bill 2015, which brings together the MRT and RRT and the Social Security Appeals Tribunal and the Administrative Appeals Tribunal. From 1 July, the tribunals will become a division in the Administrative Appeals Tribunal. The division will be known as the Migration and Refugee Division. Most of the procedures that currently apply in the MRT and RRT will apply to the new Migration and Refugee Division, and, with some exceptions, the
Migration Act will remain as the legislation setting out the processes, including the code of procedure.

We are expecting that the most important and innovative aspects of the MRT RRT will be retained in the new amalgamated AAT, as it forges its identity in the years ahead. The Attorney-General’s Department is the agency responsible for administration of the amalgamation, so they can provide the committee with the most up-to-date information on the amalgamation. I can say, however, that planning is progressing well and the amalgamated tribunal will be in a position to commence operations as a single body by 1 July.

Before I finish, I would like to acknowledge, very briefly, the contributions that the MRT and the RRT have made. The RRT started in 1993 and has finalised close to 93,000 cases, while the MRT began in 1999 and has finalised 145,000 cases. Together, this amounts to just under a quarter of a million cases decided and represents a significant contribution in the provision of administrative justice in Australia. This is a credit to the many staff and members who have worked at the tribunals over the past 21 years.

Senators, my colleagues and I are happy to elaborate on any matters that I have highlighted, or answer any other questions that the committee may have.

CHAIR: Thank you very much, Ms Ransome, for that. As you say, the work over the years is a credit to the staff and the members of both tribunals. Can I pass on, on behalf of the parliament, our thanks to both organisations for the work that they have done since their inception.

Ms Ransome: Thank you.

CHAIR: Also, can I extend to you some congratulations. These things do not happen; you have to have leadership from the top. You have done a wonderful job in that, and congratulations. Whilst we are losing you from this particular role, I am sure that we will see you around in some other role around the traps into the future. So thank you very much and congratulations.

You mentioned the backlog and the enormous amount of work that has been done to bring that up to date. You did indicate that there were new procedures and arrangements, new facilities, new methods of doing things—for which again I offer congratulations—but is there an overall reason why this just happened in the last couple of years?

Ms Ransome: The backlog itself grew, as I understand it, over a period of years, probably from about 2010-11, with significant numbers of applications lodged with the tribunals, probably beyond expectations. The tribunals could not keep up with the workload and so therefore a backlog of matters developed, with the tribunals at that point unable to get to them. There was an injection of some additional resources in 2012—

CHAIR: In the form of?

Ms Ransome: In the form of additional funding, and some additional members were appointed to the tribunals to deal with the work. The contribution that I have been able to make in my time as the principal member is to probably deal with things in a different way to the way that they had been dealt with before that allowed the tribunals to deal with them more quickly.
CHAIR: It is a very important part of the whole process and so well done, and again thanks to you and all of your team.

Senator KIM CARR: I concur with your remarks, Mr Chairman, regarding the work of both the tribunals. Can I just be clear, Ms Ransome; how many cases did you say you had dealt with this financial year?

Ms Ransome: To date we have dealt with about 19½ thousand.

Senator KIM CARR: That is across both the tribunals, is it?

Ms Ransome: That is correct.

Senator KIM CARR: How many cases are outstanding?

Ms Ransome: At the moment we have just over 14,000 active cases. Those are cases where an application has been lodged with the tribunals but no decision has as yet been made.

Senator KIM CARR: In February it was stated that Migration Review Tribunal decisions were the highest in the student refusal, partner refusal and temporary work categories, while the Refugee Review Tribunal decisions were the highest for applications from China, India and Sri Lanka. Does that still remain the case?

Ms Ransome: Yes. With MRT, it is still student refusal followed by partner, and, with RRT, Sri Lanka, China and India are the highest categories for finalisations.

Senator KIM CARR: Can I just go through each of those categories then? What is the number of cases currently on hand at the MRT for student refusal?

Ms Ransome: For student refusals, it is about 1,500 cases on hand at the moment.

Senator KIM CARR: Of the student refusals, can you tell me the country of origin of those 1,500?

Ms Ransome: I am sorry; I do not have that information with me, but we can get that for you.

Senator KIM CARR: Would you, please?

Ms Ransome: Yes.

Senator KIM CARR: Can you tell me the nature of the 1,500? Is there any categorisation that you could provide the committee with in regard to those 1,500?

Ms Ransome: If you mean in terms of what criteria—

Senator KIM CARR: Yes.

Ms Ransome: I do not have that information, but it would be across the range—there would be some students who are no longer enrolled, there would be some who would be deemed to not be genuine students and there would be others who had not met the financial requirements. It would be a range.

Senator KIM CARR: So this is essentially students who have been admitted to Australia and are being asked to discontinue their presence here—is that the case?

Ms Ransome: No, these are usually persons who came to Australia on a student visa and who are seeking a further student visa to remain.
Senator KIM CARR: I see. So it is the next round, and they are not found to be satisfactory, for one reason or another, and the department has made a decision and they are appealing that decision—is that the nature of it?

Ms Ransome: That is correct.

Senator KIM CARR: Partner refusal?

Ms Ransome: We have about 4,000 of those matters on hand.

Senator KIM CARR: And these are spousal visas, are they?

Ms Ransome: That is correct.

Senator KIM CARR: That is refusal of a spousal visa; it is not people who have been granted a spousal visa having it withdrawn?

Ms Ransome: It is a refusal of the visa.

Senator KIM CARR: Typically, what are the grounds that the department would cite as the reasons?

Ms Ransome: It may be that the department does not consider that the relationship is genuine. It may be that there are some other technical aspects in relation to the timing of the lodgement of the application that mean that the person is not eligible for the visa.

Senator KIM CARR: And temporary work visas—the number?

Ms Ransome: About 750.

Senator KIM CARR: What is the overturn rate at the moment for student, partner and temporary?

Ms Ransome: For partner visas the current overturn rate is around 44 per cent, for student refusal 30 per cent and for subclass 457 visas 22 per cent.

Senator KIM CARR: Does that vary in recent years? What is the variation in that rate?

Ms Ransome: It can vary from year to year, although rates are probably within a very similar range.

Senator KIM CARR: So about a third of the student visas, just under half of the partner visas and about 25 per cent or a quarter of the temporary work visas—that is the sort of pattern, as a rule?

Ms Ransome: That is the sort of pattern, and overall in the MRT, looking at all cases, the overturn rate is around 30 per cent.

Senator KIM CARR: Has that changed?

Ms Ransome: No, that has remained relatively steady over the last several years as well.

Senator KIM CARR: How many of those refusals would be on character grounds?

Ms Ransome: If a person is refused a visa on character grounds, their rights of review are with the Administrative Appeals Tribunal, not with the Migration Review Tribunal.

Senator KIM CARR: Can you advise the number on hand in regard to the RRT for China?

Ms Ransome: On the numbers currently on hand, there are around 600 cases with the applicant being from China.
Senator KIM CARR: India?
Ms Ransome: About 400.
Senator KIM CARR: Sri Lanka?
Ms Ransome: About 760.
Senator KIM CARR: Again, what are the overturn rates?
Ms Ransome: For those three countries?
Senator KIM CARR: Yes.
Ms Ransome: For China it is around 10 per cent, for India five per cent and for Sri Lanka around 17 per cent, I think.

Senator KIM CARR: In overall terms for the RRT, what is the overturn?
Ms Ransome: The average across all countries is 20 per cent.
Senator KIM CARR: Has that varied much?
Ms Ransome: No, that has been relatively steady overall, over a number of years. For example, last year it was 22 per cent and this year 20.

Senator KIM CARR: Can you advise me on, from your point of view, how the amalgamation is going as a result of the legislation of 13 May.

Ms Ransome: There is a lot of work being done, Senator, so that the four tribunals are in a position on July 1 to present to the world as a single organisation. Clearly, the majority of the work is in relation to those corporate or 'back office' type functions, so that there are single payroll systems et cetera in place, but, more importantly, so that on 1 July a person can find out information on the web and through other means about the new tribunal, and that persons can present at any registries of the existing tribunals and be able to lodge their applications and deal with the one organisation

Senator KIM CARR: Thank you very much.

Senator REYNOLDS: First of all, congratulations to you and your team on the work that you have done with the amalgamation and reducing the caseload. It has been quite an achievement, so well done.

Ms Ransome: Thank you.

Senator REYNOLDS: Following the passage of the amalgamation bill, how have things been progressing from your perspective in terms of the amalgamation and progress on that front?

Ms Ransome: I think progress is being made extremely well. A number of working groups have been established for some time—in fact, since the government first made the announcement around the amalgamations—so that there can be a smooth transition into the one organisation. Clearly, on 1 July not everything will be done. In fact, some things may that take considerably longer than that. I think that there has been a great deal of cooperation between the tribunals themselves and with the parent departments, and particularly the Attorney-General's Department, the lead agency in relation to the amalgamation.

Senator REYNOLDS: So you are very confident?
Ms Ransome: Yes, Senator.
Senator REYNOLDS: The last time you appeared, you mentioned that one of the problems you had previously was people not turning up to hearings and the flow-on impact of that. I was just wondering if you have got any more information on that? Has that situation improved?

Ms Ransome: I do not have current figures before me, so I cannot be definitive. You might recall that one of the new powers that the tribunals got through the procedures and other measures bill was a power to dismiss for non-appearance, which will assist the tribunals greatly in that regard. Because we have made such good progress in reducing the age of the cases, the proportion of matters in which the applicant does not appear at the tribunal is probably reducing. So while that is a very, very important power to have and it will be utilised, it is perhaps not quite as significant an issue as it was two years ago.

Senator REYNOLDS: So just by clearing up the backlog, that is also having that impact as well?

Ms Ransome: Yes.

CHAIR: Thank you very much to all of you and your team.

Ms Ransome: Thank you all.

Department of Immigration and Border Protection

[09:28]

CHAIR: We now move to cross-portfolio corporate and general matters. Mr Pezzullo, did you want to make an opening statement at this stage?

Mr Pezzullo: Yes, Chair.

CHAIR: Fire away.

Mr Pezzullo: Thank you very much. Chair and members, good morning. This is the last time that my officers and I will appear before you as representatives of the immigration department that was established in 1945. On 1 July this year a new Department of Immigration and Border Protection will be established, which will have expanded responsibilities for the following matters: immigration, citizenship, customs, border protection and maritime security. The Australian Border Force will be established within the department under law headed by a new statutory appointee, the Commissioner of the ABF, who also serves concurrently as the Comptroller-General of Customs. The commissioner and comptroller-general will report directly to the minister on all operational matters that fall within the purview of the department.

The Australian Customs and Border Protection Service will be dis-established as at 30 June 2015, as will the statutory office of chief executive officer of that service. The incumbent CEO of Customs and Border Protection, Mr Roman Quaedvlieg, and our deputies and the staff of the department and the service are working collaboratively on the merger of our organisations which in a number of crucial respects has already occurred administratively ahead of the formal merger date of 1 July 2015. As a consequence, during these proceedings it is likely that some questions to the department will be addressed by officers of the Customs and Border Protection Service who are already acting with my authority as officers of the department.
We are building a new leadership team to drive these changes, and I am delighted to be able to report to the committee that, in the ranks of our most senior leadership group, those who will serve as deputy secretaries and deputy commissioners from 1 July, we have been joined by senior officers who between them have extensive personal professional experience in not only Immigration and Customs but also the departments of the Prime Minister and Cabinet, Defence, Education, Employment, Human Services and Finance as well as the Australian Federal Police, the Australian Geospatial-Intelligence Organisation and the Australian Signals Directorate.

The new department and the Australian Border Force will require a blended leadership team which has extensive experience across a number of departments and agencies rather than lengthy single agency careers in either Immigration or Customs. To this end the CEO and I are working with our current SES leaders to ensure that they have the skills, aptitude and competencies that will be required of leaders in the new organisation. If they do not, we will work with them on career transition plans and we will do so on an appropriately sensitive basis.

Also to this end we will be focused on professionalising the capabilities of all of our staff and investing significantly in retraining as well as new learning and development strategies and programs. Put simply: we cannot afford to have on our books generalists who have dabbled in critical functions such as intelligence, investigations, international policy and engagement, strategic policy and planning, and operational planning and management. We will both recruit officers who have significant professional experience and qualifications in these and other fields and retrain and develop our existing staff. Accordingly, we are currently investing significant resources and effort into career planning and individualised career discussions with all officers in order to achieve these goals.

Also to meet these ends the new department will enjoy the benefit of senior secondments from the Australian Defence Force—namely, a rear admiral from the Navy to head the Maritime Border Command of the ABF and a major general to head the Operation Sovereign Border's joint agency task force—as well as from the Australian Federal Police—an assistant commissioner to head the investigations division of the ABF.

The new department and the ABF will face significant challenges from the first day of their existence. I will take a few moments to list the key challenges. Next year we will issue five million visas for visitor and temporary residency purposes, a record number. That means that at any one time the total number of people in Australia on a temporary basis will amount to around 1.9 million, which will be 10 times the annual migrant planning level. Processing this number of visas while also ensuring that we detect and act against national security, law enforcement and community protection risks will require new systems, processes and techniques and commensurate training for our staff.

We will need to be increasingly prepared to operate more like banks and other large-scale, high-volume enterprises dealing with masses of data, processing transactions rapidly and using advanced techniques, technologies and trade craft to discover and deal with risk. We will also need to step up our law enforcement efforts, in partnership with fellow federal, state and territory agencies, to deal with breaches of visa conditions by such a large and increasing number of noncitizens who will be living, working and studying amongst us. Additionally, we will need to lift our efforts against the exploitation of temporary workers, where we have seen
alleged instances of the underpayment of wages and poor working conditions, as well as the scourge of human trafficking, including for the purposes of sexual servitude and other crimes against temporary visitors and workers. New powers and capabilities will assist greatly in these endeavours.

In terms of permanent migration, we will manage an annual program in 2015-16 that will see 190,000 people settle in Australia. We need to ensure that the quality of the program is maintained and that we do not inadvertently create social and employment risks or undercut social cohesion and national security through the poor selection and induction of new settlers.

In terms of the case load of illegal maritime arrivals, or IMAs, who remain in community detention on bridging visas or in onshore detention facilities, which in total amount to over 30,000 people, we face a significant challenge to resolve cases through the use of temporary protection visas, or TPVs, and safe haven enterprise visas, or SHEVs. Aside from the processing task that we confront, dealing with this case load will involve sensitive and deliberate judgements being made about whether protection is owed, how best to effect removals where protection is found not to be owed, and ensuring compliance with all applicable laws and policies on the part of those who will be allowed to reside amongst us for whatever period of visa grant they are able to secure.

I cannot stress to this committee strongly enough the challenges that will be faced in ensuring that IMAs, whether they are here for three years or for greater or lesser periods, are able to integrate into their communities and do not become a source of social dislocation and alienation. Australia has never faced such a challenge before, and we will need to work collaboratively across government agencies and civil society to ensure that the attendant risks are managed as well as they can be.

Additionally, we will need to implement the government's refugee and humanitarian program, which in 2015-16 will be maintained at 13,750 places, which will include a minimum of 11,000 places for people overseas in need of resettlement. Australia's humanitarian intake will remain steady in 2016-17 and then will increase to 16,250 places the following year, 2017-18, and then 18,750 places the following year after that, in 2018-19. Australia remains one of the top three refugee resettlement countries in the world, along with the US and Canada, something of which we should be very proud.

Major General Andrew Bottrell will address the committee later as the new Commander of the OSB Joint Agency Task force, or JATF, regarding the requirement for ongoing vigilance in terms of the implementation of the government's directions in relation to Operation Sovereign Borders. Suffice to say, from my perspective, briefed as I am on all relevant intelligence and operational matters, we cannot assume that the problem has gone away, and indeed we continue to be probed by people-smuggling syndicates, who are ever hopeful of penetrating our maritime defences. As we can see presently in Europe and Asia, these smugglers search out maritime vulnerabilities and seek to dictate the terms by which states have to then deal with the arrival of persons unauthorised on their shores.

We will be doing more in the new department in relation to detention assurance and oversight. As I am certain that I will be questioned closely on these matters, I do not intend to say much in this statement. Suffice to say, when serious allegations in relation to incidents which had occurred in the regional processing centre on Nauru were examined by Mr Philip Moss late last year, I was alerted, at the outset of my time as secretary, to the requirement to
ensure rigorous scrutiny and oversight of detention operations. In the context of centres operated by our partners, the governments of Nauru and Papua New Guinea, such oversight is necessarily undertaken by and within those jurisdictions but with Australian advice and assistance, and with appropriate Australian accountability for the provision of specified detention services in those centres, which is done by way of agreement between sovereign states and having regard to the fact that we do not exercise effective legal control over those centres.

In terms of detention operations within Australia, where of course we do exercise effective legal control, it has been my review from day one that the better practice is to separate detention, assurance and oversight from the delivery of detention services and operations. To this end, the assurance and oversight function will remain in the department after 1 July 2015 while operations and delivery will be undertaken by the ABF. This does not signify a lack of trust; it is a sign of maturity and transparency that such functions are separated. I will be specifically assisted in my duties by the recent establishment of the Child Protection Panel, of which more no doubt will be discussed during these proceedings.

To deal with border protection challenges in terms of the movement of people and like challenges in terms of goods, where the problem of narcotics and other prohibited imports is never-ending, we will need to make the necessary investment in systems and people in order to improve our capabilities for real-time data fusion and analytics, intelligence based profiling and targeting of high-risk border movements, and rapid response border enforcement and interdiction, which will allow us to minimise our interventions in relation to low-risk border movements and concentrate our firepower where it can make the most difference.

There are many other challenges that we face and with which we will have to deal, but these are the strategically material ones which I thought best needed to be highlighted for this committee. In amongst all of this, we will have to continue to deliver operational results and maintain program delivery standards. None of this will be done without significant and, at times, stressful reform and change. As I move about the department and meet with staff, I am confident that they are up for the challenge, whether they are long-serving Immigration or Customs officers or whether they are new recruits or recent transferees from other departments and agencies. Like all Australians who are faced with a challenging environment and tough, stressful tasks, if we give our staff the leadership, the tools and the support that they need, they will get the job done. Thank you.

CHAIR: Thank you very much for that comprehensive statement. It addressed a lot of the issues that I am sure committee members are interested in. As this is the last time for the separate Customs and Immigration departments, can I place on record the parliament's appreciation to both departments. Mr Pezzullo, you come from the Customs area, where you had a distinguished career and distinguished leadership, and it is good to see you in the new role. Please pass on to the Customs elements of your new department our appreciation for the work they have done over the years. Can I also make special reference to the Immigration department people who have had an exhausting, tense and worrying period over the last several years. They are often subject to a great deal of criticism from various sources, but having been in this committee for a little while now I am well aware of the great work that those Immigration officers have done in very difficult and tense situations over the last several years. Their good work should be acknowledged and I am sure I can speak again on
behalf of the parliament in thanking them all. We look forward to the combined department continuing on the very good work of both previous departments. Clearly from your statement, the vision and operational plans are well in hand. Thanks to all involved and we look forward to the successful operation of the new department.

Mr Pezzullo: Thank you, Chair. I will ensure all those remarks are passed on.

Senator KIM CARR: Mr Pezzullo, thank you for your statement. I think it is very good way to actually provide the committee with important information about the thinking of the department on these very significant issues. I would like to start a discussion today with reference to a report that appeared in The Sydney Morning Herald and The Age on 21 May, a Fairfax Media report, which went to the issue of the royal commission into child sexual abuse. The proposition advanced there was that the department appeared to have given contradictory information to this committee from that that was provided to the newspaper. It said:

… an immigration spokesman on Wednesday said the department was "not aware of any notice to produce relating to child abuse in immigration facilities".

What is your normal procedure if you feel the need to correct the record from evidence provided to the committee?

Mr Pezzullo: I first would have to establish where the contradiction is in the evidence provided to the committee.

Senator KIM CARR: Let me just ask the general question: what is the normal procedure for correcting an answer to the committee?

Mr Pezzullo: Of course, an officer has to reflect on the evidence that they have given and, in the ordinary course, they would write to the chair, who would presumably arrange for the relevant correction to be circulated to other members of the committee and placed on the appropriate record.

Senator KIM CARR: And you have not felt the need to do that, have you?

Mr Pezzullo: Certainly not in terms of any evidence that I or my officers have given to this committee.

Senator KIM CARR: How many new cases of child abuse have been reported since the 23rd, since we last met?

Mr Pezzullo: Within the detention centre in Australia, I assume you are referring to.

Senator KIM CARR: No. Obviously we can do it in two parts in immigration detention centres. We can do domestic and we can do offshore. How many are there?

Mr Pezzullo: Since that date, which, if I recall, it was probably the last time we appeared before this committee, I suspect—

Senator KIM CARR: Yes, 23 February.

Mr Pezzullo: Yes—there have been a number of what are known as a situation reports in relation to the onshore network. We will get the precise numbers through the course of the day, but there have been several concerning situation reports provided through the detention operation centre. In all those cases, matters are referred to competent police or other authorities.
Senator KIM CARR: You do not have that figure with you now?

Mr Pezzullo: No, I do not. But, as I said, we can get it for you through the day. I am not taking it on notice for subsequent proceedings.

Senator KIM CARR: We will come to it.

Mr Pezzullo: I am happy to provide that information through the course of the day.

Senator KIM CARR: And how many incidents have taken place offshore?

Mr Pezzullo: Similarly, a number of incidents have been reported through our liaison in relation to the centres in Manus and Nauru—Nauru in particular—where there have been a number of incidents. We do not have legal jurisdiction, but matters are reported and we work with the Nauruan police force to seek to resolve those matters. But, again, I will come back through the course of the day.

Senator KIM CARR: Thank you. I take it that all those incident reports are under current investigation?

Mr Pezzullo: Yes.

Senator KIM CARR: Has anyone been disciplined or employment terminated as a result of any of those incidents?

Mr Pezzullo: Certainly no officers of my department have been disciplined or had their employment terminated, no.

Senator KIM CARR: Any contractors?

Mr Pezzullo: I would have to check the dates. Again, in all of these cases that relate to the management of our detention centres, given that we have two days scheduled before this committee, it is my intention—through you, Chair—to seek to answer as best I can questions through the course of each day and not to take those questions on notice. But I am alert to evidence that Transfield provided last week, where they indicated that one or more of their service provider employees had had their employment terminated. I would just have to ascertain whether that was before or after 23 February, which is your specified date.

CHAIR: I might just interrupt there, Mr Pezzullo. There is a standing order of the Senate that says this committee should not be inquiring into a matter the subject of an inquiry of a select committee of the Senate, to which I think you were referring. If there were questions raised of the contractor in that committee hearing then your evidence in that regard should be given at that select committee hearing, not this estimates.

Mr Pezzullo: Thank you, Chair.

Senator KIM CARR: Mr Chairman, how does that proposition sit with your assertion that there is no area of public expenditure on which questions cannot be asked?

CHAIR: It is because the Senate in its wisdom has passed another standing order that says:

A committee shall take care not to inquire into any matters which are being examined by a select committee of the Senate appointed to inquire into such matters and any question arising in this connection may be referred to the Senate for determination.

The rationale of this provision, according to the then Clerk, Mr Evans—I am just quoting from his book—is that:
... if the Senate has appointed a select committee to inquire into a particular matter, this is an indication that the Senate intends that that select committee be the vehicle for the inquiry into that matter, and a standing committee should not duplicate that inquiry, subject to any positive direction by the Senate.

Senator KIM CARR: I have not referred to that committee once in my questions to Mr Pezzullo; I have simply referred to an article in the newspaper and the department's answer to question on notice AE15/068. I put to you, Mr Chairman, that on that basis there is no breach of any standing order. Furthermore, your original statement referred to a resolution of the Senate saying that there is no area of public expenditure on which questions cannot be asked. On either count, I cannot see what relevance your statement would have.

CHAIR: Thank you, Senator Carr. I appreciate your comments. Mr Pezzullo, as I understand, did say that he understood questions had been raised last week at a committee hearing. It was not this committee, because we were not meeting last week. I was just warning Mr Pezzullo and committee members that they should not go into matters that were raised as questions last week in another committee, a select committee.

Senator KIM CARR: Thank you, Mr Chairman, for your helpful advice on this matter.

CHAIR: That is okay. I am always here to help.

Senator KIM CARR: Yes, I know you are. Mr Pezzullo, I have asked you questions regarding the royal commission. You have inferred that this is a matter relating to another inquiry.

Mr Pezzullo: No, I did no such thing. I will, respectfully, explain what I was seeking to indicate. You asked me whether any staff had been either counselled or terminated. I made the point that, in relation to questions of child sexual abuse or related matters, no member of the department had been. I did say that I am aware of evidence given in another committee, in other proceedings, where a service provider has indicated that such action has been taken in relation to their staff. May I just clarify this with the chair? Am I to take your guidance to be that matters pertaining to the management of operations on Nauru, which is the subject of a select inquiry pursuant to the Moss review, are not to be answered by me or officers of my department over the course of the next two days?

CHAIR: That is generally my ruling. It is really for me to stop you rather than you to do that.

Mr Pezzullo: I am just seeking your guidance.

CHAIR: That would be my intention. The select committee—

Senator KIM CARR: I think we need a private meeting, Mr Chairman.

CHAIR: Senator Carr, can you please at least let me finish the ruling before you have your say? I will certainly allow you sufficient time to comment should you so wish. I better get the exact terms of the select committee, but my understanding is that it is a select committee on recent allegations relating to conditions and circumstances at the regional processing centre in Nauru. Anything relating to those allegations regarding conditions and circumstances is, I think, a matter that should be dealt with in that other committee. I understand from my colleagues on that committee that it has several days to go. That is the appropriate forum.

Mr Pezzullo: We have not yet appeared before it, Chair.
CHAIR: I understand you were ready to appear last time but that the committee ran out of time.

Mr Pezzullo: Yes, we were.

CHAIR: That is clearly the better place for you to respond to the allegations—at that committee rather than this committee. That is all I am indicating. We have a long program with this department that we want to try to get through. It is ridiculous to duplicate in this committee what the other committee is doing when we have so much other work to do.

Senator Carr, did you want to comment?

Senator KIM CARR: We need a private meeting, Mr Chairman. I request a private meeting.

CHAIR: Do you want that now—

Senator KIM CARR: Yes.

CHAIR: or when some ruling is known? Okay, the hearing is suspended for about five minutes. I do not imagine it will take longer than that.

Proceedings suspended from 09:55 to 10:01

CHAIR: The committee will resume. Senator Carr, you had about six minutes left of your 15, so—

Senator KIM CARR: At the last estimates committee, on Monday, the 23rd, you said to the committee that a number of documents had been provided to the royal commission into institutional child sexual abuse. Following this, in response to a subsequent question on notice, the department stated that in consultation with AGD, the Attorney-General's Department, the parliament has fully cooperated with all requests from the royal commission to provide information and formal notices to produce—that is, AE 15/068. Can you confirm that on Monday, 23 February, the department had received either requests for information or a formal notice to produce by the royal commission into child sexual abuse?

Mr Pezzullo: Yes, Senator. I can confirm that as at that time, and in the time since, we have been cooperating with the royal commission in relation to what I would describe as historical matters—that go back several decades—and assisting them with a research project that they have been undertaking in relation to those historical matters. In the time since, and certainly since the lodgement of the question on notice that you referred to, 15/068, it has become publicly known—largely through disclosures which, I assume, are agreed with the commission by Senator Hanson-Young—that the lead commissioner is giving contemplation to examination of more contemporary practices. With that coming to public notice, the commission, as far as I am concerned—as far as I am aware—have not spoken to us about those matters.

I caused inquiries to be made after Senator Hanson-Young's publication of those matters and a press release from her and a news article that I think you have referred to. The commission has kindly informed us that they are in the early contemplative stages and, indeed, drafting what they describe as notice-to-produce documents, not a notice to appear, which they have indicated to us that they will be potentially—subject, I presume, to the commissioner's directions—sending to us shortly. So I stand by answer 068. It was and remains current, as at the time it was lodged.
Senator KIM CARR: You are saying that the reference to the number of documents being provided referred to only requests for documents, not a reference to a notice to appear. Is that the thrust of what—

Mr Pezzullo: Correct. We have been working directly with the commission, over some period of months, over what I would describe—and I do not want to diminish these—as aged or historical matters. I think they go back to the forties, fifties and sixties, particularly in relation to child migration. I can get further and better particulars for you, if you wish.

Senator KIM CARR: Thank you.

Mr Pezzullo: In all of those cases, there have been cooperative activities undertaken. One of our officers, I know, has met with the royal commission in relation to those aged or historical matters. Whether that was a formal appearance or whether it was in support of the notice to produce documents, I am not sure—I will have to get back to you on that—but we certainly have not been either served a notice to produce or a notice to appear in relation to more contemporary matters. But, as I have just indicated in my evidence, I am aware that the commission is giving that active consideration.

Senator KIM CARR: Thank you. You did receive formal notice to produce. What date was that received?

Mr Pezzullo: I can be fairly precise, I think, if you give me a moment, because it has been ongoing for a period of time. Again, I do not intend to take this on notice and come back to you within weeks. I think I would prefer to come back to you within the course of the day. Certainly, an officer of my department met with the royal commission earlier this year to provide a statement in relation to documents that had been prepared in relation to certain activities at orphanages and the like in the forties and fifties and indeed—I am just advised—extending up to about the mid-1970s.

Senator KIM CARR: Will that officer that met with the commissioner be appearing today?

Mr Pezzullo: No. She is currently on long-term leave of absence, and she will not be returning to the department.

Senator KIM CARR: Who requested that the officer meet with the commissioner?

Mr Pezzullo: I assume officers of the commission, but, again, I will seek to get further and better particulars for you through the course of the day.

Senator KIM CARR: Was that a formal request to appear?

Mr Pezzullo: Yes, and, as I said, I am not sure if it meets the definition of an appearance before the commission as such or a meeting with officers of the commission. I will have to get that detail for you.

Senator KIM CARR: You do not think that would constitute—what did you call it here?—’we had not been called, nor had notice been served for us to appear’? That is what it says in estimates answer AE15/068.

Mr Pezzullo: The answer that I have got in front of me—and I am hoping that we have got the same version; I apologise if that is not the case—

Senator KIM CARR: This is in the Hansard. AE15/068 quotes directly from the Hansard and the evidence that you tendered, where you said:
… we had not been called, nor had notice been served for us to appear before that royal commission.

**Mr Pezzullo:** That is right.

**Senator KIM CARR:** Are you saying that the meeting with the officer—which I understood you to be saying to me was a request by the commission—did not constitute a request to appear?

**Mr Pezzullo:** I do not believe the officer has appeared before the commissioners, no.

**Senator KIM CARR:** I see. But meeting with the commission—that is different, is it?

**Mr Pezzullo:** It is assisting them with the research project that they are currently undertaking in relation to historical matters that extend from the 1940s to the mid-1970s.

**Senator KIM CARR:** The topic of their meeting is a separate matter. My question goes to whether or not an officer of this department met with the commission, and nothing hangs on that other than the fact that you have indicated to this committee that there had been no request to appear. ‘Had not been called, nor had notice been served for us to appear’ suggests to me that no officer had been called or had appeared before the royal commission.

**Mr Pezzullo:** That is right. In my interpretation of it—perhaps yours is different—when you appear before a royal commission, it is a pretty significant event, and, if it occurred in February when I was the secretary to the department, I certainly would have known about it.

**Senator KIM CARR:** Yes, you would have.

**Mr Pezzullo:** They hold hearings. They are televised on most days. I did not notice my officer appearing before them.

**Senator KIM CARR:** My point to you is that, if an officer of your department had a meeting with the commission regarding these matters, it would have been worthy of mention to this committee, rather than saying they 'had not been called, nor had notice been served'. If it is the case that there had been a mistake, there is a procedure, as I said at the opening of these questions, for correcting the record.

**Mr Pezzullo:** I am not conceding that there is anything that requires a correction at all. If one of my officers is called before the royal commission, I will ensure that this committee is one of the first bodies to be informed.

**Senator KIM CARR:** Thank you for that, Mr Pezzullo. The commission requested a meeting with your officer. Is that correct?

**Mr Pezzullo:** Officers of the commission have met with my officers and, indeed, since the tabling of the relevant question on notice that we are dealing with, or the response at least thereto, my officers as recently as last week have been in discussions with the commission. That is how I know that they are working through the drafting of a potential notice to produce.

**Senator KIM CARR:** I want to go back to this question about an officer meeting with the commission, which is at the request of the commission. Is that correct or not?

**Mr Pezzullo:** Sorry, Senator. I missed the question.

**Senator KIM CARR:** Was it correct that the royal commission into child sexual abuse sought a meeting with an officer of the Department of Immigration?

**Mr Pezzullo:** Yes.

**Senator KIM CARR:** Yes.
Mr Pezzullo: Officers of the commission; that is right.

Senator KIM CARR: Officers, yes. What date was that?

Mr Pezzullo: My understanding—and I have been assisted in finding the relevant facts in what is a very fat briefing book here—is that there was a request from the royal commission—received when, I do not know—but certainly on 26 February, which is after the date in question, a former officer of the department did provide a relevant statement on behalf of the Commonwealth, which she dated 31 March.

Senator KIM CARR: You are saying the request only appeared on 26 February.

Mr Pezzullo: If I need to correct that, I will, but that is the earliest indication I have that it occurred.

Senator KIM CARR: Is that why you did not correct the record?

Mr Pezzullo: Again, I am not sure that there is a need for me to correct anything, so I am not going to concede your premise. Certainly, my state of knowledge on the 23rd was as I described it. I would not have had a different state of knowledge and withheld that from you. Subsequently, if an officer does appear, it is covered by two things: one is the question on notice response that we lodged some time in April—I do not have the date in front of me—

Senator KIM CARR: That is right.

Mr Pezzullo: And I have further provided an update to this committee this morning in relation to a statement from the commissioner that appeared in the press, which I think Senator Hanson-Young—I hope I am not taking a liberty here—was attached to your press release that I saw last week. So, we have caused further enquiries to be made and there have been ongoing discussions. I am sure, senators, that there have been phone calls, maybe video conferences, perhaps an officer has even flown up to Sydney or attended the offices of the commission—I just do not know—but there certainly has been engagement with the royal commission.

Senator KIM CARR: Have there been—

CHAIR: We will have to come back to you, unless you are almost finished on this.

Senator KIM CARR: On this matter, I am quite close to completion.

CHAIR: Okay.

Senator KIM CARR: I might—

Mr Pezzullo: Sorry, Chair, if I may. If any request was received from the royal commission for a meeting or some kind of attendance prior to 23 February, that I will ascertain, Senator, through the course of the day.

Senator KIM CARR: Thank you. Have there been any further requests for information from the royal commission since the 23rd?

Mr Pezzullo: Yes, both in relation to the historical matters, these orphanages, and then as of last week there was a discussion with officers of the commission. None of my officers have spoken to the commissioners themselves and certainly none have appeared, but there have been discussions with officers of the commission about a prospective draft notice to produce documentation.
Senator KIM CARR: Are you suggesting that there is a difference between meeting with a royal commissioner and meeting with officers of the commission?

Mr Pezzullo: I mean insofar as if you meet before commissioners your evidence is sworn. We are going to cooperate anyway, whether we meet with junior officers, researchers, the secretariat. But, obviously, there is a degree of profundity attached with an appearance before such a tribunal.

Senator KIM CARR: On 20 May—

CHAIR: Senator Carr, I think these are going a bit long. We might have to come back to you on those. Senator O'Sullivan.

Senator O'SULLIVAN: Might I attach my congratulations and attach myself to the remarks of the Chair on behalf of us all about the fine job that both these agencies and departments have done for a very long period of time. They can be very proud for those who have served long term and obviously set a foundation for the future.

Mr Pezzullo: Thank you, Senator.

Senator O'SULLIVAN: Can you tell me what measures are in the budget and how much is provided, for example, for social security for trafficking victims and the like?

Mr Pezzullo: I might just see if one of my deputy colleagues has that to hand, otherwise I will ask the chief finance officer to come to the table.

Mr Manthorpe: I can assist you with that. The budget made available $2.3 million over four years for enhancements to the human trafficking visa framework, which included a portion to provide access to social security payments to persons who are subject to human trafficking.

Senator O'SULLIVAN: When you talk about enhancements, do you have any detail in relation to that?

Mr Manthorpe: Yes, the main one is that persons in that situation—

Senator O'SULLIVAN: The eligibility criteria?

Mr Manthorpe: Yes, that is right; we have provided eligibility straight up rather than having to wait for two years, as I recall. We are only talking about relatively small numbers of people but people who are very vulnerable and for whom such a payment is appropriate.

Senator O'SULLIVAN: What will those measures do? What will be the impact for those people? You have indicated it will be a positive impact.

Mr Manthorpe: The positive impact is that they will have eligibility for income support whilst they are in Australia and potentially assisting with inquiries into human-trafficking matters and having the opportunity to live in our community in a protected environment.

Senator O'SULLIVAN: Which people are most at risk of being trafficked? What is the profile of the people who are impacted?

Mr Manthorpe: I might see if any of my colleagues can assist me.

Mr Outram: The issue of trafficking can impact on a lot of different sectors. One obvious one that has been of note for some time is, for example, the sex industry, where trafficking has occurred. There are a number of intelligence agencies that look for those particular threats and try to establish which pose the most risks and try to address that. For example, the
Australian Crime Commission some years ago in one of its determinations looked particularly at that sector in relation to human-trafficking threats. The Border Force are looking out for those sorts of issues around migrant workers, the agriculture sector and the construction sector. There is a whole range of different areas that can be impacted by human trafficking.

**Senator O'SULLIVAN:** These souls who will be the beneficiaries of the budget measure are also in a position to help agencies in the area of enforcement to see how this can be stopped? Is that your understanding of the budget measure?

**Mr Outram:** In relation to the budget measure, I may hand that back to my colleague. But there a number of different visas that are used to assist law enforcement—people who become protected witnesses, for example, and those sorts of things. So there are a number of mechanisms in place to support law enforcement activities.

**Senator O'SULLIVAN:** What measures are there in the budget to support families who go through the intercountry adoption process?

**Mr Pezzullo:** I apologise for the delay. It is challenging when we are not down at the program level to have the officers readily at the table. We were under the impression that we were dealing with general cross-portfolio matters at this time and that is why I had all the deputies lined up. I do apologise. We will try to assist as best we can, but some of these matters get into quite specific program management issues and we need to get the relevant first assistant secretaries off the runway.

**Mr Manthorpe:** Nevertheless, in the meantime, Senator, I can provide a general response to your question. Moneys have been made available to the department as part of the establishment of the intercountry adoption service that was announced recently by, as I recall, the Minister for Social Services. We are working closely with DSS, AGD and others to establish that service and funding for our portfolio. I have only got detail on the funding for our portfolio in that respect, but it is the sums of $160,000 for 2014-15 and rising to $639,000 in 2015-16, and a similar amount in the out years beyond that to enable us to play our part in providing advice to people, particularly about the visa and citizenship aspects of intercountry adoption.

**Senator O'SULLIVAN:** What will the department of immigration be doing with social services to deliver the fruit of this package?

**Mr Manthorpe:** Basically, we will be working offshore in those countries that are subject to the agreement that has been reached in relation to offshore adoption. They will be active in countries where there are active arrangements in place under the Hague Conventions and other bilateral arrangements. So we will be in a number of countries working with parents, or prospective parents, to assist with the visa and citizenship component. We will make sure that as a person, or a couple, seeking to engage in an adoption, that we are playing our part in ensuring that the process is a smooth one, bearing in mind it is something that crosses multiple portfolios. We will be playing our part in that.

**Senator O'SULLIVAN:** Do you anticipate this will have a positive impact on waiting times?

**Mr Manthorpe:** I am not sure, Senator. I would not want to comment on the way in which this will bear on other portfolios, but I would suggest that if we have dedicated staff on
the ground, at least with respect to the visa and citizenship component of it, it should do. It should ease the process and streamline the process for people concerned.

**Senator O'SULLIVAN:** Clearly that would be a desirable KPI to have more fluid waiting times.

**Mr Manthorpe:** Indeed, yes. My colleague might be able to assist a little further here.

**Ms Noble:** I just wanted to add to the testimony that following the Prime Minister's announcement on 25 January, the department has established a new adoption liaison team, specifically to provide immigration and citizenship information to prospective adopting parents. We have also amended the Citizenship Act to allow children adopted through a bilateral program—that is currently South Korea and Taiwan—to become Australian citizens before they enter Australia.

**Senator O'SULLIVAN:** Thank you for that.

**Senator BILYK:** I was just wondering what the current waiting times are for the different countries for people to adopt?

**Mr Manthorpe:** I would have to take that on notice. I will endeavour to get that for you during the course of the day.

**Senator BILYK:** That would be very interesting, thanks.

**Senator KIM CARR:** Mr Pezzullo, the article I referred to earlier today in the Fairfax media on Thursday, 21 May, states that an immigration spokesman on Wednesday, 20 May, said that the department was:

…’not aware of any notice to produce relating to child abuse in immigration facilities’.

Have I accurately quoted the article?

**Mr Pezzullo:** I do not know. I do not have the article in front of me. If you are accurately reading from it, which I am sure you are, then that would be a misstatement in relation to historical matters concerning child migration, which were the subject of mention at the last estimates. I do not know why that a statement appears quite in the way that it does. Whilst I have been at the nonstriker's end, I have had capacity to check records. The request of the former officer to provide a statement and to discuss matters with officers of the commission not to appear before the commission was indeed received on 26 February, which renders the earlier evidence as safe as houses.

According to the table that I have, the information I have, there have been no similar requests for statements or discussions. There have been notices to produce that extend back to August 2013 in relation to what was called, in shorthand, the child migration program from the UK extending back to the 1940s. I do not wish to name the particular orphanage which is the subject of attention from the commissioners because I do not know what the commissioner has said in relation to publicity around that orphanage. Whilst I respect, of course, the privileges of this Senate, I also know that royal commission privileges are pretty powerful too and I just do not want to get tangled up there. So, yes, we have been cooperating with the royal commission for the best part of, let's say, two years in relation to certain historical matters dating back to the forties through to the seventies.

**Senator KIM CARR:** Yes. So in August 2013 was there a request?

**Mr Pezzullo:** Correct.

**Senator KIM CARR:** There was a request?
Mr Pezzullo: As long ago as then, we have provided advice on historical detention.

Senator KIM CARR: Sure. I am not arguing with the nature of those; I am interested to know whether there was a request from the royal commission in August 2013?

Mr Pezzullo: The first notice to produce pertaining to the ongoing work of the commission was in September of 2013—I stand corrected. In this case, I will it take on notice because I want to check the legalities, which I am sure will be smoothed out by some lawyer, about providing that information.

Senator KIM CARR: My original question went to whether or not the royal commission had taken an interest in institutional responses to child abuse.

Mr Pezzullo: The answer is, clearly—

Senator KIM CARR: Obviously, yes.

Mr Pezzullo: As was stated in the written response to your question—

Senator KIM CARR: Yes, it was.

Mr Pezzullo: where we have clearly stated that we have been providing information in response to requests for information from the commission.

Senator KIM CARR: That is right. So what hangs on this is whether or not there is an accurate record of this exchange with the commission prior to 23 February. You are saying that a request was received on 26 February; therefore your evidence stands. I am suggesting to you that there were prior requests from 23 February. I think what you are saying now is that as far back as September 2013 there have been requests.

Mr Pezzullo: Which is why on 23 February, in the very same document that you are making reference to, I said—and these were my words in response to, in fact, Senator Macdonald as the chair who asked me about the various matters—‘A number of documents have been provided.’ I said this to the committee on 23 February, ‘A number of documents have been provided and we continue to engage in ongoing cooperation with the secretariat to the royal commission. As to the status of those documents and whether they were, as it were, compelled, that is an element that I will retain on formal notice and provide a written response to the committee. Yes, we have had dealings with the royal commission and have provided them with certain information. Subject to the privilege of that commission, I am just not quite sure what the rules are, and we will formally take on notice.’ I said that on 23 February.

Senator KIM CARR: In regard to the report in The Age on 21 May which you are now suggesting is wrong, what action was taken to correct the record there?

Mr Pezzullo: Sorry, Senator, which record?

Senator KIM CARR: The record published in The Age that said an officer said that they had been not aware of any notice to produce relating to child abuse in immigration facilities.

Senator REYNOLDS: Chair, can I just ask a question?

Mr Pezzullo: I was happy to answer it.

Senator REYNOLDS: Has Senator Carr got a copy we could perhaps copy for the secretary and also for the committee members, just so we know what is being referred to?

Mr Pezzullo: That is a very gracious and helpful intervention. I do remember enough about the article because I remember the matter being drawn to my attention.
Senator REYNOLDS: But it is also for the rest of us.

CHAIR: It might also help the committee—

Senator REYNOLDS: It will help the committee as well.

CHAIR: so that we can follow what you two are having a little chat about.

Mr Pezzullo: Of course, Chair.

CHAIR: Do you have a copy of it that you can make available, Senator Carr, so that the committee can keep in touch with what you are on about?

Senator KIM CARR: It is a straightforward response. I am happy to give you the article, but it is really quite insignificant to the point I am making. What action has the department taken—

Mr Pezzullo: I can assist the committee, Chair, if the senator is willing to accommodate the answer.

Senator KIM CARR: Yes.

Mr Pezzullo: As I recall, the article was based on media request about whether the department had been co-opted in any way with a notice to produce or notice to appear. I do recall the background to the story. It was specifically about whether the royal commission had taken or was planning to take an interest in current detention operations, particularly with regard to onshore detention or our regional processing arrangements. I think in that context, read in those terms, the response of our media team was accurate.

Senator KIM CARR: Was accurate?

Mr Pezzullo: Yes, in the context that I have just defined. I do not have the article in front of me, but I have got sufficient recall of it.

Senator KIM CARR: Not aware of any notices to produce relating to child abuse in immigration facilities.

Mr Pezzullo: I think in fairness to the cleared response that was given by our media unit, that no doubt was authorised by the relevant officers, they would have had front of mind the media inquiry that came from the Fairfax journalist, who seemed to have an advanced insight into the view that had been put to Senator Hanson-Young by Commissioner McClellan, as I recall it, which was about contemporary practices. In relation to that, the statement was accurate and stands. We subsequently have had discussions with the royal commission and they have indicated, as per my earlier evidence, that they are in the contemplative stage.

Senator KIM CARR: So the answer is taken out of context?

Mr Pezzullo: I think that is the generous interpretation, but I am happy to live with that.

CHAIR: I think we might use that as a time to go to the morning tea break, and we will resume at 10:45.

Proceedings suspended from 10:31 to 10:46

CHAIR: I call back to order this hearing of the Senate Legal and Constitutional Affairs Legislation Committee looking at the 2015-16 budget. We are dealing with the Department of Immigration and Border Protection. We are in the session looking at cross-portfolio—corporate and general—with the department. Senator Carr, you have about six minutes left.
Senator KIM CARR: Thank you. The budget measures consolidation of Australian border protection services is a saving of $270.1 million over four years. Mr Pezzullo, how is that to be achieved?

Mr Pezzullo: Through a variety of means. The scheduling of the savings was agreed in the 2014-15 budget, a year ago. So we have been working steadily over a year to look at what efficiencies can be gained from the consolidation of functions such as IT, legal services, financial services, property arrangements and the like. Inevitably, the increased use of technology over the years to come will achieve a degree of efficiency as well. We are trying as far as possible to redirect the efficiencies that we are able to garner in two directions. One is to pay those monies which have an increasing schedule of payments over the back end of the forward estimates. We are also trying to preserve as much by way of staffing FTE as possible and to redirect those resources to the front line, particularly in three crucial respects: the ADF uniform component, the visa processing elements and our intelligence capability, which is key to the success of those functions.

Senator KIM CARR: So, in regard to staffing levels, what is anticipated?

Mr Pezzullo: At the moment the only firm decision that has been made is the average staffing level for the forthcoming budget year—that is 2015-16, where, I think, there is a drop of 30 FTE in a combined workforce of 13,730. I will ask the CFO to assist me with these numbers. From memory, that goes down to 13,700. Once the commissioner is in place, he or she and I will have a discussion about the future workforce strategy, how we seek to achieve both internal efficiencies and those external efficiencies that you have just referred to in a way that as much as possible helps us to preserve the maximum amount of human capability as well, because in our business, as good as technology is, you still need troops on the ground on the front line.

Senator KIM CARR: Yes. So that is for one year?

Mr Pezzullo: That is right.

Senator KIM CARR: But you do not have any advice for the committee as to what is happening in subsequent years?

Mr Pezzullo: The only advice I have for the committee is that which I have just stated. We have not settled on precise numbers for several factors; the ones I have just discussed. We are also in an enterprise bargaining phase, and some difficult decisions might need to be made in terms of trade-offs there as well. Until several things settle, the commissioner and I can commence these discussions. We certainly intend to run this new agency very much on a dual leadership model—you cannot do it otherwise—with both of us reporting directly to the minister. We will need to work through enterprise agreement matters. We will need to look at what further efficiencies we can gain through non-FTE reductions—property consolidation for instance being one example. Achieving those savings, redirecting resources to the front line and trying to preserve as much FTE as we can will be a delicate and complex set of equations to work through.

Senator KIM CARR: $270 million over four years; do you have a profile on that?

Mr Pezzullo: Yes, we do. If I am joined by the CFO—having given the cue already once, I will just have to pause now—unless Mrs Grant wants to assist? Excellent, our chief operating officer can assist.
Mrs Grant: The profile for the $270 million over the forward estimates is $24.1 million in 2015-16; $66 million in 2016-17; $90 million in 2017-18; and $90 million again in 2018-19.

Senator KIM CARR: Why is it back-ended like that? What is your thinking there?

Mrs Grant: A lot of these efficiencies are due to the integration of the former Department of Immigration and the former Australian Customs and Border Protection Service. We think there is scope for efficiencies to be found. But, in the early years—where we have, for example, both agencies having contracts with similar services—we need to work our way through consolidating those contracts and then harvesting the efficiencies in the out-years. So that relates to things like general contracts and ICT contracts particularly; property leases and consolidating our holdings around Australia. So we cannot do it from day 1; we just need the lead time to consolidate in those areas.

Senator KIM CARR: You mentioned visa processing, Mr Pezzullo. What sort of savings do you anticipate there?

Mr Pezzullo: Sorry, Senator, I just missed the start of your question.

Senator KIM CARR: You mentioned visa processing was a mechanism by which savings would occur. What is the thinking there?

Mr Pezzullo: Certainly one of the areas that the commissioner and I will look at, in conjunction with Mr Manthorpe who heads up the visa and citizenship group, is: to what extent can we streamline our processes? How can we take some savings out of those processes with technology? How can we redeploy resources—not necessarily reduce the FTE—out of what is a heavily transactionally based business and remove those resources and retrain them; put them into the ADF, for instance.

Senator KIM CARR: There are some new visa classes being put in place, aren't there? Safe haven enterprise visas?

Mr Pezzullo: Yes.

Senator KIM CARR: How much are they going to cost?

Mr Pezzullo: The visas or the—

Senator KIM CARR: What is it going to cost to implement that measure?

Mr Pezzullo: I will have to see if any of the officers at the table can assist me with that very specific question.

Mr Manthorpe: I do not think we would have a breakdown of what implementing the SHEV per se would cost, but we will be deploying safe haven enterprise visas as well as temporary protection visas through the process of assessing the protection claims of the so-called legacy caseload of IMAs, so it sits within that line. Indeed, there has been investment made in the portfolio to assist with that part of our processing task that lies ahead.

Senator KIM CARR: With regard to that particular class of visa, I do not recall seeing any detail on what that looks like.

Mr Pezzullo: I might start. The safe haven enterprise visa was integral to the measures parliament passed in December that also saw the reinstitution of temporary protection visas. SHEVs, as we describe them, are an alternative pathway for IMAs and indeed—I think, from memory—for other specified categories of unauthorised arrivals to commit to living, learning
or earning in regional parts of Australia. This is still being worked through with state and territory jurisdictions. If they can successfully accomplish that over a 3½ out of five year period and if they do not draw on income support over that time or if they undertake approved learning, the government agreed and the parliament passed relevant legislation which would see people in that stream be able to apply for permanent residency not of a permanent protection character—that is, any other form of permanent residency. Mr Manthorpe will assist me here, but I think the legislation was given royal assent a few months ago. We have been in discussions with employer groups and states and territories about who might be interested in—

Senator KIM CARR: Which employer groups?

Mr Pezzullo: I would have to take the detail on notice. We have been in discussions with a number of parties—including states and territories, just to make sure they are aware of the potential for workers to go into regional areas, because that will require a draw on state services, obviously.

Senator KIM CARR: Which states and territories?

Mr Pezzullo: We have been in discussions with all states and all territories.

Senator KIM CARR: You are saying this will save $6 million, or that it will cost $6 million? What are the financials in regard to that particular matter?

Mr Manthorpe: I do not think we were saying—I am not sure where the $6 million you mention comes from.

Senator KIM CARR: Sorry. What is the cost of implementing this new measure?

Mr Pezzullo: What I was saying—and the CFO can correct me if I am wrong—was that my recollection is that the processing of the IMA caseload is a matter that is going to incur costs for the department that have been covered in the budget. The SHEV is one of the two potential options; the TPV being the other. I do not have the number in front of me. Mr Groves, can you assist?

Mr Groves: I do not have specifics on the SHEV. The introduction of the SHEV was caught up in some changes around the introduction of the temporary protection visas and the safe haven enterprise visas. The adjustments from a costing perspective were adjusted through the demand driven costing model that we have around IMA management and were picked up as part of the AE's process in MYEFO—

Mr Pezzullo: Sorry, Mr Groves, you might need to briefly explain the 'demand driven model' and how that relates to—

Senator KIM CARR: And the 'AE process'. That will be another interesting conclusion you could draw.

Mr Groves: The demand driven model determines the funding we receive from government for the management of IMAs. This was a measure that was picked up as part of the additional estimates process. I do not have specific—

Senator KIM CARR: I see. Would we be likely to see the detail of these safe haven enterprise visas actually put into the public arena?

Mr Pezzullo: It is in the public arena insofar as there is legislation.
Senator KIM CARR: Yes, but they have said very little in the legislation as to how they would be used.

Mr Pezzullo: We might see if we can provide more information through the course of the day. Perhaps Ms Noble, who heads our policy line, can address it. There would have been information along the lines I specified earlier in the explanatory memorandum and in the legislation. I assume, Ms Noble, that we have put relevant facts and figures and other material out to the states and territories, and perhaps there is some material there we can share with the Senate.

Senator KIM CARR: That would be very helpful. And the time line for implementation?

Mr Pezzullo: I might ask Ms Noble to speak to that.

CHAIR: We might make that the end of this.

Ms Noble: The time line is dependent on a state or territory opting in. You might recall that Minister Morrison made public that commitment. So we are working very closely with the states and territories to support them to opt in. The issues we are working through are about being as certain as we can, or as the states and territories can, about providing support to individuals in regional areas from a range of services, such as English language, education, jobs or indeed mental health care and other care.

To answer your question about what SHEVs will provide to people who are ultimately provided or granted that visa: they will have permission to work; they will have access to Medicare and related benefits; they will have access to early health assessment and intervention services, including counselling for torture and trauma; they will have access to special benefits, rent assistance, family allowance, maternity allowance and family tax benefits; and they will have access to education for children of school age. What they will not currently be offered is a permanent protection visa. They will not be able to bring family members through the Australian humanitarian or family migration programs, and they will not have access to settlement services, except where the relevant minister grants access as required.

The SHEV is very similar to the temporary protection visa. It will be valid for five years, rather than the three years which is the case for the temporary protection visa, and it does actually provide access to an onshore—that means in Australia—pathway for people to apply for other non-protection visas for those SHEV holders who spend 3½ years in a specified regional area studying and/or working, without accessing social security benefits.

Senator KIM CARR: When did you say they will be available from?

CHAIR: Thanks for that, Senator Carr. Your time is well overdue. Senator Hanson-Young.

Senator HANSON-YOUNG: Mr Secretary, I have got a number of questions in relation to staffing matters of your department first. Obviously there have been some reports this morning, as well as your opening statement, around staff movements. Could you just inform us how many DIBP employees have resigned since you became secretary?

Mr Pezzullo: How many have resigned?

Senator HANSON-YOUNG: Of their own volition.

Mr Pezzullo: Across the department or the senior executive service?
Senator HANSON-YOUNG: Senior executive service.

Mr Pezzullo: It would be probably in the single-digit to low double-digit numbers, but I would have to take advice on that.

Senator HANSON-YOUNG: Could you check that for us throughout the day?

Mr Pezzullo: Yes.

Senator HANSON-YOUNG: That would be helpful.

Mr Pezzullo: If I can be very precise, do you mean resigned from the Public Service or resigned from the department with a view to moving to other employment opportunities?

Senator HANSON-YOUNG: Resigned from the department.

Mr Pezzullo: In that case, I might need to expand the scope of my answer to both resignations—because that is a very particular term under the Public Service Act—as well as transferences to other departments and agencies, if that is the burden of the question.

Senator HANSON-YOUNG: That would be good.

Mr Pezzullo: In that case, it could be in the order of upwards of a dozen-plus, certainly, and I will come back through the course of the day.

Senator HANSON-YOUNG: Thank you. Is it correct that, when you took on your new role, you made all senior executive staff reapply for their positions through a process of—

Mr Pezzullo: No.

Senator HANSON-YOUNG: Did you request that they all participate in a performance management process?

Mr Pezzullo: I directed it.

Senator HANSON-YOUNG: What was the purpose of that?

Mr Pezzullo: To ensure that, as we move into an integrated department that does not just concern itself with traditional immigration and citizenship matters but which also concerns itself with customs, trade rules, maritime security, border protection and so on and so forth, the available talent had the skills, competencies and aptitude to fit into the new organisation.

Senator HANSON-YOUNG: Out of those numbers of senior executive staff who have moved on from the department, is it fair to say that all of those were being performance-managed at the time?

Mr Pezzullo: No.

Senator HANSON-YOUNG: No? You just told me that you were running a performance management process.

Mr Pezzullo: Yes, but the two are logically consistent. Some people might have decided, for their own reasons—perhaps their own personal values—that they might not feel comfortable working at an agency that, for instance, has a border force component that will be armed. I know several officers have confided in me as we have undertaken what I would consider to be very sensitive discussions about what might be shorthandedly described as 'future fit' where they have said—and these are entirely valid and legitimate personal and emotional responses—I joined the department X number of years ago—in some cases, several decades; I do not want to be too particular because that starts to identify and profile...
the officers—and we had a particular remit, we had a particular approach that we took. This is all changing. I was thinking of the next phase of my life and my career in any event. I think it's time for me to move on to other things.' And that has been perfectly respected and supported.

Senator HANSON-YOUNG: How long has this process taken, the performance management review?

Mr Pezzullo: When you say 'performance management', that is also a very particular term of art that attaches itself to individual officers. Some officers at the SES level have been put on formal performance notice. The appraisal that was essentially premised in your question, which was not the reapplication—I did not agree with that characterisation—but there was an appraisal process that started within weeks of my taking up the appointment of secretary. Mr Quaedvlieg took up his appointment as chief executive, and we did it jointly, because it is going to be a joint SES workforce. If it was in the field within weeks, I would say around November, but I can come back with precise details.

Senator HANSON-YOUNG: Have you got figures on how much that appraisal process, as you have described it, cost?

Mr Pezzullo: I can get that for you.

Senator HANSON-YOUNG: I would appreciate that. I understand the logic of the fact that you were doing an appraisal or a review based on the merging of the new agencies and under the guise of the way the department now looks. Was there an excess of SES staff for the positions available through that merger?

Mr Pezzullo: No.

Senator HANSON-YOUNG: So are there more positions or—

Mr Pezzullo: No. In fact, we are actually recruiting at the moment. I do not have the figures off the top of my head, but we are probably one of the most significant recruiters of SES, because we are well under what is known as the SES cap, which is an arrangement that is in place for all agencies which is overseen by the Public Service Commission. There are a number of acting SES officers at the band 1 and band 2 level—not at the deputy secretary level—and there are a number of substantive vacancies therefore. We have just completed, in fact, the band 2 round. A number of officers have joined our department as recently as this morning from the defence department and elsewhere. So, no, it is not the case that there were excesses or surpluses. Indeed, we have vacancies.

Senator HANSON-YOUNG: How many SES staff resigned before the conclusion of this process?

Mr Pezzullo: It is ongoing in the sense that the process applies to all new starters. The appraisal process is a universal tool. It is applied to all new starters. It is the same diagnostic and performance and 360 tool that is applied to all new starting senior executive officers. When you say, 'The process has concluded', I would have to come back to you specifically to say, 'At this point in the process—let us say December 2014, when we made certain decisions at the high level—X number had resigned, and, by March 2015, Y number had moved on or resigned.' We will have to get those figures for you through the course of the day.
Senator HANSON-YOUNG: Thank you. Could you explain to the committee what these draft integrity policies are? My understanding is that you are in a current consultation over them, but perhaps that has been concluded. I am not sure.

Mr Pezzullo: In one aspect, it has been. There were a number of policies that the chief executive and I simultaneously implemented across the merging organisation administratively. That was the subject of initial draft policies which were the subject of consultation and then finalisation. That related to matters that were in our administrative remit—dress and appearance standards being one of those. Then there is a second tranche of policies that will be implemented with effect 1 July, when new legislation comes to hand, universal drug testing and universal alcohol testing being two that come to mind. We can go into more detail, and I would ask Ms Grant, perhaps assisted by our head of integrity, who might join us at this point, to explore those issues if you wish.

Senator HANSON-YOUNG: Ms Grant, just so I am correct, there are some of these policies that have already been put in place and there are others that are going to start on 1 July. Is that correct?

Mrs Grant: That is correct. Nine policies took effect from 10 March 2015. Those are policies related to the use of social media and corporate electronic communications. Another policy related to communicating with the media in an official capacity. The secretary has already mentioned the policy relating to certain dress and appearance standards. We also had a policy around security clearances—a requirement to hold and maintain a baseline national security clearance. Another policy was the requirement to advise the department of changes in personal circumstances. Another one was the prohibition of working under the influence of alcohol and taking illicit drugs at any time. A further policy was restrictions on secondary or outside employment. A further one was the requirement to declare conflicts of interest. The final one from the March 2015 group was restrictions on the use of personal mobile electronic devices in certain operational work areas. They have come into effect from March this year. The policies that are currently out for consultation which we plan to take effect from 1 July are: a policy about the requirement for employment suitability screening—that covers both pre-employment and ongoing, with a graduated risk based implementation; a requirement to declare certain associations; the program of random and targeted drug and alcohol testing; a requirement to report serious misconduct and corruption; and risk based targeted integrity testing. So that is a further group of five from July this year.

Senator HANSON-YOUNG: What is the title of the policy that is related to dress code?

Ms Dorrington: It is simply titled 'Dress and appearance standards'.

Senator HANSON-YOUNG: What are those dress and appearance standards?

Ms Dorrington: They are effectively for people in a non-uniformed area. I preface that by saying there are standards for uniformed workforce and standards for non-uniformed workforce. The standards for the uniformed workforce, as you would appreciate, are quite specific and go to the wearing of the uniform and so on. The standards for the non-uniformed workforce are effectively professional business dress, and the policy does detail what that might look like.

Senator HANSON-YOUNG: It does detail that? It says what type of shirt and pants or skirt you have to wear?
Ms Dorrington: I do not have it before me, I am afraid, but it goes to describe professional business dress, but then goes on to say that there are certain things that would not constitute professional business dress, and that would be things like jeans, thongs, ugg boots and so on.

Senator HANSON-YOUNG: I could not imagine that many people would be rocking up to work in ugg boots.

Ms Dorrington: You would be surprised.

Mr Pezzullo: You would be surprised.

Ms Dorrington: In fact, a large proportion of our conversation with the workforce—which is a conversation we have had right across the country and indeed with our overseas posts—goes to the idea of how much we should or should not say about what constitutes professional standard dress. We have taken a lot of feedback from people who say, as you just implied, 'Isn't it common sense? Why do you need to describe these things?' Then other portions of our workforce say, 'In fact, no, it is not common sense and the dress of some folk on any given day of the week is something that does need to be prescribed in some particular way.'

Mr Pezzullo: If I may assist, at one point Ms Dorrington came to me with a number of matters that had arisen, and I was asked to, if you like, rule or make a determination around the wearing of something called a onesie. I did not even know what a onesie was, and I was shown pictures of such garb.

CHAIR: Tell me what it is so we all know.

Mr Pezzullo: I had to put it out of my head very quickly! I put it out of my head very rapidly. I guess in the old days you would have called it a boiler suit of some description. That is a onesie. Yes, ugg boots. Yes, thongs, jeans, torn and otherwise. I think they are pretty straightforward. As I think you were intimating yourself, it would be surprising that anyone would think that that is within the standards, but, from an abundance of caution, we just provided certainty.

Senator HANSON-YOUNG: Who gets to determine what is appropriate and what is not? Whose job is that?

Ms Dorrington: That has generally been for us a conversation between management and the workforce. Part of our conversation right across the nation with our employees has been a conversation about what we collectively think constitutes our professional business dress. There had been some standards put out in a draft policy and then the conversation was consequent to the draft policy; what do we say then, in a modern context, constitutes professional business dress.

Senator HANSON-YOUNG: Has anybody been disciplined for not wearing the appropriate attire?

Ms Dorrington: No.

Senator HANSON-YOUNG: Has anyone been sent home for wearing jeans?

Ms Dorrington: They may have been, I wouldn't know.

Senator HANSON-YOUNG: Who makes that call?
Ms Dorrington: A manager; a workplace manager would make that call.

CHAIR: If they were wearing jeans that were split that would suggest that they were getting more money than you would be paying them, so you would probably want to get rid of them.

Senator O'SULLIVAN: I hope I do not have to come back on an extra day because of time spent on a pair of jeans, seriously.

CHAIR: Sorry, I interrupted Senator Hanson-Young.

Senator HANSON-YOUNG: Mr Pezzullo, would you like to say something?

Mr Pezzullo: Senator, in the spirit of bipartisanship, I will say it in these terms: we certainly do not require anyone to attend the workplace as elegantly attired as, say, Senator Carr with his very elegant three-piece suits, or Minister Cash. Sorry, Senator O'Sullivan, I believe that is a cardigan.

Senator O'SULLIVAN: It's a cardi!

Mr Pezzullo: But I can give you every assurance that we simply do mean ordinary, professional work wear that would not be surprising to you. The fact that we have had to make certain determinations is regrettable, but it is about lifting standards ahead of 1 July. I am sure that the message is already out there; managers are doing their job. We do not see that this is a particularly dramatic or draconian imposition upon our staff. It is just about basic professionalism.

Senator HANSON-YOUNG: Okay. Have any staff been disciplined for breaching other elements of the existing nine policies since they came into place in March?

Ms Dorrington: No.

Senator HANSON-YOUNG: Mr Pezzullo, ask how many referrals have there been by the department to the AFP in relation to breaches of section 70 of the Criminal Code?

Mr Pezzullo: In terms of unauthorised disclosures of information?

Senator HANSON-YOUNG: Yes.

Mr Pezzullo: I might ask Ms Dorrington to see if she has information. There have been such referrals, I just want to be very precise, so I will ask Ms Dorrington to see if she has information to hand.

Ms Dorrington: I do not have that information to hand, but I could ascertain that during the course of the day.

Senator HANSON-YOUNG: Have there been any other referrals to the AFP aside from the section 70 and the Criminal Code breaches?

Mr Pezzullo: It is the duty of a secretary and an agency head to make referrals of unauthorised disclosures irrespective of the elements of the Criminal Code because there are other statutes, of course, that have a bearing on the unauthorised disclosure of information that could pertain to other pieces of legislation. I will need to ask Ms Dorrington to check whether we have made any referrals pursuant to other legislation. It is my recollection, and Ms Dorrington will correct me, if we come across evidence of an unauthorised disclosure, we do not particularise the nature of the potential offence. We just simply make our referral, as is
our duty, to the Federal Police, and it is really up to them to particularise the nature of the

**Senator HANSON-YOUNG:** If we could get those figures that would be good. Has there
been any disciplinary action regarding the disclosure of information amongst any of your
departmental staff?

**Mr Pezzullo:** I do not recall any disciplinary action that relates to disclosure, criminal or
otherwise. I will look to Ms Dorrington on this.

**Ms Dorrington:** I will also check that during the course of the day and get back to you—
that is, any disciplinary proceeding based on unauthorised disclosure, whether that is a matter
that has been referred to the police or not?

**Senator HANSON-YOUNG:** Yes.

**Ms Dorrington:** There certainly have been code of conduct matters, but as to the number I
will come back to you with the number.

**Senator HANSON-YOUNG:** Thank you, I would appreciate that.

**Senator REYNOLDS:** Secretary, I would like to pick up a couple of issues you raised in
your opening statement, if I can. You said that there are five million visas for temporary
visitor and temporary residents purposes, which is going to be a record number.

**Mr Pezzullo:** We will be soon issuing that number.

**Senator REYNOLDS:** Next year, yes.

**Mr Pezzullo:** Based on current trends.

**Senator REYNOLDS:** Can you just break down that five million further? Where are we
seeing the increases and in what sort of categories, and where do you see the trend going in
future?

**Mr Pezzullo:** The answer falls into two elements, so I might ask Mr Manthorpe and his
colleagues to address the detail. Some visa classes have certain quotas or caps associated with
them. Some of them are related to the operation of market mechanisms. Mr Williams, as the
first assistant secretary, might be able to provide more detail, as can Mr Manthorpe. In general
terms, there are strong and growing trends across visitors for tourism purposes, people
coming here to visit families, and students—which, of course, relates to the export of
international educational services. Some of the visas connected with the labour market tend to
move around a bit because of the linkages to market mechanisms. I will ask Mr Manthorpe, in
the first instance, to speak to that, and then Mr Williams might assist.

**Mr Manthorpe:** There is growth in a number of aspects of the visa program. The
secretary mentioned tourists. The visitor visa group for this financial year to date is up by
around a quarter of a million visas on the same period last year. I will just give you round
numbers: it increased from a tick over 3.4 million to something like 3.67 million. We are
seeing very significant growth in visitor visa numbers at present. We are also seeing growth in
students. The year to date for 2013-14 was 240,000; the year to date for 2014-15 is 250,000.
So there has been growth of about 10,000 folk. There are other moves, up and down. The
other temporary group has also increased from 71,000 to 82,000. All of these categories
contribute to economic growth and opportunity for Australia.

**Senator REYNOLDS:** Did you have anything else, Mr Williams?
Mr Williams: No. I can give you some information about nationalities that are growing?

Senator REYNOLDS: Yes, please.

Mr Williams: In the visitor visa area, the growth we are seeing is in countries like China. There was something like 20.4 per cent actual growth in China. The United States of America is up about 8.5 per cent, South Korea 11.3 per cent, India 19.5 per cent and France 8.7 per cent—I am picking out the higher-growth countries from the top 10. In students, the growth we are seeing in China is 9.9 per cent, Malaysia 10 per cent and Saudi Arabia 11.6 per cent. Some of them are off lower bases than others.

Senator REYNOLDS: Thank you. Secretary, in your opening statement you also mentioned that with the increasing numbers of visas you had to step up your compliance activities for breaches of visa conditions. I think you said there was something like 1.9 million who will be in the country at any one time. Can you expand further on the issues relating to that?

Mr Pezzullo: When you look at the sorts of categories that Mr Manthorpe and Mr Williams have talked about, each of the visas have different duration periods attached to them. They have different compliance requirements: if you come here to study, you are meant to study; 457 has a particular compliance regime around it; and so on and so forth. We factorise the duration periods—and, obviously, this is estimative—and break down people who might come here for a few days to visit family, go to a tourist site or whatever versus others who might be on, say, a full four-year 457 visa. If you factorise that, we model and estimate that at any one time there would be something like 1.9 million noncitizens amongst us—living, working, visiting, touring and studying.

With that number of people you will have, in a normal bell curve of the human condition, wonderful people who spend their money and enjoy everything that Australia has to offer. Notwithstanding the best checks that we have put in place—we might have screened them for all sorts of purposes and reasons, for identity, health, intention and the rest of it—over a short period of time, anything up to three or four years, there will be other people who do odd things. Things happen in life.

As those volumes increase—and this goes to the sorts of answers I was giving to Senator Carr before—it is vitally important that we achieve as much efficiency as we can in our back operations and really devote—

Senator REYNOLDS: Focus on these emerging areas.

Mr Pezzullo: front-line officers and intelligence linkages with state and federal police. It is not because we think that the bulk of the 1.9 million visitors amongst us are going to do anything wrong, but is simply as a function of mathematics. As that number grows over time, statistical probability being what it is, there will be more folks who will get into trouble for all sorts of reasons or who themselves will be exploited and put upon. I also said in my statement that we are attentive to issues like the exploitation of workers or students who come here on student visas but find themselves in circumstances of sexual servitude having been trafficked.

So the very traditional idea of the border and the immigration process as clearing someone to come into the border and then they are in Australia and carrying on their business is a very different model. We now, on both the goods side—but that is not the burden of your question at the moment—or the people's side, also need to act as a law enforcement agency within the
national jurisdiction. We do so in partnership with the AFP. I made mention in my statement of the fact that we are going to have an organic, built-in relationship with the Federal Police, who will in fact head up our investigations function. And we will also have links with state and territory police, state and territory child protection, state and territory mental health and so on and so forth.

I do not want to overdramatise the nature of the issue but I just want to lay it before the committee as a function of scale. With the significant expansion in the last two decades of temporary visitation work and study, there are a lot more people moving amongst us who are non-citizens, who are credentialled to be here but who will then have to leave at a prescribed period. And so working with state and territory and other Commonwealth agencies to ensure that they observe our laws and behave in accordance with the requirements that we set down is going to be mathematically an increasing part of what we do.

Senator REYNOLDS: In your opening statement, you also referred—I think twice—to the 190,000 people in different categories who are going to settle in Australia this year. In relation to the 30,000 IMAs you still have to process, you mentioned concerns to ensure social cohesion and not exclusion in society. You foreshadowed quite strongly that you had concerns of the implications of not integrating. I was wondering if you could expand a bit further on those comments.

Mr Pezzullo: We have had a long-standing policy in this country that goes back almost five decades since the 1960s. It has been managed on a bipartisan basis to not have assimilation as policy. We are not all required to look and act the same but we have had a policy of ensuring that new settlers are integrated. From the 1970s, we have had an explicit recognition of the positive value of multiculturalism and of respecting different cultures, faiths et cetera that diverse sectors of humanity bring to us either by settlement or by temporary presence.

You are seeing all around the world an increased focus on ensuring that settlers who are here permanently or persons who are here on a temporary basis are well adjusted and that they understand the norms and values and the social and cultural temperament of the country that is welcoming them. We have a role to play there. We are the department that runs the programs to select such persons—on the settlement side that is. We obviously work with our colleagues in the Department of Social Services, who, since 2013 by administrative arrangements, have been responsible for the reception and settlement services for permanent settlers, so there is a bond that we have with DSS in those issues. They deliver the programs more specifically than we do post reception and that goes to English language aptitude, the ability to become job-ready and also to have housing and other matters attended to. Questions of detail really more properly reside in the DSS portfolio. But we have a responsibility—if I can use this term—further upstream to ensure that our selection processes are well adjusted to those objectives as well.

Senator REYNOLDS: In relation to the 30,000 IMAs, I think the language you used was 'unprecedented challenge'. Could you expand on what some of those unprecedented challenges are?

Mr Pezzullo: We have in earlier times dealt with a safe haven, I think back to the early 90s with the Kosovars. We have had a policy regime as directed by government in this country before of temporary protection. My remarks related to scale—30,000 is an
unprecedented number. Whether it is through supporting people in that category with work—
we talked earlier in response to Senator Carr's questions around the SHV visa for instance—
supporting them to study, supporting them to reside in the community under the temporary
protection arrangements, each of those categories will require particular attention. Because
unlike permanent settlement, where there is an ongoing compact that says 'welcome to
Australia'—much like my parents who arrived here in the early 1960s; they were starting a
new life; they were very much wanting to immerse themselves in a new country but without
losing their linguistic or cultural or other frames of reference—we are very focused on the fact
that this is not the same compact.

We are going to have to work with people, some of whom have got families, and with
people who have come here under fairly traumatising conditions—irrespective of what is said
about the merits of their claims for protection. The actual journey itself, with the exploitation
of the smugglers, is quite traumatic in and of itself. So we will need to work very carefully
across state agencies and with civil society groups—churches and those whose provide
settlement services and those who provide through the auspices of non-government—to
ensure that they are supported, that they do not feel disconnected or alienated or, indeed,
anxious. In some cases, I suspect that it might be the case that—and we have seen instances of
this in the recent past—in some cases people might feel anxious. We will need to provide
them with support including through the case management system, as to where their claims sit
or, if they are on a temporary basis, what the future holds et cetera. The point of my remark
was to say we have done that before in targeted ways. It is now the scale that creates a new
imperative.

Senator REYNOLDS: You said you have got a good working relationship with DSS.
How about with the state authorities that you engage with? Has that been categorised? Do you
have some issues there?

Mr Pezzullo: To take it in two parts, in terms of the permanent program, obviously we
have been working with states for seven decades. They work very closely with us. The
settlement function, as I said, moved across to DSS almost two years ago so some of those
relationships are managed more particularly under that department.

But in terms of states and territories in relation to temporary visas either of the TPV variety
or the SHV variety, as I said to Senator Carr before, we are in discussions with states and
territories in two dimensions. I have spoken to the question of SHVs before and I will not
repeat that evidence. But we are also in discussion with states and territories to ensure that
they are fully seized of and alert to issues that will inevitably arise around attendance at
hospitals. Like any person, particularly with small kids, people are going to get sick, they are
going to trip over and they are going to have bumps and scrapes so there is going to be that
issue about attendance at emergency wards and the like.

Some people will need more intensive support because of mental trauma, because of things
that they have witnessed, in some cases actually along the way of their journey. Even if they
started—I will use this term in shorthand; I hope it is not too pejorative—on an economic
migration path, they have been exploited. The smugglers are some of the most depraved and
vile people that we have to deal with and we see just about every category of bad humanity,
so people have been traumatised by that very fact. Being taken to sea on rickety vessels itself
is traumatic. So some of these folks are going to potentially exhibit in some cases suppressed
symptoms that require attention of a psychological or even psychiatric nature. Without being too specific, and maybe other colleagues might want to weigh in at this point, it is really an industrial-level effort. Whilst it is not unprecedented in individual types of interventions, the unprecedented character of it is the scale.

**Senator REYNOLDS:** You just raised an issue about people smugglers. I am happy for you to leave it for Border Force. In your opening statement, you did mention that you had—I think the term used—probing by people smugglers and that you have had to have renewed focus on that. Are you happy to answer that now or would you like to leave it to later?

**Mr Pezzullo:** We do have a dedicated session with General Bottrell and OSB. But I will say in general terms that I did not say that we had to refocus because in fact the vigilance never wavered. Indeed, General Bottrell will be advising this evening about some recent events that will be of concern to the committee.

**Senator REYNOLDS:** Thank you. One final question: in relation to HELP debt repayments, I understand that your department now has a role in assisting in the collection of that money from overseas. Is that correct?

**Mr Pezzullo:** I am not personally seized of that matter. I will see if one of the deputies is across that. I presume that goes to foreign students who have come here and undertaken study.

**Senator REYNOLDS:** Yes, and Australian students who have gone overseas.

**Mr Pezzullo:** I see.

**Senator REYNOLDS:** I am happy for you to take that on notice if you like.

**Mr Pezzullo:** We might come back to you through the course of the day.

**Senator REYNOLDS:** Thanks.

**Senator KIM CARR:** I would like to conclude the matter I have raised with regard to the safe haven visas. When did the department anticipate offering them?

**Mr Pezzullo:** I think the best advice I have for you at the moment is soon. We are still in the final stages of some discussions with a particular jurisdiction.

**Senator KIM CARR:** One jurisdiction?

**Mr Pezzullo:** In one jurisdiction. Ms Noble will correct this evidence if it is not on the money, but one jurisdiction is particularly advanced; others less so.

**Senator KIM CARR:** I take it this is a national program.

**Mr Pezzullo:** Yes indeed.

**Senator KIM CARR:** So you have to have the agreement of all states and territories?

**Mr Pezzullo:** No. The agreement is not of that character; it is not a Commonwealth and state issue where any one state could, as it were, veto it. It is about which states are willing to sign up to the program on the basis that, so long as they can manage any attendant risks around imposition on their health services, mental health services and the like, they are working with Ms Noble's group in the first instance to identify regional areas where employment and learning opportunities might become available. States tend to have a better feel for those issues that we necessarily do. I will see if Ms Noble has anything to add.
Ms Noble: No, nothing in particular to add. We have been in consultation with all states and territories and, as the secretary said, some states are more advanced in their thinking and consideration of taking people under these visa arrangements in regional areas than others.

Senator KIM CARR: So I take it on the basis of what you have said that a framework has been approved—

Mr Pezzullo: Yes.

Senator KIM CARR: that all states and territories have been consulted—

Mr Pezzullo: Are being consulted.

Senator KIM CARR: I take it have been.

Mr Pezzullo: They certainly have been, yes.

Senator KIM CARR: And a number of employer organisations have been consulted?

Mr Pezzullo: I am not sure about employer organisations as opposed to firms who might be known to state economic development agencies. When you say employer organisations, I am not sure we have been in consultation with those bodies.

Ms Noble: We have had some engagement with some employers. I recognise that you asked that question earlier. We would be able to give you a list of those employers on notice, but I think it would be appropriate for us to consult with them first to ensure that they would want to be named publicly.

Senator KIM CARR: We will get to the detail of that, but I am saying it is a wide range; it is across the board on employer organisations, is it?

Ms Noble: Yes, they are quite different employers.

Senator KIM CARR: How many unions have you consulted?

Ms Noble: I would have to take that on notice and get back to you. I am not sure that we have.

Senator KIM CARR: Any?

Ms Noble: I am not sure.

Senator KIM CARR: Is there a policy prohibition on discussing these matters with unions?

Ms Noble: No.

Mr Pezzullo: There would not be a policy prohibition. As I intimated in my earlier intervention, I am not sure we have been consulting with employer organisations as distinct from firms. That is the matter that Ms Noble will clarify. Hypothetically, a firm that has an abattoir operation might be part of the three-way discussions involving us and the states—as opposed to any employer group representing abattoirs.

Senator KIM CARR: I see. So any contact with any union about these matters?

Mr Pezzullo: We will check. I think I am going to doubt it in the same way as I do not think we have engaged with employer organisations, but we will check.

Senator KIM CARR: Has the ACTU been approached about these questions?

Mr Pezzullo: We will check.

Ms Noble: We will have to take that on notice.
Senator KIM CARR: How many people do you think will be engaged with this particular visa class?

Mr Pezzullo: It is not capped. It is applicable to all persons within the period specified by the parliament who arrive by particular means: illegal maritime means and, as I recall it, Mr Manthorpe, also some unauthorised air arrivals.

Mr Manthorpe: That is right. Of course, some may take the route of seeking a TPV. Some may take the route of seeking a SHEV. Some may, of course, not be granted protection. So it is pretty hard to put a number on it. I am sure Mr Kukoc can shed light on the point the secretary just raised as to the eligibility.

Mr Kukoc: Yes, both illegal maritime arrivals and unauthorised air arrivals will be eligible for temporary protection visas and my understanding is for the special humanitarian enterprise visa. The most important part of our assessment is the assessment of Australia's protection obligations towards the applicant. Once we go through the protection assessment, the person will have an option to choose either the temporary protection visa or special humanitarian enterprise visa provided the person makes an additional commitment to go to a particular designated regional area and work or study in that regional area for a certain period of time. If that commitment is later met, there will be some additional benefits realised at the time when that person will be eligible to apply for another permanent visa onshore apart from the permanent protection visa.

Senator KIM CARR: So what are the department's expectations of the numbers of people who will take up this new visa class?

Mr Kukoc: We have not done any real analysis. It is speculative in the main. It is really difficult to assess how many people will opt. We expect there will be people who will be interested in that option. There are people who are already in regional areas who are on bridging visas with work rights, and they are already engaged in work in those regional areas, so I assume that will be an attractive option for them.

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Senator KIM CARR: Mr Pezzullo, you indicated that you thought this visa class would be available soon. Are we talking months or this year? What do you mean by soon?

Mr Pezzullo: I am not sure I want to speculate or particularise my speculation beyond 'soon'. I certainly would like to think that we could commence the program this year, subject to some issues that are of concern to a number of jurisdictions being resolved. There is no reason to think that we could not in fact deploy this visa in the next few months, but I am being speculative and trying to be helpful in giving you that answer.

Senator KIM CARR: Thank you. I might turn to another topic. What is the incidence of fraud that you are uncovering at the moment?

Mr Pezzullo: Fraud in any particular category?

Senator KIM CARR: Let's start with visa classes.

Mr Pezzullo: I might ask both Mr Manthorpe and Ms Dorrington, the head of our integrity and security assurance division, to join me in this regard—and, indeed, any other senior officer who feels they have something to contribute. Fraud in relation to visa issuance?

Senator KIM CARR: Yes, visa issuance.
Mr Pezzullo: Unless any officers at the table can immediately assist, that is another one where I would be prepared to come back to you through the course of the day.

Senator KIM CARR: Sure. So you have no advice on, for instance, the level of document fraud across all the posts that deal with applications?

Mr Pezzullo: Of people who submit fraudulent documents as part of their application?

Senator KIM CARR: Yes.

Mr Pezzullo: Between Mr Williams and Ms Dorrington, we might well have some information.

Mr Manthorpe: We are certainly aware of document fraud as an issue—in some parts of the world more than others—but whether we have the quantum of that, as your question indicated, I am not sure. I will see if Mr Williams can assist us.

Mr Williams: Fraud tends to be reflected partly within our refusal rates for visa category decision making. I am not sure that we have—I certainly do not have to hand—a breakdown of the fraud element within the refusal cohort. But, over the course of the day, I will see what we can find.

Senator KIM CARR: I am particularly interested in particular posts. In the past, you have been able to provide me with advice about particular posts and about particular classes of visa. I recall, for instance, that not so long ago there was a very high incidence of document fraud in India in relation to student visas. Is this still the case?

Mr Williams: It is certainly still the case that we are encountering large numbers of cases.

Senator KIM CARR: I recall a statistic that it was up to 40 per cent.

Mr Williams: I would have to check that.

Senator KIM CARR: What is the level of document fraud across applications—by post? Can you provide that information to me?

Mr Pezzullo: And, did you say, by visa class?

Senator KIM CARR: Yes, and by visa class.

Mr Pezzullo: We will construct a tabular form of presentation for that data.

Senator KIM CARR: I am particularly interested in China. Obviously I am interested in your major posts. I am trying to establish whether there remains a pattern of fraud in specific areas. Is there still a problem in a particular locality?

Mr Williams: I will get what I can for you.

Senator KIM CARR: In regard to provision of that information, can you tell me how many incidents of fraud involve education agents?

Mr Williams: Yes, I will take that on notice.

Senator KIM CARR: I understand they are not covered—they are not regulated?

Mr Williams: They do not fall within the regulatory environment for migration agents.

Senator KIM CARR: But they do process applications. They are used by universities and other institutions for the recruitment of students.

Mr Williams: That is correct.
Senator KIM CARR: They are not covered by any regulatory regime in this country—is that the case?

Mr Williams: If they are operating in this country, they are covered by normal consumer protections.

Senator KIM CARR: No, I am talking about external student applications.

Mr Williams: That is right. They would be covered by whatever the regulatory regime is in the country they are operating in.

Senator KIM CARR: But education agents in China are not covered by an Australian regulatory regime. Is that correct?

Mr Williams: That is correct.

Senator KIM CARR: It would be useful if you could advise me how many cases of visa fraud your integrity unit has come across involving education agents. There has been some conversation recently in regard to the situation in China, but that is not exclusively confined to China. I am interested in knowing whether you have a broader set of data on that matter.

Mr Pezzullo: We will take on notice that you want the information by visa category—you have just referred to student visas—and by country.

Senator KIM CARR: Yes, please. And if you have any information concerning, or any knowledge of, any correlation with the use of education agents in that dataset, that would be useful.

Mr Williams: We will look at that.

Senator KIM CARR: What about the streamlined visa processing arrangements? Do you have any information involving institutions that have been approved under the streamlined visa process?

Mr Williams: Again I would need to take that on notice.

Senator KIM CARR: If you could provide information on that, it would be very handy. That is only a recent development, so it should not be too onerous a task. I turn now to the issue of the personal importation of motor vehicles. Do you have officers here who deal with that? Or is it a customs matter?

Mr Pezzullo: It is a Customs matter.

Senator KIM CARR: We will take them later on if need be. I am interested to know whether there has been any engagement with the Department of Infrastructure and Regional Development in regard to the Motor Vehicle Standards Act review, particularly in regard to the personal importation of new vehicles?
Mr Quaedvlieg: I do not know. I will take that question on notice and, hopefully, I will be able to respond at our Customs segment.

Senator KIM CARR: And I will be seeking your advice on the extent of that engagement and the purpose of that engagement—any information you have on how many vehicles might be involved.

Mr Quaedvlieg: Understood.

Senator KIM CARR: Particularly, I am interested in any criminal activity that you are aware of associated with the rebirthing of vehicles.

Mr Quaedvlieg: I will take that on notice and I will come back to you.

Senator HANSON-YOUNG: Mr Secretary, has there been a recent change or review of the media access protocols to detention centres?

Mr Pezzullo: I am not aware of any change. I might ask, in the first instance, Ms Briscoe, but potentially assisted by the head of our media area, to advise. I am not aware of any change. Ms Briscoe?

Ms Briscoe: No, as far as I am aware there has not been a change in the protocols.

Senator HANSON-YOUNG: Who oversees the protocols? In terms of the responsibility in your department, Mr Pezzullo, who is in charge of the protocols?

Mr Pezzullo: I keep coming back to this: we are in a transition, but detention operations fall under the officer who will after 1 July be the deputy commissioner of the ABF, Mr Outram. He is at the table. Detention support services, contracts and the like are under Ms Briscoe, who will be after 1 July the deputy commissioner for ABF support. Then detailed matters around liaison with the media is under the executive division who report directly to the CEO and myself. So it kind of depends on where you want to go with that.

Senator HANSON-YOUNG: Could you perhaps take on notice the last version of the media protocols?

Mr Pezzullo: This is for media access, physical and otherwise, to the centres themselves?

Senator HANSON-YOUNG: Yes. Prior to you being the secretary, Mr Pezzullo, there was quite a debate about the development of those protocols.

Mr Pezzullo: Right.

Senator HANSON-YOUNG: So I just want to know when the latest version came into force and if a copy of that could be circulated to the committee I would appreciate that as well. We have had it previously. I would also like to know how many requests for media access have been made in the last 12 months under those protocols and if anybody is able to answer that question now that would be helpful.

Ms Briscoe: We do not have that information at hand, but we can certainly try to get it for you throughout the day.

Senator HANSON-YOUNG: Following on from that question, how many requests and then how many of those were approved or rejected?

Ms Briscoe: Certainly.

Mr Pezzullo: Again, just to be clear, these are for visits to attend the facilities?
Senator HANSON-YOUNG: Yes.

Mr Pezzullo: Thank you.

Senator HANSON-YOUNG: Mr Pezzullo, you mentioned earlier in response to questions from Senator Carr that since 23 February there have been 'a number of incidences' of sexual abuse in detention centres.

Mr Pezzullo: Or reports of.

Senator HANSON-YOUNG: Which centres are we referring to because this is not just in Nauru—is it?

Mr Pezzullo: No, I think I said earlier to Senator Carr that there have been a number of reports across the network and that we would seek to come back. If we have to do it on notice, just to be precise, we will. But I did say we would seek to come back within these two days of proceedings.

Senator HANSON-YOUNG: Okay. Can I just check that we will get an indication as to whether they involve children or adults?

Mr Pezzullo: Yes. I should stress that these are reports that are submitted to our executive—it is alleged that someone was hit, touched or whatever. So each of those is then triaged. They are dealt with in the domestic jurisdiction with state and territory competent authorities and in regional processing, without going down the Nauru Senate inquiry path, there are other mechanisms and procedures in those jurisdictions.

Senator HANSON-YOUNG: I imagine you are aware of the recent case—not last weekend but the weekend prior; on Saturday, 17 May—involving a young Iranian woman in Nauru. I want to ask about this because it was not inside the detention centre. I would like an update from you as to whether the perpetrators of that crime are being investigated and charged.

Mr Pezzullo: I was not privy when we came back from the break as to what the committee had decided in terms of my capacity to answer the question. The committee had a private meeting. I do not know whether I am in bounds or not, Chair.

CHAIR: No, you are not. The other committee is looking at the responsibilities of the Commonwealth government in connection with the management and operation of the regional processing centre fulfilling its obligations under the memorandum of understanding.

Senator HANSON-YOUNG: Senator Macdonald, this did not happen inside the detention centre. That is why I am asking about it.

CHAIR: Is it part of the obligations under the memorandum of understanding?

Mr Pezzullo: Chair, if I can assist. Our sole means of working with the Nauruan authorities is through that MOU.

CHAIR: In that case it is clearly a specific matter for the select committee and it is accordingly not a question that should be dealt with here.

Senator HANSON-YOUNG: Senator Macdonald, you are not on that committee and I would beg to differ. It is actually a matter in relation to the safety of people currently on Nauru. A young woman was found naked two weekends ago. I want to know whether the perpetrators are going to be charged.
CHAIR: Sorry. It is a matter relating to fulfilling the obligations under the memorandum of understanding. I have just been told by Mr Pezzullo and my colleague Senator Reynolds that that is an issue that arises under that memorandum of understanding; therefore, it is directly the subject of the other terms of reference.

Senator HANSON-YOUNG: Do I take it from this that the government does not want the public to know that this has occurred?

CHAIR: Senator Hanson-Young, that is not—

Senator Cash: Chair, that is a completely unfair inference. Senator Hanson-Young, you know that you are grandstanding at this point in time—

Senator HANSON-YOUNG: What is the inference then, Senator Cash?

CHAIR: Let me answer the question. It has nothing to do with the government. I am not specifically part of the executive government. I am here chairing this as a member of parliament under the rules of the Senate and the Senate rules tell me that this is not a matter for discussion here because it is a direct term of reference of another Senate select committee. I might just point out that the terms of reference state:

c. the Commonwealth Government’s duty of care obligations and responsibilities with respect to the Centre;

d. the circumstances that precipitated the Moss Review—

and that is perhaps not relevant. But certainly it is under the MOU and fulfilling obligations under that MOU and therefore it is not relevant here. It is not a question of the government not wanting it to be made public. In fact, the parliament has determined through the select committee process that it will be very public. The Senate has also in its wisdom directed that we will not waste the time of this Senate committee in dealing with what another Senate committee has been specifically set up to deal with.

Senator Cash: Chair, just on that point. I also note that the department had been called and was ready to appear I understand at the select committee hearing on Tuesday—Secretary?

Mr Pezzullo: Last week.

Senator Cash: But, unfortunately, for events that are unknown to me, time got away from the committee and the committee did not request the department to appear. Senator Hanson-Young, had you actually revisited the decision in relation to the department you could have put all of these questions quite rightly to the department last week. As I said: they were on the witness list; they were there ready to appear; and it is no fault of the department that they were not called before the select committee.

Senator HANSON-YOUNG: I want to point out to you, Senator Cash, that the police have only, since then, actually confirmed that this rape occurred. So get back in your box, I suggest.

CHAIR: Senator Hanson-Young, that is not appropriate language for the Senate.

Senator HANSON-YOUNG: Chair, it is clear the government does not want these questions being asked.

CHAIR: Please desist from interrupting while I am making a ruling.

Senator HANSON-YOUNG: You have been interrupting me the whole way through, Senator Macdonald.
CHAIR: You will not use that sort of language to the minister or anyone else. In answer to your original question—

Senator HANSON-YOUNG: It is clear the government do not want this talked about.

CHAIR: It is nothing to do with the government not making this public. The parliament has determined it will be very public through a Senate select committee process that will deal with nothing else but the responsibilities of the Commonwealth government, its fulfilment of obligations and the memorandum of understanding. Accordingly, under the standing orders of the Senate, that is not an appropriate question for here, and I will not allow it.

Senator HANSON-YOUNG: I guess the point is that there is a contradiction in the Senate orders, which is the point that Senator Carr was raising while you were asked to get some further advice. But I will take your ruling.

CHAIR: Do you have a point of order, Senator Reynolds?

Senator REYNOLDS: I do have a point of order. As a member of that committee, I would like to reiterate the minister's comment and rebut what Senator Hanson-Young has just said. The department did have an opportunity to appear. They were there. The committee, including members, here chose not to ask them these questions at the committee last week.

CHAIR: Senator Reynolds, that is not a point of order. I rule against it. It is a point of explanation. I think the point has been raised before.

Senator REYNOLDS: The opportunity was there on Tuesday.

Senator HANSON-YOUNG: Senator Macdonald, I have taken your ruling. I will continue with the rest of—

CHAIR: If you have any other questions, Senator Hanson-Young, please go ahead. If not, I will pass on.

Senator HANSON-YOUNG: Thank you.

Senator REYNOLDS: Those allegations are totally inappropriate.

Senator HANSON-YOUNG: Mr Pezzullo, how many current legal cases is the department engaged with in relation to cases that have been brought against the department?

Mr Pezzullo: On any particular matter? Or just all matters? We are one of the most legally active departments in the Commonwealth, shall we say.

Senator HANSON-YOUNG: I would like a breakdown, to be honest. I would like to know how many cases have been brought against the department that we are currently engaged in, and then also those relating to asylum seeker or refugee issues.

Mr Pezzullo: I will see if the chief operating officer is able to speak to that question. I believe our general counsel is indisposed today. Is that right, Mrs Grant?

Mrs Grant: Yes, but we do have the assistant secretary of the particular litigation branch available to assist us. Sorry, Senator, could you just repeat the question?

Senator HANSON-YOUNG: I would like to know how many legal cases are currently afoot that have been brought against the department—firstly, overall; and then secondly how many of those relate to the department's engagement on asylum seeker or refugee issues.

Mrs Grant: As at 30 April 2015, the litigation branch was managing an active litigation caseload of 3,549 matters. The breakdown there is: 3,390 administrative law matters; 159
civil law or other litigation matters. That should add up to the grand total. But Ms Moore can probably give you a more precise breakdown when you start to get down to which particular caseload is bringing that to us.

Ms Moore: Can I just check specifically which statistics you are after, Senator Hanson-Young?

Senator HANSON-YOUNG: I would like to know how many of those 3,549 cases are cases against the department, based on decisions or policy, in relation to refugees and asylum seekers.

Ms Moore: As at 30 April, the department received 2,291 applications for digit review made by illegal maritime arrivals.

Senator HANSON-YOUNG: I would not classify them as illegal because they are not under the Migration Act, but I know you are directed to say that. In relation to the civil cases, how many of those relate to asylum seekers or refugees?

Ms Moore: The civil cases—

Mrs Grant: I can help you while Ms Moore finds the precise statistics. The majority of those matters do relate to people who we would call illegal maritime arrivals. Ms Moore has probably got the precise number now.

Ms Moore: In regard to the civil caseload, in terms of compensation matters, as at 30 April there were 59 claims for compensation before the courts by IMAs.

Senator HANSON-YOUNG: 59 cases of compensation?

Ms Moore: Seeking compensation before the courts, yes.

Senator HANSON-YOUNG: Which courts are they being challenged in?

Ms Moore: The civil courts. There could be a variety of courts—supreme courts, district courts, federal courts.

Senator HANSON-YOUNG: Are all of those people individuals who are onshore or does it also include individuals who are offshore?

Ms Moore: Sorry, just give me a second.

Mrs Grant: Perhaps we could just come back to that one later in the proceedings. We will establish the split between onshore and offshore.

Senator HANSON-YOUNG: Sure, no worries. What is the budget that is projected for cases currently afoot, that the department is engaged in?

Ms Moore: Sorry, the budget?

Senator HANSON-YOUNG: Yes, how much is this costing the immigration department, all of these 3,549 cases?

Ms Moore: Specifically, the litigation budget?

Senator HANSON-YOUNG: Yes.

Ms Moore: In 2014, the litigation budget in total was $78.505 million.

Senator HANSON-YOUNG: Is there a projected cost for the cost of compensation in relation to those civil cases? Have you had to budget for that?
Ms Moore: We do not have that. Most of those matters will be dealt by Comcover, the Commonwealth's insurer.

Senator HANSON-YOUNG: So that does not have to necessarily come out of the immigration department's budget?

Ms Moore: No, not necessarily, depending on whether it is covered by the Comcover.

Senator HANSON-YOUNG: I see. Has the department lost any compensation cases in the last 12 months?

Ms Moore: In terms of lost any compensation?

Senator HANSON-YOUNG: Has there been compensation awarded against the department in the last 12 months?

Mrs Grant: Each year, we do to tend to payout compensation amounts. So if you call that losing by paying compensation, yes, we do have a number of cases each year where compensation is paid.

Senator HANSON-YOUNG: Can you tell me how many there have been in the last 12 months?

Mrs Grant: I have it by financial year rather than calendar year.

Senator HANSON-YOUNG: Yes.

Mrs Grant: So in the 2013-14 financial year, we had a total of 13 cases of compensation payouts. In the 2014-15 year to date, we have had one case.

Senator HANSON-YOUNG: How much was that case worth?

Mrs Grant: That particular case is a confidential settlement, so we are not able to provide those amounts.

Senator HANSON-YOUNG: Thank you.

Senator BILYK: I want to ask about the national security strengthening and enhancing border protection services. Have we got the right people at the table?

Mr Pezzullo: Well, you are starting at the top, so we will take it from there.

Senator BILYK: I am particularly interested in the new ICT platforms. Was there extra money in the budget for the fingerprint scanners and iris scanners?

Mr Pezzullo: I might ask the CFO to attend to budget allocations, and then, if there is a specific discussion about the actual technology, I might ask—

Senator BILYK: There is a bit of both, I think.

Mr Pezzullo: Sure. We might start with the CFO, perhaps. On the question of the technologies, I might just advise that we are just trying to manage the need for officers trying to take other duties. It might be preferable if we deal with the finances at this point and then I will just need to arrange for phone calls to be made to a number of other officers who can attend the hearings quite quickly. They just need to be called here.

Senator BILYK: Rounded up.

Mr Pezzullo: Yes. The CIO, I notice, has just sidled up, so we can speak to really technical questions. But some of the capabilities might require one or two other officers as well. So, we might see how we go. But we will start with the finances, perhaps, first.
Senator BILYK: I will admit, Mr Pezzullo, I am not that technical myself, so the questions will be background information in regard to the technology.

Mr Pezzullo: Thank you for advising us, senator. I will bear that in mind. Perhaps we will hear from Mr Groves on the financial allocations first?

Mr Groves: We received an amount as part of that measure to do some scoping work around identity. I am not sure there were any hardware purchases as part of that. If there were, I would have to take that question on notice, unless the CIO is aware of the issue.

Senator BILYK: Okay. Before the Senate at the moment we have the strengthening biometrics legislation. I was wondering if those fingerprint scanners and iris scanners were included in the— I think it is—$164.8 million.

Mr Manthorpe: I may be able to assist with that one. I will correct this if I am wrong when I have the opportunity to consult others, but my recollection is that some of that equipment was provisioned in last year's budget, and there has been the rollout of other biometric equipment onshore and offshore in recent years to gradually build our capability to undertake biometric collection. So I think that is a part of the story. Another part of the story is that in this year's budget there is an amount—again, I can be corrected if I am wrong—in the order of $8 million, I think, to contribute towards the scoping and development of our consideration of a future platform for biometric collection to enhance our capability to expand the collection of biometric information, in part to address issues of fraud and other matters.

Senator BILYK: Okay. We might move on to the rollout of e-gates. I understand there is to be a full-scale rollout of smart gates, and new e-gates will need to have the biometric capabilities. Is that correct?

Mr Pezzullo: I am delighted to be able to inform you that the chief executive of Customs has got particular leadership oversight of that program, and he would be delighted to answer your questions.

CHAIR: I want to hear how you are running education programs for the secretary and me on how to use them too.

Senator BILYK: We might get to that yet, Senator Macdonald, today.

Mr Quaedvlieg: Senator, thank you. You are correct. In the counter-terrorism package last year of some $630 million that was attributed across a number of agencies and departments, the Department of Immigration and Border Protection was the recipient of about $150 million of that package. A significant proportion of that package is to fund automated departure gates across our international airports. At this point in time we are at the cusp of commencing installation of the departure gates. That will happen in a phased way over the next 12 months. Our intention is, under the current calculations, to install 92 departure gates across the major international airports, and those gates will allow the capture of biometrics.

Senator BILYK: You mentioned—I think you said—a large proportion of the 150 million, is that the 93.7 million over five years?

Mr Quaedvlieg: I will have to check the figures on that. The remainder of that budget was to the stand-up of the counterterrorism unit teams and the expansion of the airline liaison officers offshore.
Senator BILYK: If you could just take that on notice and get back to me that would be very good. Are you able to tell me which airports and seaports might have these gates?

Mr Quaedvlieg: Yes. It is the eight major international airports: Cairns, Brisbane, Gold Coast, Sydney, Melbourne, Adelaide, Perth and Darwin.

Senator BILYK: Good old Hobart just misses out again?

Mr Quaedvlieg: I do not think that Hobart is currently designated as a full-time international airport.

Senator BILYK: It is not receiving any, but according to the state government—and I am sure I heard it out of the federal government—there is a big move to bring in a lot Chinese tourists direct to Hobart. Has that been discussed at all?

Mr Quaedvlieg: Not that I am aware of.

Senator BILYK: It might be something people might like to discuss because there is quite a big media release about it—certainly from Premier Hodgman—not that long ago after the Chinese president visited Hobart. It might be worthy of thinking about that for the next few years, at least.

Mr Quaedvlieg: Can I assure you that if additional international flights were to fly into Hobart—and we do get the occasional one through the Antarctic flights—we are certainly in a position to service that from a Customs, Immigration and Quarantine perspective.

Senator BILYK: What is the time line for the rolling out of these gates? You said they were to be staggered, I think.

Mr Quaedvlieg: Yes, it is to be staggered. We commence installation in July; it is an ongoing program. We are going to be quite aggressive. We initially had planned to roll the gates out in two phases, but we have decided to bring that forward and try to roll out all of the gates quite quickly. If you want more detail and breakdown, Matt Yannopoulos, who is the chief information officer to my right, might be able to give you a breakdown of the phasing, if you so desire.

Senator BILYK: That would be helpful.

Mr Yannopoulos: We expect to roll the departure gates out inside 15 to 18 months. It is dependent upon airport owners and having access to the facility because they are rather large pieces of equipment.

Senator BILYK: Are these the same eGates that are currently available in Melbourne and Sydney?

Mr Yannopoulos: No, these are the departures gates.

Senator BILYK: These are the departure gates only?

Mr Yannopoulos: They have been on trial in Brisbane, so we have selected the model from Brisbane and they are being rolled out across the country over the next period.

Senator BILYK: They are not the incoming, inbound traffic gates?

Mr Yannopoulos: No, it is a slightly different configuration.

Senator BILYK: Okay, that was my next question.
Mr Pezzullo: They are an evolution of the relevant technology—different providers. It is like when you go out and procure planes or vessels or whatever, different builders build slightly different spec’d equipment, but they all essentially serve the same purpose. It is similar, therefore, in philosophy to what you have seen in Sydney and elsewhere, but it is a more evolved capability. It is also—and we have announced this—made by a different manufacturer.

Mr Yannopoulos: That is right; the new gates are manufactured by a company called Vision-Box.

Senator BILYK: Will both Australian and foreign passport holders be able to use the eGates or is it only suitable for Australian passport holders?

Mr Quaedvlieg: It is both. We are rolling out a program of trying to increase the list of nationalities which are able to use the SmartGates. Currently—and I do not have the exact figures—but I think that around 14 or 15 different countries which have smart chips in their passports, which are able to use the inbound SmartGates at this point in time. That is a rolling program and we are looking to increase that over the out years.

Senator BILYK: Just to be clear in my mind. Presuming I was leaving through one of these ports to go overseas and I had an appropriate passport—first of all would I have to apply for a new passport to—?

Mr Quaedvlieg: No, you would not.

Senator BILYK: So they will be rolled out as people get their passports in the future? What about people with passports that—

Mr Pezzullo: It is already happening. For the best part of a decade, Australia has been one of the leaders, in fact. Our colleagues in Foreign Affairs and Trade who run the Australian passport function have been very advanced in terms of rolling out what is the global standard, which is essentially a chip-readable passport with strong antifraud features that we do not talk about too publicly. Australia has been on an almost decade-long journey. So depending on when you have got your official or diplomatic passport as a senator, how recently that has been, but it almost certainly would be a chip-readable passport.

Senator BILYK: My personal one I use because I used it coming in. I just wanted to know if it is the same sort of process for leaving.

Mr Pezzullo: It will rely on the chip, but Mr Quaedvlieg is better able to answer.

Senator BILYK: When I come in I go to a little machine and put it in, and answer a few questions and bingo.

Mr Quaedvlieg: After you check in with the particular airline that you are flying with, you will then proceed to the departures hall and instead of actually having a face-to-face interaction with a human being you will pass through the portal in a very similar way that you do on your inbound passage.

Senator BILYK: Right, great. You mentioned, I think, there are going to be 92 rolled out—is that correct?

Mr Quaedvlieg: Departure gates, yes.

Senator BILYK: You might need to take this on notice: can you just clarify for me that the cost of the expected installation is still $18 million?
Mr Quaedvlieg: I will take that on notice, unless the CIO has details to that effect?

Mr Yannopoulos: $18.6 million.

Mr Quaedvlieg: There you go, saved a question on notice.

Senator BILYK: In April, Minister Dutton was quoted as saying that these terminals had some initial glitches. Are you able to talk to us about what those glitches might have been and whether those issues have been resolved?

Mr Pezzullo: We would want to see the precise reference and the context in which the minister was speaking. I do not immediately recall to mind his commentary.

Senator BILYK: I will just double-check and see if I have it. We might be able to have it copied. No, I do not seem to have it with me. I do know that there were problems with the reading at Baltimore Washington International Airport where Australian e-passports could not be read by one in six passport readers. Are you aware of that?

Mr Pezzullo: If that has occurred, and I do not know if that is the context in which Minister Dutton was speaking, that would be a matter of—

Senator BILYK: Well it might not be, I am not sure.

Mr Pezzullo: We will leave aside the minister's purported comments.

Senator BILYK: We will just separate that, but this is a separate question.

Mr Pezzullo: Any passport reading technology in the United States would be a matter for Homeland Security and US Customs and Border Protection. If there is any particular issue with Australian-issued passports, that is a matter probably addressed to the Department of Foreign Affairs and Trade, who run the Australian Passport Office.

Senator BILYK: Are e-passports encrypted?

Mr Pezzullo: They have strong antifraud features.

Senator BILYK: So they cannot be scammed?

Mr Pezzullo: They have strong antifraud features.

Senator BILYK: Can they be scammed?

CHAIR: I think the officer is indicating that there are some things that perhaps should not be answered in a public hearing.

Senator BILYK: It is a pretty significant issue, though.

CHAIR: It might be for the fraudsters too. You should explain that, Mr Pezzullo, rather than me.

Mr Pezzullo: There are two parts to my answer. Any issue around passport technology is best addressed to our colleagues in the Department of Foreign Affairs and Trade, who run Australia's passport program. We obviously work with them. Secondly, if I could respectfully caution and counsel the senator. It is a program to move to chip-read passports that has been in existence for the best part of a decade under both governments. It is our conventional practice to try not to, in public forums at least, give our adversaries any detailed clues as to how to get around antifraud features.
Senator BILYK: With due respect, Mr Pezzullo, if I am carrying my passport with me walking down the street and there is the potential that it can be scammed I think people have the right to know that as well.

Mr Pezzullo: You should raise your concerns with my colleagues in the foreign affairs ministry and they will give you whatever level of public assurance they feel capable. And as a senator, I am sure they would be prepared to provide you in a fashion that does not openly discuss our counterfraud and anti cyberexploitation capabilities.

Senator BILYK: That is not what I asked.

Mr Pezzullo: You said 'scammed'. I do not really know what you mean by that term. But if you mean in the commonsensical sense that I am interpreting you to mean— are you saying, in a sense, manufacture what appear to be authentic passports?

Senator BILYK: What can happen—and this can happen even with credit cards at the moment, and there does not seem to be a cone of silence around whether or not it can happen with your credit card—is that, if this is possible, which is the question, most international travellers travel with their passport with them, and—

Mr Pezzullo: It is advisable, yes.

Senator BILYK: Correct. If you are walking down the street with it and it can be scanned in the same way as a credit card can—through your clothing and everything—then I think people have the right to know and I think we have to make sure that they are made as safe as we can possibly make them in that regard. There was a report in the Financial Review in only April this year about concerns about that happening.

Mr Pezzullo: I am certain that my colleagues in foreign affairs and trade, to the extent that they are willing to discuss these matters publicly—and you are right that it is important to provide, as banks do, public information and awareness around these matters to the extent that does not compromise your security—I am sure my colleagues in the other department will be very happy to address your questions as best they can.

CHAIR: Thanks. We just have fight minutes before lunch which I might use. Mr Quaedvlieg, can you tell us the arrangements for customs operations in Townsville if the international flights start out of there? Can you give us a brief overview, who is paying for it and where the money is coming from?

Mr Quaedvlieg: Yes. Prior to recent times Townsville was not designated as a permanent international airport, so from time to time commercial airline operators would seek ad hoc approval for international flights to land in Townsville for either a one-off occasion or several occasions, whatever the case may be. In most cases, we would approve that international flight to arrive and we would make some ad hoc arrangements to ensure the customs, immigration and quarantine clearances were afforded appropriately. Since late last year we have been in negotiations with Townsville Airport in relation to how we as a customs and border agency would mount permanent CIQ—customs, immigration, quarantine—clearances in the event that Townsville Airport was designated as a permanent international airport and in the event Townsville Airport was able to enter into commercial arrangements with a commercial airline to fly in and out of Townsville through international flights.

I am pleased to say that those negotiations have been mature and professional and we are at a point now where on 2 September there will be a commercial airline flying into Townsville.
That is an arrangement that has been struck between Townsville Airport and a commercial airline service provider. We have been allocated in the most recent budget $23.8 million over the forward estimates to provide permanent CIQ resources in both Townsville and the Sunshine Coast—the Maroochydore airport. In relation to Townsville per se, between now and then—2 September—we will recruit an additional 10 full-time equivalent officers and four casual or part-time officers, bringing it to a total of 14 new FTE in Townsville. We will also ensure that between now and then we will equip Townsville Airport to ensure it has the appropriate equipment in terms of X-ray detection and drug screening to ensure those officers are able to effect the CIQ clearances accordingly.

From time to time, should there be a surge of international flights going into Townsville, we also have a district office in Townsville with some 14-odd officers, which would bring a total of around 24 full-time plus four part-time officers to effect any clearances of international flights in and out of Townsville.

CHAIR: They are people who would normally be dealing with the seaport.

Mr Quaedvlieg: That is correct.

CHAIR: And the same applies to the Sunshine Coast, you say?

Mr Quaedvlieg: Yes. The Sunshine Coast has the benefit of being more proximate to Brisbane Airport, where we have a critical mass of staff. We do service flights—in particular, seasonal surges from New Zealand—out at Maroochydore airport, and we will continue to service the Sunshine Coast Airport from Brisbane and, in all likelihood, have some full-time staff placed up there to service flights in and out of the Sunshine Coast.

CHAIR: So that will be at no additional cost to the airlines or to the airport over and above what is currently paid by people flying into capital city airports.

Mr Quaedvlieg: That is correct. Now that both those airports—or at least Townsville—have been designated as permanent international airports, there is no cost recovery sought by customs and border protection from the operators and therefore passed on to the consumers.

CHAIR: Thanks very much for that. We will start after lunch with Senator Reynolds—or see where we go, anyhow.

Proceedings suspended from 12:30 to 13:32

CHAIR: I declare reopen this hearing of the Senate Legal and Constitutional Affairs Legislation Committee's inquiry into the 2015-16 budget. We are dealing with the cross-portfolio, corporate and general area of the department. This session was to cease at 12.30, but there are senators who still have questions and, under the standing order of the Senate, we continue until all those questions have been exhausted. I will go to Senator Carr and indicate that Senator Hanson-Young has also said that she has some questions on this first section as well.

Senator KIM CARR: Mr Pezzullo, did any public servants assist or work at budget night functions at Parliament House?

Mr Pezzullo: Assist or work?

Senator KIM CARR: Yes.

Mr Pezzullo: Not in my awareness at all. I can look into the matter if there is something particular on your mind. Budget night functions?

Mr Pezzullo: Could I ask you to be more specific—in Parliament House?

Senator KIM CARR: Yes.

Mr Pezzullo: I am trying to think what the riddle here is. I certainly attended a function in Parliament House, hosted by the foreign minister, but I did not see any of my officers serving drinks or canapes or the like.

Senator KIM CARR: I am pleased to hear that. So you attended—this was in the Great Hall?

Mr Pezzullo: No. I certainly was not in the Great Hall. On budget night?

Senator KIM CARR: Yes.

Mr Pezzullo: No. I am at a loss to recall anything that would look like that.

Senator KIM CARR: But you would know if the DLOs had attended?

Mr Pezzullo: We could check. When you say 'assisted or worked'—

Senator KIM CARR: It says here, 'assist or work at a budget night function'.

Mr Pezzullo: Without knowing what the nature of the function was, my definition of assisting or working would be to somehow be facilitating or engaged in hospitality and the like, as opposed to attendance. As I said, I attended the foreign minister's drinks. I do not think anyone found me of assistance, nor did I particularly work.

CHAIR: Some would say merely attending those things was work, Mr Pezzullo!

Mr Pezzullo: Well, work in that larger sense perhaps, yes.

Senator KIM CARR: So did any officers attend any fundraisers in the building?

Mr Pezzullo: Not in my knowledge, but I would be very glad to receive particulars.

Senator KIM CARR: Well, I would ask the question: did any officers attend any fundraisers?

Mr Pezzullo: And, as I said, not in my knowledge, but, if you were to provide me with either an opportunity to come back to you on notice or provide me with particulars—

Senator KIM CARR: I appreciate that. I would be particularly interested in, if they did attend, who requested their attendance, obviously if they were on duty.

Mr Pezzullo: I can assure you that my expectation and that of all officers in the department would be that our officers would conform with the requirements of the Public Service Act, which are to behave in a completely impartial and apolitical fashion. If the thrust of your question is that there is a suggestion that one of my officers has not done so, then I will look at the particulars, but, absent the particulars, I frankly do not have a clue what you are talking about.

Senator KIM CARR: It is a straightforward question. You can advise the committee as to whether any public servants, obviously within this department—

Mr Pezzullo: I will look into the matter.

CHAIR: Just to be clear on what you are going away to take on notice, Mr Pezzullo, I assume Senator Carr means in their official work capacity. What they do when they clock off at five o'clock, I would assume, is entirely their own business, isn't it?
Mr Pezzullo: We are always, in a broad sense, on duty, in the sense that we have to ensure that we act impartially at all times and would not be seen to be partial to one side of politics. And that is relevant also to officers' behaviour at weekends and all sorts of events. So I will need to look at the facts.

CHAIR: Are you saying that, after people finish work, they cannot join the Labor Party even if they want to?

Mr Pezzullo: You can be a member of a political party under the Public Service Act and the regulations and guidance provided by the Public Service Commission. The question is whether your activities are consistent with the giving of impartial and apolitical support to either side of politics.

CHAIR: That is different to attending. If Labor Party are running a branch function in Parliament House and one of your officers is a member of the Labor Party and goes along to it, that is not something that you would need to be aware of, is it?

Mr Pezzullo: No, indeed, although I think what has been suggested, or inferred, in the question, is that somehow the DLOs were involved in events or activities that the senator seems to find untoward. I need to look into the matter. That is all.

Senator KIM CARR: Thank you. I would be particularly interested in who requested their presence, if it occurred. Were they paid? If so, by whom? Obviously I would be interested to know if the minister requested that people attend. And, if it was not him, who was it in the office?

Mr Pezzullo: I will take all of that on notice.

Senator KIM CARR: Can any correspondence or requests for their presence be provided to the committee?

Mr Pezzullo: I will take that on notice. I am also guided by the chair's counsel that, if persons who are perhaps members of parties or involved in fundraising, in their completely private capacity, have been so engaged I will have regard to that, but otherwise I will look at the matter if—

Senator KIM CARR: It may well be that is what you tell me.

Mr Pezzullo: It might well be.

Senator KIM CARR: We will look forward to that inquiry as well.

Mr Pezzullo: I will look at the facts first and then I will make decisions about whether the behaviour was appropriate, if indeed such behaviour occurred.

CHAIR: Perhaps you had better extend the question to opposition budget night functions as well.

Senator KIM CARR: It is unlikely that a Liberal politician, a minister or a member of the executive would be requesting officers of any department to attend Labor Party events, but I would look forward to that answer!

CHAIR: They might have been there in their own private capacity. That is the point I am making, not that I am here to make points—I am here to chair the meeting—but I wanted Mr Pezzullo to be clear on what he is supposed to be looking for.

Senator KIM CARR: Can I return to some matters I raised earlier?
Mr Pezzullo, your operations manager at the last estimates, Mr Douglas, told me that from 1 January 2013 to 10 January 2014 the department was aware of 44 separate incidents of sexual assault involving minors in Australia's onshore detention facilities.

Mr Pezzullo: I recall that evidence.

Senator KIM CARR: What action has the department taken about those matters?

Mr Pezzullo: In each of those specific matters, but extending more broadly than the ambit of the answer that Mr Douglas gave you, we are treating each and every case of child abuse, whether sexual or otherwise, as a 'cold case', as it were, if I can use that parlance. I have established a Child Protection Panel that reports directly to me, headed up by the former head of the Crime Commission, Mr John Lawler. If you wish, we can talk in more detail about the work of the Child Protection Panel. They are reviewing each and every case, including—as I recall, you have in front of you, I think, 44 instances. They are going back in time to not only those cases. I have asked the panel to go back beyond that for at least a decade—if we have to go back further, we will—to ensure that every single report (a) is not duplicated and (b) was properly looked into initially to see if it merited reporting under the relevant schemes in place at the time pertaining to child abuse reporting. In some jurisdictions, there are different thresholds that relate to mandatory reporting. Where those matters have not been so reported, they will be reopened as, in effect—I am using a popular phrase here—cold cases. Where they have been reported under the mandatory schemes that apply around the country, we will make the best inquiries we can with those jurisdictions, who may not be willing to fully disclose everything to us, about whether matters are in hand—either the complaints have been investigated and set aside, or indeed charges have been laid and prosecutions are in train. The burden of my answer is that it is more general than the 44, but it encompasses the 44.

Senator KIM CARR: How many is the total number that you are now looking at?

Mr Pezzullo: In terms of the total number that will come within the remit of the Child Protection Panel, it is going to be somewhat dependent on how far back we go. I have not set an ambit in that regard. I might ask Ms Dorrington to join us. She can perhaps discuss in a bit more detail the work of the panel.

In terms of the incidents that Mr Douglas previously referred back to, in the early advice which the Child Protection Panel will substantiate further to this evidence, it seems that a number had been double reported. A number had no element of any form of sexualised behaviour, following closer scrutiny since the time of Mr Douglas's evidence. I am advised that 12 of the 44 are the subject of ongoing investigation; 20 have been closed after being referred to relevant authorities; and seven of the 44 were neither accepted nor classified as a sexual assault by the relevant authority. That is the advice that my officers have received from counterpart agencies, but my previous evidence stands. That is to say: if the Child Protection Panel, which Ms Dorrington will now speak to, headed up by an esteemed former law enforcement officer—and also present on that panel is a former practitioner at the state level of child protection and welfare—

Senator KIM CARR: Who is on the panel? Can you tell us that?

Mr Pezzullo: I might just refer to Ms Dorrington now, and she will start that line of evidence. I just want to finish this point, though. If the panel come back and say, 'We've looked at the file; we've looked at the referral; we've looked at the interaction between your
officers and the relevant agency; and we suggest that you re-enliven this or reopen it,' then we will. Otherwise, Ms Dorrington might take up the evidence.

Ms Dorrington: The members of the panel are John Lawler, as the secretary has outlined, previously the Chief Executive Officer of the Australian Crime Commission; Margaret Allison, previously the Director-General of the Department of Communities, Child Safety and Disability Services in Queensland; and Dominic Downie, previously a senior executive in the Australian Public Service.

Senator KIM CARR: Of the 44, there are 12 ongoing inquiries, and 27 have basically been either closed or not accepted—reclassified. Would that be a fair description?

Mr Pezzullo: I might just conclude that because I put that evidence down. The advice I have is that a number were closed after being referred to relevant authorities. What they did with it you would have to ask them, and we could seek to get that advice. And I said that seven had not been accepted or classified as a sexual assault.

Senator KIM CARR: Seven, okay. Were the 20 that you referred to other authorities looked at by the panel?

Mr Pezzullo: They are being looked at. The panel is looking at all of the cases.

Senator KIM CARR: All the 44?

Mr Pezzullo: Plus. If we go back to the very start of this line of questioning, you referred to a specified time period that Mr Douglas gave you.

Senator KIM CARR: Yes.

Mr Pezzullo: Sorry, Senator, you will have to help me here because I do not have his evidence before me; I think you do. His dates were January 2013, from recollection. Sorry, it is unusual—my apologies, Chair, for somebody asking a senator!

Senator KIM CARR: From 1 January 2013 to 10 July 2014.

Mr Pezzullo: Right. Over that 18-month period, Mr Douglas referred to 44 matters that had been incidents provided to the Human Rights Commission that formed some of the background research that the commission undertook in relation to The forgotten children report. What I said is that, pre the panel's examination—I want to stress that this is before the panel's examination—there are 12 of those matters that we have been advised are the subject of ongoing investigation. I do not know; I do not have the facts as to where those investigations now reside. Twenty have been closed.

Senator KIM CARR: By which you mean referred to another authority?

Mr Pezzullo: Yes. Sorry, no, I do not exclusively mean that, because we have been in discussions with those—

Senator KIM CARR: So what does 'closed' mean?

Mr Pezzullo: That is where we have satisfied ourselves either that there is no further action required of us or that there is no further action that we think anyone else is going to take and that these matters are not the subject of ongoing investigation. And seven were referred back to us or advised to us as being not classified within the definition of 'sexual assault', as advised by the relevant competent authority.
Senator KIM CARR: So it is fair to say then that for 27 of the 44 no further action is anticipated?

Mr Pezzullo: That looks correct, yes. But I want to stress that that is before the panel gets to them. If the panel comes to a different view, we will correspond with the relevant state or territory authorities and seek their re-engagement on the matter.

Senator KIM CARR: What is the nature of the panel's inquiry?

Mr Pezzullo: I might pass back to Ms Dorrington.

Ms Dorrington: The panel has two primary tasks. One is, as the secretary has outlined, to look at these historical cases, look at the reporting and look at where those matters were referred to and the resolution of them, if you like. And then the second job of the panel is to present the secretary a final report on establishing a better practice arrangement for reporting and investigation referral of any matters in a future sense.

Senator KIM CARR: Since 23 February, have there been any further reports of sexual assault of minors?

Mr Pezzullo: I will pick that up because, as I said to Senator Hanson-Young, we will look to give her better particulars either during the course of today or, at the latest, early tomorrow. There have been incidents reported to the executive, because I have seen incident reports that pertain to sexual assault on persons under 16, minors, in detention centres, and they have occurred since 23 February.

Senator KIM CARR: Could you in that process provide us with advice on the number of incidents involving minors between 10 July 2014 and 25 May 2015, so up to date— in other words, that period outside of the evidence provided at the last hearings? Are you able to provide that information?

Mr Pezzullo: Yes, we will—and that will then, Senator Hanson-Young, pick up your request around incidents since 23 February, if that is acceptable to the committee.

CHAIR: We might leave it there, Senator Carr.

Senator SINGH: Mr Pezzullo, I have some questions in relation to Australia's asbestos ban and the import of products. Is that to be asked here?

Mr Pezzullo: We are in the hands of the committee. That is a question for the head of Customs, who happens to be at the table.

CHAIR: No, this first section is about cross-portfolio, corporate and general. That is better left, I think. Senator Reynolds has some other questions like that too.

Mr Pezzullo: My apologies, Chair, for interrupting. Senator Singh, after 1 July, 'cross-portfolio' will by definition encompass immigration and customs matters. Technically, over the next few weeks, we are still separate agencies. I do not know where in the proceedings we are, but there will need to be a dedicated session around the Australian Customs and Border Protection Service, which is a separate legal entity until 30 June.

CHAIR: But Customs and Border Protection should be addressed in that section of this hearing rather than in the general cross-portfolio one.
Mr Pezzullo: Well, cross-portfolio I suppose would involve Customs at a very high level because they are in the portfolio, but, in terms of departmental corporate matters, Customs is not yet merged into the department.

CHAIR: We can deal with them here, but, if we start doing that, we deal with everything here and we never go to anything else—

Mr Pezzullo: I will be guided by you, Chair.

CHAIR: and then it is difficult for your officers and for other senators who want specific things, so I think we will stay with the broad cross-portfolio things, corporate and general and that area, and then, as soon as we have finished that, we will move on to Customs and Border Protection, where it seems to me that that would properly come out.

Senator SINGH: Okay.

Senator HANSON-YOUNG: Mr Secretary, could you inform the committee as to who is currently appointed to the Minister's Council on Asylum Seekers and Detention, the MCASD?

Mr Pezzullo: Yes, I can, because we had a meeting just last week and I attended it. The chair is Mr Paris Aristotle, and, as to the other members, it is a matter of public record. An officer will attend the table and give you the rest of the list. I reckon I could probably get all nine off the cuff, but I would prefer to not flash outside the off stump.

Senator HANSON-YOUNG: Okay.

Senator HANSON-YOUNG: Mr Secretary, could you inform the committee as to who is currently appointed to the Minister's Council on Asylum Seekers and Detention, the MCASD?

Mr Pezzullo: They were appointed by Mr Dutton, so it would certainly be subsequent to his appointment as minister, which was around Christmas. But, as to when they were formally appointed, I would have to take advice. It looks like Mr Wilden has the answers.

Mr Wilden: The new council's term commenced on 16 April 2015, and that is for a period of three years. The 2015 council was reduced from 11 previous members to nine. That includes the appointment of two new members and one observer. As the secretary noted, Mr Paris Aristotle AM is the chair, and the council deputy chair is Air Marshal Ray Funnell. Other members are Ms Kerrin Benson, Associate Professor Mary Anne Kenny, Dr Maryanne Loughry AM, Professor Nicholas Procter, Bishop D Eugene Hurley, Dr Georgia Paxton and Ms Catherine Scarfe, and the observer is Dr Paul Alexander AO.

Senator HANSON-YOUNG: How long had the council been vacant prior to it being re-established in April?

Mr Wilden: The last council in its establishment met last year. I will confirm the date. Their previous term expired formally on 28 December.

Senator HANSON-YOUNG: What is that—roughly five months?

Mr Wilden: Between expiration and first meeting, roughly, yes.

Senator HANSON-YOUNG: How often does the council meet?

Mr Wilden: It depends on the chair's desire, and they can meet in a number of ways—either a formal full council meeting or smaller meetings on specific issues. As a general rule, they have two major meetings every year.
Senator HANSON-YOUNG: What was the rationale for reducing it from 11 members down to—did you say—nine?

Mr Wilden: It is nine members now plus an observer, yes. I think that, along with a number of committees that currently met, a review was made of the full membership, and the minister decided that nine was a more workable number than 11.

Senator HANSON-YOUNG: Were any of those nine members on the existing council and reappointed?

Mr Wilden: Yes, a number have been reappointed. There have only been two new appointments; therefore four previous members were not renewed.

Senator HANSON-YOUNG: Who were those four people who were not renewed?

Mr Wilden: I may have to take that on notice. I do not think I have with me at the moment the names of the four who have left, but we will have that back to you today.

Senator HANSON-YOUNG: Okay; thank you.

Mr Pezzullo: I should add to the officer's evidence that, in parallel with the requirement to brief the new minister on the arrangements—because it is his council, or they advise him at least—that there was a concurrent request put across all portfolios that emanated out of a whole-of-government decision to look at the size of councils. So that work was done in parallel as well.

Senator HANSON-YOUNG: In terms of the reduction in numbers, you are saying?

Mr Pezzullo: Yes.

Senator HANSON-YOUNG: So this council will be in place for three years; that is the length of the tenure?

Mr Wilden: Yes.

Senator HANSON-YOUNG: Who are the current members of the joint advisory committee that was established, or was meant to be established at least, in relation to Nauru and Manus Island? Is that a separate group?

Mr Pezzullo: Mr Wilden will not have that information. Perhaps Ms Briscoe can assist in that regard and maybe other officers might need to attend also. By way of preamble type remarks, they are joint committees, councils and boards, as it were, that are joined in the sense of two sovereignties—so Australia and Nauru, and Australia and PNG. So they are of different character or order.

Senator HANSON-YOUNG: So are you saying that there are two of them?

Mr Pezzullo: There is a whole infrastructure. There is also joint ministerial engagement, there is joint advisory committees involving officials and there are a number of working groups in relation to both centres. One obviously is the jurisdiction of Nauru; the other is the jurisdiction of Papua New Guinea. The difference that I am attempting, perhaps poorly, to highlight is that the minister's council is obviously solely within the remit of Australia's own jurisdiction. That is the point, but perhaps Ms Briscoe can add to my evidence.

Ms Briscoe: Senator, I will get back to you in terms of membership but there is a joint advisory committee for both Papua New Guinea and Nauru, and they are both already in existence. We can provide membership to you later on today.
Senator HANSON-YOUNG: How often do those committees meet and report?

Ms Briscoe: That varies for each committee, and I can bring that back also. I think they were meeting around four times a year, but it is dependent on availability—obviously two different countries getting together to meet.

Senator HANSON-YOUNG: What is the purpose of the joint committees?

Ms Noble: The Papua New Guinea JAC oversees the implementation of the regional resettlement agreement that we have with PNG. So it includes discussion about issues such as the management of transfer arrangements; the welfare of transferees, including assessment and transfer of vulnerable persons and those with special needs; community relationships and local engagement; and the practical management of services, including health, mental health, education, interpreters, accommodation, programs and activities, security and other services of that ilk. It talks about progress of processes, including refugee determination by the Papua New Guinea government; assistance, merits review processes and assessments under other protection obligations; voluntary and involuntary return of transferees; infrastructure developments, maintenance and centre management; and any other emerging issues that require high-level engagement.

Senator HANSON-YOUNG: These advisory committees are not independent then, are they? This seems very much operational in terms of the management of people involved in that detention and resettlement system.

Ms Noble: Both of these advisory groups include independent members, and we can get you the specific names of the members. In the case of PNG it includes members from the council on asylum seekers and the Commonwealth Ombudsman's office. In the case of Nauru we have independent representation from, again, the Minister's Council on Asylum Seekers in Detention, the Commonwealth Ombudsman, the UNHCR and the International Organisation for Migration. But we can give you the people's actual names.

Senator HANSON-YOUNG: Is there any reason that their reports on the management and facilitation of those facilities are not made public?

Ms Noble: I can take that on notice, but they are negotiations between our government and a foreign government, so we would have to carefully consult with both foreign governments about their views on that.

Senator HANSON-YOUNG: None of the reports or recommendations from these advisory committees have been made public to date, have they?

Ms Noble: I do not think so, but I can confirm later today.

Senator HANSON-YOUNG: Senator Carr was asking some questions relating to SHEVs earlier. Could you update the committee as to what is happening with the fast-track process? There have been some reports about the length of time it is going to take to get through people's cases and a lack of interpreters. Where are things actually up to?

Mr Pezzullo: I will ask Mr Manthorpe—who, in the guise of his Refugee and Humanitarian Visa Management Division, runs that program—to address your question.

Senator HANSON-YOUNG: Thank you.

Mr Manthorpe: The process is underway. You would recall that there were extensive debates in the parliament about the two pieces of legislation, the so-called RALC bill and the
so-called POM bill, both of which were passed—one passed in December and one passed in March or April. Both of those pieces of legislation now set the framework for us to get underway with the fast-track process for the cohort of IMAs with respect to whom that applies. We have now started working with the minister to have the bar lifted to enable IMAs subject to the process to apply for TPVs. I understand that we have started to receive applications for those from that cohort—very small numbers at this stage, but we are starting to. So that process is underway. That process applies to around—and I will use round numbers—24,000 of the IMA legacy caseload, and a further 5,000 or so have commenced a refugee status determination process. Again, a small number of those have now got to the point of being granted a TPV. We anticipate that that number will pick up in the weeks and months ahead. So we are at the early stages of rolling out the process.

**Senator HANSON-YOUNG:** In terms of the technical process of having to lift the bar so that people can even apply, can I just clarify how many people has the minister lifted the bar for?

**Mr Manthorpe:** The number that I have in front of me is 602.

**Senator HANSON-YOUNG:** Out of 24,000?

**Mr Manthorpe:** That is right. We are starting the process now of working through the cohort and putting, as it were, groups of names up in front of the minister that he can sign off on. The minister needs to exercise that step for each person.

**Senator HANSON-YOUNG:** Is there a process for determining the priority of people? Obviously, some of these people have been in detention and then on bridging visas for four or five years. Is there a criteria for setting the priority?

**Mr Manthorpe:** Broadly speaking we are doing it in order of arrival. There are both folk who are in the community and others who are in detention that have been subject to the bar-lift process at this point.

**Senator HANSON-YOUNG:** Out of those 602, are any of those unaccompanied minors?

**Mr Manthorpe:** I am not sure. We would have to take that on notice. I do not have that sort of breakdown with me.

**Senator HANSON-YOUNG:** So unaccompanied minors are not necessarily listed as being part of the priority group in terms of criteria?

**Mr Kukoc:** As Deputy Secretary Manthorpe mentioned, we will be processing the IMA legacy case load for TPVs based on the date of arrival. But there are also some exceptions where there are special vulnerabilities. And unaccompanied minors or families in detention may actually be close to the front of the queue. So there is scope to escalate some cases for earlier processing than on the basis of the date of arrival. But generally the processing will be done on the basis of the date of arrival. We are also focusing on the case load that is in detention, so that will also be one of the priorities.

**Senator HANSON-YOUNG:** What is the KPI for how many people the department foresees would have had the bar lifted in the next 12 months? Or have you not mapped out the workload in that way?
Mr Kukoc: We intend to process the whole case load, which is 30,500 people, over the next three years by the end of 2018. The KPIs of the bar lifts including the protection assessments and the fast track review will be derived from that period.

Senator HANSON-YOUNG: Do you have the numbers of how many unaccompanied minors make up part of that 30,500 case load?

Mr Manthorpe: I do not have that with me but I am happy to take it on notice.

Senator HANSON-YOUNG: I know we can come back to this issue anyway but I would like to know how many UMAs are on the books.

Mr Kukoc: We can get that to you within the course of the day.

CHAIR: Do you have any more questions?

Senator HANSON-YOUNG: I am happy to move on.

CHAIR: We shall move onto the Australian Border Force. Officers from both the Department of Immigration and Border Protection and the Australian Customs and Border Protection Service will be in attendance.

Australian Customs and Border Protection Service

[14:07]

CHAIR: Mr Quaedvlieg, would you like to make an opening statement?

Mr Quaedvlieg: It will be very brief statement. This will be the last occasion that the Australians Customs and Border Protection Service appears before this committee in its current form and with its current name. The Customs function has been performed for more than 100 years under various organisational constructs and, in fact, was one of the seven original Commonwealth departments established at the Federation of Australia. Even prior to federation, Customs functions were performed between Australia's colonies and at their sea borders.

Of course border protection functions have been added to the Customs function over the last 100 years and today's Australian Customs and Border Protection Service undertakes a wide range of border activities including: the seizure of drugs, firearms and other prohibited goods; the protection of Australia's maritime domains; facilitating international trade and travel; collection of billions of dollars of revenue; and supporting the counter-terrorism efforts of national security agencies.

In 38 days, on 1 July, the Australian Border Force or ABF will come into existence. The ABF will be the operational arm of the broader Department of Immigration and Border Protection and it will bring together into a single operational entity all of the current operational functions of both the Australian Customs and Border Protection Service and the Department of Immigration and Border Protection. This includes management of the department's detention operations and the enforcement of visa compliance. The Australian Customs and Border Protection Service will cease to exist on 1 July. The ABF will be a uniformed, disciplined and professional enforcement entity led by an ABF commissioner. It will manage the flow of people and goods across Australia's borders to maximise travel, trade, prosperity and social cohesion but at the same time to minimise threats to community safety and national security.
The committee will have an opportunity during this session, if it so chooses, to seek further details in relation to the ABF. Today, however, I want to briefly highlight in this opening statement some of the service's operational results so far this financial year.

The service has made 11,739 detections of major illicit drugs, weighing 6.33 tonnes. This is already two tonnes more than that seized in the full financial year of 2013-14. This increase is attributable to a market increase in the number and weight of amphetamine type substances in all forms—that is, powder, tablet, liquid—but primarily crystal methamphetamine otherwise known as ice, as well as a large seizure of MDMA otherwise known as ecstasy.

The service has also made 1,770 detections of undeclared firearms, parts and accessories. By aircraft, we have surveilled over 124 million square nautical miles of ocean. We have spent 2,000 patrol days at sea in our vessels. At our sea and air ports, we have inspected almost 1.7 million air cargo consignments, over 85,000 sea cargo containers and almost 46 million items of international mail. We have processed over 32 million travelling passengers at Australia's international airports. We have collected almost $13 billion in revenue so far this year. And, since their establishment on 22 August 2014, our counter-terrorism unit teams located in Australia's eight major international airports have assessed over 106,000 departing travellers against the national security risk profiles, resulting in 284 passengers being offloaded dealt with for a range of actions by the service or partner agencies.

These results reflect the commitment, hard work and professionalism of the men and women of the Australian Customs and Border Protection Service, whom I have had the privilege of leading since October last year. The future Australian Border Force will be well served by their contribution. Thank you for the opportunity to make an opening statement.

Mr Pezzullo: Very much on indulgence, can I associate myself with those remarks, as a former chief executive and deputy chief executive.

CHAIR: Mr Quaedvlieg, as I said earlier on, please pass on to your people at this change of phase the parliament's congratulations for the work they have done over many years. It has been a wonderful job. There will be some, no doubt, in the service who will be a bit nostalgic about the change on 1 July and I can understand that. I well remember my own personal interaction with your maritime service back in the days when we were chasing tooth fish pirates all over the Southern Ocean. I remember the enormous service that was given by your operators and officers then and in so many other ways since. Congratulations on the work you are doing and going to do in that area.

Mr Quaedvlieg: Thank you.

Senator SINGH: Mr Quaedvlieg, I want to ask you some questions in relation to Australia's asbestos ban. We have had an asbestos ban in this country now for some nearly 12 years. Have there been instances of importing building, vehicle or mining products that were asbestos contaminated materials in the past year?

Mr Quaedvlieg: I imagine the answer to that question is yes. I do not have a detailed breakdown but perhaps if I could give you an overview of our enforcement activities then that might go to the essence of your question.

Senator SINGH: You can take it on notice but I would like the actual breakdown of the products and their source country.
Mr Quaedvlieg: We will endeavour to provide that in as much detail as we possibly can. As you are probably aware, the use of asbestos outside of Australia is prevalent in a number of industries. We have a total asbestos ban. The importation of asbestos is an offence under the Customs prohibited items regulations. In order to bring life to that prohibition, we undertake a number of activities. The primary benefit, I believe, that Customs brings to the prevention of the importation of asbestos is through our industry engagement activities. We undertake a significant degree of education, awareness and campaigns with a number of industries that have a high risk for the importation of asbestos.

The high-risk industries in the main are industries such as automobile, locomotive, vessels—those types of things. Over the last 12 months, we have been very active in engaging with sectors of industry in the context of testing and ensuring that high-risk importations do not contain asbestos. For example, we are working quite actively in the automobile industry looking at the importation of automobiles and automobile parts from about eight or nine high-risk countries. I can get a break down for you at a later point in time.

Senator SINGH: I cannot imagine one of those would be China!

Mr Quaedvlieg: You are right. Thailand, China, Singapore are three of those that come to mind that we have been very actively looking at. We cannot rest on our laurels; we have to assume that asbestos is imported either intentionally, unintentionally or sometimes unknowingly because of its prevalence offshore. So we have what we call 23 active profiles in our targeting system. Some of those profiles go to the point of identifying particular goods like gaskets, brake pads and things of that nature, which we know have a significantly high degree of risk for the importation of asbestos.

While we do not prohibit building products in the main across the broad, there are certain components of the building industry which have a high risk profile for the importation of asbestos—things such as plasterboard. So 10 of the 23 active targeting profiles that we have relate to things of that nature in the building industry that might give us some cause for concern. There are also profiles in relation to particular entities or high-risk countries—and I would not want to go into too much detail in relation to that for operational reasons.

Over the last 12 months, we have finalised three active investigations and we have currently got three active investigations on foot—two in Western Australia and one in Queensland in relation to the importation of asbestos.

Senator SINGH: When you say 'investigations', are they prosecutions?

Mr Quaedvlieg: The three current active investigations have not yet moved to prosecution. They are still in the active investigative stage. Of the three that have been finalised, one went to prosecution and there was the imposition of a penalty, and the other two, as I understand it, did not go to prosecution.

Senator SINGH: Okay, so there has been one prosecution in the past year in relation to asbestos importation breaches?

Mr Quaedvlieg: There has been one prosecution and one conviction. That is correct.

Senator SINGH: How does that cross-reference with the number of investigations?
Mr Quaedvlieg: If you take that in aggregation, over the last 12 months, there are six active investigations. Three are still active, one has been finalised with a prosecution and conviction, and two did not proceed to prosecution.

Senator SINGH: I am concerned about this because there seems to be very few prosecutions that end up occurring when we talk about asbestos. It was my understanding that since the ban had come into force nearly 12 years ago, there had only been about two prosecutions. You are saying there has been one in the last year?

Mr Quaedvlieg: That is correct.

Senator SINGH: And that is out of the six?

Mr Quaedvlieg: Investigations, that is right.

Senator SINGH: Why in so many circumstances does it not lead to prosecution?

Mr Quaedvlieg: One needs to be careful not to measure the success of an asbestos ban simply by the number of prosecutions. As I said, the mainstay of our activity is actually preventing the asbestos coming into the country in the first place. With our cooperation and collaboration, not just with the industry but with partners, our belief is that we are preventing a lot of the importation of asbestos. Occasionally there may be an asbestos importation that gets through in a way which is done knowingly or intentionally, but it is a matter of proving that.

Senator SINGH: With all due respect, I know that your aim is to prevent asbestos being imported but the reality is it is being imported into this country. We have seen a number of examples of that. The fear is, obviously, that we will end up with another wave of asbestos related disease in this country when we have a ban in place and we have had a ban in place for a very long time. So it comes backs to your role and the role of Customs to ensure that the imported products do not get into this country in the first place.

I understand the difficulty, because some products may be labelled 'certified asbestos free' when they clearly are not. Clearly, there is a high-risk list that you have identified that needs to be a focus, I would presume—for example, those products that come from China. So what do you do? Does Customs and Border Force ramp up its compliance measures when there are products that are coming in from certain high-risk industries from a country like China or Thailand? What it is that you do to ensure that they do not make it through Customs?

Mr Quaedvlieg: I thought I had explained it, but let me have another crack at trying to explain it. We have a fairly advanced targeting regime and so we have a very good sense not just of high-risk countries but of high-risk industry sectors and high-risk entities—so, particular companies where we may have cause for concern in relation to their intention to import asbestos. We use that information—that intelligence and those analytics—to actually set the profiles which I described before. Those profiles will actually alert us to consignments before or at arrival in Australia so we prevent them from coming into the country.

I think, again, I will reiterate the point that it would be a mistake to benchmark your success against asbestos importation simply by counting the number of prosecutions. Prosecutions will be affected; they will be affected where the evidence exists and where we can prove it. But we are doing a lot of work upstream to prevent asbestos coming into the country.
Senator SINGH: Are you adequately resourced with compliance and enforcement to ensure that asbestos is not imported into this country?

Mr Quaedvlieg: I believe we are, yes.

Senator SINGH: You believe you are adequately resourced?

Mr Quaedvlieg: Yes.

Mr Pezzullo: Sorry, Senator, did you say 'not imported'?

Senator SINGH: Not brought in, yes.

Mr Pezzullo: In contravention of the regulations?

Senator SINGH: Yes. So you believe you are adequately resourced?

Mr Quaedvlieg: Yes.

Senator SINGH: There was an article in *The Australian* on 23 February—I am sure you are aware of it—

Mr Quaedvlieg: I saw it, yes.

Senator SINGH: ACBPS is not able to guarantee that all imported goods will be free of asbestos. Importers are responsible for ensuring the goods they import are free from asbestos and must declare this on import documentation.

Well, if we all sat back and allowed importers to be responsible we would not have anything to worry about. But we know, clearly, that they are not being responsible and therefore Border Force needs to play a really crucial role here. But having said that, the department is saying that you are not able to guarantee that all imported goods will be free of asbestos when they come into this country.

Mr Quaedvlieg: Yes, that is right. And neither can I guarantee that in the volume of trade that we get—and I am going to throw some figures at you: three million sea cargo containers a year, 39 million air cargo consignments and 200 million international mail consignments—that drugs and firearms do not get through either. But we have the target and the analytics profiles, and the investigative activity to deal with it.

Senator SINGH: In that case you would not think that 25,000 Great Wall and Chery Chinese cars would come in again, because now you are aware of the gaskets—that they contained asbestos and so forth?

Mr Quaedvlieg: Yes and, obviously, they are an entity of concern. We are paying lots of attention to those imports, as we are with other companies, sectors and industries.

Senator SINGH: Okay. There is going to be a continual increase, I would see, in the number of Chinese imports. Our trade with China is growing, so there could be—most likely—an ongoing risk here with imported goods that contain asbestos. That, to me, would mean that the resources required by Customs and Border Force would particularly need to be focused on those high-risk areas that could come with an increased need for resources.

I understand—it has been highlighted to me—that Customs officials are hampered by a lack of resources to deal with this issue. We know that the goods are coming in, so I am trying to understand why they are coming in and if it is about a lack of resources. Is it about a lack of
compliance or prosecutions? What is the reason here? We have had a ban on asbestos in this country for nearly 12 years, and yet we have asbestos goods coming into this country.

Mr Quaedvlieg: It is not just a matter of more resources and I think it would be a mistake to try and commensurately increase simply the number of people we have on the sea ports to check sea cargo containers. The answer is actually better information, better engagement with industry, better analytics, better intelligence queueing, and targeted and forensic examination. Drugs have been banned in this country for a hell of a lot longer than asbestos has and they still get through. That is just the reality of the environment we are dealing with. Our job is to make sure that we are doing the best we possibly can to ensure that we prevent prohibited items, across the spectrum—whether it is drugs, firearms, counterfeit property, child pornography or asbestos—from coming into this country, and that is what we do.

Senator SINGH: Thank you.

CHAIR: Senator Reynolds.

Senator REYNOLDS: First of all, I would like to extend my colleagues' congratulations to the Australian Customs Service. As a chief of staff for a minister for Customs for three years, I know the incredible range of work that your organisation and your staff does. Since I left I know that it has become an even more complex environment. So I would like you to note and pass on our sincere acknowledgment and thanks for the work that you and all of your staff do.

Mr Quaedvlieg: Thank you.

Senator REYNOLDS: The first question I have relates to your new Cape class patrol boats. I recently was down at Henderson and had the pleasure of seeing number 6 or 7 Cape Leveque being prepared. I wondered if you could give us a bit of background to this project, and your thoughts on how happy you are or otherwise with the vessels?

Mr Quaedvlieg: I will start with the latter part of your question first. I am very happy with the vessels. Thank you. This has been an exceptional build program of vessels for the Australian Customs and Border Protection Service. It commenced some years ago when we identified that the current fleet of Bay class vessels that we had were ending their life cycle. We had our project team put together a set of specifications in terms of both our learnings from the Bay class vessel operations and what we were experiencing at the time in terms of our operational duties on water. We entered into a multi-hundred-million dollar contract to build eight Cape class vessels.

Senator REYNOLDS: Sorry, how many dollars?

Mr Quaedvlieg: Multi-hundred-million dollars. I do not have the exact figure before me.

Senator REYNOLDS: That is alright.

Mr Quaedvlieg: I am pleased to say that the build program is almost at an end. We should take possession of our final two Cape class vessels sometime in the next couple of months. They will be a fleet of eight vessels that will fulfil the entire range of maritime responsibilities that we have under our Border Protection Command. I am pleased to say that the reports back from our operators in the marine unit is that the vessels are fit for purpose; they are comfortable compared to the old Bay class vessels; they have greater range; they have greater endurance; they have more utility, and in fact are a valuable asset in terms of the
Australian Customs and Border Protection Service being able to maintain a competent maritime capability.

Senator REYNOLDS: Thank you. Coming from WA and being a champion of our local shipbuilders, I find it very pleasing to hear that it is an exceptional build and that you are very happy with the product. As far as you are concerned, they have been delivered to the specifications that meet your requirements, would that be correct?

Mr Quaedvlieg: Yes, that is correct. As in any fleet, as the first couple roll off and are put into operational trial and evaluation, there are little bugs that need to be ironed out. We are working with our builders in Austal to work through those bugs. But by and large it has been a very successful program and a very successful boat.

Senator REYNOLDS: I think it is safe to say that, although the Bay class vessels are coming to the end of their life, they have certainly provided a lot more service above and beyond what was perhaps originally intended when they were initially procured. What is going to happen to the Bay class? Are you decommissioning them? What is happening to them?

Mr Quaedvlieg: Indeed—

CHAIR: Why would anyone care?

Senator REYNOLDS: They have seen good service, Chair.

Mr Quaedvlieg: The Bay class vessels have provided us with fantastic service. In fact their life span extended beyond what we expected. I think that is a compliment to the people who actually kept these vessels in service. As you may well be aware from public reporting, we are currently in the process of a gifting program. Two of the Bay class vessels we gifted to Sri Lanka last year. Two vessels have now been gifted to Malaysia. Malaysia received its second Bay class vessel in the last month. That leaves four Bay class vessels in train, if you will. Those two vessels are still in operation but are slowly being decommissioned, and decisions relating to scrapping or gifting of those vessels are in the process of being considered.

Senator REYNOLDS: I also note that the Ocean Shield is due to come back to Perth very shortly. Can you tell us about its most recent deployment, please?

Mr Quaedvlieg: Indeed. In both this forum and in other select Senate committee hearings over the last eight or nine months I have made a commitment that wherever operationally possible I would place the Ocean Shield into the Southern Ocean for a 42 day patrol. I am pleased to report to this committee that we have been able to effect that. The Ocean Shield has just returned into Fremantle after a 42 day Southern Ocean patrol, much to the joy of our French partners who were embarked on the vessel and much to the joy of our domestic partners in the Australian Fisheries Management Authority who were also on the vessel. The Ocean Shield conducted a number of operational objectives on behalf of the Customs and Border Protection Service and partner agencies in that tour. She is just steaming into Fremantle for reprovisioning as we speak.

Senator REYNOLDS: Was it an eventful deployment for those six weeks or so? Or was it fairly uneventful?
Mr Quaedvlieg: I can report that there were 12 metre seas and 50 knot winds. That is eventful for any mariner I can absolutely assure you. There were no incidents of violence at sea or illegal fishers that were sighted. But I should take this opportunity to indicate that over the course of the last four months we have been very active in the fight against illegal, unreported and unregulated fishing. In fact for the first time in many years we conducted two active boardings of illegal fishers west of Cocos Keeling Island. We boarded the Kunlun and the Perlon. We identified material of fish on board. We reported those findings to our partners in the region who are part of the regional action plan, and I am pleased to announce that our Thai counterparts seized the Kunlun and pulled it into port. Our Malaysian counterparts boarded the Perlon and pulled that into port, and prosecutions are underway.

Senator REYNOLDS: That is good news. Thank you.

CHAIR: How high is this ceiling, do you think? Where would 12 metres go to in this room?

Mr Quaedvlieg: I would say probably about three-quarters of the way, if not all the way, up.

CHAIR: It is important sometimes for us to realise just what your guys on board go through with waves that are the three-quarters of the height of this ceiling.

Mr Quaedvlieg: They are very challenging conditions but the Ocean Shield is a remarkable vessel. It is a great degree of utility. It is our only ice capable vessel. And, again in accordance with what our mariners have told us about the Cape class capability, they are equally as effusive and complimentary about the capability of the Ocean Shield. It is a very good vessel.

Senator REYNOLDS: In your opening comments, I did not quite get the figure for illegal firearm seizures. Can you remind me what those figures were? Do you have a further breakdown of what they were and where they were from?

Mr Quaedvlieg: The figure I quoted was 1,770 whole firearms, parts or magazines. That is for essentially a period up to the end of March, which is three-quarters of the year. That already exceeds the number of detections we had last year by about 40 or 50 detections. The breakdown I can give you though is, out of that 1,770, there were: 16 handguns; 38 rifles; 21 shotguns; 464 parts—springs, barrels, that type of thing; and 1,241 magazines.

Senator REYNOLDS: Where were these coming from? Was it mostly detected through the post or were these across the board?

Mr Quaedvlieg: Across the board. What we are seeing is an increase of parts being imported through air cargo and mail. The odd whole handgun or rifle is coming in in sea cargo containers. But I think I would describe the trend in the main as being an increase towards the air stream and the main embarkation point is still the United States.

Senator REYNOLDS: With the magazines and the parts, were they for handguns or for long arms or a bit of both?

Mr Quaedvlieg: A mixture; a range of both.

Senator REYNOLDS: With the seizures you have had, have you had any successful prosecutions this year? Or are some matters still ongoing with investigations?
Mr Quaedvlieg: Yes, we have finalised 18 investigations. They have been concluded with a variety of convictions and imposition of penalties. We have 20 active investigations on foot with firearm importations.

Senator REYNOLDS: Thank you. I would also like to talk about crystal methamphetamine—ice—which you mentioned in your opening statement. I wonder if you can give us a bit more detail about that, particularly where it has been coming from. Has it been made domestically or imported? Perhaps you can give us a bit more information about the source to start with.

Mr Quaedvlieg: I can. I mentioned that the entire tonnage calculated year to date so far is 6.33 across the major drug types. But, of that, 6.33 tonnes, 2.9 is in relation to amphetamine—mainly crystal methamphetamine, or ice. That compares with the full financial year of 2013-14 of 1.8 tonne. So three-quarters of the way through the year, we are now at 2.9 tonnes of amphetamine compared to the full amount of the previous year of 1.8 tonnes. That is quite significant.

Let me give you some vignettes in relation to the crystal meth import which might give you a sense of it. In November last year, we had 65 kilos of crystal methamphetamine imported in a sea cargo container in amongst flat-pack furniture, and that embarked out of China via Hong Kong. A Hong Kong Chinese national was arrested in relation to that.

Later in November—and I think I referenced this at our last committee hearing—there was a very large seizure under Operation Koi. There was a combined drug shipment from Germany. It was 879 kilos of ice and 1.9 tonnes of MDMA—‘ecstasy’. That was quite significant. Earlier this year, in February we had 100 kilos of crystal methamphetamine that was concealed in children's toys, in a container. That also came in from China and Hong Kong, and again a Hong Kong Chinese national was arrested in relation to that. And more recently we had 150 kilos of crystal methamphetamine imported in cardboard barrels, again from China and Hong Kong. I think those four vignettes in combination give you a sense of both embarkation point and volume.

Senator REYNOLDS: I understand you are involved in the national task force that has just been set up about ice?

Mr Quaedvlieg: Yes. The ice task force goes across a range of supply and demand reduction. We are obviously in the supply reduction side of the task force. Our involvement with our partner agencies in the states and territories is with the AFP and the Australian Crime Commission. We will make both single and collective contributions to the task force. I presume that at some time coming out of that task force we will have some collective operational activity with our partners.

Senator REYNOLDS: In terms of the detections, what role have your intelligence led activities had? Has it been more just finding them in X-rays or routine inspections?

Mr Quaedvlieg: A bit of both. We have been implementing the tackling crime NPP now for a little while and this year we will increase our air cargo inspections from around 1.5 million consignments to two million consignments. We are well on track. We have already cleared about 1.7 million consignments so far this financial year in the air sector.

In the sea cargo space we have looked at about 88,000 containers. We are going to hit our target of 1,150 by the end of this financial year. We are well on track in relation to that. In
relation to international mail, we had a target to increase from 40 million to 50 million letters and mail items. We are currently somewhere around 46 million, so we are tracking very well to meet all those targets. But sitting in behind all of that needs to be the analytics because simply increasing your screening rate does not proportionately increase your hit rate.

The increase in detections that I mentioned, notwithstanding that we have several large seizures, incidentally, they were led by intelligence. Operation Coy that I mentioned before was the very good work of one of our analysts who was acting on some information that had been received and had worked that up into a profile. That profile set off a container that we ordinarily would not have had a look at. In this particular case the intelligence was spot on, and we picked up three tonnes of illicit drugs. So the answer is: a bit of both; it is both volume and increased analytics as well.

Senator REYNOLDS: You are talking about the increased inspections you have been doing. Is that a result of the increased funding that you got, I think last year—the $88-odd million? Is that what some of that money is being used for?

Mr Quaedvlieg: Yes, that is right; it is the tackling-crime initiative of early 2014 that we have been implementing.

Senator REYNOLDS: So that is bearing fruit, I guess.

Mr Quaedvlieg: Yes, it is bearing fruit.

Senator REYNOLDS: Thank you.

Senator KIM CARR: I would just like to follow up on some questions regarding asbestos. I understand you are saying that 10 of the 23 groups that you thought were high risk were actually in the building industry. Is that right?

Mr Quaedvlieg: Not quite. Let me re-characterise that, Senator, if I have misguided you. We have 23 targeting profiles in our system. The profile is something that indicates there might be a prohibited good in a particular consignment. It depends on the entity behind that, the sector it came from et cetera. We have 23 profiles that relate to asbestos, in the broad. Ten of those relate to items, such as plaster boards, which are predominantly used in the building industry.

Senator KIM CARR: It is not just asbestos that you are looking for, is it?

Mr Quaedvlieg: No. We have thousands of profiles across the board that relate to a whole range of prohibited goods, which I referenced to Senator Siewert.

Mr Quaedvlieg: The 23 refer specifically to asbestos.

Senator KIM CARR: Yes, that is right.

Senator KIM CARR: There have recently been reports about imported aluminium cladding, which is in breach of our fire-safety standards. There are recent reports of an aluminium-cladding fire at Lacrosse towers in Melbourne's Docklands. Are you aware of those reports?

Mr Quaedvlieg: I am not. You have me at a disadvantage. I will see if there is anyone in the team who has any knowledge of it. Yes, I have an indication to my right.

Ms Nyakuengama: Yes, I am aware of those reports of the aluminium cladding.

Senator KIM CARR: I understand the product is called Alucobest cladding. Is that right?
Ms Nyakuengama: I do not have the specific name of the product.

Senator KIM CARR: According to the reports, the product is imported from China and did not meet fire-safety standards. Can you tell me how it is that you have a non-compliant product imported for use in Australian high-rise buildings?

Ms Nyakuengama: The building products may be considered unsafe for a range of reasons, including where they fail to meet Australian standards. Compliance with Australian standards in the National Construction Code is generally enforced by state and territory accredited building certifiers at the point of installation. Builders are responsible for ensuring that all building products used during construction conform to minimum-performance levels outlined in the NCC. Customs and Boarder Protection does not control, at the border, building products per se. But if they contain a prohibited product, such as asbestos, they will become a prohibited import into Australia and we will take action.

Senator KIM CARR: So they have to become a prohibited import before you will stop them. Is that what you are saying to me?

Ms Nyakuengama: That is what gives us the control over it, that is right.

Senator KIM CARR: How do they become a prohibited import?

Ms Nyakuengama: Generally, they are prescribed in the Customs (Prohibited Imports) Regulations. It is one of the schedules to the regulations.

Senator KIM CARR: It is a Commonwealth declaration.

Ms Nyakuengama: It is regulation made under the Customs Act.

Senator KIM CARR: Yes, but is it a Commonwealth declaration?

Ms Nyakuengama: Yes.

Senator KIM CARR: The problem here, in this case, is that the product is reported to be highly flammable. Reports that I have seen suggest that it is the Metropolitan Fire Brigade. The Australian Fire and Emergencies Services Authority Council have made comments to the effect that the product is very dangerous but that nothing can be done again about it because it is regulated by state authorities. Is that your understanding?

Ms Nyakuengama: There is not an import control at the moment. That is correct.

Senator KIM CARR: How would one go about getting an import control on it?

Ms Nyakuengama: For the majority of the goods that are controlled through the Customs prohibited imports regulations, the policy responsibility will lie with another Commonwealth minister's portfolio responsibilities—

Senator KIM CARR: Which one is that?

Ms Nyakuengama: whether that is the Attorney-General's Department for illicit drugs, the Department of Health for therapeutic goods or the Department of Employment for asbestos.

Senator KIM CARR: Or the Department of Industry because it is a building product.

Ms Nyakuengama: It would have to be a Commonwealth responsibility, yes.

Senator KIM CARR: If it is in breach of the fire safety standards—

Ms Nyakuengama: I think they are state and territory standards.
Senator KIM CARR: The enforcement of building matters are state matters. Is that what you are telling me?

Ms Nyakuengama: Yes, there is a national code that is the responsibility of the Department of Industry. That is correct.

Senator KIM CARR: That is right.

Ms Nyakuengama: But that is a code.

Senator KIM CARR: It is a national building code. And there is a building industry ministers' council that oversees that code, is there not?

Ms Nyakuengama: I expect so, yes.

Senator KIM CARR: The question I put to you is: has there been any communication with the Customs service from the industry department in regard to the importation of building products that are in breach of Australian fire safety standards?

Ms Nyakuengama: I will have to take that on notice.

Senator KIM CARR: And that would be required, presumably, to start the process for a Customs—what do you call it?

Ms Nyakuengama: A prohibited import regulation.

Senator KIM CARR: But would it require that process to commence with the Department of Industry?

Ms Nyakuengama: That is correct. Normally at officer level, the nature of a possible control would be worked out and then there would be ministerial correspondence seeking the amendments to be made.

Senator KIM CARR: In the case where this incidence occurred, the Victorian building authority has indicated it has undertaken an investigation into the use of the product, and it is investigating the builder of the Lacrosse tower, which is LU Simon. But it has been said on the public record that the Victorian building authority is powerless to investigate the suspect use of non-compliant and flammable cladding but has set up a hotline and sent out 20,000 emails to building practitioners across the country. Has there been any communication with the Customs department on this matter?

Ms Nyakuengama: I would have to take that on notice. I am not aware of any.

Senator KIM CARR: I am not surprised. If you were, I would be very surprised. The point is: I like to establish how thorough the investigation is if the regulatory authority here, either the Department of Industry or the Customs department, has not been contacted. Are you able to get back to me on that matter today? Is that possible?

Mr Quaedvlieg: We will make every endeavour to do that.

Senator KIM CARR: It should be a straightforward matter to establish. How long does it normally take to get a product put on a prohibited imports list?

Ms Nyakuengama: A lot of it depends on the nature of domestic controls as well. We cannot put on an import control that would make us non-compliant by not having a similar domestic control at state level if it is a state government responsibility.
Senator KIM CARR: Could you explain that to me a little bit more? To be on the prohibited import list, the state government has to have taken actions too. Is that what you are saying?

Ms Nyakuengama: Generally, yes, if it is not something that the Constitution gives to the Commonwealth as a legislative control. But you are not meant to have controls on imports for products that are not controlled domestically.

Senator KIM CARR: But in this case, the building industry national code, surely, gives authority to the Commonwealth to act?

Ms Nyakuengama: I would have to take that on notice as to the actual legal standing of the code.

Senator KIM CARR: If you would not mind, thank you very much. Refresh my memory, how long does it normally take if a state has taken action?

Ms Nyakuengama: My experience is that it has been between six weeks and six years, depending on the product and the level of cooperation.

Senator KIM CARR: So how long is a piece of string? If it is on a prohibited products list, what then would happen in terms of your action at the border?

Mr Quaedvlieg: It is a bit like that conversation we had earlier around asbestos. It would be listed as a product. We would do an analysis and see what the intelligence tells us in terms of high-risk countries of embarkation, high-risk sectors, producers or entities that either knowingly or unknowingly have imported this type of product in the past and we would set profiles as per the asbestos response. We would interdict it as it arrived at the border.

Senator KIM CARR: Yes, but you would not seek to stop every product. You would do a risk assessment?

Mr Quaedvlieg: That is correct, yes.

Senator KIM CARR: If it is the case that this product is genuinely dangerous—and the Fire Brigade says it makes it very difficult to control a high-rise building fire—would that require a more urgent response do you think?

Mr Quaedvlieg: It is one of those questions: what is more dangerous a gun, an overdose of a drug, an asbestos fibre or an inflammable bit of cladding? We make judgements based on our operational priorities, our risk assessments, volumes et cetera and those change from year to year.

Senator KIM CARR: However, if a high-rise apartment block goes up in smoke—

Mr Quaedvlieg: I understand your point.

Senator KIM CARR: and people are burnt to death and it is demonstrated that the Commonwealth has not taken steps, would it be the case that the Commonwealth then becomes liable?

Mr Quaedvlieg: I am not sure but I think the way you are categorising the risk, it sounds high risk. We would take commensurate action to deal with that risk.

Senator KIM CARR: I have a media report here that suggests that builders will be liable for injury in office fires of this type. In your assessments of these products, do you consider the Commonwealth's liability in allowing the importation of products?
Mr Quaedvlieg: I am not sure. I am not a lawyer and I would not like to speculate on the Commonwealth's liability in a hypothetical. I am advised we do not have the details yet. We will come back to you later in the day on that.

Senator McLUCAS: I want to go to questions of preclearance for Customs for air and sea freight moving from North Queensland to Papua New Guinea. Can you update the committee on negotiations between Australia and Papua New Guinea around the proposal for preclearance for freight at the Cairns airport and the Townsville seaport?

Mr Quaedvlieg: Thank you for that question. The answer, in short, is it has not progressed particularly far. There were some entreaties made by various private sector or non-government organisation entities seeking to move some goods either from Cairns or Townsville into Papua New Guinea by air or, alternatively, to transport them by sea through the Torres Strait. We have not—and I repeat not—had any formal request from our Papua New Guinean counterparts to that effect. Notwithstanding that, noting the intent of the request from these private entities, we have started some internal discussions about how we may facilitate it should that be requested by Papua New Guinea. But Papua New Guinea is a sovereign country. We cannot just go clearing and exporting freight to it without its permission and it needs to be a part of the conversation and a part of the request and, thus far, it has not been.

Senator McLUCAS: Could you give me an understanding of the time frame around when these considerations have been had? Because I am aware that under the former government there had been quite a range of conversations. What has happened subsequently?

Mr Quaedvlieg: I am not sure historically. I can take that question on notice whether there has been either formal requests or discussions in relation to this. Certainly since I have been in the role since October, there were some initial conversations in relation to some preclearance around late last year, 2014. Then it was resurrected again sometime around March-April. But they are the only two approaches I am aware of.

Senator McLUCAS: Is it departmental officials who are having these conversations? Have there been conversations between PNG Customs and Australian Customs?

Mr Quaedvlieg: In fact there has been a conversation. I had inquiries made with my PNG counterparts in Customs to assess in my own mind whether it was part of the request. It made it very clear to me that it was not. PNG Customs have not been involved in this at this point in time.

Senator McLUCAS: I do not want to ask you hypothetical questions. That would be inappropriate. So the conversations that have been had have been held only within Australian Customs?

Mr Quaedvlieg: No, not exclusively. Obviously our colleagues at the Department of Foreign Affairs and Trade have a role. The particular request that came to me earlier this year was in the context of a potential health dividend for Papuan New Guinean nationals; therefore, Health has been engaged as well. But it is an internal Commonwealth conversation at this point in time.

Senator EDWARDS: If I could go to tobacco, if I may. The context of my interest in this area is just looking at the taxes paid by wine, beer, cider and all of that. I turn my attention to tobacco. It seems to me there are a lot of rubbery figures around. There are some figures out
from KPMG which is based on data from Philip Morris Tobacco and I do not know the slant of those. But British American Tobacco will cease production in Australia meaning all of our tobacco will be imported from overseas. Do we have any idea how much tobacco was seized as being illicit in the past year?

Mr Quaedvlieg: Yes, I can give you some statistics around that. The figures I have are year-to-date to the end of March. We have made 71 detections of illicit tobacco—that is, 92 tonnes loose leaf. We have ceased 33 million cigarettes. Those two quantities, the 92 tonnes loose leaf and 33 million cigarettes, in total represent a duty evasion of $66 million.

Senator EDWARDS: It is impressive that you know that off the top of your head.

Mr Quaedvlieg: I had a look at it this morning.

Senator EDWARDS: What is the trend around those figures? Is that an increasing figure or is that about the same or is that something that we are on top of?

Mr Quaedvlieg: What we are finding is sea cargo is relatively stable. What we are finding though over the last 12 months is an increasing uptake of illicit tobacco in the air stream. I am hesitant to quote the statistics of seizures in the air stream only because it is something that we have only recently started looking at. There has been an increasing phenomena—and I mean that across both passengers as well as cargo. We are seeing passengers bringing illicit cigarettes and tobacco, particularly from South Korean China. In terms of actual quantity in tonnage, the numbers are low compared to sea cargo but we are certainly seeing an increasing proportion. In fact, five or so years ago, illicit tobacco in the air stream represented about one per cent of our seizures. And now it is up around the 30 per cent mark, so it is getting quite significant.

Senator EDWARDS: There is also a trend, I am hearing in this space, where there are people or companies placing orders of tobacco from overseas in the hope that they will escape paying Australian excise. Is that something you are seeing more and more of?

Mr Quaedvlieg: That is a difficult one to answer. You mentioned earlier the KPMG report. We are working quite closely with industry in relation to that report. I personally do not hold much confidence in the final figure that it quotes—I think it is 14.5 per cent or thereabouts—as the estimation of the illicit tobacco sector. Having said that though, the report and its methodology does give us some idea about trends. What we are seeing this year is an increase in domestic cultivation. You mentioned earlier that there is certainly no legal tobacco grown or manufactured in Australia, but intelligence indicates to us, and we have seen actions in Victoria in particular, that large illicit domestic crops are being seized.

How do you calculate domestic tobacco compared to legal tobacco compared to illicit imported tobacco? KPMG have had a good attempt at doing that, and yet when you look at the methodologies behind the estimation, there is some rubberiness in some of the ingested data that it uses to come to its final calculation. I do not ascribe the KPMG final figure with any sense of confidence that that is what the illicit tobacco market is, yet I do not have an alternative. I do not think it is below three or four per cent; I do not think it is as high as 14 per cent; it is probably somewhere in the middle. I am working with my folks and we are going to try to come up with an alternative methodological approach to make some calculations. It is done offshore. The UK does it through the tax gap methodology, but I am
yet to land on a survey that gives us some sense of precision around what the size of the illicit tobacco market is.

Senator EDWARDS: So if we go somewhere between four and 14 per cent, what amount of excise would that be forgone for the Commonwealth would you think?

Mr Quaedvlieg: It is significant. As I have mentioned, the current duty evasion based on the seizure of 92 tonnes and 33 million cigarettes is $66 million. That is only going to increase going forward, so some time in September there will be another 12.5 per cent hike in excise and then a fourth one in 2016 and so that will result in quite a significant degree of excise dollars on a cigarette or 250 grams of tobacco.

Senator EDWARDS: But that is what you get—I mean the contention in this survey is that it is somewhere between $900 million and $1.4 billion worth of forgone revenues to the Commonwealth by virtue of illicit tobacco that comes to this country.

Mr Quaedvlieg: I think the industry report, the KPMG report, estimates it at around 1.35 billion based on a 14.5 per cent illicit tobacco market. As I said, I do not ascribe any sense of confidence to those figures, and industry is aware of that. I have had very close and intimate conversations with it in relation to its methodology. At some point or other though we need to land on a fairly common set of figures.

Senator EDWARDS: But even if it was half of that, it would still be a sizeable number.

Mr Quaedvlieg: Yes, absolutely, and that is why illicit tobacco is one of our major priorities for the service. I set that in June last year. I have recently reset operational priorities for Customs going forward, and tobacco still rates up there as one of our main priorities.

Senator EDWARDS: You have a plan. How far are you into it, and what operational changes have you made in trying to capture where it is coming in? We have captured about $66 million worth; we predict that there might be somewhere between $66 million and $1.35 billion. Somewhere in there, in the middle of that, is probably where it sits. It is a lot of cash.

Mr Quaedvlieg: It is a lot of cash. I have a view though that it is not just about the revenue. The revenue is a really important component of why we should make illicit tobacco a priority, but what we are seeing become more and more prevalent is the involvement of serious and organised crime entities. Obviously there is a dollar to be turned in illicit tobacco, and we talked about the excise that is attached to that. There is a commensurate increase in penalties; there are now penalties of up to 10 years in jail for illicit tobacco importation. Notwithstanding those penalties, the high pecuniary and imprisonment penalties, there is still a dollar to be turned and we are seeing serious and organised crime using its existing supply chain, its infrastructure modes, to import illicit tobacco. The answer goes a little bit to a response I gave earlier when you were not in the room, Senator, in that we need to do better around analytics and intelligence. We know that in the analysis of our seizures our loose-leaf tobacco in the main emanates from Indonesia. Our embarkation points for illicit cigarettes are from the United Arab Emirates. We are working with our partners offshore and I have recently had a conversation with my counterpart in Indonesia. We are already in the process of sharing more information, sharing data. We will collect and analyse that and produce some intelligence products. We will action those and, in conjunction with our state and federal law enforcement partners, we will actually target the high-end serious and organised crime entities that are involved.
We also need, as I mentioned earlier, to get a grip of this phenomenon of the increase of illicit tobacco through the airstream, because it is a phenomenon which is a lot more widespread. It is not a single 10, 20, 30 tonne load of tobacco in a sea-cargo container which is easily interdicted. It is spread across the entire airstream. We have got 39 million passengers ingressing and egressing our borders every year. As I mentioned earlier, we have got about 30 or 40 million air-cargo consignments coming across the border. There is illicit tobacco in those and we need to get to grips in relation to how that is being effected and we need to have appropriate analytics, intel and interdiction methodologies.

Last Friday I graduated a new course of drug detector dogs. Those drug detector dogs are part of tackling crime, our new policy initiative that was granted by the government at the start of 2014. Those dogs are tobacco trained and they can screen thousands of parcels of air cargo and international mail for tobacco.

**Senator EDWARDS:** So the initiative which you started was implemented, it is funded, it is on its way and it is turning out results?

**Mr Quaedvlieg:** Yes, that is correct.

**Senator EDWARDS:** All right. I look forward to the next time. Thanks very much, Chair, and I thank the rest of the committee.

**CHAIR:** Thank you, Senator. I will now use the other five minutes of your time on the same subject. Can I congratulate you, Mr Quaedvlieg, on the work you are doing. It is something I have raised, as have Senator Reynolds, Senator Leyonhjelm and others, at a number of estimates committees. I note that there is a lot of work being done and I congratulate you and your team on that.

A report was released by Mr Keenan, I think, last Friday, *Organised Crime in Australia*. The report contains a whole section on illegal tobacco, indicating that organised crime makes a significant profit from importing genuine counterfeit tobacco products, as you have just said. It also notes and I quote:

There are indications that those groups involved in the market are highly networked and that they have made significant effort to gain a knowledge of Customs procedures, priorities and detection limitations.

Is that a concern to you? Without revealing any of your secrets, can you tell us what is happening and is there anything anyone can do in a regulatory sense to address that?

**Mr Quaedvlieg:** It is a bit similar to the answer I just gave Senator Edwards. The involvement in importing illicit tobacco by serious and organised crime is one of the reasons we have actually nominated it as being an operational priority for the service. With that comes the game we always play with organised crime, which is to stay one step ahead. It will not be any surprise to you, Senator, that organised crime is very lucrative. It is well resourced, it is well syndicated. Our task is to stay ahead of that. Our task is to use every available piece of information, intelligence, trade craft and indeed collaboration that we can muster to defeat that. Hence my very concerted effort to engage very closely with industry. I think in the past, the three big tobacco companies, BAT, Imperial and Philip Morris, have had an adversarial relationship with regulatory agencies and certainly with Customs. I have taken a different approach. I have taken them in a lot closer, to ask: 'What information do you have? Are you prepared to share it?' We have had very productive conversations of late, which allows each of those entities to engage with us in a unilateral way, because there are commercial
sensitivities to each of their trades. But we have created dedicated portals through which industry players can actually provide information that they gather through the course of their investigation because, as you well know, they invest a lot of money in their antifraud and illicit tobacco combating efforts. They do a lot of work domestically and internationally and, in the course of those efforts, they gather significant datasets, which we need to crunch. We need to ingest that, we need to crunch that and see what it tells us in terms of our own data holdings. It enables us then to work very closely with our partners.

To answer your question more directly, what we are intending to do is to stand up a broad whole-of-enterprise strategy against illicit tobacco. It has within it both operational activities, some of which I have described, some of which I will not go into here for operational security reasons. But there is also industry engagement. There is also work done with our partners in Health and Treasury to determine whether, through the course of our operational activities, we find things that we can change through regulation whereby we will be assisted by the Attorney—

CHAIR: Could I interrupt you there, because I was going to raise an issue. My information obviously comes from the tobacco industry, as I have indicated to you when I have asked these things before. They have a common interest with you. You are looking for revenue for the Commonwealth, which is great. They are looking of course for revenue for themselves, but your interests certainly meet very constructively. They tell me and I understand that the tax office is in charge of enforcement where it relates to loose tobacco—I might have this round the wrong way—the Taxation Office are in charge in relation to loose, home-grown tobacco and you in relation to ready-made cigarettes. There seems to be a gap in the legislation whereby neither you nor the Taxation Office really know who should be doing the prosecution. Are you conscious of that? I have explained it quite badly, I am sure.

Mr Quaedvlieg: I think I am getting a sense of where you are going. What is important to understand is that the illicit tobacco market is quite complex, so you will have domestic cultivation, which I talked about earlier, which is illegal. You need to have a licence in Australia to grow tobacco. That is one potential source. Then you have got the whole importation stream, which could be either legitimate brands that have flooded other markets, where they re-provision or resupply to the Australian market. Then there are those that are non-branded that are made by entities offshore. They are the so-called Manchester brand or the 'illicit whites' market. They are not particularly branded. They will come into the country as well. There are counterfeit tobacco products. We have not seen too many counterfeit tobacco products imported into Australia.

CHAIR: But my understanding is that, I think, you are responsible for 'chop chop' tobacco and the Taxation Office is responsible for made-up cigarettes in the retail trade. There seems to be some gap in the law that requires proof of where the tobacco actually comes from and whether it is you that should prosecute it or the Taxation Office.

Mr Quaedvlieg: I will take that on notice. In the main, though, the best way I can describe the division of labour in terms of revenue collection is that we are responsible for the collection of excise on tobacco which crosses the border on behalf of the Taxation Office because they own the legislation.

CHAIR: But if it is grown in Australia?
Mr Quaedvlieg: If it is grown in Australia domestically, the tax office has the responsibility.

CHAIR: There seems to be an evidentiary problem in proving where this bit of illegal tobacco came from. Was it grown in Australia or grown overseas, in which case who should be prosecuted?

Mr Quaedvlieg: I understand that is a problem in terms of—

CHAIR: Is your legal department giving some thought to how the Commonwealth might be able to legislate to address this matter?

Mr Quaedvlieg: I am not sure. I will take that on notice if you do not mind.

CHAIR: I might indicate that I have also written to Mr Hockey, Ms Ley and Mr Wilson about the same issue of enforcement that is perhaps more in their area than yours. Suffice it to say that I understand that you are working very cooperatively with the industry and they with you, which is great to see. So well done.

Mr Quaedvlieg: Thank you, Chair.

Senator HANSON-YOUNG: I have some questions in relation to an incident inside the Maribyrnong detention centre. The reason I am asking it here is that obviously with the new kinds of responsibilities of Border Force I assume it is the agencies that are responsible. It has been put to me that—

Mr Pezzullo: Sorry, Senator, just to assist the chair and the rest of the committee, the CEO of Customs was answering Customs related questions during this session because Customs is obviously still in existence. The Australian Border Force of course does not exist. So obviously I will need to hear the question, but my advice back to the chair of the committee would be that, as we form up the Border Force, if there are any matters that arise in the incident you are just about to ask about that reflect on the future governance of the Border Force I guess that is within torts. I am just not sure. The Border Force does not control any of the centres at this point. I guess I have cut you off. I have done so discourteously and I do apologise. But if the question relates to a historical matter, I do not know that the CEO of Customs can address it. As secretary I might be able to address it, but not in relation to the Australian Border Force because it does not exist and will not exist until 1 July.

Senator HANSON-YOUNG: Why don't we put the question and then if you need to ring someone, we can do that.

Mr Pezzullo: Thank you.

Senator HANSON-YOUNG: It relates to an incident in the Maribyrnong detention centre where there are both asylum seekers and also compliance clients housed in the same vicinity. The report that I have is that a number of convicted criminals who are being held in that facility have been cooking ice.

Mr Pezzullo: In the facility?

Senator HANSON-YOUNG: In the facility, which, I guess, is why I am talking about it from a Border Force perspective as well. You can probably understand why this is quite an alarming report.

Mr Pezzullo: Chair, I am perfectly happy to speak about matters that normally would come under the relevant program—
CHAIR: We will let Senator Hanson-Youn finish the question. Had you finished the question?

Senator HANSON-YOUNG: Firstly, I am telling Mr Pezzullo what the incident is and I guess I would like to know (a) whether you are aware of the incident and (b) what has been put in place to make sure this does not happen again?

Mr Pezzullo: The best way to deal with this, if it is acceptable to the committee, is to ask the deputy chief of Customs, who is currently assisting me with the management of what are known as detention operations. The deputy CEO will be commissioned as a deputy commissioner on 1 July, so there will be continuity with subsequent proceedings. We as the department of immigration—again, I am stressing that the Australian Border Force does not yet exist, so I do not wish to mislead anyone—have certainly started to intensify and lift our efforts in terms of, if you like, law enforcement oversight of these centres. We recently conducted a series of operations, some of which are still ongoing. So I am going to be discreet when talking about future operations but there certainly was a joint operation involving the police, the Customs Service, as it presently is constituted, plus the relevant service provider and my department. Certain drug apparatus were found. I might ask Mr Outram to speak in general terms and, of course, as an experienced former police officer he will not do anything to compromise either future operations or ongoing prosecution action.

Mr Outram: I am aware that on 2 February 2015 there was a planned search operation at Maribyrnong detention centre and a number of detainees were involved in what has been described to me as intimidating behaviour. They attempted to deter the service provider personnel from seizing a quantity of drug related paraphernalia. I do not think it is accurate to say they were actually cooking up but certainly there was some paraphernalia. I do not believe it was particularly sophisticated in that regard. The material was in fact then seized and has been referred to Victoria Police for assessment. It is still the subject of ongoing investigation by Victoria Police. That is what I can tell you about that particular incident.

In relation to the entire network we are, of course, concerned constantly about contraband being taken into detention centres and the issue then for maintaining good order and safety in those centres. We obviously do not want people high on drugs. We are working constantly with the service provider around the procedures and processes for not only screening on entry, planning visits and those sorts of things but also operation safe centres which you have heard something about, which is where we are deliberately going through the centres targeting our operations on this kind of activity and trying to prevent and identify exactly this kind of activity.

Senator HANSON-YOUNG: I just want to be clear here because I do not want any misunderstanding. The report I have is that it was compliance detainees not asylum seekers who were involved in this matter. They were convicted criminals.

Mr Outram: I would have to take that and get back to you today if that is the case. We do obviously within the network have both cohorts and, as you say, they are both co-located on occasion, subject to the risk assessments. I will come back to you and let you know.

Senator HANSON-YOUNG: Mr Pezzullo, has there been any thought, particularly with the changing demographics in some of the centres—which have been referred to by you and...
the minister over the last few months—of keeping asylum seekers and those who are convicted criminals, for lack of a better term, separate in the detention facilities?

Mr Pezzullo: The short answer to your question is yes, but it requires a degree of explanation. At our next proceedings, when the commissioner of the Australian Border Force is in attendance as a fully sworn statutory officer, he can explain this in more detail, but essentially the split between the detainee population is not, as such, between asylum seekers and those who are on a potential removal pathway because, for instance, they are being mandatorily cancelled because they have just gotten out of prison and the like, which I think is the group that you are referring to. For the commissioner and his officers—and, as I said, Mr Outram is assisting me at the moment as we go into transition—the distinction is really looking across the entire network. There are those who are a high risk. Some asylum seekers have exhibited signs of violence and other issues, so we need to treat them as high risk. Certainly persons who have been released from prison who have got a track record of violence—they might be noncitizens who are members of outlaw motorcycle gangs and who are on what is called a removal pathway because their legal status here is being cancelled upon the discharge of their prison term—they are certainly in the higher risk category. And, as you intimate, unlike in a correctional setting, you go all the way down to very compliant family groups, people who are awaiting their determination—it might be a family with young children—and we want them absolutely as far away from, for want of a better phrase, hardened criminals as possible. So Mr Outram, both in his current role assisting me as the deputy secretary and certainly as deputy commissioner of the ABF, will look to ensure that our detainee placement model has full regard to those risks. I might just ask Mr Outram to speak to how he intends to do that.

CHAIR: I might just add, for Senator Hanson-Young's benefit, that this committee dealt with a bill last Tuesday, I think it was, giving further powers. A lot of the statistics that you are seeking did come up in that hearing, Senator Hanson-Young, if you want to have a look at the transcript sometime.

Senator HANSON-YOUNG: Thank you.

CHAIR: But Mr Outram was there, and he may be able to repeat them.

Mr Outram: Indeed. I just can clarify for you that the persons involved in that particular matter you referred to—random drugs paraphernalia—were in fact 501 detainees and not IMAs, just to clarify that point for you.

Senator HANSON-YOUNG: Thank you.

CHAIR: What are 501s?

Mr Outram: They are the people who have been determined not to be eligible for a visa because of their criminal history.

Senator HANSON-YOUNG: They were New Zealanders is my understanding.

Mr Outram: Again, I could drill down to the nationality, but they were certainly 501 detainees rather than IMA detainees, if I can make that point.

Senator KIM CARR: Are you saying that anyone that is released from prison is automatically deported if they are—
Mr Pezzullo: I might speak to that. The legislation has been amended in recent times—
and either a policy colleague or a legal colleague will come and join me. Under section 501—
hence the reference to 501s—there are mandatory cancellation provisions that pertain to
discharged convicts who have served—and I am going to get this right, and if I do not get it
right Mr Manthorpe will correct me—12 months prison or any duration in relation to child
sexual offences. Those persons are mandatorily removed because their visa status is
mandatorily revoked upon the discharge of their term of imprisonment.

Senator KIM CARR: Mandatorily?

Mr Pezzullo: Under the law, yes.

Senator KIM CARR: So there is no discretion at all here?

Mr Pezzullo: I think the law states, 'discretion in exceptional circumstances', which my
officers are able to exercise under guidance, but the law has certainly been tightened and
toughened in the last year or so. But Mr Manthorpe can speak to the visa-processing side of it.

Senator KIM CARR: Sorry to interrupt.

Mr Pezzullo: And then Mr Outram deals with the removals.

Mr Manthorpe: Just to confirm: yes, there is a mandatory cancellation provision—
section 501(3A). It applies to noncitizens who are currently serving a full-time term of
imprisonment and who have been sentenced to a term of imprisonment of 12 months or more
or have been convicted or have been found guilty of a sexually based
crime involving a child. In such circumstances, the visa must be cancelle

Senator KIM CARR: What are the grounds for revocation?

Mr Manthorpe: The person would have to satisfy the minister that they pass the character
test or provide reasons as to why the original decision should be revoked.

Senator KIM CARR: Is the character test determined by being in jail?

Mr Pezzullo: I suspect that it would be affected. In other words, the character provisions
of the Migration Act are spelt out in legislation. I think there are some regulations and there is
certainly practice guidance, and officers have to have regard to those criteria and parameters
before determining whether someone is of good character. My working assumption would be
that, in a lot of cases, criminality and certainly the serving of hard time would go to character.

Senator KIM CARR: Irrespective of the nature of the offence?

Mr Pezzullo: No, not irrespective. Nothing is ever done without merits consideration
under the law. But—

CHAIR: They are matters for the courts.

Mr Pezzullo: Ultimately. If our decisions are judicially reviewed, of course those matters

CHAIR: These are relatively recent rules. I think most Australians wonder why they were
not there before, actually.

Mr Pezzullo: The legislation has been recently amended, yes.
CHAIR: It is not surprising.

Mr Manthorpe: But going to Senator Carr's question about it being irrespective of the nature of the offence, it needs to be an offence sufficient to lead to an imprisonment of 12 months or more or be related to a sexually based crime involving a child.

CHAIR: We do not want them in Australia. Senator Hanson-Young, we will add a little bit of time to your 15 minutes to compensate.

Senator HANSON-YOUNG: Thank you. In terms of this particular incident, you cannot take glass into the centre as a visitor. So where did they get the glass from? Is this something where you have had to investigate people who work there as well?

Mr Outram: Indeed. Obviously, trusted insiders are a risk for including in the detention environment in prisons, for example. But also the screening process for visitors is not fail safe. There are means by which people can conceal items that evade the screening process. Glass, for example, would not show up on a metal detector, a magnetometer and those sorts of things. So there are various ways by which people can try and smuggle contraband—glass and other things—into detention centres, as they do into prisons, which are even more secure. So it is an ongoing challenge for us to try and identify the means by which people smuggle things in and then adapt our procedures accordingly.

Senator HANSON-YOUNG: Have any staff at the centre been dismissed over this incident?

Mr Outram: No.

Senator HANSON-YOUNG: Have any staff been stood down over this incident?

Mr Outram: No.

Senator HANSON-YOUNG: Mr Pezzullo, I am not sure who would be responsible for this question either, but I would like to know how many staff across the network have been dismissed for inappropriate behaviour overall. There have been a number of reports of inappropriate use of social media and attitudes expressed towards asylum seekers in the press. I would like to know how many staff have been dismissed or disciplined in the last 12 months.

Mr Pezzullo: I stand to be corrected by Ms Dorrington, but I am not aware of any instances of departmental staff, and so your reference to staff I am taking to extend to service providers.

Senator HANSON-YOUNG: Yes, contracted staff.

Mr Pezzullo: As I undertook to do earlier today, we will try to get back to you through the course of these proceedings. We might have to speak to both our service provider liaison folks and, potentially, the companies themselves because I think you have also asked about disciplinary proceedings. We will seek to come back to you within these proceedings. If we fail to do that—and I will apologise in advance if we do—we will take it on notice.

Senator HANSON-YOUNG: Have you had to ask for particular staff of contractors to be disciplined at any stage since you have been secretary?

Mr Pezzullo: Me personally?

Senator HANSON-YOUNG: Yes. Is that something that you would do if you needed to?
Mr Pezzullo: It would be highly unusual. I have matters drawn to my attention in relation to non-SES serious misconduct, but certainly not in relation to what might be considered to be other types of misconduct. I am certainly actively across any issues to do with discipline and conduct of our SES group, and I am not aware of any conduct proceedings that relate to our onshore network. Is that the burden of your question? I am just trying to get clear.

Senator HANSON-YOUNG: Yes.

Mr Pezzullo: In relation to our onshore—that is to say, the Australian domestic detention network—I am not aware of any proceedings that have been instituted in relation to SES officers. Certainly I would be aware of those. Unless Ms Dorrington wishes to add to my answer—if she is down there; I cannot quite see for all the other officers leaning forward—

Ms Dorrington: Yes.

Mr Pezzullo: In relation to non-SES matters, I will ask Ms Dorrington to answer your question.

Senator HANSON-YOUNG: Thank you.

Ms Dorrington: There are no disciplinary procedures in relation to departmental employees.

Senator HANSON-YOUNG: Okay, and you will get back to me on the question in relation to contracted staff.

Mr Pezzullo: Service providers, yes.

Senator HANSON-YOUNG: The follow-up question, Mr Pezzullo, was whether you had requested at any stage any contracted staff to be disciplined.

Mr Pezzullo: Me personally?

Senator HANSON-YOUNG: Yes.

Mr Pezzullo: No, I certainly do not recall ever having done that. No. Sorry, I am just pausing simply to think through what you are asking me. I am pretty sure that I personally—

Senator HANSON-YOUNG: It is not a trick question. It is a genuine question.

Mr Pezzullo: It always pays to reflect.

Senator HANSON-YOUNG: Thank you.

CHAIR: Otherwise you too can be a headline.

Senator HANSON-YOUNG: Chair, am I still—

CHAIR: You have a couple of minutes, Senator Hanson-Young. Your time has expired, but some others of us took some of it. My fairness just amazes me! I cannot believe how—

Senator HANSON-YOUNG: Your fairness?

CHAIR: Yes, I just cannot believe how fair I am!

Senator HANSON-YOUNG: It blows my mind! Mr Pezzullo, the recent Border Force legislation that passed through the Senate had a new provision in relation to departmental staff not being able to disclose information even if it had previously, perhaps, been described as in the public interest. Has anyone from your department raised concerns about what this may mean in terms of offering advice without fear or favour in relation to things that are going on?
Mr Pezzullo: I am not aware of any concerns expressed internally. It absolutely follows axiomatically—and Ms Dorrington or one of the legal staff will add to this answer—that nothing in the Border Force legislation that went to a tightening, or a toughening if you will, of restrictions on disclosure in any way could or did cut across the other legislation that is pertinent, which of course is public interest disclosure. Those arrangements are of no lesser or greater standing for our officers. If an officer wishes to come forward in what used to be called whistleblowing circumstances—today it is called public interest disclosure—those facilities and avenues are still fully available with the passage of the ABF legislation.

CHAIR: We might make this next one your last question, Senator Hanson-Young.

Mr Pezzullo: I might just see if Ms Dorrington has anything further to add.

Ms Dorrington: I do not have anything further to add.

Senator HANSON-YOUNG: There has been concern raised publicly in relation to the criminalisation aspect to the disclosure of information, as outlined under the Border Force act, particularly in relation to doctors, nurses and social workers who work within the immigration system—but, I would imagine, more specifically in relation to the detention network. What is your response to those concerns and people worried that—

Mr Pezzullo: Again, either Ms Dorrington or whoever is acting as the general counsel today—because, as I said, our general counsel is indisposed—

CHAIR: The first question is: have those concerns been raised with your department? Are you aware of them?

Mr Pezzullo: I am not aware of any, but the premise—

CHAIR: Well, perhaps that is where it finishes.

Mr Pezzullo: If I may, the premise that we have criminalised anything over and above what is already in the Criminal Code is just a premise that I want to dispel, because—

Senator HANSON-YOUNG: It is now two years imprisonment if you leak information, even if that means talking about your own clients as a doctor, a nurse or a social worker.

Mr Pezzullo: I am not sure if any concerns have been raised. I am not aware of any having been raised with me. Whether persons have made submissions in relation to the legislation, I do not know. I might just see if Ms Dorrington has anything further to add.

Ms Dorrington: Is this a question in relation to sharing and disclosure of information generally, so that the equivalent in the Customs and Border Protection Service legal context, for example, would be sharing information under section 16 of the Customs Administration Act 1985? Is that where your question is going?

Senator HANSON-YOUNG: My question is specifically in relation to the new border force legislation.

Ms Dorrington: And specifically in relation to the sharing of information?

Senator HANSON-YOUNG: The disclosure and sharing of information of people's clients, whether they are doctors, nurses or social workers. I take the point about whistleblowing, Mr Pezzullo. This is not whistleblowing.

Mr Pezzullo: Yes.
Senator HANSON-YOUNG: This is about advocating for your client as a doctor, nurse or social worker. People are concerned that if they talk about the predicaments their clients are in they are caught under these new provisions.

Mr Pezzullo: Chair, if I may, I am now clear on it.

CHAIR: It is not really a question. I mean—

Senator HANSON-YOUNG: Actually, it is a question, Chair. It may not be a question you like, but it is a question.

CHAIR: It is a question I would love if it were a serious question. What exactly are you asking the officers?

Senator HANSON-YOUNG: I am asking what they are going to do to address it.

CHAIR: Firstly, have you had any complaints along those lines?

Mr Pezzullo: None have been drawn to my attention.

CHAIR: In that case, it is not a question you can answer.

Senator HANSON-YOUNG: I swear to God! Senator Macdonald, if you want to chair the meeting chair the meeting, but it is not your decision whether I ask the question the way you like it or not.

CHAIR: Yes, but the questions have to be sensible, and that one is not.

Senator HANSON-YOUNG: I am sorry. I do not take your—

CHAIR: It is saying what might be said if these people—

Senator HANSON-YOUNG: I think if doctors are worried about the mental health of their clients—

CHAIR: You are saying that doctors have been worried. I am asking the officials if any doctor has made a complaint to any of you.

Mr Pezzullo: No.

CHAIR: And the answer is 'no'. Therefore, you cannot comment upon it.

Senator HANSON-YOUNG: No-one gives two hoots what your opinion is about what is reasonable or rational. No-one gives two hoots. I am asking the department staff.

CHAIR: You are asking for an interpretation of what might happen under the act. Again, it is out of order because it is a vague question that means absolutely nothing and the officers really cannot answer it. If a complaint has been made to them, yes, how do they deal with it? But nobody has had a complaint.

Senator HANSON-YOUNG: No-one cares what your opinion is in terms of what is reasonable. You have your own determination about that, and that is fine.

CHAIR: Senator O'Sullivan and Senator Reynolds are very concerned about what I think.

Senator O'SULLIVAN: I care a lot about—

CHAIR: I think that might be a good place to depart. We can come back to you later Senator Hanson-Young, as you know, if you want to pursue that further. We will resume at five to with Senator McLucas and go from there. We will see everyone back at five minutes to four o'clock.

Proceedings suspended from 15:37 to 15:59
CHAIR: The Senate Legal and Constitutional Affairs Legislation Committee will resume. We are dealing with budget estimates for 2015-16. We are dealing with the Australian Border Force.

Senator McLUCAS: Sorry to have to come back to these questions around preclearance in Cairns and Townsville, and I am probably going to go over ground we have possibly been on because we cannot remember what we said to each other. Can I confirm that the proposal, as you understand it, is that what is being discussed is pre-clearance for air freight from the Cairns airport and sea freight from the Townsville seaport? Is that as you understand the proposal that is being discussed?

Mr Quaedvlieg: No. My understanding in relation to the specific approach that we had late last year and early this year was specifically in relation to movement of goods by sea across the Torres Strait into the south coast of New Guinea. There was some vague reference to potentially preclearance of air freight out of either Cairns or Townsville into ports other than Port Moresby.

Senator McLUCAS: Yes. And the Torres Strait proposal was sea freight probably from TI or Horn to Daru?

Mr Quaedvlieg: Yes, Horn Island to Daru, as I understand it.

Senator McLUCAS: That would, I expect, and I am getting into hypotheticals, so just stop me if you think I am going too far—PNG Customs officials to be based at the departing port in the Torres Strait?

Mr Quaedvlieg: Yes.

Senator McLUCAS: Yes. And the Torres Strait proposal was sea freight probably from TI or Horn to Daru?

Mr Quaedvlieg: Yes, Horn Island to Daru, as I understand it.

Senator McLUCAS: That would, I expect, require—and I am getting into hypotheticals, so just stop me if you think I am going too far—PNG Customs officials to be based at the departing port in the Torres Strait?

Mr Quaedvlieg: Yes.

Senator McLUCAS: That is great. Have the conversations between DFAT, Australian Customs and the Department of Health been of a formal nature or have they been people just picking up the phone and having a conversation?

Mr Quaedvlieg: Probably, I would characterise it as the latter. The proposal that we had was seeking to leverage off the existing mechanism to move goods by sea across the Torres Strait which were intended to provide health benefits to PNG nationals. The goods that were being sought to be moved on this particular occasion were not in relation to health related issues, and therefore there was no existing mechanism to actually facilitate that. So I asked my policy people to engage with the Department of Foreign Affairs and Trade and any other departments in anticipation of a more formal request in terms of the facilitation of these goods.

Senator McLUCAS: That was for the Torres Strait?

Mr Quaedvlieg: Yes, that is right.

Senator McLUCAS: From the point of view of Customs, what do you see as the next step to facilitate the broader issue of preclearance from Cairns and Townsville ports?

Mr Quaedvlieg: In the first instance, we would need some sort of formal request from Papua New Guinea authorities, in particular Customs. We would not want to take any unilateral action here in terms of preclearing goods which did not involve collaboration with Papua New Guinea Customs.
Senator McLUCAS: I totally understand the sovereign nature of our nearest neighbour and it is their decision. But in terms of progressing a request from Australian exporters to export to New Guinea, what role would Customs have in that?

Mr Quaedvlieg: We would certainly be able to provide advice in relation to the types of activities that would need to take place for pre-clearance. It would not be our role, I would think, to spearhead a conversation with PNG Customs. We would certainly participate, and my PNG counterpart and I speak relatively frequently on a range of bilateral issues. But certainly that one has not yet been formally raised with me.

Senator McLUCAS: If Australia was wanting to drive that policy change, would Customs spearhead that conversation or would that come from—

Mr Quaedvlieg: No, it would be spearheaded by the Department of Foreign Affairs and Trade.

Senator McLUCAS: Have there been considerations of PNG Customs officials being embedded—and that is probably the wrong word—in the facility at the Cairns airport or seaport, or the Townsville seaport?

Mr Quaedvlieg: I think, conceptually, yes. Any model which has at its heart a preclearance arrangement—and that is preclearance of goods into New Guinea—would have to involve PNG customs staff and they would need to be placed in either Cairns or Townsville airport, I would presume, in relation to the destination under consideration. Certainly we have considered what that might mean. There are issues at play which bring some complexity to it. For instance, if a good or consignment has been precleared and it was found to have prohibited goods in it—drugs, for that matter—where does the legal responsibility lie in terms of investigation and prosecution? There are things of detail that will need to be worked through if this arrangement were to evolve.

Senator McLUCAS: In terms of the question of how feasible, physically, it is to put in extra staff into those ports—

Mr Quaedvlieg: Yes, physically, it is possible. I have looked at the infrastructure of both Cairns and Townsville. We would need to decide where in that movement chain the officials would be: are they airside or landside? But, in terms of physical space infrastructure and facilitation, it is viable to do, provided we can work through some of the legalities and the diplomatic issues that are at play.

Senator McLUCAS: Certainly.

Senator KIM CARR: Can I ask the officers if they have been able to find any information on the importation of motor vehicles.

Mr Quaedvlieg: Senator, you have me at a disadvantage. I have just been handed a bit of paper. I can indicate that, yes, there has been consultation between the Department of Infrastructure and Regional Development and the customs service on the review of the Motor Vehicle Standards Act. We have provided some commentary back in relation to a policy paper that that department had provided to us. It would appear that Customs at least does not have any major objections to the content of the policy paper. I do not have any details on that at this point in time. It would appear that a further meeting is scheduled for tomorrow for further discussion.
Senator KIM CARR: I see.

Mr Quaedvlieg: I beg your pardon: there is a meeting with the Federal Chamber of Automotive Industries tomorrow to discuss the chamber's concerns. My apologies.

Senator KIM CARR: How many privately imported vehicles are there in any one year in Australia?

Mr Quaedvlieg: My advice tells me that in this financial year, from 1 July 2014 to today, there have been 4,214 motor vehicles imported by individuals against tariff classification 8703, which covers motor cars and other motor vehicles.

Senator KIM CARR: Are you able to give us an indication of what types of vehicles they are?

Mr Quaedvlieg: All I have before me is that it includes station wagons and racing cars. I do not have any further breakdown.

Senator KIM CARR: Special purpose vehicles?

Mr Quaedvlieg: I will take that one on notice, if I may. I do not have that.

Senator KIM CARR: How many of them are special purpose vehicles? Have you had any concerns about the importation of vehicles that might be regarded as rebirthed vehicles?

Mr Quaedvlieg: I am advised not a great concern. Historically we have had some involvement with state police forces in relation to rebirthed vehicles being imported. No, it would not indicate here in my advice that there has been any major concern.

Senator KIM CARR: Is that because there are not any or there are very few at the moment?

Mr Quaedvlieg: I cannot answer that. I do not know.

Senator KIM CARR: In terms of exports, has the service had any concerns express or expressed any concerns about the export of so-called rebirthed vehicles?

Mr Quaedvlieg: You have exhausted the extent of my advice. Can I take that on notice and come back to you on that one.

Senator KIM CARR: Yes. Assistant Minister Briggs has proposed draft definitions on what an imported personal vehicle might constitute. It is in the light vehicle category that is right-hand drive. It must have been manufactured no more than 12 months ago and purchased from an authorised dealer and it is permitted to have a maximum of 4,000 kilometres. Have you expressed any view about the administration of those criteria?

Mr Quaedvlieg: No. I am not aware of that. I was aware of those criteria. They were given to me in a verbal brief just as I was handed this paper. I do not know what our view is on those criteria other than to indicate it would appear that it would appear that we do not have any major concerns with the policy as is proposed.

Senator KIM CARR: What about the definition of a new car being one that has 4,000 kilometres on the clock?

Mr Quaedvlieg: I do not understand your question, Senator. What are you asking?

Senator KIM CARR: Sorry, you do not understand the question?

Mr Quaedvlieg: I do not, no.
Senator KIM CARR: Do Customs have a view as to what constitutes a new car, particularly one that has 4,000 kilometres on the clock?

Mr Quaedvlieg: I do not know. I will ask if my staff member to my left might have a view on that.

Ms Nyakuengama: My understanding it is irrelevant whether it is new or second-hand. The classification that the CEO cited—it is irrelevant as to whether it is a new or a used motor vehicle. I am not sure of the actual proposals but it may go to the requirement for a permit and consistency with Australian standards from the department of infrastructure rather than Customs and Border Protection. Our feedback on the proposals is as to our ability to identify whether a vehicle meets particular eligibility criteria in the border management context rather than whether those criteria are good criteria or not which is the policy responsibility of infrastructure.

Senator KIM CARR: Is the standards issue one that you assess—Australian standards versus global standards?

Ms Nyakuengama: The standards requirement is through a permit issued by the department of infrastructure which we administer at the border for them.

Senator KIM CARR: There is a reference in the criteria about the sourcing of vehicles from a 'trusted source of market'. Are you familiar with that definition?

Ms Nyakuengama: I do not have it in front of me. I understand it relates to countries that produce right-hand drive vehicles and—

Senator KIM CARR: Which countries produce right-hand drive vehicles?

Mr Quaedvlieg: I presume there are many countries around the world that produce right-hand drive vehicles. They have right-hand drive lines, including the Chinese. So the fact that it might have produced a right-hand drive vehicle is not necessarily a trusted vehicle source.

Ms Nyakuengama: That is a matter for the department of infrastructure in terms of the policy.

Senator KIM CARR: You have not expressed a view, particularly given our conversations earlier about asbestos.

CHAIR: Is there a question there?

Senator KIM CARR: There is a question. Has the department expressed a view about the importation of vehicles containing asbestos?

Ms Nyakuengama: Not that I am aware of. I will take that on notice.

Senator KIM CARR: Under these arrangements, would Customs maintain its role in terms of the importation of vehicles?

Ms Nyakuengama: The role of—

Senator KIM CARR: Would your current role for the importation of vehicles be maintained?

Ms Nyakuengama: Yes.
Senator KIM CARR: There are no proposals to change that?
Ms Nyakuengama: Not that I am aware of.
Senator KIM CARR: The definition that I have mentioned about the 'trusted source', does that comply with the tariff schedules in the Customs Act?
Ms Nyakuengama: A trusted source country is not relevant to tariff schedules.
Senator KIM CARR: There is no reference in the Customs Act for your purposes—is there?
Ms Nyakuengama: No.
Senator KIM CARR: Is it a term that is used in the WTO or FTA sourced goods?
Ms Nyakuengama: Not that I am aware of.
Senator KIM CARR: But you do not have a trusted source market list?
Ms Nyakuengama: Not currently. We would take the advice of the department of infrastructure as to which countries those would be.
Senator KIM CARR: How many meetings have you had with the department of infrastructure on this proposal?
Ms Nyakuengama: I have not attended any personally, but officers from my branch have attended two or three over the last 12 months.
Senator KIM CARR: So it has been developed over 12 months?
Ms Nyakuengama: I believe so—six to 12 months.
Senator KIM CARR: Do you provide advice on Australian motor vehicle standards?
Ms Nyakuengama: No.
Senator KIM CARR: So you have no reference to the Australian Motor Vehicle Standards Act?
Ms Nyakuengama: That would be the department of infrastructure.
Senator KIM CARR: It has no bearing whatsoever on your administrative duties?
Ms Nyakuengama: The compliance with the Australian Motor Vehicle Standards Act is evidenced by a permit from the department of infrastructure, and our officers would check against the existence of a permit.

Senator REYNOLDS: Secretary—in fact, this question might be for the CEO—I notice in the budget papers that the government has provided an extra $164.8 million for, amongst other things, additional equipment and training for the Australian Border Force. Would you go through what some of that equipment and training will be.

Mr Quaedvlieg: The secretary and I referred earlier to the establishment of the Australian Border Force. Part of that relates to the build of the workforce—the human capital. Some of that budget will be allocated to lifting basic skills. I mentioned in my opening comments that the ABF will consist of the operational functions of both Customs and Immigration. We are bringing together two separate workforces that will need a degree of homogeneity in their basic skills. We will need to provide them, of course, with the accoutrements and tools of the trade, which can be as basic as a single uniform but also much more high-end in terms of being able to provide things such as mobile technologies. We do not want our workforce
tethered to their offices or to their PCs at their desks; we want them to be out in the field making judgements, being able to upload and download data—download data from our sources back in the office as well as upload information and images obtained in the field.

Senator REYNOLDS: Will this be through smart phones and tablets?

Mr Quaedvlieg: That is right—digital devices, tablets, phones et cetera. We want them all to be linked and tethered to our mainframes. That will enable some of the mobility that we are asking our people to engage in. We will need to upskill our people in a whole range of different duties they will need to fulfil. I will ask the first assistant secretary of border force division to talk in a moment in a little more detail about particular courses and/or capabilities, but, in the main, the answer to your question is: we are building both human capital and technology and systems to support the human beings out in the field.

Mr Docwra: I have nothing further to add.

Senator REYNOLDS: In response to a question from Senator Bilyk, I think, you talked a little about the SmartGate and some of the additional rollouts. Would you provide a little more information about the biometric technology that you are using and how it compares internationally. Is what we are doing here in Australia comparable or better than? Have you done any international benchmarking?

Mr Quaedvlieg: I might ask officers to come to the table to describe the specifics of the technology. I would indicate, though, that the SmartGates that we are rolling out—the 92 automated departure gates—have a capacity to collect biometrics through facial images et cetera. We ran a fairly robust procurement process which compared the performances of those gates not just in the processing of passengers but in all of the features that we require those portals to provide to us. But perhaps, for some of the technological detail, I will pass off to my right.

Mr Yannopoulos: We are in the process of selecting the next generation of technology. The CEO has talked about the new gates. We have funding approval now to do more work on additional biometrics capabilities going forward. So we have collection methods already. We are now looking at how we expand the collection and enrolment facilities to meet the much higher volumes.

Senator REYNOLDS: So are you looking to develop some of that technology here in Australia or are you finding things that are already available and used elsewhere that you can bring to Australia?

Mr Yannopoulos: Our general approach would be to look internationally at the best technology that is currently available for commercial sale.

Senator REYNOLDS: I think this one might be for the CEO again, but, in relation to advance passenger processing, could you give us an update on how that is tracking?

Mr Quaedvlieg: The legislation which enlivens the provision of advance passenger information for departing passengers—we have had it for quite some period of time for incoming passengers—takes effect on 1 July this year. Negotiations with both the airline operators and the service provider that will be the interface between the Customs systems or the ABF systems and airline operators, to flow that information and be able to interface with it, are going really well. We have had a commitment from the airlines: notwithstanding that their performance rating against the APP will be somewhere around 99 per cent, most of the
operators that we have been in negotiation with have committed to a full 100 per cent provision of information. They recognise their commitments, and the conversations between the three parties—that is, the service provider in SITA, the airline operators and us—is going exceptionally well, and my expectation is that we will have the data provision rolling out from 1 July in a phased way.

Senator REYNOLDS: As to these enhancements and the new arrangements, what benefits do you see them bringing to your offices and to the new Border Force?

Mr Quaedvlieg: For the first time in many years, we will be able to run our analytics against the passenger manifests. We have been able to do that on the incoming passengers now for a number of years. That has enabled us to conduct risk assessments against high-risk and low-risk passengers. It enables us to be much more forensic in terms of those entities travelling that we wish to speak to. It certainly will help us in relation to some of the work we are doing around counter-terrorism. At the moment, our counter-terrorism teams around the airport—in addition to responding to alerts placed on our system by our law enforcement and security partners—conduct real-time assessments. Since August last year, as I think I mentioned in my introductory comments, our teams have spoken to over 106,000 people, to make an assessment as to whether there are any national security risks at play with those travelling passengers—that is in the absence of advance information. When we have advance information of those travelling passengers, we will be able to run them against a whole set of databases, not just our own but our partners' databases, to indicate whether there are any hits—any correlations—and we will be able to forensically excise out of the departing passenger cohorts those people who we suspect may be a risk. That will help our managers target our workforce in a much more efficient way. We want to target our people to where they can make judgements, not just do bulk screening.

I think it is a boon not just for the national security dimensions of our role but in terms of a whole range of threats on departure: Family Law Court orders, travelling paedophiles, or those people who are laundering money. As an example, our counter-terrorism teams, since they commenced operation, have identified large amounts of cash being taken out of the country by travelling cohorts. Some $3.8 million has been located in cash on persons departing the country. So there is a whole range of criminal and national security threats that we will be able to risk-manage and triage in a much more efficient way with the advent of the advance passenger information. I think it is a real benefit to this country to be able to have that legislation in place.

Senator REYNOLDS: So it really is a lot more intelligence-led targeting.

Mr Quaedvlieg: Very much so, yes.

Senator REYNOLDS: It is a much more effective use of your staff's time.

Mr Quaedvlieg: Indeed.

Senator REYNOLDS: Thank you.

CHAIR: Has a decision been made on where the Australian Border Force is to be trained?

Mr Quaedvlieg: Not in the main. As I indicated in my response last time, we have an interim college based out of our Customs House, at Sydney airport. It is running quite a few courses. In fact, our first Border Force officers' training course is running there at the moment. Our intent, at some point in the future, is to have a hub-and-spoke model. We will have a
single primary campus—ABF College—and then a spoke model where we will leverage off both our own existing accommodation around the country and those of our partners—for example, the Australian Institute of Police Management—in terms of enforcement leadership. Where we place the primary campus, at this point, is a matter that is still under consideration by the secretary.

Senator KIM CARR: I turn to some other aspects of the Customs service. How many inspections of depot licence holders has the Customs service conducted since November?

Mr Quaedvlieg: I might ask some officers to come to the table, to assist me with that, from our Strategic Border Command area and/or our trade and customs policy.

Senator KIM CARR: I see, Mr Quaedvlieg, that you are opening your folder.

Mr Quaedvlieg: I am opening my folder, yes.

Senator KIM CARR: A major achievement for the day! I wondered how many officers will be checking your answers. You have a remarkable command of statistics.

Mr Quaedvlieg: But you've got me on this one! It is not one I have paid too much attention to.

Senator KIM CARR: It has been a while since you have had to consult that book.

Mr Pezzullo: Senator, whilst officers are attending, I would say that the CEO is not Robinson Crusoe. I do want to declare that I have had the front of the folder open and I have been using it as my armrest!

Senator KIM CARR: I see. So there is a bit of a competition in there, in the office—who can get through estimates without having to actually refer to their notes.

Mr Pezzullo: No. We would never even contemplate such a competition.

Senator KIM CARR: I see. So there is a bit of a competition in there, in the office—who can get through estimates without having to actually refer to their notes.

Mr Quaedvlieg: I cannot claim to be the Chuck Norris of data, but I will see if I can get some assistance from my colleagues here. I think there is a bit of confusion. Your specific question was in relation to the—

Senator KIM CARR: Customs depot licence holders. How many inspections have you had?

Mr Quaedvlieg: I might ask Terry Price, our acting strategic border commander, if he has access to that data. I cannot find it in my folders, at this point.

Mr Price: I am rushing to find the reference.

Mr Pezzullo: Don't rush. We do not need a Chuck Norris performance here!

Senator KIM CARR: Maybe we will revise that recommendation, Chair.

Mr Quaedvlieg: It would appear that this information is not easily to hand, and I understand we are moving to another segment shortly. Perhaps we could take that on notice and come back to you before the end of proceedings. Were there any further questions in relation to the depot licences?

Senator KIM CARR: I would be interested to know the breakdown of interventions of physical visits—the line checks; the breaches—that were identified.

Mr Quaedvlieg: We will take that on notice—
Senator KIM CARR: Thank you. Has the investigation into Ausfreight Global Logistics now finished?

Mr Quaedvlieg: I am not sure. I recall this line of questioning last time. I do not have that information to hand. I might take that one on notice as well.

Senator KIM CARR: On 21 February 2014 the transport and logistics industry publication *ATN* ran a story covering the cancellation of Ausfreight Global Logistics's customs depot licence due to obligation breaches. The story stated:

ACBPS officers discovered a series of legislative and licence breaches during an inspection of the company's premises last month.

ACBPS National Manager Compliance Assurance Anthony Seebach says the firm now faces significant sanctions, including penalties and prosecution.

"This case should serve as a warning to companies that show deliberate or reckless disregard for their obligations under customs legislation," Seebach says.

"Licensed customs depots play a critical role in the secure and safe movement and storage of goods imported into Australia that are yet to be cleared by border agencies. It is essential to the integrity of our border that these roles are taken seriously."

Seebach says the inspection was undertaken as part of the ACBPS’s ongoing compliance program aimed at ensuring licences depots are meeting their obligations.

Is that correct?

Mr Quaedvlieg: Yes, that is correct. All those comments are correct. I just cannot give you the detail in relation to the specific Ausfreight Global Logistics's case and where it is currently at, but I will come back to you before the end of this session.

Senator KIM CARR: I would be interested to know what sanctions, penalties and prosecutions have arisen from the case.

Mr Quaedvlieg: Sure. We will take that on notice.

Senator KIM CARR: Is Ausfreight Global Logistics still trading?

Mr Quaedvlieg: As I understand it, no.

Senator KIM CARR: What do you understand to be its status?

Mr Quaedvlieg: I shall come back to you on that.

Senator KIM CARR: Thank you. As I understand it, as a customs depot licensee Ausfreight collected duties from their customers on behalf of Customs. Is that the case?

Mr Quaedvlieg: I know that they were the allegations. The commercial arrangements within Ausfreight and its clientele are not something that we are privy to. The issue at heart here though is whether there was still revenue that was owing to the Commonwealth which we pursued through Ausfreight Global Logistics's customer base. Their concern of course was that they would be required to double pay that. Our view on that is that, irrespective of the commercial arrangement between Ausfreight Global Logistics and their clientele, there was still revenue owing to the government and we were collecting it.

Senator KIM CARR: Have you collected it?

Mr Quaedvlieg: I do not know. I will find out. I think there were a number of different entities involved, some of which had paid, some of which were still seeking legal advice as to
whether they should pay and others who were refusing to pay. I am not sure of the current status.

Senator KIM CARR: Could you provide the committee with advice on that matter please?

Mr Quaedvlieg: I will.

Senator KIM CARR: How long had Ausfreight been collecting duties from its customers on behalf of the Customs Service before the Customs Service realised that the customs duties were not being passed on?

Mr Quaedvlieg: I am not sure. As I mentioned, the commercial arrangement between Ausfreight and its customers was something we were not privy to. We do not know whether commitments were made by Ausfreight in terms of collecting duties payable.

Senator KIM CARR: So how long was it before you realised that customs duties payable had not been paid by the clients of Ausfreight?

Mr Quaedvlieg: I do not have that detail. I will find out. My understanding is that Ausfreight's depot licence was cancelled as a result of a number of breaches of legislation and regulation. I am not sure if it was specifically in relation to the non-payment of duties.

Senator KIM CARR: How long does it normally take you to find out that people are not paying their duty?

Mr Quaedvlieg: Unless someone can provide me that advice at the table, it is something that I would have to take on notice. I presume there would be different circumstances and different arrangements for different entities.

Senator KIM CARR: How much duty was involved?

Mr Quaedvlieg: We do have that; I just do not have it handy. I will come back to you.

Senator KIM CARR: What was the process by which the department came to realise that the duties had not been paid?

Mr Quaedvlieg: I am not sure. I will provide that in my response.

Senator KIM CARR: For how long a period were duties liable?

Mr Quaedvlieg: I will take that on notice.

Senator KIM CARR: Is it the service's view that Ausfreight's actions were fraudulent?

Mr Quaedvlieg: I do not think we have a view on that. That would depend on the arrangement between Ausfreight and its customers, which, as I say, was commercial-in-confidence and something we were not privy to. I would not venture a view on that.

Senator KIM CARR: However, if a Customs depot licence holder was collecting money on behalf of the Commonwealth, which I understand is one of its functions, and that money was not passed on, would there not be a prima facie case of fraud?

Mr Quaedvlieg: I am not a lawyer. I think it would depend on the intent that was engaged in by the company or the individuals within it. There may be some civil liability or some criminal one. I am not a lawyer and I do not know the arrangements.

Senator KIM CARR: Has the department considered that question?

Mr Quaedvlieg: I do not know.
Senator KIM CARR: Can you take that on notice?

Mr Quaedvlieg: I can.

Senator KIM CARR: What is the legal argument as to why clients of Ausfreight are required to pay twice?

Mr Quaedvlieg: I will ask Ms Nyakuengama to answer—

Senator KIM CARR: If you do not like the words 'legal argument', what is the rationale?

Mr Quaedvlieg: I understand the question. The point I made earlier is that, where there is a revenue due to the Commonwealth, Customs has an obligation to pursue that liability, irrespective of whether or not clients claim they had provided money to a third party to pay that particular revenue. But I might ask Ms Nyakuengama to talk to the legality issue.

Ms Nyakuengama: The duty is payable on imported products by the owner of the imported goods. The owner, under the definition in the Customs Act, can be one of a range of people, whether that is the importer or the exporter from overseas, depending on the commercial arrangements between the parties. It could be the person who is providing the logistics or the person who is currently in possession of the goods. It is a very broad definition and allows anyone in a range of commercial arrangements to take on the responsibility for duty liability. If that chain breaks down, the Commonwealth still is empowered to collect the duty from someone who has a relationship to the goods.

Senator KIM CARR: So you have a bit of a poke at it? There must be a more definitive response than that?

Ms Nyakuengama: In most circumstances it is the importer of goods who has the duty liability.

Senator KIM CARR: That is what it says in the act, is it?

Ms Nyakuengama: Duty attaches to the goods. When they are imported the duty liability is attached to goods and we release them from Customs' control once an owner has paid the duty.

Senator KIM CARR: Is there a definition of who the owner is?

Ms Nyakuengama: As I said, it is a very broad definition. It is in the Customs Act. It includes agents, people currently in possession and people who have an interest in the goods. It is a broad definition.

Senator KIM CARR: How many people that you have asked to pay in regard to this particular case are refusing to pay duty?

Ms Nyakuengama: I do not have any personal knowledge of this case.

Senator KIM CARR: Have any of the directors of Ausfreight been granted new logistics Customs depot licences?
Mr Quaedvlieg: I am fairly certain that the last time I was asked this question in February the answer was no. I still believe it is no, but I will check to make sure. If it is not the case, I would find that hard to believe.

Senator KIM CARR: Are any of the directors currently engaged in any other firm dealing with the Customs service?

Mr Quaedvlieg: Again, I think the answer is no, but I will come back to you on notice.

Senator KIM CARR: Has the Customs service taken any action against the directors of Ausfreight?

Mr Quaedvlieg: That probably goes to your earlier question which I took on notice in relation to penalties and any other actions.

Senator KIM CARR: Yes, specifically against the directors.

Mr Quaedvlieg: Yes, I understand that. I will take that on notice.

Senator KIM CARR: Thank you. You have provided the answer as to the number of weapons seized by officials since February. You dealt with that earlier.

Mr Quaedvlieg: I did.

Senator KIM CARR: You have given details of the number of narcotics seized. How many claims of return of seized goods have there been? I am talking here of section 205B of the Customs Act. How many have there been since February?

Mr Quaedvlieg: I do not know. I will check to see if there is anyone leaping to answer that question. It would appear not, so that is another one I will take on notice.

Senator KIM CARR: Okay. Could you provide details of any claims, including the dates the claims were made, the descriptions of the items claimed and the value of the individual claims?

Mr Quaedvlieg: Yes, I will take that on notice.

Senator KIM CARR: How many infringement notices have been issued by the service since February?

Mr Quaedvlieg: I have some information here in relation to statistics—correct as of 30 April. We have issued 722 infringement notices to a value of $1.4 million. I do not have a further breakdown in relation to what they are for.

Senator KIM CARR: Do you have a breakdown of those 722?

Mr Quaedvlieg: No. I do not have that detail.

Senator KIM CARR: Could you give me a schedule on that?

Mr Quaedvlieg: Yes, I can.

Senator KIM CARR: How many Customs officers are now armed at airports?

Mr Quaedvlieg: Let me set the context for that question. Across the service, we have around 600 or 700 officers that are armed. They work across a range of functionalities in the marine unit on sea wharves—investigators and surveillance. We are in the process of arming the 80 officers that we have in our counterterrorism unit teams across the country. Not all are currently armed. There is quite a rigorous process that they need to go through. In fact, I
would say that not even half of them are yet armed, but our intent is to arm all 80 of those officers at some point between now and probably the end of the calendar year.

Senator KIM CARR: Do those counterterrorism officers include officers at the airports?

Mr Quaedvlieg: They are only at the airports. Our counterterrorism unit teams—

Senator KIM CARR: When I go to get my passport checked and I go through the gates, there is a counterterrorism officer there now—is that right?

Mr Quaedvlieg: No. There are a number of Customs officers who work at the airports on the primary lines working around the SmartGate machines and conducting facilitation. There are dedicated teams across the eight major international airports, which are specifically counterterrorism teams. They are a specific capability that we stood up as of August last year. There are 80 across the country, across those eight major airports. They are the ones we are progressively arming.

Mr Pezzullo: If they spoke to you, you would have done something potentially to have drawn attention to yourself. They are specialist officers who deal with prospective terrorists.

Senator KIM CARR: So not every Customs officer will be armed?

Mr Pezzullo: No.

Senator KIM CARR: What is the cost to arm those 80 officers?

Mr Quaedvlieg: I do not have that in an aggregated way. I can take that on notice. The cost predominately lays not so much in the weapons—they are relatively cheap in terms of dollars—it is more in the training and the time and effort put into the—

Senator KIM CARR: If you could take that on notice, I would appreciate that.

CHAIR: Thank you, Senator Carr. Senator Hanson Young?

Senator HANSON-YOUNG: I am ready to move on to OSB.

Mr Pezzullo: Chair, before we move on to OSB, can I come back to Senator Hanson Young on one of the questions that I said I would try to deal with during the course of the day?

CHAIR: Sure.

Mr Pezzullo: Senator, you asked about senior officer retirements, transfers and otherwise departures from the department. I refer here only to the immigration department as it is currently constituted; I am not referring to the Customs and Border Protection Service. Since October last year—I was appointed on 13 October, so I will take it from the month of October last year—there have been three retirements and 15 transfers or promotions amounting to a total of 18 SES officers who have departed from October 2014 up until today, 25 May.

Senator HANSON-YOUNG: Thank you. And we do not have any responses for any of those other questions yet either—the media access or disciplinary action?

Mr Pezzullo: Sorry, Senator; that is all I have at the moment.

CHAIR: Mr Pezzullo, just on that: you have been taking a lot of questions and indicating you would like to answer them. I just wonder whether, if you can keep us informed when you have got the answers, we should set aside 10 minutes before a break or at the beginning of a session.
Mr Pezzullo: I will take advice from the support staff who are tracking this. I am not sure I am going to get anything else this evening, but I am conscious of the fact that we have programs tomorrow and so perhaps I would be in a better position, either after the tea break or first thing tomorrow, to indicate—

CHAIR: I was just thinking that rather than doing them ad hoc—you might get them but there might not be people here—if you had a series of answers we could perhaps work out a time.

Mr Pezzullo: Chair, if it is acceptable to you, immediately after the tea break at eight I will come back to you with what I have.

Senator KIM CARR: The trouble is it is difficult for me. I have another appointment at that time and some of those questions relate directly to what I have asked.

CHAIR: Will you be here tomorrow?

Senator KIM CARR: I would prefer it tomorrow morning.

CHAIR: Let us leave them until tomorrow morning, that way we can set 10 minutes aside just for some answers. I appreciate the good intentions of trying to get answers without taking questions on notice, and we want to facilitate your dealing with that, if that is achievable.

[16:47]

CHAIR: We will now move to Operation Sovereign Borders, if the relevant officers from the department and from the Border Protection Services and the Joint Agency Task Force are here? We are running a bit ahead of time, General, which is unusual for this committee, so we appreciate your attendance a little earlier. Does anyone wish to make an opening statement?

Mr Pezzullo: General Bottrell wishes to make an opening statement.

Major Gen. Bottrell: Chair, members of the committee, noting my recent appointment as the commander of the Joint Agency Task Force for Operation Sovereign Borders and the fact that I have not previously appeared before the committee, I think that it is appropriate that I make a brief opening statement in relation to the Joint Agency Task Force and Operation Sovereign Borders more broadly. By way of background, I am an Army logistics officer with over 30 years of service. I have had operational experience in Antarctica, several deployments to East Timor, as well as operational deployments to Iraq and, most recently, to Afghanistan, where I was responsible for coordinating the draw-down of Australian forces from Tarin Kot in Uruzgan province.

I was appointed to replace Lieutenant General Angus Campbell on 28 March this year, following a detailed handover lasting several weeks, which included visits to both Nauru and Manus Island. I would like to acknowledge the work undertaken by General Campbell in establishing the Joint Agency Task Force, which we are continuing to build upon in order to transition the interagency coordination capability into the Australian Border Force on an enduring basis later this year.

Operation Sovereign Borders has now been in existence for 20 months, and the role of the Joint Agency Task Force remains extant. That is, to coordinate the counter-people-smuggling efforts of 16 different departments and agencies of government. I continue to report directly to the Minister for Immigration and Border Protection for all operational matters relating to Operation Sovereign Borders. I have retained oversight across three task groups associated
with combating people smugglers and implementing the government's enduring Operation Sovereign Borders policy.

My role is to ensure that Operation Sovereign Borders continues to be effective. In order to achieve this, I identify opportunities to generate momentum through coordinating the actions of numerous government agencies and departments. This is ultimately aimed at ensuring the continued safe conduct of on-water operations to prevent and deny illegal boat arrivals, the implementation of disruption and deterrence activities through transit and source countries to target people smugglers and inform the vulnerable people they would take advantage of, and support to the governments of Nauru and Papua New Guinea as they administer and control their respective processing centres.

Notwithstanding the extant role, as Operation Sovereign Borders has matured we have learnt lessons and streamlined numerous processes. We have been able to reduce the size of the Joint Agency Task Force headquarters to a core of 14 personnel and, as I inferred, we are working towards transitioning the core capability of the Joint Agency Task Force into the Australian Border Force over the second half of this year, where it is intended to remain as an enduring capability. At the same time, the line areas within the portfolio have taken greater control of the functions within their remit, most notably the support to regional processing under Deputy Secretary Briscoe. The reduced level of on-water activity has also enabled me to utilise the interagency coordination capability within the Joint Agency Task Force to assist in implementing the third country resettlement option developed between Australia and Cambodia.

In the last 10 months of Operation Sovereign Borders we have not had a successful boat arrival in Australia. Since Operation Sovereign Borders commenced on 18 September 2013 through to now, 18 people-smuggling ventures have been safely and successfully returned. Despite the results achieved under Operation Sovereign Borders to date, people smugglers continue to try to take advantage of vulnerable people by convincing them to get on boats for Australia. They use misinformation or distort available public information to encourage men, women and children to risk their lives at sea.

While I am acutely aware of the interest surrounding the release of information, the success of Operation Sovereign Borders has been in part due to the denial of operational information from people smugglers. I intend to maintain the existing protocols established for the release of operational information, which are designed to balance the public's right to know, the safety of all personnel involved and the success of the mission. I do not intend to release details surrounding capacity or tactics relating to on-water operations but will release generic details on returns in monthly updates after they have been completed and when they is no longer operationally sensitive. Consistent with the established protocols for information relating to international engagements, the detail of official bilateral dialogue or communication between operational agencies relating to Operation Sovereign Borders will not be disclosed.

The government has been very clear that the policy setting for Operation Sovereign Borders is enduring. The integration of the Joint Agency Task Force capability into the ABF over the second half of this year will enable it to become business as usual and will negate the continued requirement for a standing task force construct. I would like to reiterate that the transition of the Joint Agency Task Force into the Australian Border Force in no way
diminishes or alters the response to illegal maritime arrivals. Mr Chair and committee, thank you for your indulgence.

CHAIR: Thank you very much, General, and welcome to the position and to the committee. We look forward to a long and productive working relationship with you in the difficult role you have taken on. It is not an easy job. I would ask that you pass onto General Campbell the thanks and appreciation of the parliament. I think I can say that on behalf of everyone. All of us may not have always agreed with the role that he had to perform, and there was a clear policy divide in the job he was given, but I do not think anyone would doubt in any way or deny that he did a wonderful job in performing the role that he was tasked to do. For that, he deserves the thanks of the parliament, which I ask that you extend to him.


CHAIR: Before I pass to Senator Carr, I am intrigued by your background. Did you say you had served in Antarctica?

Major Gen. Bottrell: Yes. I undertook a couple of summers down there. We were supporting the resupply of the Antarctic stations many years ago. I spent the summers of 1989-90 and 1990-91 down there.

CHAIR: In your role as an Army officer?

Major Gen. Bottrell: Yes, that is correct. It used to be the Army detachment to the National Antarctic Research Expedition.

Senator KIM CARR: That was the ultimate promotion, wasn't it—it is the sort of thing I would get!

Major Gen. Bottrell: As dubious as it might sound, heading to Antarctica was actually quite a sought after appointment, I should add.

CHAIR: A lot of people would kill to get down there, but it is a continent of peace and goodwill towards men, and that is why I am surprised to find that the Army were down there, but no doubt you were there in different roles.

Major Gen. Bottrell: We were.

CHAIR: Obviously your background is very wide and varied. If you can handle the Antarctic, you can handle this committee easily.

Senator KIM CARR: General, you said there were 18 turn-backs. How many have there been since the estimates last February?

Major Gen. Bottrell: We have had one turn-back since the last estimates in February.

Senator KIM CARR: Was that in April?


Senator KIM CARR: So there was another one. What date was that?

Major Gen. Bottrell: If you are referring to a return in April, I think you might be referring to what we would refer to as a take-back. There were two returns since the last Senate estimates; one was a turn-back and one was a take-back.

Senator KIM CARR: Can you refresh my memory. What is the difference in classification?
Major Gen. Bottrell: I will read the definitions just to make sure that we are consistent with what has been provided previously. A turn-back is considered to be activities which involve the safe removal of vessels from Australian waters, with passengers and crew returned to their countries of departure. A take-back is where Australia works with a country of departure in order to see the safe return of passengers and crew.

Senator KIM CARR: So there has been one of each. What was the date of the turn-back?

Major Gen. Bottrell: We have not been releasing the specific dates—actually, I will check. I will be able to release that detail, consistent with the previous information. The turn-back was completed on 22 March and the take-back was completed on 18 April.

Senator KIM CARR: With the 22 March incident, how many people were involved?

Major Gen. Bottrell: That detail has not been previously released, I understand. Given that it relates to an operational matter, I am not able to cover that detail here.

Senator KIM CARR: There were a number of Vietnamese asylum seekers returned in April. Is that correct?

Major Gen. Bottrell: Yes, that is correct.

Senator KIM CARR: That is a separate incident from these?

Major Gen. Bottrell: No. The one in April you are referring to is the take-back.

Senator KIM CARR: That is the 18th. Was there only one boat involved with that, or were there a number of boats?

Major Gen. Bottrell: There was one vessel.

Senator KIM CARR: And you are not able to tell me how many people were involved?

Major Gen. Bottrell: Actually I can, because that has been released by the minister. There were 46 Vietnamese people involved in that one.

Senator KIM CARR: How were they assessed?

Major Gen. Bottrell: The assessment was consistent with the enhanced screening described at previous hearings. It would be inappropriate to go into the operational detail or the specific—

Senator KIM CARR: We do have some information on that. On the previous occasion, interviews took a little over an hour. Was it of a similar type?

Mr Pezzullo: I can assist. The general leads the operational response. He coordinates a number of elements. The screening process is managed out of Mr Manthorpe's area. He is familiar with the previous evidence that has been given by my predecessor, and he is able to speak to that issue.

Senator KIM CARR: Mr Manthorpe, can you assist me then? What was the process of assessment?

Mr Manthorpe: As the general was indicating, the process was consistent with the approach sometimes referred to as enhanced screening that has been discussed in these hearings previously. It enables us to assess whether the individuals concerned have any claims that may engage our nonrefoulement obligations and whether those claims should then be further assessed through a full refugee status determination process. So it is an interview process.
Senator KIM CARR: About an hour?
Mr Manthorpe: I do not have the details—
Senator KIM CARR: On the previous answer, the interview times for the Sri Lankans were, minimum, one hour and eight minutes and, maximum, one hour and 35 minutes. Would that be the sort of process?
Mr Manthorpe: I imagine that would be in the ballpark, but I do not have the minute-by-minute response to that.
Senator KIM CARR: Could you take that on notice, please?
Senator HANSON-YOUNG: Can I just chip in there? Are those interviews done in person?
Mr Manthorpe: Yes.
Senator HANSON-YOUNG: Are they staff from your department?
Mr Manthorpe: Yes.
Senator HANSON-YOUNG: So they are on the Customs vessels doing them?
Mr Manthorpe: They were on the vessel, yes.
Senator HANSON-YOUNG: Mr Pezzullo, will those staff who conduct those interviews now, under the new management regime of Border Force, be Border Force staff or will they remain as immigration department staff?
Mr Pezzullo: Our current intention is that those officers will continue to be civilian officers of the department who work in the refugee and humanitarian visa management division. But, when they forward deploy onto vessels, they are under the care and protection, as it were, of the ADF. They will be manning the vessels, for want of a better phrase, but the actual screening activities will be undertaken by departmental officers.
Senator HANSON-YOUNG: Physically on the boat?
Mr Pezzullo: I am not sure if that has always been the practice in the past. Certainly in the take-back that has been referred to—to Vietnam—it was done physically, yes.
Senator HANSON-YOUNG: Thank you. Sorry, Senator Carr.
Senator KIM CARR: What was the communication with the Vietnamese government?
Major Gen. Bottrell: There was a diplomatic exchange between the Australian government and the Vietnamese government. I am not able to disclose the contents of that engagement, but it paved the way for a collaborative take-back.
Senator KIM CARR: And the government of Vietnam took these folks back?
Major Gen. Bottrell: Yes, they did.
Senator KIM CARR: All of them?
Major Gen. Bottrell: Yes.
Senator KIM CARR: What was the date on which those people were returned?
Senator KIM CARR: So on the same day—that is, all of this happened on one day?
Major Gen. Bottrell: That was the end of that take-back: 18 April.
Senator KIM CARR: Sorry, I may have this matter confused. When did the vessel arrive? When was it taken into Australian Customs?

Major Gen. Bottrell: The vessel was intercepted on 20 March.

Senator KIM CARR: I see. So the 46 people were taken into Australian custody—

Major Gen. Bottrell: Yes, they were.

Senator KIM CARR: on 20 March, and they were held until 18 April?

Major Gen. Bottrell: They were returned on 18 April.

Senator KIM CARR: Where were they housed?

Major Gen. Bottrell: I am not able to go into the detail other than to say they were held at sea, and they were returned on HMAS Choules.

Senator KIM CARR: So they were held on a vessel?

Major Gen. Bottrell: Yes.

Senator KIM CARR: It is a fair length of time to keep people at sea.

Major Gen. Bottrell: Sorry, you—

Senator KIM CARR: That is nearly a month that they were kept on an Australian vessel.

Major Gen. Bottrell: Yes, they were, but I am quite confident, having spoken and discussed the detail with the Border Protection Command, that the amenity that was provided to the 46 was quite suitable. They had access to appropriate medical care, food, accommodation and ablutions of quite a high standard.

Senator KIM CARR: Yes, but we are talking about an Australian warship, are we?


Senator KIM CARR: I see. So we do have a special prisoner ship?

Mr Pezzullo: The general has not been here for previous exchanges on this topic. We employ a variety of assets. Some of those assets are Her Majesty's Australian ships from the Navy; others come from the Customs and Border Protection Service, soon to be the ABF. Some of those vessels are equipped to convey and carry quite significant numbers of civilians for lengthy periods of time, I suspect in more salubrious circumstances than the vessels in which they actually turned up. Those vessels I do not think by any common-sense or reasonable definition could be described as a 'prison ship', if by that you mean a sort of hulk that sits in the River Thames, where someone discharges their correctional—

Senator KIM CARR: I will let you go through the whole description here, Mr Pezzullo.

Mr Pezzullo: Well, Senator, we have been here before.

Senator KIM CARR: They were contained on an Australian vessel which acted as a prison ship.

Mr Pezzullo: It is not a prison ship, because a prison ship requires someone to be convicted of a crime and serving a sentence.

Senator KIM CARR: No, none of these people have been convicted of a crime; they are just detained.
Mr Pezzullo: Indeed. Therefore I respectfully request again, politely, that we do not refer to it as a prison ship, because there is no-one on those vessels serving a correctional period of time—

Senator KIM CARR: I see.

Mr Pezzullo: of penal service.

Senator KIM CARR: Tell me, Mr Pezzullo: is the report in The Sydney Morning Herald on 5 March concerning the Australian government buying cheap Vietnamese fishing boats as tow-back vessels correct?

Mr Pezzullo: The assets that we have available to effect both turn-backs and take-backs— the general has described the difference between those—we have not previously talked about in any great detail other than to talk about general budgetary issues and estimates related matters. Unless the chief executive who assists with the program of having alternative vessels available wishes to add anything to that answer, I would not be inclined to provide much more detail than that.

Senator KIM CARR: The report says:

… 10 red, blue and green wooden boats have been bought by the Customs department from Dragon Industries Asia as "tow back"—

Mr Pezzullo: Sorry, are you reading from an official document?

Senator KIM CARR: No, I am reading from the official Fairfax website—

CHAIR: The official organ of the Labor Party, I might say!

Senator KIM CARR: which furthermore quotes the company's website, which is very generous of them:

… the Dragon Industries Asia website … confirms that the Customs and Border Protection Department is a client and that it has … tasked the company to deliver 10 "alternative vessels" from "preliminary design".

The profile says:

"Recent projects include: Australian Customs and Border Protection 10 x Alternative transportation vessels—

we do not want to use that word either, I suppose, do we—

Supply, project management and delivery."

"This project was delivered to exceptionally tight deadlines, with final delivery of all vessels within 18 weeks of project inauguration," …

It even gives prices. Is that correct? Is the report correct?

Mr Pezzullo: As we have previously disclosed when we talked about the lifeboats that were procured by the Customs and Border Protection Service, I think ministers have allowed a discussion around procurement. We certainly did that, you might recall, in relation to the so-called lifeboats. Subject to any guidance from the minister to the alternative, I think discussions around procurement and acquisition would be within the terms of the claim of public interest immunity that has been previously raised. Certainly no answers will be forthcoming, as far as I am concerned, unless the minister chooses to approve otherwise on operational matters.
Senator KIM CARR: I would ask you to take on notice whether or not this report is an accurate reflection of the procurement—

Mr Pezzullo: We will take on notice the issues in relation to procurement.

Senator KIM CARR: for Australian government, which is an unusual way to report procurement matters.

Mr Pezzullo: I am not sure what that is a reference to. To the extent that the Australian government is engaged in a procurement exercise through a tender process, we will provide advice on notice. We certainly will not be discussing potential operational uses of such vessels.

Senator KIM CARR: I will turn to Manus Island. Of the number of people that have been transported to Manus, how many have now been determined to be genuine refugees?

Mr Pezzullo: I would seek assistance from the officers at the table. The determination of refugees is undertaken by the government of Papua New Guinea. We provide assistance under the relevant MOU. The general might have some information, but I do stress that whatever information we provide is provided through the courtesy of the PNG government. I just do not know how much information we have to hand.

Senator KIM CARR: General, are you able to assist me with that?

Major Gen. Bottrell: The most accurate information I have is that there have been 129 transferees determined to be refugees.

Senator KIM CARR: Would you be able to tell me how many people have actually been transported to Manus? That is 129 out of how many?

Major Gen. Bottrell: Yes, if you would just bear with me.

CHAIR: There was quite a good graph in The Australian yesterday with a lot of this information in it.

Senator KIM CARR: Well, that is the official News Limited website that I am not quite so readily keen to quote. I understand the government does use it as the government gazette these days, so perhaps I should take more notice of it.

CHAIR: It is a pity the Labor Party cannot find some other source of information apart from Fairfax Media.

Senator KIM CARR: I just read every government announcement pre-recorded in The Australian.

CHAIR: I have interrupted your time, Senator Carr, and now your time has expired.

Senator KIM CARR: Don't worry—I am a patient man.

CHAIR: I will have to come back to you. General, if you want to—

Senator KIM CARR: General, are you able to assist me?

Major Gen. Bottrell: I can give you the complete number at the moment for both Nauru and Manus. The number of illegal maritime arrivals transferred to Nauru and Manus who arrived on or after 18 September was 973. I will have to break that down for you.
Senator KIM CARR: General, I take it therefore that, if 129 people have been determined to be genuine refugees, there may well be a number there whose status is yet to be determined.

Major Gen. Bottrell: Yes.

Senator KIM CARR: You cannot conclude that the balance of the 973 are not refugees. Would that be a fair assumption?

Major Gen. Bottrell: That they are not refugees? That is a fair assessment.

Senator KIM CARR: Because they are still in the process of assessment.

Major Gen. Bottrell: And that determination belongs to the government of PNG.

Senator KIM CARR: I understand the point you are making. Has the government had any discussions with the government of PNG regarding the resettlement of the 129 genuine refugees?

Major Gen. Bottrell: There is a range of working level discussion, but I think the discussion beyond that falls into the political realm.

Senator KIM CARR: I see. Minister, can you assist?

CHAIR: We might have to come back to that, Senator Carr. Senator Reynolds?

Senator REYNOLDS: First of all I would like to congratulate Major General Bottrell on his promotion—another RACT officer getting promoted is wonderful to see—and also on his appointment as Commander of the Joint Agency Task Force. So congratulations.


Senator REYNOLDS: The secretary, in his opening statement, gave a brief overview of the current nature of people smuggling and said that constant vigilance was required and that they are currently probing our border protection system here. I am wondering if you could please give us an overview from your perspective of the current people-smuggling syndicates in our region that pose a threat to us.

Major Gen. Bottrell: Without going into the specific details of the syndicates, because that in itself would give away how much we know, what I can say is that we are aware that there are active people smugglers sitting out there waiting to take advantage of information that we put out there, or an absence of information. We are aware that they are watching policy settings very closely. We are aware that there are cohorts of people that are also either responding to the strategic communication that we apply or the absence of communications and that people smugglers will fill the void with their own communication. So it is a business that is sitting there and there is a relatively constant test of the policy settings as they exist at the moment.

Senator REYNOLDS: So your assessment is that there is still quite a substantial threat there, waiting to see a weakness here domestically in our border protection policies.

Major Gen. Bottrell: I will not comment on the scale of the threat, but I would say—

Senator REYNOLDS: But there is a threat?

Major Gen. Bottrell: that there is an ongoing people-smuggling effort that is there.
Senator REYNOLDS: Obviously in Europe at the moment they have some very significant issues with illegal maritime arrivals. Have you had an opportunity yet to have a look at the current situation in Europe?

Major Gen. Bottrell: Only as a citizen, not in an official sense. I have obviously been watching and reading what is available out there, so I have taken in the same information that the person off the street has taken in.

Senator REYNOLDS: This might be a question for either you or the secretary, but have you had any requests or an engagement from any European agencies or authorities in relation to Operation Sovereign Borders?

Mr Pezzullo: Yes. It is fair to say, particularly in the last month or so as the situation in the Mediterranean has deteriorated, there have been individual bilateral requests to our missions, our high commissions and our ambassadors and their staff. I know personally, because I was involved recently—I would have to get the date for you—when we hosted intergovernmental consultations pertaining to asylum-seeking refugees and migration. That was not just with the EU. There were a number of EU nations but there were other non-EU nations represented on that body, which is a multilateral body of like-minded nations.

The interest in both Operation Sovereign Borders and, if you like, the Australian experience, to give it a shorthand label, was such that for the economy of time, and given the imposition particularly on my time—because they wanted a briefing at the most senior level possible and they were all senior ranking officers themselves—we had a roundtable. As I think the general just intimated, we addressed some of the quite publicly well-known European interests. They themselves expressed some interest publicly. We went through the history of OSB, the direction that we were given from the government upon its election and how we went about structuring the different phases and layers of OSB.

You have heard General Campbell previously talk about offshore deterrence and disruption and multiagency efforts in that regard. You have heard both General Bottrell today and General Campbell in the past talk about international partnerships to effect deterrence and disruption, and strategic communications to make clear whatever the government's policy parameters are in relation to the prospects of settlement in Australia. We spoke briefly but not in what I consider to be classified detail about on-water matters. Certainly we did not share any confidences with that group that we have not shared with this committee or the parliament more generally. And there was interest in what we describe as regional processing arrangements and our partnership with the two regional process countries—Papua New Guinea and Nauru.

Senator REYNOLDS: Thank you for that. Without going into operational areas that we cannot talk about here today, from your discussions with the European officials would you say that there are some parallels in terms of the threat that the people smuggling syndicates present? Were there commonalities between their situation in Europe and our situation here?

Mr Pezzullo: Every region is different, and you have seen certain matters play out in the Bay of Bengal and the Andaman Sea that have some similar characteristics. What is unifying across those different areas is the business model—for want of a better phrase—that is employed by the smugglers. In fact, some of them collaborate across transcontinental networks. They very much operate with an almost identical modus operandi. They in effect
sell a dream. In the case of Europe, they sell settlement in Europe. They prey on vulnerable people who, for all sorts of reasons are traumatised, often as much by the journey itself as by any original source of concern or anxiety. They charge a lot of money. There is of course no way of providing any assurance around the so-called service they provide—in terms of rickety vessels, poor hygiene, poor seamanship. In some cases the crew are actually jumping off. There is a certain commonality.

**Senator REYNOLDS:** Clearly they never get their money back.

**Mr Pezzullo:** Indeed, and I would characterise all of those features as very similar if not identical to what we witnessed in recent years with the organised syndicates that operate in this space, many of whom transition pretty seamlessly from human trafficking and other forms of smuggling. When there is an interest, or a combination of push and pull factors that create these flows, they parasitically tend to jump into those areas.

**Senator REYNOLDS:** Are you saying they are organised international crime syndicates, and people are just one commodity they can make a profit on? So do you see that in—

**Mr Pezzullo:** You asked about commonality. That is certainly what we see in Asia; we have seen it in our region and we see it in Europe.

**Senator REYNOLDS:** Does that include trafficking in slaves—sex trafficking as well. Would it be the same syndicates possibly?

**Mr Pezzullo:** Without being too precise and without at all suggesting I have detailed knowledge of the syndicates working in North Africa and the Middle East, certainly the experience that we have had in the Asia-Pacific region suggests that some of these syndicates have worked across a number of criminal behaviours, of which human trafficking certainly would be one; trafficking as opposed to smuggling of persons. As to the specifics about sexual slavery, for instance, I just do not know the environment of North Africa and the Middle East well enough. I suspect that some of these groups probably have straddled that boundary as it were.

**Senator REYNOLDS:** Wherever they can make money, basically.

**Mr Pezzullo:** For these groups, people are a commodity. This is a gruesome thing to say but: if the people dry up, they defray their business and diversify back to tobacco or narcotics or other matters. When there is a dollar to be made out of human misery, they come back into this field.

**Senator REYNOLDS:** So Australia is still clearly a very attractive destination for people smugglers to offer as a commodity—difficult but still potentially desirable?

**Mr Pezzullo:** To be clear, you are asking me about the syndicates operating in North Africa or more generally?

**Senator REYNOLDS:** Moving back to our region; Australia would still be, if they were able to resume the boats again, quite an attractive market

**Mr Pezzullo:** Yes. Well it is. Insofar as General Bottrell still has operational activities that he has to undertake; ipso facto, we are being targeted.

**Senator REYNOLDS:** I would like to pick up on an issue that Senator Carr raised in relation to enhanced screening. Can you go back to that and give the committee a bit of background on enhanced screening; when it was introduced and by whom?
Mr Pezzullo: I might ask Mr Manthorpe to answer. We have given evidence in the past about the history—

Senator KIM CARR: At every estimates.

Senator REYNOLDS: Yes.

Mr Pezzullo: Yes, thank you.

Senator KIM CARR: At every estimates.

Senator REYNOLDS: Senator Carr, this is my first budget estimates thank you—

Senator KIM CARR: I am just trying to assist you.

Senator REYNOLDS: and I have every right to ask this question.

Mr Pezzullo: Senator Carr is right. We have given regular evidence on this matter. I would ask Mr Manthorpe to summarise, perhaps very pithily, that evidence.

Mr Manthorpe: Yes, Senator, I am happy to do that pithily. The approach that has become referred to as 'enhanced screening' was developed in about October 2012 in relation to, and in response to, some boat arrivals that were happening at that time.

Senator REYNOLDS: In 2012 that would have been Minister Bowen?

Senator KIM CARR: This question is such a comedy of errors. The minister's name was?

Senator REYNOLDS: Senator Carr, if it is okay for you to ask questions about enhanced screening I think it is perfectly right, given this is my first budget estimates, for me to ask questions. You might not like the answers to the questions—

Senator KIM CARR: I am just saying that the minister's brief should be updated.

Senator O'SULLIVAN: It is a good time for you to go back and have a little lay down if you need it.

Senator REYNOLDS: Senator Carr, I did not see any rules in Senate estimates that said that only you can ask questions about particular issues. I think I have every right to ask questions.

CHAIR: Senator Reynolds ought to ignore the interjections.

Senator REYNOLDS: Thank you, Mr Manthorpe.

Mr Manthorpe: Under the process, each person is assessed in light of Australia's obligations not to return or refoulment them—if I have the pronunciation right—to a country where they would face the real risk of particular kinds of harm, such as harm under the refugee convention on persecution or a threat to their life or liberty. We have developed the process over several years. I do not think I want to go into greater detail about the detailed operation of it, other than perhaps to circle back, if I may, to Senator Carr's question about how long the interviews took on the most recent Vietnamese related interviews. You asked about that and I took it on notice. I am advised that in that instance the interviews took between 40 minutes and two hours.

Senator KIM CARR: There has been a productivity improvement as well!

Senator REYNOLDS: So, Senator Carr has actually found this line of questioning very interesting.

Mr Manthorpe: Some interviews are longer and some are shorter.
Mr Pezzullo: Lots of interviews are two hours.

Mr Manthorpe: Interviews are from 40 minutes—

Senator REYNOLDS: Senator Carr, aren't you glad I asked the question?

Senator KIM CARR: No, I am not.

Mr Manthorpe: The interviews are from 40 minutes to two hours—so, some shorter and some longer.

Senator KIM CARR: Normally, it was one hour and eight minutes. You have reduced it to 40 minutes.

Mr Manthorpe: Some are shorter and some are longer, depending on the complexity.

CHAIR: Senator Reynolds—

Senator REYNOLDS: I am just delighted that Senator Carr has found this line of questioning of interest after his earlier interjections.

Senator KIM CARR: No, do not misrepresent me. I find it of no interest.

Senator REYNOLDS: But you are asking questions none-the-less. It is curious, Chair. In relation to being in accordance with a number of international obligations, what are the safeguards that are built into the policy on enhanced screening?

Mr Manthorpe: We—

Senator HANSON-YOUNG: They strip them actually.

Mr Manthorpe: We provide an opportunity to respond to adverse information and advise the outcome—things of that sort—and we provide interpreters and so on. I do not want to go much further into the operational detail of how we do it.

Senator REYNOLDS: You do have safeguards in place?

Mr Manthorpe: Yes, Senator.

Senator HANSON-YOUNG: But you will not tell us what they are?

Mr Manthorpe: I have outlined them.

Senator HANSON-YOUNG: They are so safe that we are not allowed to know about them.

Mr Manthorpe: I have outlined the safeguards, Senator.

CHAIR: Mr Manthorpe, please ignore the interjections. Senator Hanson-Young will have the opportunity to ask you questions later—if they are relevant.

Senator REYNOLDS: My next questions are to Major General Bottrell: I was wondering if you are able to provide a bit more information, in general terms, about the importance of take-backs and turn-backs in terms of border protection deterrents for people smugglers?

Mr Pezzullo: I might provide a preamble to that. The General will be very pleased to respond to that in terms of how crucially important it is to the execution of Operation Sovereign Borders, which is our current mission as directed by the government. Thank you, General.

Major Gen. Bottrell: Thank you, Secretary. You are asking my opinion on a policy setting, which is probably inappropriate, but what I can say is that the collective settings that
are in place now collaboratively add to the success of our ability to deter illegal maritime arrivals. The combination of those factors really add to our success.

Senator REYNOLDS: The Secretary was quite right. I was not asking a policy question, but in terms of the suite of tools that you have available to undertake your mission, is it still a useful tool?

Major Gen. Bottrell: For the time being—noting that people smugglers are testing the boundaries. As we talk more about what we do, they learn more about what we do and try to take advantage of the tactics, techniques and procedures that they try to discern. Every time we expose some of those, we know that they try the boundaries of them. It is real and present. What we have at the moment by way of a suite of capabilities and techniques to deal with those is sufficient for the time being.

Mr Pezzullo: If I can add to the general's evidence—perhaps it is better able to be done by a secretary—I think it is axiomatic, in fact, that turn-backs and take-backs and associated techniques are imperative in the construct of a policy that is determined by the government of the day and directed to us for execution. If the policy of the government of the day is that no one comes to Australia by maritime means and if they do they will be taken back or turned back where it is safe to do so or, in other instances, removed to and transferred to regional processing, then axiomatically—and I would hate to get involved in circumlocution here—turn-backs and take-backs are imperative to that policy.

Senator REYNOLDS: It is denying the people smugglers a product, basically, isn't it?

Mr Pezzullo: It is imperative to that policy. As it is stated and received by us as administrators and executors of policy, the policy cannot work without that suite of tools.

Senator HANSON-YOUNG: I want to go back to some of the questions around the Vietnamese take-back—I think it was described that way—in April. You said that the individuals were held on the Customs vessel from 20 March to 18 April.

Major Gen. Bottrell: No, I did not say that.

Senator HANSON-YOUNG: You told us that they were held from 20 March to 18 April.

Senator KIM CARR: He did not say which type of vessel.

Major Gen. Bottrell: That is correct. From 20 March—that is correct—they were intercepted.

Senator HANSON-YOUNG: Were they held on their own vessel or on the Customs vessel?

Major Gen. Bottrell: I would have to take that on notice to get you the specifics. There was a period of time when they would have been on their own vessel, and then there would have been a period of time—it may have been the same day, but I will have to take that on notice and get back to you. I should be able to do that very shortly.

Senator HANSON-YOUNG: Were there any children amongst the group of 46?

Major Gen. Bottrell: Yes, there were.

Senator HANSON-YOUNG: And numbers of women?

Major Gen. Bottrell: Yes, they were men, women and children on board the vessel.
Senator HANSON-YOUNG: So men, women and children were held from 20 March to 18 April out on the high seas.

Major Gen. Bottrell: Yes.

Senator HANSON-YOUNG: Were any of those children unaccompanied minors?


Senator HANSON-YOUNG: They were all with family members?

Major Gen. Bottrell: Yes.

Senator HANSON-YOUNG: What has been done to ensure their safety once they have been returned to Vietnam? Do we know what has happened to them?

Major Gen. Bottrell: There was an engagement with the Vietnamese and, as the minister has previously announced, there was a level of comfort provided that—

Senator HANSON-YOUNG: A level of comfort?

Major Gen. Bottrell: there would be no retribution for their illegal departure from Vietnam—in a sense, an assurance from the government of Vietnam that there would be no retribution for their illegal departure from Vietnam.

Senator HANSON-YOUNG: So Vietnam has waived its own laws for this special group of 46—is that correct?

Major Gen. Bottrell: I cannot speak on behalf of the Vietnamese or their laws; what I can say is that there was a level of assurance provided that there would not be any retribution for their illegal departure from Vietnam.

Senator HANSON-YOUNG: Is that assurance in a written form? How did that assurance come about?

Major Gen. Bottrell: It was in a written form, but, given that it was an engagement at an official level between Australia and Vietnam, I am not able to disclose the detail of that.

Senator HANSON-YOUNG: What were the ages of the children?

Major Gen. Bottrell: I will have to take that on notice; I do not have that detail in front of me.

Senator HANSON-YOUNG: You must have an understanding as to whether the children were young children or teenagers.

Major Gen. Bottrell: I believe there was a range from below 18—again, I will have to check the youngest age because I will potentially mislead you.

Senator HANSON-YOUNG: Were there toddlers?

CHAIR: You do not have to answer these questions, General Bottrell. You have already answered them.

Major Gen. Bottrell: I will have to take the question on notice, Senator, and get back to you.

Senator HANSON-YOUNG: When was the last time there was any information given to the Australian government in relation to the whereabouts of the 46 once they had been returned to Vietnam?

Major Gen. Bottrell: We do not track people once they have been returned.
Senator HANSON-YOUNG: So how do you know that the assurance that there was no retribution has been met?

Major Gen. Bottrell: We have no reason not to believe in the assurance that we were given.

Senator HANSON-YOUNG: So it is just taken on trust?

Major Gen. Bottrell: Yes.

CHAIR: Communist government—why wouldn't you believe them.

Senator HANSON-YOUNG: Did the interviews that were conducted in relation to that group of 46 include whether people actually had a valid claim for asylum or whether it was safe to keep them on the boat for that long?

Major Gen. Bottrell: Sorry, Senator, I am not quite sure of your question.

Senator HANSON-YOUNG: It just strikes me that—

CHAIR: What was the question?

Senator HANSON-YOUNG: The question is: what was the assessment made for the 46 people? Was it on the basis of whether they met the refugee convention?

Major Gen. Bottrell: It is not appropriate that I go through the individual circumstances of their screening—of their assessment. Mr Manthorpe has already discussed that. They were all screened out. Australia had met our obligations and we had not contravened any obligations by returning those people to Vietnam.

Senator HANSON-YOUNG: So you do not actually know whether you have returned people who perhaps did have valid refugee claims?

Major Gen. Bottrell: No, I do not think that is a fair statement.

Senator HANSON-YOUNG: There is a difference between saying that Australia has been able to abide by its obligations and whether people have properly had their assessments made as to whether they have a valid refugee claim. We have heard already today that it is going to take at least three years to get through 30,000 cases of valid refugee claims for people onshore. It strikes me that a 40-minute interview is not significant enough time to be able to determine whether someone is a refugee out on the high seas.

Major Gen. Bottrell: The process that is applied enables us to assess whether the person has any claims that may engage Australia's protection obligations, so I am confident that we are on solid ground here.

CHAIR: I think Mr Manthorpe wanted to answer, did you?

Mr Manthorpe: I had nothing to add to that.

CHAIR: Thank you.

Senator HANSON-YOUNG: Were those individuals asked whether they had suffered torture or trauma?

Major Gen. Bottrell: I would have to defer to Mr Manthorpe.

CHAIR: I would have thought that is an operational matter.

Mr Manthorpe: We are not prepared to go any further into the operational detail of the interview process.
Senator HANSON-YOUNG: Mr Manthorpe, that strikes me as strange considering this. You have already given—

CHAIR: Do you have a question? We are not interested in whether it strikes you as strange. If you have a question, put it to the officer.

Senator HANSON-YOUNG: You are so rude.

CHAIR: I am chairing this in the way it should be. You are here to ask questions, not to tell the committee about what strikes you as this, that or the other.

Senator HANSON-YOUNG: If you actually let me finish what I was saying for a moment and stop interrupting—

CHAIR: If you have a question, please do. Please ask it.

Senator HANSON-YOUNG: Mr Manthorpe, I am referring to the question on notice that has been answered by your department in relation to removing the torture questions in these enhanced screening interviews. I would like to know whether the interviews that were conducted on the group of 46 included whether people had suffered torture or trauma.

Mr Manthorpe: I have two points. I am not going to go into the detail of the questions and answers with respect to this group, for the reasons I have outlined before and that have been discussed in these hearings previously. On the second point, the torture related question. I think you might be referring to or drawing on a newspaper article late last week.

Senator HANSON-YOUNG: If you actually let me finish what I was saying for a moment and stop interrupting—

Mr Manthorpe: About which there was a newspaper article late last week.

Senator HANSON-YOUNG: I am referring to the question on notice.

Mr Manthorpe: I understand that. All I am saying is that I will stand corrected but my recollection is that those questions were not pertaining to the nature of the interview that is conducted in an on-water operation circumstance. Those questions were not pertaining to the enhanced screening process; they were pertaining to the initial health assessment that was made of folk when they arrive in Australia.

Senator HANSON-YOUNG: Is there an initial health assessment made for people before they are taken back or turned back?

Mr Manthorpe: I have got nothing to add to what I have told you about—

Senator HANSON-YOUNG: You cannot tell us whether people were asked whether they had suffered torture or trauma before you sent them back to Vietnam?

CHAIR: He said he has nothing to add. That was pretty clear to me.

Senator HANSON-YOUNG: I do not see what is operationally secret about that question.

CHAIR: Did you have another question?

Senator HANSON-YOUNG: Yes, I have got plenty of questions.

CHAIR: Fire away.

Senator HANSON-YOUNG: We have had quite a bit of information given in relation to the group of 46 that was intercepted on 20 March, as you have outlined. Why haven't you
been willing to give information in relation to the turn-back on 22 March? It seems quite inconsistent.

**Major Gen. Bottrell:** The reason why no further details have been provided is that that is an area where we anticipate there will be further ventures. Discussing that openly now, in terms of the nature of how we have dealt with that, potentially discloses to those who might be watching how to then defeat the tactics and techniques that we might use in the future.

**Senator HANSON-YOUNG:** I am sorry; I do not understand why we have been able to get details on the 18 April take-back versus the 22 March turn-back. Why is the argument not the same?

**Mr Pezzullo:** I can assist and add to the general's answer. It is pretty straightforward. With a take-back, there is an overt engagement with a foreign country. It was so overt that HMAS *Childers*, which is a very large vessel, steamed into a Vietnamese port—the general will remind me which port it went into—

**Major Gen. Bottrell:** It was just north of Vung Tau.

**Mr Pezzullo:** Once the matter is dealt with operationally and the two governments have engaged and they have come to a view about when matters can be advised publicly, we come to that agreement. Mr Dutton then subsequently made some public disclosures about that which the general was able to draw upon in his public statement. With turn-backs, we neither confirm nor deny particulars beyond the limited range of information that General Campbell used to put and which General Bottrell is repeating, largely because we are not in a position—without breaching what we have contended, through the minister, is sensitive public-interest information—to disclose where we conduct these operations, the manner in which we conduct them or indeed how we undertake the turn-backs. Turn-backs are more sensitive because they do not fall under that rubric of government-to-government engagement and with that very self-evidently obvious visual impression that everyone would have been left with of *Childers* steaming into that harbour. They are very different, and that is the explanation.

**Senator HANSON-YOUNG:** So, because we are not telling Indonesia for each boat we turn back, we are not willing to discuss it publicly?

**Mr Pezzullo:** I am not going to discuss which country may or may not have been involved in terms of the turn-back at all.

**Senator HANSON-YOUNG:** In relation to the extra $74 million that is in the budget this year for the *Ocean Shield* to increase its number of days on the water—I have got here from 180 days to 300 days per year—why is that necessary? And does that mean there are more boats out there?

**Mr Pezzullo:** I will ask the chief executive of the Customs and Border Protection service—it is his vessel—to perhaps engage with that question.

**Mr Quaedvlieg:** The *Ocean Shield* is our flagship of the fleet. It is the largest vessel we have. It is the only vessel that is capable of work down in the Southern Ocean, because of its ice-breaking capability. It is a utility vessel, if I can put it that way. In our normal course of operations, in addition to OSB duties, we have a number of maritime threats that we counter—illegal fishing, environmental protection, maritime counter-terrorism. The *Ocean Shield*’s capacity to be able to deploy to any of those threats across the course of 300 days, as
opposed to the existing 180 days, is going to achieve an operational effect which allows us to combat a number of those threats.

**Senator HANSON-YOUNG:** There has been some public criticism that the *Ocean Shield* has not been in the southern waters enough. You are saying that this extra funding is to allow it to travel down there more often. Is that the case?

**Mr Quaedvlieg:** In part, yes. The *Ocean Shield* is just steaming back into Fremantle, in fact, after doing a Southern Ocean patrol. It has been down there for the last 41 days, and it is a commitment that we made. Our intention is to continue Southern Ocean patrols over the next number of years, subject to other operational priorities. But, as I mentioned in evidence earlier, it was very pleasing to be able to send the *Ocean Shield* down to the Southern Ocean for 42 days, and it is, as I say, reprovisioning in Fremantle over the next couple of days to go off to its next operation.

**Senator HANSON-YOUNG:** Just to be clear, the $74 million is not necessarily earmarked for people-smuggling operations.

**Mr Quaedvlieg:** No, absolutely not. It is actually to get the *Ocean Shield* operational for 300 days of the year across all the maritime threats that we deal with.

**Senator HANSON-YOUNG:** I want to go to the $39.9 million extra that has been poured in the budget for anti-people-smuggling strategic communications. Who is responsible for that, Mr Pezzullo?

**Mr Pezzullo:** It is money appropriated, I think, from memory, to the Customs and Border Protection Service. But from 2015-16 onwards it is all one integrated budget. Perhaps General Bottrell might want to start with an answer.

**Major Gen. Bottrell:** I can talk to the details in terms of our strategic communications campaign in the dispersion of those funds across the forward estimates.

**Senator HANSON-YOUNG:** What is the total amount? I have got here that $39.9 million is extra. What is the total amount that is going to be spent on these communications?

**Major Gen. Bottrell:** If you will allow me to do my maths here, it may take me a few minutes, but I can do that for you.

**Senator HANSON-YOUNG:** No worries.

**Major Gen. Bottrell:** I have a figure of $70.7 million over 2013 through to 2018-19—so, over a six-year period.

**Senator HANSON-YOUNG:** What exactly is this money going to be spent on?

**Major Gen. Bottrell:** As I know has been a topic of discussion at previous Senate estimates hearings, we have a very comprehensive strategic communications campaign, with both an onshore and an offshore component. It is designed to, essentially, deliver four streams of messaging, highlighting the realities of hazardous sea journeys, the financial risks of engaging people smugglers, the deceptions and lies of people smugglers and the consequences of illegal migration by sea to Australia—so, the policy as it applies. The campaign is delivered in 18 languages and, as I mentioned, both offshore and onshore, to diaspora communities in Australia. It uses a number of means, looking at television, radio, press, print, online, social media, billboards, transit advertising, leaflets, stickers, community workshops and even street theatre. The campaign offshore is delivered for people-smuggling operations.
transit countries in Sri Lanka, Bangladesh, Afghanistan, Pakistan, Iran, Iraq, Albania, Indonesia, Vietnam, India, Malaysia, Thailand and Australia, as I mentioned.

Senator HANSON-YOUNG: How much is being spent on the telemovie?

Major Gen. Bottrell: It is $4.1 million.

Senator HANSON-YOUNG: I reckon Screen Australia would like that kind of money. Who has been commissioned to produce the movie?

Major Gen. Bottrell: There is a production company called Put It Out There Pictures.

Senator HANSON-YOUNG: Has it been completed or is it still in concept stage?

Major Gen. Bottrell: No, it has not been. They have not yet started shooting. They are still working through casting.

Senator HANSON-YOUNG: They are still working through casting?

Senator O'SULLIVAN: There's an omen!

CHAIR: You might get a job, Senator Hanson-Young! We might have to leave you there. You are over your time. Senator Carr.

Senator KIM CARR: General, you were asked questions about children in regard to the 76 returned to Vietnam. How many children were involved?

Major Gen. Bottrell: I have taken that on notice. I will come back to the committee on that.

Senator KIM CARR: Thank you. In regard to Manus, where are the 129 who have been found to be genuine refugees? Where are they housed at the moment?

Major Gen. Bottrell: There are others who can give you a more complete answer, but I know they are spread between both the East Lorengau transit centre and the processing centre.

Senator KIM CARR: So they are all still in detention?

Major Gen. Bottrell: I might turn to Deputy Secretary Briscoe for more complete answers.

Ms Briscoe: At 30 April, the 20 refugees had transferred from the regional processing centre to the transit centre, so they are not in detention.

Senator KIM CARR: So the transit centre is what?

Ms Briscoe: It is a centre, again, run by PNG with support from the service provider where refugees receive initial support services and are free to enter and exit at any time.

Senator KIM CARR: So they can go into the community during the day; is that what you are saying?

Ms Briscoe: That is correct.

Senator KIM CARR: So they are no longer formally in detention?

Ms Briscoe: That is correct.

Senator KIM CARR: How many of the 129 have been resettled? At night are they kept in the transit centre?

Ms Briscoe: Yes.

Senator KIM CARR: Is that what happens?
Ms Briscoe: Yes, that is where they are accommodated.

Senator KIM CARR: They sleep in the transit centre?

Ms Briscoe: Yes.

Senator KIM CARR: Have any of them been resettled?

Ms Briscoe: No. The settlement policy is a matter for the government of PNG.

Mr Pezzullo: I think, Senator, it is noteworthy and on the public record that the government of PNG has said that it will not proceed with resettlement until it settles—sorry, I am going to get tautological here—until it determines and agrees a national resettlement policy. That is a matter for the government of PNG.

Senator KIM CARR: Yes. Mr Pezzullo, the real question is that they want more money from the Australian government, don't they?

Mr Pezzullo: I would not necessarily characterise it in those terms.

Senator KIM CARR: How would you characterise it?

Mr Pezzullo: I do not know what the source of your information is, Senator, but in the official engagements that we are having with both our counterpart agency, the Immigration Citizenship Services Authority and across other government agencies, they have indicated to us that ministers wish to work through a construct that PNG has never had, which is a settlement of refugees.

Senator KIM CARR: How much is this going to cost Australia?

Mr Pezzullo: I was about to add before your helpful interjection that the reason why they want to work through it on a national basis is that they also want to deal with various groups that have crossed into their territory, including from West Papua. I think, from the Prime Minister down, they have made mention of the fact they want to get these settings right before they proceed with resettlement of anyone. I would refer you to their public stance on this position.

Senator KIM CARR: Which is that they want more money from the Commonwealth of Australia?

Mr Pezzullo: I do not know that. I have just said I would refer you to public utterances. I will have it checked. I do not know that any Papua New Guinea official, minister or otherwise has stated on the public record: 'We want more money.'

Senator KIM CARR: So they are not seeking any additional payments from the Commonwealth of Australia to engage their national resettlement policy?

Mr Pezzullo: I am not aware of any, if you like, nexus between those two facts. We are in discussions with Papua New Guinea on an ongoing basis, at joint ministerial level and joint officials level, about supporting them under the MOU with settlement support, some of which Ms Briscoe has indicated. They have separately engaged with us. In fact, we are helping them build capacity. How do you do refugee determination and how do you do refugee settlement?

Senator KIM CARR: So when can we anticipate that any of the 129 will be resettled within the community?
Mr Pezzullo: I will see what we can get on notice. We will have to engage with our partners and it is really for the government of Papua New Guinea to determine whether or not they wish to add any information.

Senator KIM CARR: Has the refugee-processing centre had any reports of injuries of detainees or staff since we last met?

Mr Pezzullo: I do not know. Since we last met—sorry, I have been distracted. I will have to check. As for any matters of detail, I will revert back to Ms Briscoe now.

Ms Briscoe: If I could just clarify, Senator: you are asking about injuries inside the processing centre on Manus Island?

Senator KIM CARR: Yes.

Ms Briscoe: Okay, we will get that for you.

Senator KIM CARR: And have there been any medical emergencies since 1 July 2014?

Ms Briscoe: Again, I will get back to you.

Senator KIM CARR: And can you indicate to me what the nature of the emergencies were, if any occurred?

Ms Briscoe: Yes.

Senator KIM CARR: Can you tell me when the new medical facility is due to open?

Ms Briscoe: From memory, I think it is at the end of the calendar year, but I would need to check that also and get back to you.

Senator KIM CARR: The end of the calendar year—that is, December of this year. Is that what you mean?

Ms Briscoe: That is right, but I will need to double check that.

Senator KIM CARR: With regard to the four refugees that have been accepted for resettlement in Cambodia, when do we expect those people to be transferred?

Major Gen. Bottrell: Senator, I returned from Cambodia at the end of last week. We continue to work very closely with the government of Cambodia to finalise the arrangements for the final movement of those four.

Senator KIM CARR: So when do you anticipate the final movement will occur?

Major Gen. Bottrell: I cannot give you a final date because we have not finalised that with the government of Cambodia.

Senator KIM CARR: The government of Australia has paid the Cambodian government $40 million. That is $10 million per person, is it? Is that how it works?

Major Gen. Bottrell: No, it does not.

Senator KIM CARR: What is the bounty these days? How much does it cost to transfer one?

Mr Pezzullo: I think the better characterisation is that we have committed to undertaking a program that eventually will be worth around that amount.

Senator KIM CARR: Yes—$40 million?

Mr Pezzullo: I think we have publicly explained that in estimates before, and I suspect that you are engaging in this with a degree of sarcasm.
Senator KIM CARR: No, I just want to know what the benchmark is for New Guinea that is all.

CHAIR: Perhaps you should ask Mr Rudd; it was Mr Rudd who set this up.

Senator KIM CARR: If it is $40 million for Cambodia, will it be $10 million a head in New Guinea? Is that the going rate?

Mr Pezzullo: As I said, when the former minister, along with his counterpart, announced the package of support that we would engage in that, in any common sense reading of what he said on its face value, would be a package of support that would extend over time. It certainly is not anyone's intention to limit the number of resettlement places to four that Cambodia takes up. On that basis, if what you are suggesting is that there will only ever be four to take it up, and it is going to be $40 million and that is $10 million per person, then I do not think that that is anything other than perhaps a humorous and sarcastic reference to the nature of the program.

Senator O'SULLIVAN: 'Cheap shot' is the word. Cheap shot.

Senator KIM CARR: How many children are actually in detention in Nauru at the moment?

Mr Pezzullo: I will defer to Ms Briscoe. When you say 'detention', the Nauruan government has decided, with our support, to move to what is known as an open centre arrangement, so the facilities are available for transferees to return of an evening, of a night. I am not sure you would quite characterise that as detention, but I will refer the detail to Ms Briscoe.

Senator KIM CARR: There are not exactly a lot of options in Nauru, are there? It is an island.

Mr Pezzullo: It is an island, yes.

Senator KIM CARR: It is a very small island.

Mr Pezzullo: It is an island.

CHAIR: No doubt it is something that Mr Rudd took into account when he set this arrangement up.

Senator KIM CARR: They have the option of returning at night, but it is not—now we would ask who is being humorous.

Ms Briscoe: The number of children in Nauru in the RPC is 95.

Senator O'SULLIVAN: That is a long way down from 2,000.

Senator KIM CARR: What is the population—

Senator HANSON-YOUNG: There were never 2,000 in there.

Senator O'SULLIVAN: Yes, there was.

Senator HANSON-YOUNG: Not in Nauru.

Senator REYNOLDS: So that makes a difference?

Senator HANSON-YOUNG: I am just making a point.

Senator O'SULLIVAN: Dear, oh dear. Jesus; you are rich.

Senator KIM CARR: Sorry, how many are—
Ms Briscoe: There are currently around 677 transferees in the Nauru processing centre.

Senator KIM CARR: Is there a school operating in the facility? There is, isn't there?

Ms Briscoe: Yes. There is a school in the Nauru RPC.

Senator KIM CARR: That is fully functioning, isn't it?

Ms Briscoe: The school is fully functioning for the remainder of this school term—

Senator KIM CARR: Yes.

Ms Briscoe: at which point the agreement with the government of Nauru is that all of the children—

Senator KIM CARR: I am sorry, I am trying to hear the officers here if I could.

Senator REYNOLDS: There is a constant stream of interjections behind us Chair.

Senator KIM CARR: I am sorry. You were saying that the school operates—

Ms Briscoe: The school operates in the RPC for the remainder of this term at which point all of the children from the RPC will move into schools in the Nauruan community.

Senator KIM CARR: I see. Thank you. How many people have been transferred to Darwin for medical assistance in the last year?

Ms Briscoe: I will take that on notice. I will make the point though that they are not all transferred to Darwin when they are transferred for medical assistance.

Senator KIM CARR: Where do they go? What is actually required for medical treatment?

Ms Briscoe: It would be to a range of hospitals depending on the treatment they are going to be provided with.

Senator KIM CARR: Can you give us a breakdown on that please?

Ms Briscoe: Yes.

Senator KIM CARR: Thank you. How many children have been transferred over the last year?

Mr Pezzullo: I think it is best if we come back to you on that.

Ms Briscoe: Yes, I will come back to you on that.

Senator KIM CARR: Do you have a cost on the transfer of people from Nauru back to Australia for medical treatment?

Ms Briscoe: We will take that on notice.

Senator KIM CARR: What is the average length of stay in Australia for medical treatment? Are you able to provide that advice?

Ms Briscoe: Yes, I can take that on notice, but that may not be as easy to bring back tomorrow with the other questions we have taken on notice

Senator KIM CARR: Was there ever a contract entered into to provide hard wall facilities on the island?

CHAIR: To provide what?

Senator KIM CARR: To provide hard wall facilities.
CHAIR: We are straying into matters of the select committee, which I have previously indicated are not relevant here.

Senator KIM CARR: It is a pretty straightforward question.

Mr Pezzullo: Senator Carr, through you Chair, while some of those factual matters about transfers back to Australia are fairly straightforward, I think we all know—and we were very keen to engage on this question had we been called on the day that we were scheduled to be called—

Senator O'SULLIVAN: That is right.

Senator REYNOLDS: Exactly right.

Senator KIM CARR: Mr Pezzullo, I can assure you, you will have more opportunity—

Mr Pezzullo: I am sure, Senator.

Senator KIM CARR: than you can possibly wish for to give your views. The only question is that we could not accommodate you for four or five hours on the day, which is what we require. I am pleased to hear you are so keen to appear.

Senator REYNOLDS: [inaudible]

CHAIR: I am not interested in what happened at the other committee. All I know is that you are not going to ask those committee questions in this committee because of the standing order of the Senate. Do you have other questions?

Senator KIM CARR: Was there a contract entered into?

CHAIR: I am not allowing it, and I am asking the officers not to answer it here. You can answer it at the next hearing of the other committee. Do you have other questions, Senator Carr, or will we move to someone else?

Senator KIM CARR: Move to someone else, and we will take it up elsewhere.

Senator HANSON-YOUNG: I will go back to the questions in relation to the communications fund. Who gets to sign off on the script of the telemovie?

Major Gen. Bottrell: That is between my staff and me working in conjunction with the production company, although I would suggest that I have very little input to that—I have much more experienced staff in the strategic communications area. They do not write the script, but they have worked collaboratively with the production company regarding the storylines, which all represent actual events that have occurred.

Senator HANSON-YOUNG: Where will this telemovie be shown? Where is it going to be displayed?

Major Gen. Bottrell: It will be shown in four countries: Iran, Iraq, Afghanistan and Pakistan. It will be translated into five languages: Farsi, Dari, Arabic, Urdu, Pashto. It will have three major broadcasts and nine repeat broadcasts.

Senator HANSON-YOUNG: Has there been any analysis on what impact you think that is going to have?

Major Gen. Bottrell: Yes, there has been a range of research completed already in terms of what mediums have the most impact. This is just another one of those mediums to reinforce how we get the message across to a wide range of people who would potentially put themselves—or convince others to take a journey.
Senator HANSON-YOUNG: Is any of that $70.7 million being spent on focus group testing?

Major Gen. Bottrell: I am sorry, focus group—

Senator HANSON-YOUNG: Focus group testing about messages, the best way to communicate—

Major Gen. Bottrell: I would have to come back to you on the detail. I can tell you that we have done—there is a range of research and market testing that we do do. Specifically on that question, I would have to come back and confirm for you.

Senator HANSON-YOUNG: Does that $70.7 million include market testing for domestic consumption as well—that is, communications in Australia?

Major Gen. Bottrell: There is an onshore component that targets the diaspora of communities that might otherwise convince people to take the journey and is intended to essentially educate them to—essentially the same messages, the risks of the journey, the potential of being duped by people smugglers and reinforcing the Australian government's policy settings. That is the intent of the messaging. There is a component for onshore communication. From 14 July to April this year, the amount was $565,995.87. The other figure is inside, within the $70.7 million.

Senator HANSON-YOUNG: Is it correct that there has been focus group testing around the use of the word 'illegal'?

Major Gen. Bottrell: I will have to take that on notice. I am aware that there has been sensitivity around the use of that term. I will have to take that specifically on notice in terms of the use of that term.

Senator HANSON-YOUNG: You will take on notice whether that was specifically focused tested—

Major Gen. Bottrell: Yes.

Senator HANSON-YOUNG: or are you saying you know that that has occurred?

Major Gen. Bottrell: You have asked me if we have conducted market testing on the use of the term 'illegal'. I will take that on notice and confirm whether we have completed any market testing for the use that term.

Senator HANSON-YOUNG: Have there been any PowerPoint presentations put together by any of your staff in relation to the benefits of using the term 'illegal'?

Major Gen. Bottrell: Not that I am aware of.

Senator HANSON-YOUNG: Mr Pezzullo, is that something that your department would do as opposed to strictly under OSB?

Mr Pezzullo: It is a joint agency task force and the general's strategic communications staff come from my department so if he is not aware of it there is nothing that I would be aware of that is more specific that he would not otherwise know.

Senator HANSON-YOUNG: So from your knowledge, Australian immigration officials have not been talking to other people about the benefits of using the term 'illegal'.

Mr Pezzullo: Your question was about have they developed some sort of PowerPoint slide, did you say? I am not aware of any such PowerPoint slide.
Senator HANSON-YOUNG: Information, brief—has there been any promotion or explanation created by the department in relation to the benefits of using the word 'illegal'.

Mr Pezzullo: The benefits—I am not aware of any such written communication, PowerPoint slide or otherwise. I know that briefings have been provided because I know that occasionally, when this matter particularly was of more current interest with the change to 'illegal maritime arrivals', we had Senate estimates briefs. I know that someone has written me briefs on the status of law, and as I recall it, Mr Bowles, you and others have engaged in in that question. I know written briefs have been prepared on the use of the term 'illegal maritime arrivals' as opposed to 'unauthorised' but that is for different purposes. I think if I am hearing the question correctly: have any of my staff engaged in promoting the use of the term 'illegal'. I am not aware of the use of any such promotion. I am finding it challenging to understand the context in which that would arise.

Senator HANSON-YOUNG: So you will take on notice the question in relation to focus group testing or any other type of market testing in relation to the term 'illegal'?


Senator HANSON-YOUNG: When do you think you could get that to us?

Major Gen. Bottrell: I should be able to get that to you this evening.

Senator HANSON-YOUNG: Okay. That is great. Thank you. The reduction in funding to the IOM of $28.7 million over two years, is that your responsibility or is that somebody else's responsibility?

Major Gen. Bottrell: That does fall within my remit. There was a program that was no longer required for IOM to deliver that has not been renewed.

Senator HANSON-YOUNG: Which program was that?

Major Gen. Bottrell: I will have to just check here. I believe it was on community engagement, but I will take that on notice and I will get back to you this evening on that one.

Senator HANSON-YOUNG: Thank you.

Major Gen. Bottrell: That is a simple question to answer.

Senator HANSON-YOUNG: Could you also take on notice how much money we are giving the IOM in Indonesia. My understanding is that most of that $28.7 million would have been spent in Indonesia, but perhaps not.

Major Gen. Bottrell: I have that here. We have a Migrant Outreach and Messaging Indonesia program which is $2.9 million. That is for spending between July 2014 and January 2017.

Senator HANSON-YOUNG: What about in Malaysia?

Major Gen. Bottrell: No, we do not have the IOM delivering any products or services in Malaysia.

Senator HANSON-YOUNG: What about the amount of money that is currently being given to the UNHCR in Indonesia?


Mr Pezzullo: I will see if there are officers with us who can assist with that inquiry.
Senator HANSON-YOUNG: If not, I am happy for you to do that tomorrow if there is some notice there for you.

Mr Pezzullo: Thank you.

Senator HANSON-YOUNG: Mr Pezzullo, who is in charge of the $21 million for the Asylum Seeker Assistance Scheme which is for air arrivals?

Mr Pezzullo: I do not think it would be the General. Ultimately, if it is departmental funds, who is in charge? I guess I am. We will see if someone with more particular knowledge of that fund can join me at the table.

Ms Noble: The department's funding to the UNHCR for Malaysia in the 2014/15 year-to-date was $228,953. That was to register and undertake refugee status determination for asylum seekers in Malaysia.

Senator HANSON-YOUNG: So that is Malaysia. What about Indonesia?

Ms Noble: I will have to take that on notice. So that is the UNHCR in Indonesia? I can get that to you tonight.

Senator HANSON-YOUNG: Thank you. Is anybody going to answer the question around the Asylum Seeker Assistance Scheme?

Mr Pezzullo: I hope so. Sorry Senator, I am not trying to be flippant. I just do not know all of the programs and subprograms and sub-subprograms. I require assistance.

Senator HANSON-YOUNG: No worries. I am happy to do that tomorrow if that helps and if you think it is better placed there.

Mr Pezzullo: It probably does come up in one of the program somewhere and we have the day allocated tomorrow.

Senator HANSON-YOUNG: What about in relation to the returns of removals and assistance packages. Is that something that is covered under OSB. These are people who are opting to return home from being in Manus or Nauru.

Major Gen. Bottrell: There are people who are more across that detail than me.

Senator HANSON-YOUNG: Does that fall under OSB?

Major Gen. Bottrell: Broadly, as part of a policy, yes, it does.

Senator HANSON-YOUNG: Do we pay IOM anything for conducting and managing that process?

Major Gen. Bottrell: Senator, I believe they do assist as part of that program, yes.

Senator HANSON-YOUNG: So we have a contract with them for repatriation?

Major Gen. Bottrell: I will have to check the details, but I believe that is the case. I think the responsible officer has just arrived at the table.

Mr Pezzullo: We can deal with those matters this evening. It does crossover between the general and Ms Briscoe's group—they work collaboratively together—but if the officer feels she can answer your questions at the table, it is better to dispose of the matters this evening.

Ms Scholten: Yes, IOM does assist with voluntary returns from Manus and Nauru. You asked how much we pay. I will have to take that on notice and get back to you with the exact costs to assist both Manus and Nauru.
Senator HANSON-YOUNG: The budget says that the overall assistance packages actually ended up being less expensive—$997,000 versus $2.2 billion. Is that your understanding—that we spent less money than you thought you would?

Ms Scholten: I will have to take that on notice.

Senator HANSON-YOUNG: Is that because not as many people opted to go? Why would it be more than half?

Ms Scholten: Your question is in relation to people returning home voluntarily.

Senator HANSON-YOUNG: I am talking about the returns and removals assistance package, which the budget says in 2014-15 is $997,000, less than half of the originally estimated amount of $2.2 million.

Ms Scholten: This question is I think in relation to our onshore program, not necessarily in relation to Nauru or Manus.

Senator HANSON-YOUNG: It says here 'Program 1.5: IMA Offshore Management'.

Ms Scholten: I will have to take that on notice and come back to you.

CHAIR: This session is about Operation Sovereign Borders only.

Senator HANSON-YOUNG: Yes, which is what the offshore detention centres are.

CHAIR: Yes, sure.

Senator HANSON-YOUNG: Until I have answers to that I find it difficult to go on with the rest of the questions, Chair, so I am fine.

CHAIR: Okay.

Mr Pezzullo: Chair, we can—

CHAIR: No, that is all, Mr Pezzullo. There are no further questions. We will adjourn and see everyone at nine o’clock in the morning.

Committee adjourned at 18:17