INTERNET

Hansard transcripts of public hearings are made available on the internet when authorised by the committee.

To search the parliamentary database, go to:

http://parlinfo.aph.gov.au
MEMBERS IN ATTENDANCE: Senators Kim Carr, Cash, Dodson, Fawcett, Griff, Hanson, Hinch, Hume, Kakoschke-Moore, Leyonhjelm, Lines, Ian Macdonald, McKim, Pratt, Ruston, Ryan, Watt, Xenophon.
IMMIGRATION AND BORDER PROTECTION PORTFOLIO

In Attendance

Senator Cash, Minister for Employment, Minister for Women and Minister Assisting the Prime Minister for the Public Service
Senator Ruston, Assistant Minister for Agriculture and Water Resources
Senator Ryan, Minister Assisting the Prime Minister for Cabinet and Special Minister of State

Department of Immigration and Border Protection

Mr Michael Pezzullo, Secretary, Department of Immigration and Border Protection
Mr Michael Outram APM, Acting Commissioner, Australian Border Force
Ms Malisa Golightly PSM, Deputy Secretary, Visa and Citizenship Services
Ms Jenet Connell, Deputy Secretary, Corporate, Chief Operating Officer
Mr Clive Murray, Acting Deputy Commissioner, Operations
Ms Mandy Newton APM, Deputy Commissioner, Support
Ms Maria Fernandez PSM, Deputy Secretary, Intelligence and Capability
Ms Linda Geddes, Acting Deputy Secretary, Policy
Air Vice-Marshall Stephen Osborne CSC, Commander, Operation Sovereign Borders Joint Agency Task Force

Mr Shannon Frazer, First Assistant Secretary, Executive Division
Mr David Wilden, First Assistant Secretary, Immigration and Citizenship Policy Division
Mr Jason Russo, Acting First Assistant Secretary, Strategic Policy and Planning Division
Mr Andrew Chandler, Acting First Assistant Secretary, Traveller, Customs and Industry Policy Division

Mr Lachlan Colquhoun, First Assistant Secretary, International Division
Mr Ben Wright, First Assistant Secretary, Corporate Services Division
Mr Murali Venugopal, First Assistant Secretary, People Division
Mr Steven Groves, First Assistant Secretary, Chief Finance Officer, Finance Division
Ms Philippa De Veau, First Assistant Secretary, Legal Division
Ms Cheryl-anne Moy, First Assistant Secretary, Chief Audit Executive, Integrity, Security and Assurance Division

Mr Anthony Warnock, Acting First Assistant Secretary, ICT Division, Chief Information Officer

Mr Cameron Ashe, First Assistant Secretary, Intelligence Division
Mr Michael Milford AM, First Assistant Secretary, Major Capability Division
Mr Michael Minns, Acting First Assistant Secretary, Identity and Biometrics Division
Ms Christine Dacey, First Assistant Secretary, Visa and Citizenship Management Division
Mr Luke Mansfield, First Assistant Secretary, Refugee and Humanitarian Visa Management Division
CHAIR: I declare open the supplementary budget estimates hearing for the Legal and Constitutional Affairs Legislation Committee dealing with the Immigration and Border Protection portfolio. I welcome Senator Cash representing the minister; Mr Pezzullo, Secretary; and Mr Outram, Acting Commissioner of the Australian Border Force. The Senate has referred to the committee the particulars of the proposed expenditure for the portfolio and other related documents. The proceedings will begin with the examination of Immigration and Border Protection and we will do Attorney-General tomorrow. The committee has set Friday, 8 December as the date by which the 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 5 pm Friday, 3 November this year.

The committee is required to take all evidence in public and this includes answers to questions on notice. Witnesses know, I think, that in giving evidence they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to the committee. I think most of the officers here today are familiar with the rules, but if you do need assistance on the rules of the committee the secretariat is always happy to help. All questions going to financial positions of department and agencies which are seeking funds in the estimates are relevant questions for the purpose of estimates. There are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has otherwise expressly provided.

The Senate has resolved that an officer of the department shall not be asked to give opinions on matters of policy and should be given reasonable opportunity to refer questions asked to superior officers or to the minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanation of policies or factual questions about when and how policies were adopted.

I think everyone is aware of public interest immunity claims. A statement that information or a document is confidential or consists of advice to government is not a statement that meets
the requirements of the 2009 order. Witnesses are required to provide some specific indication of the harm to public interest that could result from the disclosure of the information or the document.

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

LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE
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)

Department of Immigration and Border Protection

[09:05]

CHAIR: Minister, I wonder if you want to make an opening statement.

Senator Cash: I don't, Chair, but I understand both the secretary and the acting commissioner do.

CHAIR: Okay. We'll go to Mr Pezzullo first.

Mr Pezzullo: Thank you for the opportunity to make some brief opening remarks. I wish to speak on two matters in these opening remarks: first, the closure of the regional processing centre on Manus Island, Papua New Guinea, on Tuesday, 31 October 2017; and, second, the establishment of the Department of Home Affairs, which I'm sure will be of great interest to this committee, especially in the context of how it might wish to organise its affairs next year.

Turning to the closure of the regional processing centre, I should like first to acknowledge the important and successful collaboration that has taken place and continues to take place between the governments of Australia and Papua New Guinea in combating people smuggling and ending the flow of illegal maritime arrivals to Australia, which occurred in the five years preceding 2013-14. This nation owes its gratitude to the government and to the people of PNG for assisting us in an hour of need.

As the committee would be aware, Prime Ministers Turnbull and O'Neill announced earlier this year the closure of the regional processing centre in Manus Province to take effect on 31 October 2017. I can advise that alternative accommodation, meals, medical services and settlement services will be provided to refugees in Manus Province whilst they await resettlement. Residents in the regional processing centre have received notification of their alternative accommodation and service arrangements. Refugees, including those who have expressed an interest in resettlement in the United States, may also volunteer to transfer to Nauru. Some transferees have been found not to be owed protection by the government of PNG and those individuals have no lawful basis to remain in PNG, and of course should accordingly depart. The department continues to support the government of PNG to decommission the regional processing centre. All service providers and Australian government personnel will leave the centre by 31 October. The site, which is part of a naval establishment, will be reoccupied by its permanent owner, the Papua New Guinea Defence Force from 1 November 2017.

I turn now to the establishment of the Home Affairs portfolio. In the time that has passed since the department's last appearance before this committee, the Prime Minister announced on 18 July the establishment of the new portfolio of Home Affairs, which will include a new department of state to be known as the Department of Home Affairs. The Hon. Peter Dutton MP has been named as Minister designate of Home Affairs and I have been honoured to be
named as Secretary designate of Home Affairs. Subject to the final decision of the Prime Minister, it is probable that we will appear before you at the next estimates meeting of this committee as the Department of Home Affairs. The Department of Immigration and Border Protection will be completely incorporated within the new department and, as such, it is quite possible that today we appear before you in that form for the final time.

In addition to the Department of Home Affairs, the portfolio will consist of the following agencies: the Australian Security Intelligence Organisation, ASIO; the Australian Federal Police, AFP; Australian Border Force, which will be operationally independent of the Department of Home Affairs; the Australian Criminal Intelligence Commission; and the Australian Transactions Reports and Analysis Centre, known as AUSTRAC. The core functions of this department will be policy, strategy and planning in relation to domestic security, law enforcement, counterterrorism, the protection of our sovereignty and the resilience of our national infrastructure and systems. The department will also lead the coordination across relevant agencies of the execution of applicable national strategies and the assessment of capability development requirements and associated resourcing strategies.

Specifically, the department will be responsible for the delivery of certain policy and/or programmatic responsibilities either in the lead or in support of other agencies. These, in the main, are as follows: immigration and citizenship; law enforcement and community protection; customs and border protection; transport security; civil maritime security policy and coordination; identity and biometrics policy and programs; emergency management, including crisis management, disaster recovery and disaster resilience; critical infrastructure protection; cybersecurity policy and coordination; counterterrorism policy and coordination; the countering of foreign interference and political subversion; and countering violent extremism programs, including working with other departments and agencies regarding programs concerned with the cohesion of our society on the basis that it is open, inclusive, multicultural and united.

Rather predictably, some of the commentary on the establishment of the portfolio has been ill-informed, typically using tropes such as 'the Behemoth of Home Affairs'. This commentary has tended to attempt to mischaracterise the new arrangements as being either a layer of overly bureaucratic oversight of otherwise well-functioning operational arrangements or a 'sinister' concentration of executive functions which will somehow not be able to be supervised and overseen. Both of these criticisms are wrong, and I will deal with them in turn. The department will not engage in the oversight of statutorily independent agencies, which is properly and necessarily vested in parliamentary, judicial and/or statutory processes. These properly established mechanisms, which we further refined under the Prime Minister's announcement that I previously mentioned for the oversight of ASIO, the AFP, the ABF, ACIC and AUSTRAC, will not be affected. I can assure this committee that the department will not act as an overseeing, overriding bureaucratic layer, nor will it be dictating terms to heads of agencies in the performance of their statutory functions. Rather, the department will seek to improve the strategic level of policy development and planning in support of a cabinet-level minister who, for the first time in the modern history of the Commonwealth, will be charged with addressing security issues as a full-time point of focus and accountability. I should say in passing that the ABF will remain an operationally independent body led by a statutorily appointed commissioner but will have its corporate and enabling services provided
by the new department, and the secretary will continue to hold budgetary and employment powers consistent with present arrangements. In this context, the committee may wish to consider whether to perhaps have the ABF appear before you separately next year as the other agencies will, noting that it will be structurally connected to the department, including also in terms of the joint management of immigration status resolution and detention activities. The acting commissioner and I would be very pleased to advise the committee on how these new arrangements will work in the context of Home Affairs, and the committee could then make informed decisions about its proceedings next year.

Finally, I turn to the trope of the 'sinister behemoth' which has characterised some of the commentary. All executive power, including that which will be exercised by the minister and the officers of the Home Affairs portfolio, is subject to the sovereignty of this parliament and to the supremacy of the law. Executive action must always have prior legal authority, and that authority is ordinarily to be located in the laws passed by this parliament. In bringing together the security powers, capabilities and capacities of the Commonwealth into a single portfolio, these fundamentals will, of course, remain in place—that is, constitutionalism, the sovereignty of parliament and the supreme rule of law, all of which are crucial attributes of liberty. Power must always be exercised with legitimacy, and never more so than in the performance of the security function of the state. Any contrary suggestion that the establishment of Home Affairs will somehow create an unchecked, extrajudicial apparatus of power is ill informed—even if predictable coming from some quarters—fallacious and unworthy. It is commentary which bears no relationship to the facts or to how our system of government works. I thank the committee. If it pleases the committee, I'm happy to have that document tabled.

CHAIR: Thanks, Mr Pezzullo. I want to get some clarification, but we might hear from Mr Outram first, if we could.

Mr Outram: In July this year, the Australian Border Force marked its second anniversary. The first two years of the ABF have included considerable successes and many challenges. We've continued to contend with escalating volumes at the border. In the first two years of operations, the ABF processed more than 84 million air and sea travellers and crew. We risk assessed more than six million sea cargo consignments and inspected more than 100 million international mail items. At the same time, we've disrupted transnational crime and trade in illicit goods. In the past two years, the ABF has worked with domestic and international partners to detect more than 12 tonnes of illicit drugs and precursors at the Australian border, and has detected more than 170 tonnes of illicit tobacco and 250 million illicit cigarettes. This represents about $230 million in attempted duty evasion.

Already this financial year, we've again made significant seizures of illicit drug and illegal importation, including record seizures of ephedrine. In August, multiple people were arrested in connection with the legal importation of tobacco and conspiracy to import narcotics following the Joint Organised Crime Group's Operation Astatine. Among those arrested was a serving ABF officer, who is alleged to have used his position with the importation of tobacco. The ABF holds a trusted position at the border. What we do and the information we are privy to is very sensitive, and this means that we will always be a target for serious and organised crime. Whilst this is not a surprise, it is completely unacceptable. In response, we've reinforced mechanisms under our integrity framework. These measures are working and we
will catch the small number who turn to corruption and fraudulent activity. These individuals, I should stress, do not represent the vast majority of ABF officers who uphold the highest standards of professional conduct.

In the past 12 months we've continued our increased operational focus to deter and detect goods suspected of containing asbestos. In 2016-17, we targeted more than 8,500 shipments, resulting in 63 positive detections. That's compared with the 1,100 shipments and 13 positive detections the previous year. Despite intensified and targeted effort, however, there has not been a proportionate increase in the number of positive detections. The ABF is also committed to prevent exploitative practices of vulnerable foreign workers through Taskforce Cadena. Since June 2015, Taskforce Cadena has undertaken 16 largescale disruption activities under the authority of 46 separately issued warrants. As a result, the Commonwealth Director of Public Prosecutions has accepted three briefs of evidence, with the intention of pursuing criminal prosecution, and additional briefs are being prepared. Taskforce Cadena is also working with international authorities to target organised visa fraud and worker exploitation before it actually reaches the Australian border.

The threat of extremism is ever present. The ABF increased its presence and security activities at international airports, cargo facilities and mail gateways earlier this year in response to counter-terrorism operations in Sydney, and disrupted plans to place an explosives device on an international aircraft. In addition, since 1 July, our counter-terrorism teams at international airports have conducted more than 70,000 assessments, resulting in more than 200 positive outcomes.

Clearly, our threat environment is evolving and increasingly challenging. The announcement in July of a home affairs portfolio acknowledges this and highlights the importance of safeguarding the border as an essential component of national security The ABF will remain Australia's border protection and, I should stress, customs service, operating as an operationally independent agency under home affairs. Our ability to perform our border compliance and enforcement role will be enhanced, but this does not reduce our commitment to facilitation in terms of the movement of people and goods.

We are committed to further building the Australian Trusted Trader program, with more than 100 fully accredited trusted traders now trading participating. In July, I signed new mutual recognition arrangements with Korea, Canada and Hong Kong to provide Australian exporters with fast-track system markets in those countries. The department and ABF will continue to partner with industry to understand their needs and to fully realise benefits of the ATT program and inform its future development. We've also made significant advances in traveller facilitation, with plans to roll out the next generation of arrival SmartGates by mid-2019. We expect 90 per cent of travellers will use automated border clearance processing by 2020.

The increasing volumes at the border and the rapidly evolving threatening environment mean that we have to do things differently—to innovate, to modernise and to adapt. We've embarked on the journey to transform our work through investments in technology and automation, partnering with industry, intelligence sharing and redesigning our core processes, services and systems. The move to home affairs will continue that journey.

During the success and challenges of the Australian Border Force's first two years, our officers have demonstrated outstanding dedication and commitment. I commend them for
their ongoing professionalism during this period of change and for their unwavering commitment, delivering an essential facilitation service that is expected of us every day while maintaining a safe and secure border for the Australian community. Thank you. Chair, I will table that speech on the record.

CHAIR: Thanks, Mr Outram. The committee has proposed an indicative timetable. I would ask my colleagues to try to abide by that so that we do get through the program and everyone has a fair chance. I thank Senator Fawcett for, in my recent absence, facilitating that with other members of the committee. As is our usual practice in the committee, we will leave it principally to the opposition and to the crossbenchers to indicate who they want to call at these proceedings, although some government senators have also got some interest, but hopefully we can get through it.

My colleagues on the committee will be pleased to know that my devices are somewhere between here and Russia, so I won't be using my exact 15 minutes, but I'll ask the secretary to let me know when people have had about 15 minutes, and hopefully we could allow a colleague to then ask some questions, bearing in mind that we'll always come back where any senator has some more questions to ask. The program shows that corporate and general matters, which include the two opening statements, will continue till 12.30. I notice that a number of the other issues that were raised in those two statements are in the next section of the program, from 1.30 to 3 pm, so hopefully we'll be able to deal with all of those issues by 3 pm and allow some time to go into others.

With that, I might start the questioning, to seek some clarification on the Department of Home Affairs. Other senators will no doubt want to follow this along. Perhaps we could do it now if others want to ask questions about how the home affairs department will work. Mr Pezzullo, you mentioned that emergency management will now come within this portfolio.

Mr Pezzullo: Yes.

CHAIR: All of the work of emergency management?

Mr Pezzullo: Yes.

CHAIR: Will the minister be Mr Dutton or will it remain with Mr Keenan?

Mr Pezzullo: The ministerial arrangements have not been settled. That's a matter between the minister-designate and the Prime Minister. I can't imagine that the cabinet minister won't have some considerable involvement, but how those arrangements are split as between the cabinet minister and the assisting ministers is really a matter for the minister and the Prime Minister.

CHAIR: You mentioned that the home affairs department will not closely oversight the independent statutory agencies.

Mr Pezzullo: That's right.

CHAIR: Will the way that the department and indeed this committee deal with the AFP and ASIO continue the same as it was under the Attorney-General's Department?

Mr Pezzullo: My counsel to this committee would be to not vary your arrangements at all. ASIO, AFP and, for that matter, the ACIC and AUSTRAC variously appear before this committee as independent bodies. In my recollection, because I used to be in the Attorney-General's portfolio when the Customs Service was there, the minister at the table and the
secretary remain in place and then the agency head comes along. My counsel would be that you continue that practice.

**CHAIR:** As far as the department is concerned, you will exercise no more and no less authority over the AFP, ASIO, the Border Force, AUSTRAC and ACIC than the Attorney-General did in relation to those agencies?

**Mr Pezzullo:** There is one caveat. With one qualification, that is right. The exception relates to the Border Force, and that's why I had a couple of paragraphs in my opening statement. The government has decided not, at this stage at least, to vary the current governance arrangements whereby the Border Force is legally integrated with the department in a number of ways. The budget is held by the secretary, for instance—which is not the case with ASIO, AFP and the others—as are the employment arrangements. The employment power sits with the secretary, who employs all officers of the Border Force other than the commissioner, who obviously is statutorily appointed. As we've given evidence over the years, particularly in the last couple of years, we have also integrated the Department of Immigration and Border Protection, as we are currently, and the Border Force in a number of areas—intelligence, shared services, corporate services, enabling services and things like the provision of the detention services arrangements, so contract management is provided to the commissioner by public servants who are technically employees of the department. Those arrangements, from the point of view of efficiency, the point of view of effectiveness, will remain in place.

In another respect, as we've also previously briefed this committee—and no doubt these matters will arise today as well—there's also an integrated management of cases. That is to say, civilian officers in the department determine someone's status under the Migration Act and the commissioner and his officers then take the follow-on action, such as detaining a person, removing a person or releasing a person. In those examples that I've given, there is probably more integration, both in corporate and operational matters, than otherwise would be the case. That said, my counsel to this committee would be to treat the ABF as an independent body, no more and no less than it would treat ASIO and AFP. It might just mean, in the practicalities next year when we're appearing, there might be a number of Public Service officers, perhaps even deputy secretaries, for instance, of Home Affairs, who appear with the commissioner and support him or her in the giving of evidence. That is different from the other agencies.

**CHAIR:** Thanks for that for the committee's point of view but, from the arrangement point of view, will the department and the Border Force change in any appreciable way?

**Mr Pezzullo:** No. We intend to maintain the integration program that is currently underway. In terms of the comparison with the Attorney-General's Department, the Attorney-General's Department currently supports the Attorney with policy strategy advice at the strategic level. Those agencies then discharge their duties independently but within a sort of policy that's set down by the government. Those arrangements won't change either.

**CHAIR:** Okay. I might just say this to the committee. This is something the committee might have to look at, and the secretariat might note this. I'm not sure who makes these arrangements. The secretary tells me it is the Senate, but actually it doesn't. As we are taking on ASIO, AFP, ACIC and AUSTRAC, it may be that the time we spend on the Department of Home Affairs will have to increase and the time we spend on the Attorney-General's
Department will have to decrease as a result of these changes. That's something the committee might have to give some thought to between now and the next estimates.

Mr Pezzullo: I didn't mention this, but it was in the Prime Minister's announcement. The Attorney-General's portfolio will certainly have some functions removed, but other functions will go into the Attorney-General's portfolio. The Prime Minister announced that integrity and oversight functions will be centralised in that portfolio.

CHAIR: Integrity and oversight for all of these agencies?

Mr Pezzullo: For instance, in relation to intelligence and security, the Inspector-General role, the Ombudsman's role and I think one or two other functions will go into the Attorney-General's portfolio.

CHAIR: Where were they?

Mr Pezzullo: They were principally in the Prime Minister's department, as I recall it. I didn't make that a feature of my opening remarks. It's not quite in my lane. There are three bodies of work that I should be clear about. There's the establishment of Home Affairs, as just discussed. There's the reshaping of the Attorney-General's portfolio. Some of those operational functions will come out, but integrity and oversight functions will go in. Then there's a third related matter, which I should add, just for the record. The acceptance by the government of the recommendations of an independent review into the intelligence community will also have a bearing on the work of this committee, because a number of the intelligence related functions within Border Force, the current Department of Immigration and Border Protection, AFP and others will come under the remit of the new Director-General of National Intelligence—a position that will be established next year in law, under the Prime Minister. That will replace the current arrangements with the Director-General of the Office of National Assessments. Because of the intricacies involved and the interdependencies across these three tracks of work—establishing Home Affairs, the reshaping of the Attorney-General's portfolio and the establishment of a national intelligence community, headed by the Director-General of National Intelligence—all of this work is being led, in terms of machinery-of-government and consequential legislative and administrative changes, by the Prime Minister's department. I draw that to the committee's attention, because these things cross over. For instance, changes around the establishment of the new Office of National Intelligence will have a bearing back into Home Affairs because, for the first time ever, under the arrangements announced by the Prime Minister also on 18 July, there will be a single view of intelligence that will include things such as immigration intelligence, customs intelligence and policing intelligence. That will come under the purview and remit of the new office of the Director-General of National Intelligence. So, those interdependencies across those three tracks of work are probably just worth noting at this point.

CHAIR: Perhaps you could try your hand at some sort of easy-to-understand chart that indicates who's who and what's what and who controls which.

Mr Pezzullo: I'd be happy to do so. I'll need to consult with my colleagues in the Prime Minister's department, who have the overriding responsibility to make this happen.

CHAIR: Yes, just so the committee knows to whom we should be asking questions, and we'll find out tomorrow from the Attorney-General answers to the same questions in relation to what he's doing, and no doubt he'll mention that as well.
Senator KIM CARR: Thinking about what you've said, you're saying that probably the department will appear here. Is that what you said?

Mr Pezzullo: Yes.

Senator KIM CARR: 'Probably'—why probably?

Mr Pezzullo: Because the final decision on when the machinery-of-government change is effected is a matter for the Prime Minister. He's indicated both in his announcement on 18 July, and I think subsequently in commentary, that the government is keen to move on these arrangements expeditiously and to have them fully implemented by 1 July next year. But the Prime Minister and no doubt his senior colleagues wish to be assured that all of these interdependencies—all the legal consequences, any impacts on legislation—are fully attended to. So, the government hasn't made a final decision as to when the arrangements will cut in. That's why I said that the next time we appear, which ordinarily would be in February, we probably will be home affairs—but I don't want to commit, because I don't want to pre-empt the Prime Minister.

Senator KIM CARR: So, the announcements that were made on Bastille Day: the machinery-of-government announcements were completed at that time, were they?

Mr Pezzullo: On 18 July, on Bastille Day?

Senator KIM CARR: Yes. They were the announcements that were made—the announcements the Prime Minister made about the establishment of the new—

Mr Pezzullo: Sorry, Senator; I'm not trying to be cute. You've thrown me. There were no announcements on the 14th—

Senator KIM CARR: The announcements that the Prime Minister made about the new department: he at that point released machinery-of-government—

Mr Pezzullo: No, they were anticipatory announcements, and he said that, subject to these pieces of work that I've laid out, home affairs—the oversight and integrity arrangements and intelligence—that there are various reports back to the government before they will proceed.

Senator KIM CARR: So, we don't have the new machinery-of-government orders?

Mr Pezzullo: No. They've not been released, because the machinery-of-government changes have not yet been effected.

Senator KIM CARR: They won't be released until these are finalised.

Mr Pezzullo: In the normal course, the Governor-General will sign them and they'll be released congruently with the establishment of the portfolio, yes.

Senator KIM CARR: And we can't really determine where these committee should sit or what functions they perform until that's done?

Mr Pezzullo: I would say that's right, and all I've been able to do this morning was give the committee some indicative guidance based on the directions that I've been given, the announcements that the Prime Minister has made and some amplifying guidance that I've received since that time.

Senator KIM CARR: You've said that the closure of the Manus Island Regional Processing Centre will take place on 31 October. Was that a mutually agreed decision of the Australian government and the PNG government?
Mr Pezzullo: It's a mutually agreed position as between the two governments.

Senator KIM CARR: Was there a mutually agreed decision. That is the question I asked.

Mr Pezzullo: Yes, as between the two governments.

Senator KIM CARR: When was that agreed to?

Mr Pezzullo: It was agreed to earlier this year, and I'll need to refresh my memory as to the dates, but it was a discussion and an agreement reached at prime ministerial level, and indeed announced by the two prime ministers afterwards.

Senator KIM CARR: I had a look at the reports of the announcement, that press conference. There was no date mentioned.

Mr Pezzullo: Whether or not the date was publicised at that point, I can assure you that the date has been consistent with their discussion as being agreed between—

Senator KIM CARR: So, there was an MOU, was there?

Mr Pezzullo: No. We have a standing regional resettlement agreement. That provides for discussions to occur and to be properly minuted. We're the lead agency on the Australian side. The Immigration and Citizenship Service is the lead agency on the PNG side. And we engage in discussions and exchange correspondence accordingly.

Senator KIM CARR: So, it's by correspondence.

Mr Pezzullo: And officials' discussions, which are minuted, yes.

Senator KIM CARR: It is just that the PNG Attorney-General is cited as saying, 'I am the chief legal adviser to government; I have not sighted a formal document that confirms that date had been mutually agreed.' That was on 25 August. Is that correct?

Mr Pezzullo: I'm familiar with his statements, yes.

Senator KIM CARR: That's clearly in contrast with the statement you made to this committee on 22 May, so it was after that documents that statements were made.

Mr Pezzullo: I can't illuminate what the Attorney-General of Papua New Guinea had in mind when he made that statement. You'll need to ask him.

Senator KIM CARR: That's clearly in contrast with the statement you made to this committee on 22 May, so it was after that documents that statements were made.

Mr Pezzullo: I can't illuminate what the Attorney-General of Papua New Guinea had in mind when he made that statement. You'll need to ask him.

Senator KIM CARR: So, you'll need to give me the date, then, on which this formal agreement was reached, won't you? That will help us clarify that.

Mr Pezzullo: It would. In fact, I'm sure the record will show that—I'm advised, and I'll have this checked absolutely, that the date was included in the announcement back in April. I might just ask Deputy Commissioner Newton to join me here. She has better recall of the details than I have. But I'm advised that the date was part and parcel of the April announcement. But, as I said, I'll have that checked to the point of certainty.

Senator KIM CARR: Deputy Commissioner, are you able to assist me? What was the date on which the agreement was reached?

Ms Newton: It was 8 April.

Senator KIM CARR: So, it was 8 April. What was the form of the agreement?

Ms Newton: The form of agreement was an announcement on behalf of the Prime Minister of Australia and the Prime Minister of PNG that the centre will close on 31 October.

Senator KIM CARR: So, an announcement. Was there a document?
Ms Newton: There was a press release, I understand.

Senator KIM CARR: That is the only document?

Ms Newton: That's correct, from my understanding.

Senator KIM CARR: I'm surprised it was only a press release—no memo?

Mr Pezzullo: As I said, the overall architecture or overriding cooperative arrangement here is set out in the regional resettlement agreement, otherwise known as the RRA, a document we've discussed many times. It provides for and allows for official-level discussions, ministerial-level discussions, some of which are formal and need to occur at particular times and others that occur incidentally. The outcomes of those discussions are always minuted and recorded. We take our record and the PNG side takes its record, and where necessary we arrange for joint records to be agreed. And both in the lead-up to that prime ministerial conversation that the deputy commissioner and I have spoken about and subsequently, all the appropriate correspondence has been entered on our files. It doesn't require a separate legal understanding, as it were, because the omnibus is the RRA.

Senator KIM CARR: You say that often you get your correspondence—your minutes are mutually agreed, you exchange the—

Mr Pezzullo: Yes.

Senator KIM CARR: Were the minutes exchanged on this occasion?

Mr Pezzullo: Either in the lead-up to or subsequent to the Prime Ministerial meeting, there would've been relevant meetings of the various joint committees that exist at different levels of authority, and all of those committees would have been animated by the decision that the two prime ministers had taken.

Senator KIM CARR: That's not what I asked you. Were the minutes exchanged on this particular occasion regarding this particular decision?

Mr Pezzullo: We'll need to take on notice exactly how the prime ministerial conversation was recorded. This is a matter for the Prime Minister and his department, but in the ordinary course those conversations are always minuted. Whether a joint understanding was entered into by the two gentlemen or whether they just simply directed their officials and we've recorded it in our various joint management committees is something that I will have investigated for you.

Senator KIM CARR: It's quite a significant point of difference. The Attorney-General of Papua New Guinea is saying that there was no mutual agreement and you're telling this committee that there was.

Mr Pezzullo: I can state to this committee that there absolutely is a mutual understanding from the two prime ministers down, involving also my minister, myself, other high officials and the various joint steering groups and management committees. Everyone has been very clear about the intention of the two prime ministers.

Senator KIM CARR: Was it a fait accompli that the Prime Minister of Papua New Guinea was accepting?

Mr Pezzullo: I wouldn't characterise it like that at all. He's a very independent leader of his nation and he would have engaged in the discussions with our Prime Minister, as all of his ministers do with our ministers, on the basis of being fully independent.
Senator KIM CARR: Your minister recently visited Papua New Guinea—is that the case?

Mr Pezzullo: Whether he visited Papua New Guinea or met with colleagues in Queensland I'm not quite sure. I'll ask Ms Newton to refresh me on that issue. He has meetings with his counterparts sometimes in the state of Queensland, sometimes in visiting Papua New Guinea and sometimes by telephone.

Ms Newton: My understanding was that the announcement on 8 April 2017 occurred in Papua New Guinea.

Senator KIM CARR: Yes. That was the last time he visited Papua New Guinea?

Mr Pezzullo: We'll have to refresh ourselves. We'll take that on notice.

Senator KIM CARR: You'll take on notice whether or not the minister visited Papua New Guinea?

Mr Pezzullo: It's a very busy portfolio, as you can imagine—

Senator KIM CARR: I'm sure it is, but surely there's someone here who handles the minister's travel arrangements.

Mr Pezzullo: We'll find out for you.

Senator KIM CARR: An international trip is, by and large, something that doesn't go unnoticed by the secretary or by the minister's department.

Mr Pezzullo: No, it doesn't. We'll check for you.

Senator KIM CARR: That won't take long to check?

Mr Pezzullo: I doubt very much it will take very long at all.

Senator KIM CARR: We don't need to take it on notice then?

Mr Pezzullo: I'll check during the course of these proceedings, yes.

Senator KIM CARR: I'm interested to know whether there have been negotiations with Papua New Guinea about the assistance that might be provided to Papua New Guinea following the closure of Manus.

Mr Pezzullo: To properly answer that, a bit of context is warranted. We've discussed this part of the story in these proceedings before, so I'll just give you the summary form. Going back to the decision of the Papua New Guinea Supreme Court in, if I'm not mistaken, April 2016 in the judgement known as Namah's case, the Supreme Court found that the centre—as it was operating at that time, at least—infringed constitutional rights to be found in that country's constitution. It said that, as a result, ongoing detention of persons who were asylum seekers seeking to have their refugee claims determined was invalid. As a result of that, from April 2016—and I've given evidence on this before, so I'm just going to mention it without rehearsing it—discussions commenced under the rubric of the regional resettlement agreement, which I've mentioned several times this morning. Discussions arose in two parts: what had to be done immediately to render the centre safe in terms of the findings in Namah's case—it was opened; people were free to come and go; it ceased being a closed detention centre at that point—and what needed to be done ultimately to shut the centre once the great majority, if not all, of the asylum claims had been determined.
So there's been a discussion underway, minuted on our side and also evidenced in joint committee discussions between the two governments and officials of the two governments, about how we transition, in effect, away from this centre. That provided the background to the two prime ministers having their conversation in April. They settled on the date of 31 October. As I said, we'll check that that date was actually announced publicly, as opposed to simply being directed to officials. The period since April to now has been largely taken up with the logistics in two respects, one of which critically goes to your question and the other of which is relevant: how do we close the centre, decommission it and return it to its original state as best as can be accomplished?

It sits within a naval establishment, so there are costs and logistical requirements entailed there. Secondly, given the likely state of play with the case load—obviously the US agreement was known to us—the fact that a number of people, as I said in my statement, would've been found not to be owed protection and then had various review points discharged—so what happens with those people—and then, obviously, what happens with people who have been sent to Port Moresby, for instance, for medical treatment. All of those groups and subgroups have been part of this discussion and, yes, there has been discussion about what ongoing support will continue past 31 October—not in relation to the centre that's closing, but in relation to other facilities and establishments and processes.

Senator KIM CARR: I asked you if you could provide us with the types of assistance, so, clearly, I need to know the types of assistance. That was a fairly long answer that didn't go anywhere near the types of assistance.

Mr Pezzullo: It borders to the foothills of the answer; we'll now start climbing. There is the East Lorengau Refugee Transit Centre, East Lorengau being a township—

Ms Newton: It's about a 35-minute vehicle drive from the RPC.

Mr Pezzullo: A 35-minute vehicle drive—I've done that drive a couple of times myself. That is for persons who have been determined to be refugees who may or may not be in the— if I use the shorthand—US queue that otherwise will need to be resettled either in PNG, the US or other places. That accommodation is supported around Lorengau and with other establishments, which the deputy commissioner can speak to. Other persons are in Port Moresby and they're being provided support.

Senator KIM CARR: Can I have the numbers, please? How many?

Ms Newton: East Lorengau Refugee Transit Centre can accommodate 400 refugees. Other accommodation, West Lorengau House, will accommodate 300 refugees.

Senator KIM CARR: That's an additional 300?

Ms Newton: If required. We only need about 150 of those beds at this point in time. And Hillside House can accommodate 198 non-refugees, and we have about 150 to accommodate at this time. Service provision will include support for PNG for contract management of garrison support—so meals for non-refugees. Refugees will be provided funding to prepare their own meals and purchase their own food and other personal items. Security will be provided at all three facilities. Health care will be provided at East Lorengau Refugee Transit Centre. Other general support services will be also be provided to ensure ongoing support to
PNG in returns arrangements for refugees to return home or non-refugees that elect to return home.

**Senator KIM CARR:** So that's employment services, for instance?

**Ms Newton:** Yes, there are employment services incorporated into support services.

**Senator KIM CARR:** What's the total cost of that support?

**Ms Newton:** The total cost at this point in time isn't finalised because we're completing contracts at this time.

**Senator KIM CARR:** You must have some idea of budget.

**Ms Newton:** I'd estimate that it's somewhere between $150 million to $250 million for a 12-month period. That's dependent on how long PNG would like to have those services before they can transition to the Papua New Guinea government.

**Senator KIM CARR:** Thank you very much. You say contracts are being negotiated. Who are they being negotiated with?

**Ms Newton:** They're being negotiated with a number of different groups. I'm very happy to run through those. There is Paladin Solutions, a primary contractor for the East Lorengau transit centre. Health services continue to be provided by IHMS, and we have a contract with them until 28 February 2018. They are the current provider. Settlement services are with JDA Holdings, and that includes your comments associated with finding or assisting to find jobs, as well as providing funding for food and other support services. Site management is with NKW Holdings.

**Senator KIM CARR:** Are these contracts with the Australian government?

**Ms Newton:** Yes, they are at this time.

**Senator KIM CARR:** You say they'll go through for a minimum of 12 months.

**Ms Newton:** At this point in time, those contracts can actually be stopped at any particular time. That is currently being negotiated with each of those contractors. We're in discussions with PNG through the management committee that exists between the Department of Immigration and Border Protection and the immigration department in PNG. Our discussions relate to moving from the regional resettlement agreement to a future agreement in PNG.

**Senator KIM CARR:** Do you anticipate that these contracts will be taken over by PNG?

**Ms Newton:** They could be novated to PNG at a suitable time with agreement of both countries.

**Mr Pezzullo:** I think it's fair to say that they're being designed with that capacity, but there's no pre-existing agreement to that effect at this time.

**Senator KIM CARR:** The design principle would be that the Australian government provides aid or some other payments to PNG and then PNG then takes over the management of these contracts?

**Mr Pezzullo:** Beyond the period that the deputy commissioner is speaking of, we haven't reached final agreements on those questions.

**Senator KIM CARR:** What's your intention?
Mr Pezzullo: The intention is to honour the agreement that was struck originally through the memorandum of understanding and then the more detailed RRA, which is to support Papua New Guinea in the support they're giving us for as long as is necessary. Obviously, a number of factors are at play here. You're right about the design principle in general terms, but it's contingent on the pace at which the US program now goes—the US program, which no doubt we'll get to today. That kicked over on 1 October and the relevant executive authorities from the President have now been, as it were, activated to allow refugee cases to be adjudicated and for people to start travelling to the US—some 54 have gone, and about half of them have come from Manus. That will take some time, but it's not infinite and open-ended, either.

Senator KIM CARR: But you said the principle is, under the MoU, as long as necessary. Presumably, Australia has a duty of care for people they've sent to Papua New Guinea.

Mr Pezzullo: It's less expressed as duty of care. No doubt we can have that discussion through the course of the day. A mutual agreement was struck in 2013 to meet all reasonable costs.

Senator KIM CARR: I want to be clear, the Australian government has an obligation—

Mr Pezzullo: To meet all reasonable costs.

Senator KIM CARR: to meet all reasonable costs for as long as it takes.

Mr Pezzullo: Yes.

Senator KIM CARR: That's the principle.

Mr Pezzullo: That's the principle. How that is achieved, though, is through mutual agreement.

Senator KIM CARR: Are you now negotiating out what that means?

Mr Pezzullo: Yes, in practical terms.

Senator KIM CARR: Minus the people who are sent to United States or anywhere else.

Mr Pezzullo: Or anywhere else or who, indeed, are settled in PNG.

Senator KIM CARR: At this point, it's somewhere between $150 million and $250 million for a 12-month period.

Mr Pezzullo: That's the estimate, I think, the deputy commissioner is referring to.

Senator KIM CARR: It's a fairly broad estimate.

Mr Pezzullo: The variables relate to who's coming and going. It's actually quite a tight estimate, given the variables that we deal with. It comes with the lower cost.

Senator KIM CARR: The deputy commissioner has been more than reasonable. $150 to $250—

Mr Pezzullo: She's more than reasonable on nearly all the occasions I deal with her. In terms of the embedded costs that we have encountered thus far—just to assure this committee that we're very mindful of costs and value for money—the amounts reflect a considerable reduction in the costs of the annual program that hitherto we've had to fund and provision for.

Ms Newton: Senator Carr, if I can assist. It depends on the cohort remaining once the US process is completed as well as the number of non-refugees that choose to return home. At
this point in time we have about 52 refugees and non-refugees that have chosen to return home voluntarily with support. The final costs or agreement associated with PNG and Australia would be dependent on how many people remain in PNG. We have 35 settled at this point in time into the community. All of those factors may well determine that there's 100 people remaining in PNG, or 300 people remaining in PNG. We have also provided opportunity that, if refugees wish to go to Nauru, Nauru and PNG will facilitate that process.

Senator KIM CARR: I will come to Nauru bit in a minute. I understand that there have been some services contracted by the PNG government. Is that the case?

Ms Newton: The PNG government actually procures very limited services in terms of the current RPC. Australia funds the costs associated with Broadpectrum.

Senator KIM CARR: Are the international health and medical services contracted by PNG?

Ms Newton: No, they have been contracted by Australia.

Senator KIM CARR: By Australia?

Ms Newton: Yes.

Senator KIM CARR: So the report in The Guardian to that effect was incorrect?

Ms Newton: It may well have been.

Senator KIM CARR: It was 20 October.

Mr Pezzullo: What was the statement, Senator?

Senator KIM CARR: On 20 October there was a report that the international health and medical services had been contracted by the PNG government. You're saying that's incorrect.

Ms Newton: That's incorrect. It is a current contract that Australia has held for some time and will until 28 February 2018.

Senator KIM CARR: Is that procured through the normal processes by the Australian government?

Ms Newton: Yes, that's correct.

Senator KIM CARR: Is there any expectation that detainees will be self-managing medication?

Ms Newton: At the moment, they have received four weeks of their normal medication, like any other person in the Australian community, to medicate associated with whatever their care arrangements are, and it's articulated on their medication as to the requirement. Then, if they require further medication, they would return to the East Lorengau Transit Centre and see a doctor again for further medical requirements.

Senator KIM CARR: Are there psychiatrists available?

Ms Newton: Yes, we have a psychiatrist, a psychologist and health nurses, as well as counsellors. There are 14 in total in PNG at this time.

Senator KIM CARR: That would be available after the 31st?

Ms Newton: Those services will continue to be available.

Senator KIM CARR: Are they full-time?
Ms Newton: It is not at the regional processing centre. They will be available at East Lorengau Transit Centre.

Senator KIM CARR: Are they full-time?
Ms Newton: Yes, full-time staff.

Senator KIM CARR: They will still be funded by the Australian government?
Ms Newton: Yes, that is correct. We have a contract with them until 28 February 2018.

Senator KIM CARR: That's all part of your expectation, the funding envelope.
Ms Newton: Our current support services, yes.

Senator KIM CARR: Have you been able to establish whether the minister travelled to ... 
Mr Pezzullo: A note hasn't been put in front of me. Oh, here we go, magically a note has appeared. I'm glad you reminded me, Senator.

Senator KIM CARR: It's a shocking thing that the secretary doesn't know where the minister is. That is quite a serious problem.

Mr Pezzullo: On 1 September.

Senator KIM CARR: It was 1 September?

Mr Pezzullo: Yes, 1 September.

Senator KIM CARR: How long did he go for?

Mr Pezzullo: A day or so.

Senator KIM CARR: The note with tell you.

Mr Pezzullo: No, it doesn't, it just gives me the date of 1 September.

Senator KIM CARR: You don't know. In my experience the secretary always wanted to know where the minister was. You're saying there's a new policy in that regard, is that it?

CHAIR: No, this secretary trusts this minister to go by himself.

Senator KIM CARR: No, no, that is not quite what I meant.

CHAIR: It didn't apply in your case, Senator.

Senator KIM CARR: I will tell you, Senator, that's not the way it works.

Mr Pezzullo: I don't have a tracker on him.

Senator KIM CARR: No, but you would like to know where he is.

Mr Pezzullo: He'll advise me of his whereabouts as he sees fit.

Senator KIM CARR: Can you tell me how long the trip was?

Mr Pezzullo: I will check for you.

CHAIR: Have a better look at Yes Minister and find out what you're supposed to know.

Senator KIM CARR: I'm sure there would be other officials who would know where he was.

CHAIR: I will go to Senator Hume now.

Senator HUME: Thank you, Chair. A lot of my questions have already been answered. I just want to follow-up a little bit on the progress of the US arrangement. Can you provide us an update on that?
Mr Pezzullo: I can. The first group went under a particular dispensation. It was in the prior program year. The American program year goes from 1 October and it refreshes on 1 October. We're currently in their new program year. I'm joined by the acting deputy secretary for policy, Ms Geddes, and she can elaborate on that answer.

Just for the benefit of committee members, in broad terms what we've briefed before is that the US program is set at 1,250 places. The US administration, on several occasions, have advised that they intend to honour that in those terms. It was subject to the decision made by the President about the setting of their annual program. He has now done that. The President has determined the annual program to be 45,000, and we've been advised that the allocation for Manus and Nauru is a component of that program and that now they're in a position, with their new program year having been established, to start making what they call adjudication decisions. But beyond those broad parameters I will ask Ms Geddes to answer in detail.

Ms Geddes: The secretary is correct. The US has confirmed that the 1,250 is in the 45,000, so we anticipate that those people will progress through this fiscal year within the US, and 54, to date, have already travelled to the US.

Senator HUME: So 54 were in the previous year, ending 30 September?

Ms Geddes: They were. There was the executive order by President Trump, which was the executive order Protecting the Nation from Foreign Terrorist Entry into the United States. That put a ban on making decisions around refugees, but there was a waiver to that, and the waiver to that was where a pre-existing international agreement was already in place and when there was a genuine, bona fide relationship with someone in the US. The 54 came in under that waiver. Fifty-three of those came under the pre-existing international agreement, and one person had the bona fide relationship, so that's how they moved in the previous fiscal year.

Senator HUME: So 54 have left Nauru; is that correct?

Ms Geddes: No, it was 54 refugees in total, 25 from PNG and 29 from Nauru.

Senator HUME: And they were interviewed on Nauru or on PNG before they left; is that correct? Is that how the process works?

Ms Geddes: Yes. I will let my colleague answer that.

Ms Newton: I will run through the process that occurs. The US go to both Nauru and Papua New Guinea, to Manus at this point in time, to undertake interview processes. I'm very happy to step through how many of those have taken place.

Senator HUME: That would be terrific. Thank you.

Ms Newton: There have been 1,380 refugees referred to the resettlement support centre, 864 from Nauru and 516 from Papua New Guinea. Twelve hundred and thirty-three have attended prescreening interviews with a resettlement support centre—that's 778 from Nauru and 455 from Papua New Guinea. Eight hundred and thirty-seven have had their biometrics collected—that's 524 from Nauru and 313 from PNG. Seven hundred and thirty-one have attended second-stage interviews with US Citizenship and Immigration Services, 506 in Nauru and 225 in Papua New Guinea. And 259 have completed US medical assessments, 211 in Nauru and 48 in Papua New Guinea, with further assessments underway in PNG, which will be updated at a later stage, at the next Senate estimates.
Senator HUME: So let me be clear here: 1,380 were referred but the deal is that they will only take 1,250; is that right?

Ms Newton: Yes, that's correct, a maximum of 1,250.

Senator HUME: And 34 have already gone, but there is—

Ms Newton: Fifty-four have already departed.

Senator HUME: Sorry, 54 have already gone—

Ms Newton: Yes.

Senator HUME: so there are essentially just under 1,200 remaining, which they will take?

Ms Newton: That's correct.

Senator HUME: Will they take them all in this US financial year, up until 1 October next year?

Ms Newton: We've certainly had a commitment that we would anticipate that a large number of those 1,250 would be accepted this year, if they're going to accept that many people. But we certainly can't confirm that. That's a matter for the US to determine in terms of the total international refugee status and arrangements they're making.

Ms Geddes: Senator, if I may, I've just one point of clarification. The original agreement for the US resettlement stated at least 1,250. So the US may take more; they also may take less.

Senator HUME: How have you found this process, in dealing with US authorities, in this regard? Do you get a sense that everybody is working towards a common goal, that there hasn't been any reluctance or hesitation in working together?

Mr Pezzullo: Yes, it's reflective—I've been associated with the US alliance for 31 years in various programs and compartments. This, as always with our engagements with the US, is very frank, very deep, intuitive. We have meetings where we can finish each other's sentences. It's been both professionally warm and very collegiate.

Senator HUME: Are there other opportunities for Australia and the US to work together, in this immigration space, that you could potentially anticipate or enlighten the Senate on?

Mr Pezzullo: As we've given evidence before in earlier meetings of this committee, we've got a longstanding history of collaborating. Sometimes we will assist the US with resettlement out of Latin America. For instance, there might be policy reasons, in the way that we have policy reasons, where persons who are otherwise bona fide refugees or have humanitarian claims of various descriptions or family connections, so they come under permanent migration arrangements, for policy reasons—because of the way they've attempted to crossed border—can't be settled in the US but there's no other reason for preventing their resettlement or migration. So we will assist them.

We've spoken before in this committee about the agreements—most contemporaneously that we've struck with the Obama administration, for instance—to assist with people from Central America, Cuba and the like. I would see that collaborative spirit, that engagement, as a sort of twin imperative, of border protection on the one hand and humanitarian assistance on the other hand, continuing for as long as we are allies and partners.
Senator HUME: So you would characterise this policy as a particularly successful one in your department.

Mr Pezzullo: Yes. And, frankly, if more countries came together in the spirit of mutual collaboration—you've got to address these dynamics based on the dual imperative, that just because someone crosses your border or comes to your border, it doesn't give them, in our view and the US view is the same, automatic rights to determine where they settle. Once you give that lever up, the smugglers determine who goes where; the smugglers become the logisticians of the global refugee system. That, frankly, is something we should all avoid and seek to defeat. So we come together with the US, as we do with a number of other jurisdictions, to say, 'Let's separate out the humanitarian and refugee imperative. We'll treat those matters on their merits, but let's also factor in how a person has sought, in some cases illegally, to cross your border, not that being a refugee itself is illegal; it's the mode of arrival at your border that is potentially unlawful. So how can we work together to ensure that it's the state that is making these decisions and not the smuggler?'

CHAIR: These people in Manus and Nauru, does the Australian taxpayer pay them some sort of allowance and, if so, what is it?

Mr Pezzullo: They're provided with assistance in kind rather than monetary allowances, but I'll let the deputy commissioner spell the detail out. We have given evidence on this before, so it might just be a matter of summarising the—

CHAIR: If there is a monetary allowance, my question is: how long does it continue once they go to the US?

Mr Pezzullo: Yes, understood. It ceases, but I'll let the deputy commissioner speak to that.

Ms Newton: There is an allowance paid to people who are living in the community in PNG and it is proposed that those refugees in the regional processing centre at this time, as well as the ones in the East Lorengau Transit Centre and West Lorengau centre, will receive an allowance.

CHAIR: What is it?

Ms Newton: I'll just have to check the figures. I think it's about AS$174 a fortnight, or the equivalent in kina. That amount of money is for them to purchase food, all their normal day-to-day goods, clothing and support. They receive private medical care associated with not only the services we would provide through IHMS but also further care services for private care for a 12-month period. They receive all of their accommodation and electricity and other things incorporated into that.

In Nauru, similarly, those people that don't live in the regional processing centre receive an allowance to live in the community. That allowance is reduced according to whether or not they have a full-time job or are earning other income. That is assessed on a regular basis. I just have to find the details for you of what that allowance is.

CHAIR: So the $174 is in addition to medical care and accommodation, which includes food.

Ms Newton: No. The intention is that each of the refugees in those centres have full cooking facilities, fridges, hot plates and other things within their room areas. They have a communal living area and two or three bedrooms associated with that living area in East
Lorengau. The expectation is that they will undertake their own cooking. For some years now, those people have been offered a variety of food preparation and cooking classes to assist them with skills and being able to prepare their own meals.

CHAIR: How is the $174 and the other figure which you were going to get for me, which I assume is more than that, assessed? Is that assessed as being a reasonable amount for a person to feed themselves, clothe themselves and have other basic necessities?

Ms Newton: It's a figure that is agreed in Papua New Guinea by the immigration department, ICSA. It is consistent with what people in the local community would normally earn on average, so there isn't disparity between what community members receive and what the people living in the centres have to spend on a day-to-day basis at the markets and other locations.

CHAIR: That makes sense.

Ms Newton: If they're earning additional income, that would be taken into account if we become aware of them earning additional income within the community. The same occurs for Nauru, It is an agreed funding amount consistent with Nauru community costs and living allowances for local Nauruans.

CHAIR: Will those sorts of payments cease once they transfer to the United States?

Ms Newton: It's a matter for the United States as to the support program. But our payments would cease, yes.

CHAIR: There was a fairly well-publicised feature in The Courier-Mail and perhaps other newspapers about four detainees living a life of luxury, it seemed, on an idyllic tropical island. Can you tell me whether that's factual or whether it was photoshopped news? Do you know anything about it? Do you know what I'm talking about?

Ms Newton: The article where people were on holiday, potentially—a number of refugees?

CHAIR: Yes.

Ms Newton: I don't know the details. That's a matter for the immigration department in PNG to follow up with further details. But people on Manus are free to move around the island and in the general community there. If there was a local island that they moved to within the group of islands around Manus they are most likely able to do that. We find that a number of the refugees leave the regional processing centre for weekends, months sometimes, and weeks at a time—it varies.

Mr Pezzullo: But they have to have permission to come to the mainland. Is that right?

Ms Newton: Yes. They don't have a visa to leave the Manus area and they would need permission from immigration if they're going to, say, Port Moresby.

CHAIR: That's PNG immigration?

Ms Newton: PNG immigration, yes. Those that are transferred for medical purposes to Port Moresby have an agreed arrangement with, ICSA, the immigration department in PNG, to move. All of those moves or transfers of people are signed off by PNG.

CHAIR: And for those who have been found not to be refugees by the UNHCR, is it, or by—
Ms Newton: By Papua New Guinea. They undertake the refugee determination process.

CHAIR: Are they assisted by UNHCR, do you know?

Ms Newton: Not by UNHCR, but they're assisted by their legislation; they're assisted by Australia in terms of setting up their arrangements to make that assessment process.

CHAIR: And how many of those are presently still living in Nauru or Manus, or both?

Ms Newton: At the moment in PNG, we have 166 failed asylum seekers, and five in Australia that have been transferred on medical grounds. For the Nauru population, there are no failed asylum seekers at this time, but there are 284 that are still in the determination process.

CHAIR: And what's happening with those people?

Ms Newton: Those people are at various stages in the determination process.

CHAIR: No, sorry, the 166?

Ms Newton: The ones that are fully determined? They've been advised that they should return home and make arrangements to return home. They've been offered voluntary return arrangements. Six people to date have been returned involuntarily from Papua New Guinea to their home locations by the Papua New Guinea Immigration department.

CHAIR: With the 166, does Australia assist with travel arrangements if they agree to go home?

Ms Newton: Historically we've been assisting them with arrangements to return home, in helping PNG seeking papers for travel to occur. We will continue to undertake support for those services in Port Moresby after 31 October.

CHAIR: But do we pay the PNG government some money to assist them to get a plane flight home?

Ms Newton: Most of those people have actually returned home at this time on domestic aircraft. Those that have returned via alternative means, because Australia has had the lead in that responsibility to 31 October this year—we have undertaken the commitment for travel for those people and borne the cost associated with aircraft.

CHAIR: Sorry, can you—

Ms Newton: Australia has borne the cost of aircraft where somebody has been difficult and had to be returned to their home country.

CHAIR: For compulsory return?

Ms Newton: Yes, compulsorily returned.

CHAIR: And that wouldn't normally be on commercial aircraft?

Ms Newton: If it's compulsory and we recognise that there may be a major issue with a person's behaviour, we would look at the lease of an aircraft to return them.

CHAIR: Okay. But, for the 166, if they say, 'Yes, I'm prepared to go back to Myanmar' or to Sri Lanka or to the Middle East or wherever, who pays their airfare?

Ms Newton: We're paying the cost associated with those returns and will continue to support PNG in that process.

CHAIR: So that means we'd pay for the airfare and transit, hotel accommodation?
Ms Newton: That's correct.

CHAIR: Do we give them some money to tide them over once they land in their own country of origin?

Ms Newton: Assisted voluntary returns at this time cost US$25,000—that's the payment that is made for those persons to voluntarily return to their own country. At this time we've got 52 of those people that have chosen to return home voluntarily. All of those people we expect to have returned to their countries by the end of December.

CHAIR: And the $25,000 is a set figure?

Ms Newton: The figure is a set figure at this time but can actually change according to agreement by both the minister and cabinet.

CHAIR: And out of the $25,000, are the travel costs taken out of that, or is that in addition to travel costs?

Ms Newton: I think it's within the $25,000, but I'll just check for you and confirm that.

CHAIR: I've been away for a few weeks; are we still in the situation where no-one has entered Australia illegally since Operation Sovereign Borders was—

Mr Pezzullo: The last successful arrival that had to be dealt with by way of transference to Nauru, and that case remains the case, was the July 2014 arrival; that's right—so coming up to 3½ years.

Ms Newton: Chairman, I have the details for you, if you would like. For PNG, the payments are in kina, $320 per fortnight for persons in the community.

CHAIR: 320—

Ms Newton: Kina.

CHAIR: You said dollars.

Ms Newton: Yes, kina dollars.

CHAIR: Okay. Any idea what that means in Australian dollars?

Ms Newton: It's about 50 per cent—so it's around 160, in the vicinity of. I think the exchange rate is somewhere around 52 cents in the dollar.

CHAIR: Fine, that's close enough.

Ms Newton: And for those at East Lorengau Transit Centre, it is 100 kina per fortnight. For Nauru, those people in the community, in Australian dollars it is $100 per week per adult, $185 per week per couple, and $55 per child; and in the RPC, $55.

CHAIR: And those amounts are determined bearing in mind what the local population average receive as a wage or assistance from their governments; is that the basic principle?

Ms Newton: That's correct, Chair, and it has to be agreed by the governments in those countries that that amount of money is correct, in their view, to be paid.

CHAIR: Thanks for that. We will go back to Senator Carr for about 15 minutes.

Senator McKIM: Chair, just on a point of order, if I might. I'm seeking some clarity from you about the arrangements of this committee, given you indicated at the start you would be working in 15-minute blocks. However, Labor had half an hour in their first block, and the government has now had half an hour.
CHAIR: Sorry; the government has had 20 minutes. Senator Carr did have half an hour. It was my intention after Senator Carr to go to you, instead of going back to the government.

Senator McKIM: So you will come to me for half an hour, will you?

CHAIR: No, to come to you for about 15 minutes, which is what we're trying to do.

Senator McKIM: Yes, Chair. The problem—

CHAIR: Senator McKim, I was going to come to you next and, as you've done before, you could have come and asked me and I would have told you that. But if you want to make a major issue of it, well, let's have the fight now.

Senator McKIM: I came and asked you earlier and you said you would be working in 15-minute blocks.

CHAIR: Yes, well, I gave Senator Carr 30 minutes on the expectation that the government would have 15 and I would then go to you, which means you've got on at exactly the same time as you would have. Now unfortunately, the government—me—has gone five minutes more, so I'm sorry about that. But that's the way we are going to do it.

Senator McKIM: So you're coming to me now?

CHAIR: No, I'm going to Senator Carr for about 15 minutes, and then to you for 15 minutes. So instead of going back to the government after Senator Carr, I'm going to you. That's how generous I am. Senator Carr?

Senator KIM CARR: Can I ask, has the department established how long the minister—

Mr Pezzullo: Yes, it was a day trip on 1 September which, from recollection, was a visit to meet with the government—indeed, with the Prime Minister, as I recall it—after their election, which had at that point recently been determined with the return of the O'Neill government.

Senator KIM CARR: Thank you. And who from the department accompanied the minister?

Mr Pezzullo: I will check with the deputy commissioner. Did you go, Deputy Commissioner?

Ms Newton: Not with the Prime Minister, no.

Senator KIM CARR: No; on the trip.

Ms Newton: With Minister Dutton, yes; I attended with him for that meeting with the Prime Minister.

Senator KIM CARR: I figured that might be the case. Mr Secretary, is it usual for departmental officials to accompany ministers?

Mr Pezzullo: Of course; we are a full-service department.

Senator KIM CARR: Yes, that's right. You didn't send him off by himself?

Mr Pezzullo: Well, the minister can go where he pleases with whomever he pleases, but—

Senator KIM CARR: I'm sure he can, but it would be normal practice—that's why I'm surprised your memory needed prompting.
Ms Newton: My apologies, Senator, but I thought you were talking about our Prime Minister visiting.

Senator KIM CARR: No, your minister.

Ms Newton: If I had realised you were talking about the minister—

Mr Pezzullo: There was a degree of confusion. I'm sure it wasn't in the way the question was asked. I think the question was asked rather clinically.

Senator KIM CARR: Thank you. I take it the trip was on a VIP, was it?

Ms Newton: Yes, that is correct.

Senator KIM CARR: Oh, well!

Ms Newton: In fact, the minister caught a lift on the VIP to PNG and back with other ministers and other officials. We didn't have it booked for these purposes.

Mr Pezzullo: I think it was already deploying there, wasn't it?

Ms Newton: That's correct.

Senator KIM CARR: Who else was on the VIP? That would be all on the log—it's only a matter of time.

Mr Pezzullo: That one we will have to take on notice.

Senator KIM CARR: You can't remember who was on the trip?

Ms Newton: On the return trip it was the Minister for Defence. We actually caught the flight with the Army on the way up.

Mr Pezzullo: Always looking to cut costs, Senator.

Senator KIM CARR: I'm sure you are. The purpose of the trip?

Ms Newton: The purpose of the trip was to meet with Prime Minister O'Neill in regard to the decommissioning of the RPC by 31 October.

Senator KIM CARR: So administrative costs were discussed?

Ms Newton: Administrative costs in terms of ongoing support under the regional resettlement agreement will continue.

Senator KIM CARR: That was the purpose—to discuss those costs?

Ms Newton: The purpose was to discuss the closure by 31 October, as well as the ongoing intention of the regional resettlement agreement, and all of the services that were incorporated within that arrangement.

Senator KIM CARR: So the Prime Minister of Papua New Guinea was advised that the Australian government was going to honour the agreement and the broad parameters of that?

Ms Newton: That's correct.

Senator KIM CARR: He was advised that it would be in the order of $150-250 million over the next 12 months?

Ms Newton: No, he wasn't advised of that because we hadn't progressed at that point in time with contracts for ongoing support in PNG.

Senator KIM CARR: So what services was the Papua New Guinean Prime Minister advised would be provided?
Ms Newton: The Prime Minister in Papua New Guinea, Prime Minister O'Neill, understood that Australia would continue bearing the costs of all contracts associated with garrison support, security, general maintenance and management of the centre and costs associated with payments for people to prepare their own food and resettlement arrangements, and at any point in time, with agreement between the two governments, that contract arrangement could be moved to PNG's management.

Senator KIM CARR: And the Prime Minister of Papua New Guinea didn't actually ask you how much was involved?

Ms Newton: No, he didn't.

Senator KIM CARR: That's a surprise. Are you certain about that?

Ms Newton: We didn't discuss any funding whatsoever with the Papua New Guinea Prime Minister, about payments or how the contracts would be managed.

Mr Pezzullo: You asked about the travel, and we've given you that answer. I stated to you earlier that it is the Australian government's intention to honour its agreement. I think we are starting to get into ground where you're almost retelling the backwards and forwards of private diplomatic negotiations and discussions.

Senator KIM CARR: Sure.

But it wasn't a secret trip, was it?

Mr Pezzullo: My advice to this committee—and we will not be providing any further information, though I respect your right to ask the question in all different sorts of ways—is that the meeting was generally to discuss how to give effect to the decision of the two prime ministers, prime ministers Turnbull and O'Neill, to close the centre on 31 October, and all of the associated ancillary, parallel and complementary agreements you can take as read as having been part of the discussion, but we're not going to give you chapter and verse, if I may say respectfully.

Senator KIM CARR: Was the trip announced?

Mr Pezzullo: There might have been some publicity associated with it—I can't quite remember if there was a press release on the PNG side, but, again, that's something that can be checked, and we will check it.

Senator KIM CARR: Yes. I'm just surprised that your memory needed to be prompted. I can't recall a public announcement of the minister's trip.

Mr Pezzullo: I wouldn't rule it out—sometimes the Papua New Guinean side puts out a release, sometimes even if we don't put out a press release we might make commentary about it in subsequent media. Where I'm drawing the line, and I'm doing it as gently as I can and as respectfully as I can, is that we are not going to retail specifically what was discussed in private diplomatic negotiations. So please feel free to ask questions as you see fit, and we will answer at least—

Senator KIM CARR: No, I appreciate the point. I'm trying to understand why it is that the department has had so much trouble with its collective memory on this.

Mr Pezzullo: Oh, I wouldn't characterise it like that. We do lots of things, not all of which are about Manus, although a lot of them are. You asked me a question about when Minister Dutton last went to PNG. I refreshed my memory and we've given you the answer. I don't intend to dive into the specifics.
Senator KIM CARR: In terms of the phase-down, this is a matter of some controversy in Papua New Guinea. The Attorney-General has made a point of saying that it wasn't mutually agreed. You are saying that he was wrong.

Mr Pezzullo: No, I said you'll need to ask him what the basis of his statements was.

Senator KIM CARR: You're suggesting that the Prime Minister's statement clarifies that. We now have an understanding that there was a meeting between your minister and the Prime Minister—

Mr Pezzullo: No, I've given more emphatic evidence than that. I've stated to this committee with absolute certainty—and we discussed this last time when we met in May, I suspect—that the two Prime Ministers agreed in April that the centre would close on 31 October.

Senator KIM CARR: Yes, and that it was by way of press release; no formal agreement struck at that time.

Mr Pezzullo: You well know, Senator, as a previous serving cabinet minister, that agreements can be struck, correspondence can be exchanged, joint understandings can be minuted. Each evolution of the progress of a matter that you are collaborating in doesn't itself require a new treaty or a new legal instrument. You well know that, Senator.

Senator KIM CARR: In eight days' time, the Manus Island centre will close.

Mr Pezzullo: The regional processing centre, yes.

Senator KIM CARR: It will close. That part of the operation will close?

Mr Pezzullo: Yes. It will be returned to its permanent owners, the PNG defence force.

Senator KIM CARR: It will be part of the Navy base?

Mr Pezzullo: It has always been part of the Navy base. Its allocation for this purpose will cease.

Senator KIM CARR: It will be taken over as a defence establishment?

Mr Pezzullo: That's right.

Senator KIM CARR: In terms the phase-down arrangements—and I understand that Senator McKim has some issues he wants to pursue on that matter, so I won't cut across that—I would like to know how many asylum seekers or refugees or people that Australia has responsibility for are currently in the centre?

Mr Pezzullo: How many refugees are currently in the centre?

Senator KIM CARR: People we have responsibility for, people who have been found not to be refugees—how many people—

Mr Pezzullo: We don't have direct legal responsibility for any of them.

Senator KIM CARR: How many people are still in the centre?

Mr Pezzullo: We'll go over those figures again.

Senator KIM CARR: In the centre itself.

Mr Pezzullo: I understand. I think we may have articulated that before. I do apologise—

Senator KIM CARR: You've given the number of people who have failed in terms of their refugee application. How many people in total are still on the premises?
Ms Newton: 606.

Senator KIM CARR: And you expect all 606 to be off the premises by 31 October?

Ms Newton: Yes, that's correct.

Senator KIM CARR: What happens if they are not?

Mr Pezzullo: That will be completely a matter for the authorities in PNG. It's a naval establishment, so presumably the defence force has a say, the government generally has a say and the immigration and citizenship service agency has a say. It's not legally a matter for Australia.

Senator KIM CARR: They will be removed by force?

Mr Pezzullo: I have no idea what PNG intends to do, other than to say it's a matter for PNG. On the morning of 1 November, if anyone is there, they will be on a PNG naval establishment. I presume the ordinary laws of trespass apply. Again, I'm not an expert in their law and I'm certainly not a spokesperson for Papua New Guinea or what it intends to do in that eventuality.

Senator KIM CARR: In regard to the Manus Regional Processing Centre, what is the difference between that centre and the facilities that you're providing at the East Lorengau Transit Centre?

Mr Pezzullo: As was stated previously—I'll get the deputy commissioner to amplify this—the transit centre was purpose built, as the names implies, to be a transitional point, where there is the opportunity for collective cooking of meals and the like. People have been found to be refugees, they are on their way somewhere, so the amenity, I assume, is designed with that principle in mind. But I will ask the deputy commissioner to add to that answer.

Ms Newton: The services are much nicer at East Lorengau than in the regional processing centre. All the accommodation being offered is hard-walled accommodation. Each of the units that people will be living in in East Lorengau have a shared kitchen, a living area facility, as well as a number of bedrooms and a bathroom. They have washing machine facilities adjacent to the unit areas, as well as prayer rooms and other service areas where they can congregate and meet, and there are training facilities as well.

Senator KIM CARR: It is smaller; is it not?

Ms Newton: That centre is smaller because it's only there to accommodate approximately 400 refugees.

Senator KIM CARR: And you've got 602—

Ms Newton: At this point in time 606.

Senator KIM CARR: How are you going to accommodate the extra people, assuming you get them all to go?

Mr Pezzullo: There is also West Lorengau House, which is a facility being provided to refugees as well that will be able to accommodate up to 300 refugees if required. It has similar living conditions, single rooms—

Senator KIM CARR: You'll only want 150.

Ms Newton: We'll only need 150.

Senator KIM CARR: Of the 606, how many are refusing to move?
Ms Newton: All 606.

Senator KIM CARR: Why are they refusing to move?

Ms Newton: My understanding is that they're refusing to move because some don't like the idea of having to cook for themselves, to undertake some of their own cleaning and some are indicating concerns about safety. The safety provisions include fenced areas around each of the facilities.

Mr Pezzullo: If I can express a view on this. Those are some of the manifest factors. If the truth be told, there is a very vigorous campaign. These people are not prisoners; they've got access to the internet and communications. Their concern, frankly, is that by moving from the regional processing centre, and I don't know why they have come to this view, that somehow they're a step further away from ever coming to Australia. But that's the animating sentiment that sits at the heart of all this. As Australia has made clear, certainly the government of Australia has made clear from the Prime Minister and the minister down, it's the law of this country that those people will never come to Australia. In a sense, the sooner we get on with the sensible transition to new arrangements, whether they're going to the US, whether they're resettling in PNG, whether they're availing themselves of voluntary return or, ultimately, some may have to be compulsorily returned, it's important we all get on with our lives. It's important that those 606 men all make sensible decisions within that framework. Staying in the regional processing centre does not get you a step closer to coming to Australia.

Senator KIM CARR: Has the department booked any accommodation in Lorengau immediately prior to 31 October?

Mr Pezzullo: Accommodation for whom?

Senator KIM CARR: Have you booked any additional accommodation in hotels or motels?

Mr Pezzullo: For these men?

Senator KIM CARR: No. Has the department undertaken any out-the-ordinary bookings for accommodation?

Mr Pezzullo: For our staff?

Senator KIM CARR: For staff or anyone else?

Mr Pezzullo: I'm not aware of it. The Australian Border Force—and I should've been clear on this point prior to now—will cease its operations in support of PNG on the island as of midnight 31 October. Unless I'm otherwise advised, I don't see any need for any Border Force officers to be on island; therefore, they won't be needing hotel rooms. Whether there are people who do contract support and contract management support, I will let the deputy commissioner speak to that.

Senator KIM CARR: Are you able to enlighten me on this? Has any additional accommodation been booked?

Ms Newton: We have scoped various accommodation in the hotels on island, in particular to work with contractors on the arrangements for their contract staff to come in to perform the roles they will have at East Lorengau.

Mr Pezzullo: Are these Border Force officers?
Ms Newton: No, they are contractors.

Mr Pezzullo: Are these departmental officers?

Ms Newton: No departmental officers.

Senator KIM CARR: Has the department booked accommodation for the contractors?

Ms Newton: I'll have to check whether we have some accommodation booked. Potentially, we are looking at having contingency arrangements in place if all accommodation isn't completed by 29 October, which is the date we anticipate the accommodation to be completed. If for some reason it's not completed, we have been seeking additional accommodation to ensure that we have suitable places for every refugee to be accommodated post 31 October or by 31 October.

Senator KIM CARR: You've indicated that you've got accommodation of 400 beds available at the transit centre; there are an additional 300 beds available at a nearby centre; but now you're saying that you might need extra hotels as well. Are you saying that the accommodation, the 700 beds, aren't actually ready? They aren't actually available?

Senator McKIM: That's right.

Ms Newton: At this point of in time, no, all of those beds are not ready. We expect that they will be ready by the 29th.

Senator KIM CARR: You need to explain why they're not ready.

Ms Newton: The reason why they're not ready is because—

Senator McKIM: It can't take that long to clean a room. It's because they're making it up as they go along.

Ms Newton: we had a short period of time to actually secure suitable accommodation that Papua New Guinea are happy to locate people into. We have been working with the PNG government and immigration, citizenship and support services to actually ensure that accommodation is suitable in the Manus community for the people in Manus. We've booked 48—

Senator KIM CARR: You previously said there are 700 beds there. Are you saying there is not 700 beds?

Ms Newton: I'm saying that at this point in time, East Lorengau facility is fully operational and in place. For Hillside Haus, which is for non-refugees, we expect all works will be completed by 24 October. We're expecting—

Senator McKIM: That's tomorrow.

Ms Newton: Yes. And then—

Senator KIM CARR: When you say completed, do you mean to say—

Ms Newton: Full accommodation services with running water, sewerage, bedding arrangements in place.

Senator KIM CARR: You mean the plumbing is not hooked up.

Mr Pezzullo: Of course it is.

Ms Newton: They're in the process of finalising painting and other things at that location to ensure that it's suitable, because the accommodation hasn't been used for some time.
Mr Pezzullo: It's like when you're between tenancies. One tenant relocates—

Senator McKIM: It's nothing like that at all.

Senator KIM CARR: How many hotel rooms have you booked?

Ms Newton: We've booked 48 beds at lodges. They're multipurpose and could be included for refugees if required, or contractors as well.

CHAIR: Senator Carr, I'll have to stop you there. I am being urged by Senator McKim, by the commitment I made to him that I'd go to him after you. You've had about 20 minutes. Senator McKim.

Senator McKIM: I want to start by seeking to table a document which is an official translation of a notice that was handed out to some detainees on Manus Island. I have provided a copy to the chair and to the opposition.

CHAIR: The committee is happy for that to be tabled. I've had copies made for the Labor Party, for the government and for Mr Pezzullo, so he knows what you're talking about when you ask questions. Is that okay with you?

Senator McKIM: Yes, thank you.

CHAIR: Can you just make sure the secretary has that document.

Senator McKIM: While this is making its way to you, Mr Pezzullo, I'll just explain what it is. It's an official translation done by an accredited translation agency of a notice headed 'closure of Manus Regional Processing Centre'. I've blacked out the name, the boat ID and the date of birth of the person who received it. I want to ask you some questions about that. It touches on matters that you've already been discussing with Senator Carr.

Mr Pezzullo: Can I read it? I'll read it as quickly as I can. Well, Mr Chairman, noting that—

Senator McKIM: A point of order. I haven't asked any questions on it yet.

Mr Pezzullo: I'm just seeking clarity on the status of the document. This is to you, Senator McKim, but I'm sure the Chair will be alert to my question. To the extent that I recognise, if you will, the policy stance here, I'm happy for the deputy commissioner to answer what I suspect will be your line of questioning, noting that some of this has already been the subject of questions from Senator Carr, I suspect. But I do note that this is not an official document. It comes from a company that presents language services. I have no reason to think that the translator has done anything other than translate a document that was given to her in good faith. But I just do note for the record that this is not a document that I recognise as having any official status or standing whatsoever.

CHAIR: It would seem important that you ask your staff to see whether this sort of letter in Persian was actually written and whether your office has a translation. That way you can check whether this translation is an accurate portrayal of an official document that's gone out. That should be easy enough to do.

Mr Pezzullo: That should be easy enough to do. So I don't intend to allow my officers to respond specifically on the document in question. But to the extent—

Senator McKIM: It might not be your decision yet, Mr Pezzullo. You're at a Senate committee here, not a departmental secretary's meeting.
Mr Pezzullo: Understood.

CHAIR: Mr Pezzullo, it probably would be useful, because I assume Senator McKim wants to ask some questions on it, that if you're not certain of its authenticity, I thought it would be relatively easy to establish whether it is an authentic document or not. I'm not sure how long it would take you to get that. No doubt someone in the department is listening.

Mr Pezzullo: I suspect that we could easily establish that by the time of Senator McKim's next block of 15 minutes.

Senator McKIM: Chair, what I'm proposing is that I start asking my questions, which I haven't had an opportunity to do yet. We'll see where the conversation takes us.

CHAIR: That's fine, Senator McKim, but I assume from what the Secretary has said that his answer in each case will be, 'I'm not sure of the authenticity so I don't want to answer until I'm assured of the authenticity.' That may mean that you and the committee is wasting its time.

Mr Pezzullo: If I may—my apologies for appearing to interrupt—the other thing I need to check is whether the source document is an Australian government document, as opposed to a document of the government of Papua New Guinea. I would certainly not want to be answering questions in relation to a document, in relation to its authenticity, as we have mentioned, but also its provenance—whether it's a document of the Australian government.

Senator McKIM: Just to be clear, I've made no claim that it's an Australian government document.

CHAIR: Senator McKim, it's up to you to ask your questions if you like, but I'm assuming, and Mr Pezzullo has confirmed, that his answer's going to be, 'I don't want to comment on that until—'

Senator McKIM: With respect, Chair, it will depend on what my questions are. My suggestion is that we just get on with it.

CHAIR: Well, fire away.

Senator McKIM: Firstly, Mr Pezzullo, is it the case that after 31 October the facility that you describe as the Manus Island RPC, and I describe as Australia's Manus Island prison, will not have electricity or water?

Mr Pezzullo: It will be decommissioned as a regional processing centre and handed back to the Papua New Guinea Defence Force.

Senator McKIM: Will it have electricity or water?

Mr Pezzullo: I don't know what the PNG Navy's requirement for those buildings are, but I'll ask the deputy commissioner. Without referencing this document, because we have some questions about its provenance and authenticity, so put that to one side, what is the state of play with electricity and water?

Ms Newton: The regional processing centre as such will no longer have water or electricity.

Senator McKIM: Specifically, when will that be cut off?

Ms Newton: On 31 October.

Senator McKIM: Midnight on the 31st?
Ms Newton: Some time on 31 October, because the providers finish their contract on 31 October.

Senator McKIM: So the department has no knowledge whatsoever about what time on the 31 October that will occur?

Ms Newton: I haven't requested the time.

Senator McKIM: Do you have any knowledge was my question.

Ms Newton: I don't have a knowledge at this point in time—

Senator McKIM: Does anyone else?

Ms Newton: associated with when it's going to be cut off. I'm sure that we'd be able to receive advice as to the intended time for that to be cut off.

Senator McKIM: But you have given evidence that the department does have knowledge that the cut-off will occur on 31 October?

Ms Newton: That's correct.

Senator McKIM: By water, does that include all provision of drinking water?

Ms Newton: That is correct.

Senator McKIM: So if there's anyone left in the camp on or after 31 October, they will not have access to drinking water. Is that what you're telling the committee?

Ms Newton: What I'm telling the committee is that all services will stop on 31 October and all residents of the facility will be expected to live in the alternate facilities, where they will receive all services.

Senator McKIM: I understand what you're saying, but the question was specifically about drinking water. Could you confine your answer to that, please. When you say all services, that includes drinking water, does it?

Ms Newton: Yes. That includes drinking water.

Senator McKIM: Food?

Ms Newton: Yes.

Senator McKIM: Electricity?

Ms Newton: Yes, that's correct.

Senator McKIM: Sewerage?

Ms Newton: That's correct.

Senator McKIM: Hygiene facilities?

Ms Newton: That's correct.

Senator McKIM: Health support?

Ms Newton: That's correct.

Senator McKIM: Education?

Ms Newton: That's correct.

Senator McKIM: Trauma counselling.

Mr Pezzullo: All of which will be provided at those locations.
Senator HUME: Can I just clarify: all those amenities will be available in an alternative facility—is that correct?

Senator McKIM: No.

Ms Newton: Yes. They will be provided at other facilities—the three that we've already spoken about. East Lorengau will have full medical services.

Senator McKIM: That's right. The point is that all of those services are not available in all of the other three facilities, are they?

Ms Newton: Transport will be provided from the other two facilities to East Lorengau for medical services.

Senator McKIM: But at the other two facilities, neither of which are complete yet, just over a week before you say that basic human rights will be removed, and requirements for life—

Mr Pezzullo: If I may—

Senator McKIM: No, you may not, Mr Pezzullo. The way this works, Mr Pezzullo, is that I'll ask the question—

CHAIR: Senator McKim, can you ask a question, please?

Senator McKIM: Is it true that you'll be withdrawing the basic necessaries of life from the Manus Island RPC on 31 October?

Mr Pezzullo: You must have a GP clinic and an emergency ward next to your house, Senator.

Senator McKIM: The question is very clear, and it doesn't reflect who lives next to me. This is about 600 human beings who you are going to withdraw the basics of life from. That's what it's about.

Senator Cash: There are alternatives available to them, should they so exercise their choice.

Senator McKIM: Senator Cash, you're the one that admitted in the Senate that the Australian government was doing this. You're the one that admitted last week that the Australian government was—

CHAIR: Do you have a question, Senator McKim?

Senator McKIM: Yes. I'd like the question that I asked previously answered.

CHAIR: It has been answered.

Senator McKIM: No, it hasn't. Mr Pezzullo started talking about GPs living next to my house. That is as good an attempt to derail a Senate estimates inquiry as I've seen in my time here. Could you please respond to the question. Are the basic necessaries of life being withdrawn from potentially over 600 people on 31 October in the Manus Island RPC?

CHAIR: The question has been answered, in that other facilities will be available. That's quite clear from the answers from both Mr Pezzullo and Ms Newton.

Mr Pezzullo: Absolutely.

Senator McKIM: This question relates specifically to the Manus Island RPC. I will use your terms, so we don't get side tracked into a discussion about semantics.
Mr Pezzullo: Basic needs, by definition, will be met at East Lorengau and the two other establishments that the deputy commissioner referred to, whether it relates to food, water, medical treatment, access to counselling, access to educational and other services. As the deputy commissioner said, in some cases, if you need to jump on a bus I think they provide these buses to attend the clinic. My reference to the fact that we don't all live next door to a clinic is that it's not a withdrawal of someone's human right to not have a clinic next to where they live, so you need to drive to it. It happens in the first world as well.

Senator McKIM: Thanks for that little lesson about the first world. I may come to some of your thoughts about the first world later.

CHAIR: Do you have a question, Senator McKim. If you just want to insult officers, we'll move to someone else.

Senator McKIM: I have multiple questions. I can assure you I'm not going to run out of questions.

CHAIR: Please ask the question.

Senator McKIM: Given that I've asked one question and you've answered a question I didn't ask, I'll just ask again. Specifically in the context of the Manus Island RPC, you're giving evidence that the Australian government is aware that the basic necessities that support human life will be removed from anyone left there after—

Mr Pezzullo: I have denied that completely and resolutely.

Senator McKIM: So if someone's there after the 31 October, how do they access drinking water, for example?

Mr Pezzullo: They go to their government provided accommodation.

Senator McKIM: You're not listening to my question. I'll be very clear, because I don't want there to be any confusion here. I'm asking specifically in the context of the Manus Island RPC. In my previous question I specifically referenced anyone who might be there after 31 October.

Mr Pezzullo: If someone is trespassing on a PNG naval establishment, that itself is an issue which PNG, as I said to Senator Carr, will need to resolve in its own mind. Presumably there are issues around trespass there. They'll need to deal with that. In terms of what the Australian government is providing, which is what I'm responsible for, people have access to meals, they'll have access to a bed—I could rattle them all off. So any suggestion that we're denying them or depriving them of access to their basic needs and therefore infringing their basic human rights I reject utterly.

Senator McKIM: So you're saying that, if people are still in what is now the Manus Island RPC after 31 October, they will have access to drinking water, will they?

Mr Pezzullo: No.

Senator McKIM: So you're denying them their basic human rights.

Mr Pezzullo: They don't have a human right to trespass on a naval base.
Senator McKIM: They've got a human right to have enough water to keep them alive. I would be astounded if you disputed that.

Mr Pezzullo: There'll be plenty of places for them to access clean water at the accommodation—

Senator McKIM: The problem you have here, Mr Pezzullo—

CHAIR: Senator McKim, if you ask the question, at least do the officer the courtesy of hearing his response. Mr Pezzullo, could you finish your answer.

Mr Pezzullo: I've finished.

Senator McKIM: Are there arrangements in place for the PNG Defence Force to occupy the RPC site?

Mr Pezzullo: When you say 'to occupy', they are the permanent owners. It's been separated from the naval establishment now for—

CHAIR: The first question, Mr Pezzullo, is do you know?

Mr Pezzullo: Yes, I do.

CHAIR: You know what the PNG—

Mr Pezzullo: It's their establishment and they're intending to occupy their full establishment.

CHAIR: You know that?

Mr Pezzullo: Yes.

Senator McKIM: So this is the same Papua New Guinea Navy that fired over 100 rounds into the camp earlier this year, isn't it, Mr Pezzullo?

Mr Pezzullo: I'm not sure that all of those inquiries have been concluded.

Senator McKIM: In fact, your Border Force officers have given evidence to this committee that over 100 rounds were shot by the Papua New Guinea Navy into the Manus Island RPC—some from semiautomatic weapons and others from shotguns. We've also heard that a Toyota Hilux was loaded up and rammed into the gates so that they could get into the centre that way. This is the same navy into whose hands you intend to abandon anyone left in the RPC after 31 October. Is that correct?

Mr Pezzullo: You can impute whatever you want in your questions. It's a naval establishment and it will be returned to PNGDF authority and occupancy on 1 November.

Mr Pezzullo: You've just said that it will be returned to PNG defence occupancy, which is what the notice that I've provided you with a translation of says. What arrangements, if any, have you put in place to ensure the safety of anybody left behind at the Manus Island RPC after 31 October? I'm talking specifically about safety from the PNG Navy, which, in April this year, on Good Friday, fired over 100 shots into the centre and tried to ram a vehicle through the gates.

Mr Pezzullo: The first point is that they're not meant to be on a military base on the morning of 1 November. Second, the maintenance of public order and issues to do with trespass and the rest of it are matters for the Papua New Guinea Navy.
Senator McKIM: Ms Newton has just given evidence to the committee that she is aware that 600 people are refusing to leave.

Mr Pezzullo: They need to make their own decisions.

Senator McKIM: Ms Newton has already said that she is aware that over 600 people are refusing to leave, Mr Pezzullo. Don't you think you're risking a human rights disaster and potentially a mass loss of life here?

Mr Pezzullo: I think that's a rather colourful appreciation of the situation. I don't think it will entail a mass loss of life. I don't think it will entail the loss of life at all. PNG is very seized of these issues. It is thinking very carefully about how it might deal with what is regrettably attitudes that are being stoked and fuelled by troublesome outsiders who are encouraging these poor souls to—

Senator McKIM: Oh, please! Please! Just spare us the fake sympathy. You've been torturing them for four and a half years.

CHAIR: Senator McKim, we put up with your editorialising. We can allow the secretary to complete his answer.

Mr Pezzullo: I reject any assertion that this department has been torturing anyone. The only torture that I'm aware of is sometimes when we have to appear here.

Senator McKIM: I don't think torture is a laughing matter, Mr Pezzullo.

Mr Pezzullo: I don't know how to get through to you on occasions, Senator, whether it is by deft responses or by, frankly, sometimes highlighting just how silly these conversations can get.

Because we engage with them constantly, I know that the PNG authorities are well seized of the fact that there is a narrative—I will use that term, just to try to be as neutral as possible—that is encouraged that, if you move to one of these establishments that Ms Newton has indicated, somehow this is part of a trick and you're a step further from ever coming to Australia. I will just call it a narrative; I will be as neutral as I can, without at all being pejorative by way of any imputation.

It is challenging to deal with that narrative when people—because they are not detainees or prisoners; they have access to the internet and so on and so forth—are given the idea that if you just 'dig in'—and I'm trying to use very neutral phraseology—somehow the will of the Australian government or the Australian people, or through, I don't know, UN condemnation, somehow Australia will break and you will all come to Australia. That is what is animating the choices that people are making at the moment. It's regrettable and, through my evidence and testimony today, hopefully I can be as clear as I can that that will not deviate the government from its policy and that there is perfectly reasonable, appropriate, accommodation and other supports for the necessities of life that you mentioned earlier, available in alternative locations.

Senator McKIM: Mr Pezzullo, we've heard evidence today that the department is aware that about 600 people are refusing to leave.

Mr Pezzullo: For the reasons I've articulated.

Senator McKIM: Okay. On what basis are you making that claim? Have you spoken to all of those 600 people? Or is that just an assumption on your part?
Mr Pezzullo: No. It's more than an assumption. We get a lot of reporting from a lot of different sources and providers and people who interact. There is no doubt in my mind, I have a clear sense in my mind, that people at the centre have got, to varying degrees—again, I am going to try to be neutral here—of fixation that somehow, if they just persevere, stay in the centre, the will of the government—and the minister can no doubt speak for herself here; I don't speak for the government per se, but I don't see any sense that the government will change on this question.

Senator McKIM: So refugees have been murdered. Refugees—

CHAIR: Is that a question?

Senator McKIM: It is a preamble to a question. Yes, it is. Refugees have been repeatedly assaulted in the PNG community, including repeatedly attacked with machetes in the town of Lorengau.

CHAIR: What is the question, Senator?

Senator McKIM: I could go on about the dangers.

CHAIR: Yes, but what's the question?

Senator McKIM: The question to Mr Pezzullo is: is he rejecting entirely what on the face of it would be a very sensible notion that actually they're scared to leave the centre?

CHAIR interjecting—

Senator McKIM: You can laugh at death and machete attacks if you like, Chair, but I'm not going to join in. Mr Pezzullo.

Mr Pezzullo: Well, the contrary evidence that I see with the reports I get is that people venture into town and they engage in movement in and out of the centre today. That won't change. They will be engaged in the ability to move in and out of the East Lorengau centre. Ms Newton, I think, has the figures on how many people leave and come back into the centre. I can only deal with the evidence I have before my eyes, and no doubt you say the same thing. Ms Newton.

Ms Newton: Senator McKim, on average over the last eight months 189 residents of the centre go to Lorengau every day. That is around 4,640 per month.

Senator McKIM: How many have never come out?

Ms Newton: Never come out of where?

Senator McKIM: The RPC?

Ms Newton: I don't have those figures on me.

Senator McKIM: Do you have them?

Ms Newton: No, I don't.

Senator McKIM: Sorry—the department.

Ms Newton: I don't know whether or not I could get that detail.

Senator McKIM: So you have a situation, as is made clear in the translation of this notice that I've given you—and, by the way, I have the original Persian, and I've got the Farsi copy and in Burmese too, if you would like it. I've only had the Persian one translated, because they're all the same message at the end of the day.
CHAIR: Senator McKim, do you want to table the original document in whatever language which shows where it comes from?

Senator McKIM: I would just need to de-identify it first before I did that. I'm just informing the committee that I'm very confident of the ground I'm occupying here.

Mr Pezzullo: Sorry, Mr Chairman, through you, can I ask the senator—and perhaps this might ease discussions later—is the document de-identified for reasons you very properly allude to? Is it an Australian government document that we're talking about here?

Senator McKIM: I don't believe that it is, Mr Pezzullo, but it's a note that was given in various languages to detainees from various backgrounds who spoke those relevant languages. But I will make it clear that, contrary to the practice in the Senate of the last 4½ years, it was not posted in English on the noticeboards in the centre—which, of course, is interesting and, I would argue, suspicious. In any event, this translation that I've given you makes it clear that in fact only the East Lorengau transit centre accommodation is available at present, and we've had that confirmed by evidence.

CHAIR: Senator, what's the question?

Senator McKIM: I'm just coming to it, Chair. I'm not sure why everyone else gets a lengthy preamble and I don't, but that's a matter for you.

CHAIR: They're simply political statements, which are fine.

Senator McKIM: Well, it's not; it's a statement of fact.

CHAIR: These estimates are about asking officials questions and getting their answers, whether you like them or not. If you could ask the question, and I would ask the witnesses if they could reply as directly as possible to the question that's asked. I might repeat that, Mr Pezzullo. I'm asking the senator to ask questions, but I'm asking the witnesses to answer as directly as possible to the actual question. That way would help us all.

Senator McKIM: These questions go to what will happen after 31 October, depending on how successful your attempts to starve these people out of the regional processing centre are—or force them to move by denying them, for example, drinking water—which you have given evidence will occur.

Mr Pezzullo: Senator McKim, I will try to be direct, but accusations that we're starving people—

Senator McKIM: You're cutting off their food, Mr Pezzullo. How would you describe it?

CHAIR: Mr Pezzullo, the way to answer that—if I could suggest to you, and it's not for me to give evidence—is to say, 'That is simply not correct.' Senator McKim can ask you whatever he likes as a question, but you could just say, 'That is not correct.'

Mr Pezzullo: It just means there are many layers that I have to give to my answer.

CHAIR: You've already answered these, I have to say, but now might be an appropriate time to go to morning tea until, say, 11.25.

Proceedings suspended from 11:07 to 11:25

CHAIR: We will resume. We're dealing with the Department of Immigration and Border Protection.
Senator GRIFF: Ms Newton, earlier today, you mentioned the contract with IHMS will cease on 28 February 2018. How is the department ensuring the men on Manus will have access to ongoing medical and, particularly, psychiatric care once the contract ceases?

Ms Newton: Obviously, there'll be an additional contract post-28 February 2018. That's still a matter for PNG and DIBP to work through in terms of who owns that contract.

Senator GRIFF: You're ensuring, as part of this, that the full services—mental health, for example—will continue and there'll be no break in treatment at all?

Ms Newton: No. We would expect that services will continue. Whether it continues to be IHMS or somebody else, a new tender process will go forward for contracts.

Senator GRIFF: Has a replacement been appointed following the resignation of the Chief Medical Officer and Surgeon General?

Ms Newton: No, a replacement hasn't been finalised at this time.

Senator GRIFF: Where are you at with that process?

Mr Pezzullo: I'm probably best placed to speak to that. You weren't here for the earlier proceedings, but with the move to a Department of Home Affairs, I will need to give consideration to whether the department proper needs to engage the services of a chief medical officer at that level of seniority, whether the relevant matters are more particularly ones that ordinarily would be dealt with by the Australian Border Force on a day-to-day basis. The acting commissioner and I are in discussions about that. Then there's a second factor to consider, and that is the health services assessments that pertain to the visa issuance program. Visas are issued by the department, so the department will need a degree of medical service support and advisory support.

Rather than going for a straight one-for-one filling of that position, we're taking the opportunity of the vacancy being currently on our books to think it through. Obviously, there are people who act and who act with delegation, so the position is never vacated. In terms of permanent occupancy of the position, the acting commissioner and I are working those issues through as to what Home Affairs will require, noting that Home Affairs—once it's established—will be the immigration authority, so it will issue visas. There's a health services and medical advisory capacity required to support that function. Then the Australian Border Force, because it runs detention operations and the like, will also require the services of a surgeon general. How we fill that position is the subject of ongoing discussion.

Senator GRIFF: What were the reasons for the apparent sudden resignation?

Mr Pezzullo: When you say 'apparent sudden resignation', as I have cause to caution other senators, you shouldn't believe what you read in the papers—all the time, certainly. Dr Brayley chose to explore other opportunities and do other work. He and I were in discussions for quite some period of time about his views about the next phase of his career. It was done in a very respectful, collegiate and collaborative fashion. There was certainly nothing abrupt or surprising to me in where we got to in the end.

Senator GRIFF: With his departure, who's currently supervising the offshore health service provision and urgent medical transfers?

Mr Pezzullo: I'll ask the deputy commissioner to speak to what the acting arrangements are.
Ms Newton: First Assistant Secretary Elizabeth Hampton is currently overseeing medical services and calling upon our health service panel, with various doctors with different skill sets according to the requirements, to provide additional services and advice when required.

Senator GRIFF: With regard to mental health treatment, what are IHMS's obligations for offshore detainees who are arrested in PNG? For example, do they continue to provide medical health care while they're in custody?

Ms Newton: Whilst they are in custody, no, they wouldn't enter into the facilities and provide ongoing support.

Senator GRIFF: How would that support be provided?

Ms Newton: It would be provided by PNG, through their police force and the services that they have available.

Senator GRIFF: And you're confident that the level of care, if you like, will be as good as should be expected with IHMS?

Ms Newton: IHMS is a contractor that works on behalf of Australia's government. PNG and the police force there would be providing local services.

Senator GRIFF: I understand that women on Nauru who request an abortion are now being asked to first seek approval through the Republic of Nauru Hospital rather than the ABF, as previously happened, and, since that change was made, no women have been approved for the procedure, because abortion is illegal in Nauru. Is that the case?

Ms Newton: No. That's incorrect.

Senator GRIFF: Are there any other medical procedures for detainees on Manus or Nauru that have undergone a change in approval process at all?

Ms Newton: No. They haven't at this point in time. People still transfer to PNG for some medical arrangements. There have been transfers to Australia for medical arrangements and services that couldn't be provided in Nauru, and we continue to work with other medical support in country or in a third country, as required.

Senator GRIFF: I'd like to refer back to answers to questions on notice from the budget estimates in May, where I asked the department to provide details of how many data-matching requests for unlawful noncitizens have been made to the ATO.

Mr Pezzullo: I'm terribly sorry; I missed that—pertaining to what?

Senator GRIFF: It related to how many data-matching requests for unlawful noncitizens have been made to the ATO. In response, the department said that the ATO provides possible matches for 15,000 people each quarter. However, I put the same question to the ATO and was told that they provided the department with 71,000 matches in August last year and over 66,000 in November. How would you explain the significant discrepancy?

Mr Pezzullo: I would have to look at both—I assume that the question was the same, because—

Senator GRIFF: It was the same question.

Mr Pezzullo: I assume you provided it. I'd have to look at the wording of the answers as to whether there were any preambular conditions, qualifications, statements that would give
me some context as to what the basis for those numbers is. I'm happy to, perhaps over lunch—

Senator GRIFF: On notice.

Mr Pezzullo: I will look at the two answers side by side and no doubt get some advice. There's always a way to explain statistics one way or another.

Senator GRIFF: I appreciate that. The department also advised that there are approximately 64,600 unlawful noncitizens in Australia. You have advised me in previous hearings that this number is fairly constant. However, according to the ATO, the department regularly makes about 85,000 data-matching requests for unlawful noncitizens. What would you see as being the discrepancy between—

Mr Pezzullo: Sorry; over what time period?

Senator GRIFF: It's 12 months.

Mr Pezzullo: Again, I'll need to look at the relevant documents side by side to make sure that I'm understanding fully the context and therefore not misleading you, but I'm assuming that the number, or the stock, as we describe it, of unlawful noncitizens who are here beyond the expiry of their visa—that's approximately 65,000?

Senator GRIFF: That's right.

Mr Pezzullo: Sorry; if you can assist me—64,000 and some few more on top of that?

Senator GRIFF: It was 64,600, but they are saying 85,000.

Mr Pezzullo: Let's call that 65,000. That is the stock of people. But, if I could put it in these terms, the actual number of humans—because it's a flow as well, not just stock who transition in and out of that state—is always going to be a greater number. That is because every day someone leaves. But every day, regrettably—and this is where the Border Force earns its salary—people extend or overstay by a day. So you might have the number not vary. If today I'm an unlawful noncitizen who's overstayed their visa but as a matter of conscience or because I have otherwise been directed I leave, but then another person today clicks over into that category, two human beings have the status of being unlawful noncitizens but only one is counted in the stock, if that makes sense. Therefore the data matching might well relate to a number of persons greater than the stock of 65,000 because there are people, in some cases—and I think we've given you evidence to this effect before—who have been in that category for years. We know that because of the entry and exit data. So we know that someone came and haven't left. They might be dead, they might be living under an assumed identity or they might have changed their name. That's one category. It goes right through to someone who over stays for a day. Maybe they didn't look at the date on their visa. They are technically unlawful for that one day, but if they catch a flight and leave then they're lawful. It's a stock-and-flow concept that we're dealing with here.

Senator GRIFF: Could you also provide, while you're looking at that, updated figures on the duration, visa type and nationality of the overstayers in 2016-17?

Mr Pezzullo: I thought we provided information on the breakdown, but perhaps it wasn't as you have requested. I might just seek the assistance of the acting commissioner.

Mr Outram: Going to the secretary's point, it's not a fixed group of people at a point in time. So data about how long they've overstayed isn't simple. What I can tell you is that, as at
30 June 2017, there were an estimated 62,900 unlawful noncitizens. We rate that about 99 per cent of the more than 7.1 million temporary entrants comply. So one per cent don't. Some of those might overstay by a day or a couple of days et cetera. To break that down for you in visa types, there were 46,030 visitors, 9,360 students, 2,270 temporary residents, 1,690 working holiday visas, 300 bridging visas, 280 on bridging visa E, 20 migrants and 2,930 who have been classified as 'other'. That gives you a sense of the breakdown. In terms of how long each individual in that group has overstayed by, that would be quite a lot of data to pull together. It's obviously a big group of people.

Senator GRIFF: And the nationalities?

Mr Outram: I don't think we've got that to hand. We'll have to take that on notice.

Senator GRIFF: That would be appreciated. I'd just like to refer—

Mr Outram: Excuse me, Senator. We may have some information on that.

Mr Williams: I can give you the top five nationalities—Malaysia at about 15 per cent, China at about 9.5 per cent, the US at eight per cent, the UK at 5.6 per cent and India at 4.1 per cent.

Senator GRIFF: Has that changed in the last 12 months?

Mr Williams: It would have changed a little bit, but I don't have that detail. I can that take on notice.

Senator GRIFF: Okay, thank you. Just moving on a little bit from that particular question, I'd like to refer to the department's move to deliver that new automated border clearance solution for passengers arriving at international airports, using facial recognition. Is facial recognition technology proven to be able to more accurately identify travellers or is it more about speed and efficiency?

Mr Pezzullo: Both is the short answer. The acting commissioner may wish to speak to this in detail. If we really want to get into some of the technology related issues, I might just need to arrange for officers who are not here presently to be summoned. Why don't we start with the acting commissioner.

Mr Outram: It is both. Firstly, it's far more effective in terms of facilitation. If you look at the queues, say, in Sydney Airport where we've introduced outbound SmartGate technology, there's been a significant impact on the flow of passengers through the primary line. It speeds things up significantly. Secondly, it enhances our biometric capability. The photograph, the details contained within the passport and the face of the actual person, of course, are captured by the SmartGate itself. There's more accurate checking there. It's actually far, far more accurate and reliable than the human eye.

Senator GRIFF: I'll have further questions later.

Senator KIM CARR: I might follow through on some of the questions that Senator Griff was asking about the resignation of the Chief Medical Officer. Mr Secretary, you categorically stated that the Surgeon General of the ABF resigned for personal reasons to do with his own career.

Mr Pezzullo: Yes. He and I discussed the matter, so I've got direct personal knowledge of this.

Senator KIM CARR: That's what you've said. He gave prior notice, did he?
Mr Pezzullo: Yes, noting that, as I said to Senator Griff, Dr Brayley indicated to me at some point prior to that that he was thinking about alternatives or, in effect, thinking about moving on. I asked him to continue to contemplate that. I was very grateful for his service and his support to me as secretary and the way in which he could break down very complex medical and health issues into terms that were certainly comprehensible to me. I told him I would be, frankly, sorry to see him go. He went away and contemplated that and came back to me. In giving me relevant notice, whether I gave him some discretion to leave more immediately because other opportunities were arising I can't quite recall. I'd need to check that. But, again, as I said to your colleague, he and I had been in discussion for a period of time and so his decision in the end to leave the department did not come as a surprise to me.

Senator KIM CARR: So it wasn't abrupt?
Mr Pezzullo: No.

Senator KIM CARR: When did you brief the minister?

Mr Pezzullo: I'd have to look at that. In fact, I'd have to recall whether I mentioned it to him in passing, because these are matters for the department. It's not really a matter for the minister. Whether I mentioned it to him in one of our regular meetings or whether I gave him written advice, I'll need to check.

Senator KIM CARR: I would have thought the resignation of the Chief Medical Officer would be a matter for the minister.

Mr Pezzullo: I don't see why. It's a departmental role. The employment status of the officer is not a statutory one. He is an employee of the secretary of the department.

Senator KIM CARR: So the statutory obligations are not set down in legislation?

Mr Pezzullo: They are an Australian public servant—that's right. Obviously the exercise of delegations and powers, as for any officer, flows through the secretary. But, no, it's not a position—

Senator KIM CARR: The Chief Medical Officer and Surgeon General of ABF is just a normal public servant. Is that what you're saying?

Mr Pezzullo: They are an Australian public servant—that's right. Obviously the exercise of delegations and powers, as for any officer, flows through the secretary. But, no, it's not a position—

Senator KIM CARR: It's just on a normal delegation from the secretary. That's the point you're trying to make.

Mr Pezzullo: Yes, it's not a position specified in legislation.

Senator KIM CARR: So the fact you've now appointed the first assistant secretary as acting Chief Medical Officer and Surgeon General of the ABF is consistent with that, is it?

Mr Pezzullo: It is, insofar as the role obviously requires management and administration as well as medical advising. The management and administration, Ms Hampton can deal with.
She's not a doctor, so she relies on a panel of health specialists, as Deputy Commissioner Newton indicated, and doesn't provide me with medical advice obviously.

**Senator KIM CARR:** Ms Hampton has no medical qualifications?

**Mr Pezzullo:** No. She relies upon a panel of medical advisers.

**Senator KIM CARR:** How many members are on the health advisory panel?

**Mr Pezzullo:** That I will need to check. I'm sure that someone can advise me, if not immediately then within today's proceedings.

**Senator KIM CARR:** Has there been an increase in the number of people on the—

**Mr Pezzullo:** I think that Dr Brayley did a terrific job in, as I recall it, broadening out and standardising the terms in which that panel is constructed—I don't mean 'terms' in a commercial sense, but in getting subspecialties—and I know that panel has evolved in recent times. I would just need to refresh my memory. We have specialties and subspecialties covered.

**Senator KIM CARR:** But you have a non-medical specialist now as the Chief Medical Officer and Surgeon General.

**Mr Pezzullo:** No, the position is split into two roles. There's the head of the division, who is a first assistant secretary of a Public Service division, if you will, which Dr Brayley—

**Senator KIM CARR:** That is the Children, Community and Settlement Services Division.

**Mr Pezzullo:** That's right, and there's another division called Health Services Division, of which Dr Brayley was the first assistant secretary. That's a general administrative role; and you don't need to be—it's like health administrator in a hospital, where you don't need to be a doctor; you need to be able to administer a function. Whilst we go through the discussions, which I indicated earlier to Senator Griff, of what specialised in-line full-time medical specialties both the Department of Home Affairs and the Australian Border Force will require, Mr Outram and I have decided not to rush to that, and that's the best way to describe that.

**Senator KIM CARR:** You're certainly not rushing it.

**Mr Pezzullo:** We have other officers, both in-line and contracted, who provide—at some point, unless you put a doctor in charge of the whole department, a medical specialist always has to advise a generalist, whether it's a deputy secretary, a FAS or a secretary. In this case—

**Senator KIM CARR:** I understand what you're saying, Mr Pezzullo, I want to know how many people are on the panel.

**Mr Pezzullo:** I thought I was being not entirely clear.

**Senator KIM CARR:** The more you talk, the less clear you become. I would like to know how many people are on the panel. I would have thought the person who is the chief medical officer should have medical qualifications.

**Mr Pezzullo:** I can assure you that the permanent occupant of that position will have. The panel consists of 12 practitioners, and we also have a number of SES officers who are also medically qualified. I need to remind myself of the detail of that. The 12 panel members, who are not my employees—they're empanelled—come from a variety of clinical backgrounds across all of the areas that you would—
Senator KIM CARR: They're medical specialists.

Mr Pezzullo: Yes, in various fields.

Senator KIM CARR: There have been a further three resignations of senior medical staff on Nauru. Is that correct?

Mr Pezzullo: On Nauru?

Senator KIM CARR: Yes.

Mr Pezzullo: We don't have doctors on Nauru ourselves as a department. Whether the contractors have, perhaps Ms Newton can assist me here. Whether staff on Nauru who are contracted have moved onto other employment, I don't know. We'll wait for Ms Newton to return. Just as a general chapeau comment, I can advise that non-medical generalist public servants—I say that neutrally—provide great administrative support, but they don't make medical decisions nor do they provide medical advice.

Senator KIM CARR: Is it true that there have been three senior medical personnel on Nauru who have resigned?

Ms Newton: The Australian Border Force or the department doesn't actually employ health professionals on Nauru. That's a matter for IHMS, the provider.

Senator KIM CARR: Okay. Have there have been three people associated with the provider who have resigned?

Ms Newton: I'm aware of one person who has left employment, but I'm pretty sure it wasn't a resignation. It was a request for that person to leave.

Senator KIM CARR: So they've left the island?

Ms Newton: That's correct.

Senator KIM CARR: Was that person attacked with a knife?

Mr Nockels: Senator, I can perhaps assist here. IHMS delivers primary health care on both Manus and Nauru through the contracts the Commonwealth has with them. We would expect IHMS to manage staffing as required. There's always coming and going at all levels across IHMS. So I'd have to go back and check, exactly, in terms of numbers in the last six months, who has come onto island and who hasn't, and who's not returned, because staff rotate on and off on a regular basis. I'd have to go back and check. I think you're referring to a senior doctor who, I think, resigned recently, and that could be in the last couple of months so I'd have to go back and check on that.

Senator KIM CARR: My question goes to the media reports suggesting that there have been a number of departures. We can quibble about whether they've resigned or requested transfer, but what I'm saying is they're not available.

Mr Nockels: They're replaced. If someone were to resign from IHMS or seek to move to a different contract that IHMS might be managing, we have an expectation that the service provider would continue to deliver the footprint that we require of them under the contract. It would be their responsibility to ensure that someone appropriately trained to take on the role would be found to fill that position.

Senator KIM CARR: So you'll be able to tell me how many people. Is that a matter that is readily at hand?
Mr Nockels: We'll take that one on notice.

Senator KIM CARR: What I'd like to know is whether it's readily available here today.

Mr Nockels: I don't have those details with me at the moment.

Senator KIM CARR: If you could find that out today, it would be appreciated; if you could just check to see if it's around.

Mr Pezzullo: We'll take it on notice—

Senator KIM CARR: The trouble is, 'on notice' means we'll have to come back in February.

Mr Pezzullo: Possibly. I was about to say we'll take it on notice but if we can acquit it today we will.

Senator KIM CARR: On Manus, are there many medical positions that are unfilled?

Mr Nockels: Off the top of my head, I think we have a full complement there at the moment.

Senator KIM CARR: So you'll be able to tell me how many positions, what the turnover is on Nauru this calendar year. Perhaps that might be the best way to deal with it.

Mr Nockels: Calendar year, up until today?

Senator KIM CARR: Yes. There is this issue about the overseas medical referral committee that has to actually approve medical transfers. Is that the case? Is there a new process in place?

Ms Newton: There's an ongoing process that's in place for referrals to take place from the provider, which is ICSA, through to Australia.

Senator KIM CARR: How long has that process been operating?

Ms Newton: For quite a long period of time. I'd have to check on the date that it actually commenced but that process hasn't changed.

Senator KIM CARR: Who has the final say about whether or not people are transferred to Australia or anywhere else for medical purposes?

Ms Newton: That comes back to the department. There's a clinical advisory team within Health Services and Policy Division, and reviews of the incident—or, if somebody's ill, the assessment via the medical movement—will come to that group for assessment and decision, incorporating clinical advice about the case for consideration by the transitory persons committee.

Senator KIM CARR: How many requests have there have been in the last few months?

Ms Newton: How many months would you like information on?

Senator KIM CARR: What do you have in your folder? Tell me how many you have in front of you.

Mr Pezzullo: We're not giving you our folders.

Senator KIM CARR: We can go through this the long way or the short way. You've been very helpful this morning. You went through the list of contracts and it's saved us all a lot of time.
Ms Newton: Medical transfers from 1 May to 30 September, via air ambulance, were four. That might also be from Manus to Port Moresby.

Mr Pezzullo: Are those requests? I think the senator was asking about requests. Senator, could we just be clear about the question?

Ms Newton: These are actual transfers.

Senator KIM CARR: Were those four initiated by patients or by the medical staff?

Ms Newton: By medical staff, through IHMS. They actually have to be initiated formally through a medical process.

Senator KIM CARR: There's a particular issue in regard to terminations. Were there any involving terminations, in Nauru?

Ms Newton: Yes. Three refugees have been transferred for termination of pregnancy, between 1 May and 30 September, and one transferee—for the same reason: termination.

Senator KIM CARR: Who makes the decision on those matters?

Ms Newton: I will refer that to Mr Kingsley Woodford-Smith, because he's the final decision maker.

Mr Woodford-Smith: Referrals from IHMS or the governments of Nauru or PNG go to a transitory persons committee for review, and then that recommendation is made to my position, who then authorises the transfer to a third country, to Australia—whatever it may be—depending on the circumstances—

Senator KIM CARR: So you make the recommendation?

Mr Woodford-Smith: No, I make the final decision.

Senator KIM CARR: Sorry, the decision. Do you make it on the basis of medical advice?

Mr Woodford-Smith: That's correct.

Senator KIM CARR: Only on medical advice?

Mr Woodford-Smith: That's correct.

Senator KIM CARR: Have you refused any?

Mr Woodford-Smith: There would be cases that I have refused at different times, and that's simply because the medical help or support has actually been able to be brought to that particular country.

Senator KIM CARR: So, the local medical team have actually recommended a transfer and you have said, 'I would rather bring personnel in to the patient'?

Mr Woodford-Smith: Absolutely. The key issue for us is achieving the medical support and the medical care, and there's many ways to do that.

Senator KIM CARR: How many times have you done that?

Mr Woodford-Smith: I can't tell you right now how many times that particular occurrence has occurred.

Mr Pezzullo: We'll have to come back to you on that.

CHAIR: We'll leave that there. Senator Hume.
Senator HUME: I want to ask some questions about Operation Sovereign Borders, but, before I do, can I go back to the closure of the Manus RPC. I'm trying to wade my way through Senator McKim's politically motivated melodrama. For the sake of clarity for me, can you please confirm that this is not some secret plan? The move from the RPC to the East Lorengau Refugee Transit Centre has been an entirely transparent process and it's out in the open, yes?

Mr Pezzullo: The two prime ministers, just to briefly recap, came to agreement on or about 8 April, I think was the evidence stated before. At about the same time, both the minister publicly, and the service providers privately, were advising the residents of the intended closure date, being 31 October. Over the course of—Ms Newton will help me out here—April, and May, I do recall, an enhancement of and intensification of that messaging occurred, saying, 'This is what is going to be happening. There will be a transit centre here and there will be other accommodation, depending on your status,' because there is a differentiation here between refugees finally determined, those found not to be owed protection, those who have taken up assisted voluntary return pathways, those who are refusing to return, even though they have been found to be not owed protection—so there are different categories of people. And I think that Ms Newton is right to say that that messaging has been occurring fairly consistently, if not from April, then certainly from about May. Is that right?

Ms Newton: From 15 May people formally got notification, in the regional processing centre, from the Immigration Department in PNG that closure would take place—alternative options that would be provided to people. That has occurred on a continuous basis in every language that is used within the centre, with flyers to individuals, as well as room allocation and specific directions to each person in the centre as to where they will be accommodated and what services will be provided to them in the future. There's also been meetings held with Immigration, residents in the centre, and those people who are the opinion leaders in the group, to discuss how we can encourage people to move from the centre, as well.

Senator HUME: Let's be very clear about exactly what services are available at the new ELRTC. Obviously, there is food, yes. There are medical services. There is obviously electricity and water; what else is there?

Ms Newton: Yes, electricity, water, medical services, and full accommodation arrangements will be in place, air conditioning, in a number of instances, as well as those people having vehicle services or bus services to move them into town as they need to move into town, and full security services.

Senator HUME: Are the services as good if not better than they were at the RPC?

Ms Newton: Yes; in fact, all of the accommodation is hard-walled accommodation, in comparison to some in accommodation at the moment that are in marquees.

Senator HUME: So in the department's view, are there absolutely no concerns whatsoever with either the security or the provision of services at the new transit centre?

Ms Newton: No, we're ensuring that all of those people have adequate services to continue on with their lives and to make decisions about their future.

Senator HUME: What, then, are the alternatives for those who are at the RPC? If they can't stay there—clearly—and they can't come to Australia, where can they go?
Ms Newton: There are no other alternative services. People can choose to go home, back to their own country; particularly those that are non-refugees are more than welcome to nominate to return home. Those offers are being made at the moment to assist those people in moving home if they wish to go. Also, Nauru is another option—refugees are being asked if they're interested to go to Nauru while they await any outcomes associated with the US process.

Senator HUME: Thank you, I think that clarifies an awful lot. I turn now to Operation Sovereign Borders—

CHAIR: Just before you do, could I interpose in Senator Hume's time. This decision to close this centre resulted from a court action. Is that correct?

Mr Pezzullo: It flowed from a court action, yes.

CHAIR: Who took the court action?

Mr Pezzullo: I can't quite recall who the plaintiff was. It's called Nama's case, and it was a case brought in the Supreme Court of PNG.

CHAIR: Was it the leader of the opposition in the PNG parliament?

Mr Pezzullo: It might have been, yes—at the time.

CHAIR: Do you recall if any Australian political party warmly applauded the decision of the Papua New Guinea supreme court to close the centre?

Mr Pezzullo: I've got no recollection of any particular party. I'd have to do a bit of research on that.

CHAIR: Senator McKim might like to comment on that, because I thought he was one of those who warmly applauded the closure when the supreme court made the decision.

Senator KIM CARR: Is that really a role for the department?

CHAIR: No, it's not; you're quite right, Senator Carr. I'm editorialising, which I don't like others doing. But I just wanted to be clear about why the centre is being closed.

Senator McKIM: Because it was illegal.

Mr Pezzullo: As I said in my earlier evidence: in the immediate aftermath of Nama's case being settled—

CHAIR: We should take Senator McKim's interjection—because it was illegal.

Senator McKIM: Because the Supreme Court of Papua New Guinea found it to be unconstitutional.

CHAIR: Yes.

Mr Pezzullo: Senator McKim's interjection is accurate: the court found that, unless you've got a definitive plan in place—including in relation to the physical arrangements—to determine a person's refugee status, to either find them a resettlement outcome or to return them if they are found not to be owed protection, you are in violation of particular provisions of the PNG constitution.

CHAIR: Did the Supreme Court make any rulings as to timings? Or were the timings a matter of agreement between Australia and PNG?
Mr Pezzullo: No, the court did not bring down any specific orders, but the Chief Justice, if I recall correctly, and other justices made it very clear that they would expect that the matter be dealt with as quickly as possible. So the executive of PNG, the government in its own right, decided to undertake, effectively—Ms De Veau will correct me where I get this wrong—a two-part remediation strategy. One was to open the centre, and I have given evidence about this over the last 18 months, so I won't recap that. So the very act of opening the centre meant that you rendered it legally safer, in terms of it being a correction-style environment where no one has been found to be guilty of any charges. That was the essential constitutional issue, in summary. And then, separately, the two governments embarked—through officials initially, but ministers and prime ministers have been involved as well, of course—on a discussion about having regard to prospects for resettlement in third countries—because they weren't coming to Australia—having regard to the case load and the period of time that the PNG immigration authorities would take to work through cases, and what was a logical closure plan—that took a period of time to work through. The two Prime Ministers met, as we gave evidence earlier.

CHAIR: Yes, we've heard about that.

Mr Pezzullo: And that's how we find ourselves—

CHAIR: Well, we've got that evidence on the record. Could you just remind me when the judgement was made in this PNG court case?

Mr Pezzullo: Was it April 2016?

Ms de Veau: The decision was in April 2016.

CHAIR: 2016?

Ms de Veau: Yes. To confirm the secretary's evidence in the first session, the thrust and the central tenet of the decision goes to detention. So it's not that the Manus centre is unlawful; it is that the detention of people who are going through the process didn't have a constitutional head specifically authorising that. There had been an amendment to the constitution, and the court found that that amendment had not been validly made. So it really goes to the detention, regardless of the location. So the order of the court in April 2016 was not necessarily that the Manus centre had to close, but that, forthwith, the PNG government should not be detaining people. So immediately thereafter they made arrangements for an open centre to be made, so that they could be said to be complying with the order of the court. It has then been a matter for the governments as to how they then manage the housing of people and the use of Manus thereafter, in part, and as I think the secretary has appropriately said, driven by the decision. But the decision primarily goes to detention.

CHAIR: So that decision was made 18 months ago. Do you have any dates or approximate dates for when the decision to close the centre and establish this alternative accommodation was made.

Mr Pezzullo: It was announced as a result of final discussions between the Prime Ministers in April of this year.

CHAIR: So that's six months ago.

Mr Pezzullo: Approximately.
CHAIR: But it had been spoken about, is my recollection of the newspaper reports, prior to that?

Mr Pezzullo: And, indeed, we might well have given evidence prior to April 2017 that we were in discussions about the future of the centre, having regard to all of the factors that Ms de Veau has just articulated.

CHAIR: Yes, okay; I just wanted to clarify that. Thank you. Sorry, Senator Hume.

Senator HUME: That's all right.

CHAIR: You've got another five minutes.

Senator HUME: I'll quickly cover my questions on Operation Sovereign Borders. The last I looked, there were no boat arrivals for over 1,000 days. Is that right? Can anyone give me an update on how many days it's been?

Mr Pezzullo: I might immediately refer that to Air Vice Marshal Osborne, who will take your questions.

Air Vice Marshal Osborne: In short, the answer to your question is that it's been well over 1,000 days; in fact, closer to 3½ years since we've had a successful arrival.

Senator HUME: How many ventures to Australia have been successful since the policy of the turnbacks commenced?

Air Vice Marshal Osborne: How many vessels have we returned?

Senator HUME: Yes.

Air Vice Marshal Osborne: As of this date, we've returned 31 vessels, which includes 771 people.

Senator HUME: So 771. When was the most recent one of those turnbacks?

Air Vice Marshal Osborne: We had one in June of this year, which is the only one that we've had since our last estimates hearing.

Senator HUME: What were the details of that one?

Air Vice Marshal Osborne: Fundamentally, there were six people involved in that. They were intercepted in Australian waters. We owed them no protection obligations, and we negotiated to return them—in this case, to their place of departure in Sri Lanka.

Senator HUME: On the disruption and deterrence operations under Operation Sovereign Borders, can you explain to me exactly what they are and where they are targeted specifically geographically?

Air Vice Marshal Osborne: Our deterrence and disruption form a significant element of Operation Sovereign Borders—particularly so, because whatever we can do to prevent people getting onto vessels and placing their lives at risk or their financial futures at risk is always better than actually having to prevent the problem once the vessels are at sea. So, to that end, we work with a number of countries in the region in all sorts of ways—law enforcement, for example, with other countries. It also extends to strategic communications, in which we take effort to explain the government's strong border policies, as well as the very negative consequences of engaging the people smugglers. So there's a wide variety. It's across the region. Probably one of the most obvious ways is through the Bali Process, which we use to
discuss means of addressing the threat of people smuggling. As we know, the threat is not limited to Australia. Indeed, it's not limited to the region.

Senator HUME: I was going to ask you about that. What has happened to the people smugglers? Surely, they haven't all just packed up shop and gone home.

Air Vice Marshal Osborne: I wish I could say that, Senator, but unfortunately no. There is no doubt that we have been very successful in, what I would say, suppressing them. But we do know they remain active. We do know that they watch events in Australia and around the world very, very carefully and we do know that they are keen to get back into business if given half a chance.

Senator HUME: Maybe you can give me an idea of the number of potential illegal immigrants that must be in transit in various countries. They must still be there. Where are they going instead?

Air Vice Marshal Osborne: There are literally thousands of people throughout the region in many areas close to Australia. For example, in Indonesia there are roughly in the order of 14,000 registered with the UN, but there are also many thousands in Malaysia, Thailand and India. Throughout the region there are thousands of people who could fall prey to people smugglers.

Senator HUME: With these policies and operations in place, is Australia still an attractive destination?

Air Vice Marshal Osborne: As a productive, friendly and relatively safe first-world nation, I would have to say: yes, of course Australia would be an attractive destination.

Senator HUME: But these policies are, essentially, deterring any new arrivals—or potential arrivals?

Air Vice Marshal Osborne: Fundamentally, OSB has stood up to secure the borders of Australia, to dismantle the people-smuggling model and to stop people putting their lives at risk by taking to boats. The short answer is: yes, we're achieving that aim.

Senator HUME: It's been a very successful policy.

Senator KIM CARR: I just want to come back to where I was pursuing this question of the medical transfers. How many people on the waiting list have medical transfers?

Mr Pezzullo: I will ask the assistant commissioner to rejoin us. I'm not sure if it's a question of there being a waiting list, because they're not like elective matters. It's a fairly binary choice—you either come here or you don't. The assistant commissioner can explain that.

Senator KIM CARR: How many people are seeking to have transfers either individually or by medical request?

Mr Woodford-Smith: I don't have the actual number currently on hand right at the moment.

Senator KIM CARR: I think the deputy commissioner would like to assist you here.

Mr Woodford-Smith: A slightly different question—from my perspective, I don't have the number. There are a number of requests for medical movement. They change every day.
Senator KIM CARR: I will put it to you this way. On 21 August—it is reported in *The Guardian*—there were nearly 50 refugees or asylum seekers held on Nauru, including three women seeking to terminate a pregnancy, who were being refused or not considered for overseas medical treatment, in defiance of doctors’ recommendations. Is this correct?

Mr Woodford-Smith: There are a number of requests for medical movement that are currently being considered by the transitory persons committee. I'm not sure if it refers to the three that you've just mentioned, but—

Senator KIM CARR: I said 50, including three. Is it true there are 50 people seeking medical transfers at this time?

Mr Woodford-Smith: I would have to go back and take that on notice. I don't know how many are actually on the RMM schedule. I say that because the Request for Medical Movement schedule changes from day to day. Some of those—

Senator KIM CARR: So what advice have you got before you? In the last three months, for instance, how many requests have you had? You've told me how many have been approved. How many requests have you had?

Mr Pezzullo: I think he previously took it on notice.

Mr Woodford-Smith: Yes. I've got to take that on notice.

Mr Pezzullo: Well, you already have in the previous exchange.

Senator KIM CARR: You don't know how many requests you've had?

Mr Woodford-Smith: I don't have that.

Senator KIM CARR: You don't have that in front of you?

Mr Woodford-Smith: I don't have that in front of me.

Senator KIM CARR: Deputy Commissioner, you indicated before that the process for the approvals had been in place for some time. It's been put to me that that's been in place since July of this year. Can you confirm with me at what point the process of medical transfers being approved by the Nauru Hospital overseas medical referral committee came into place?

Mr Woodford-Smith: The overseas medical request, which I think is what you're referring to, which is a process that was put in place by the government of Nauru, has certainly been in there, that I'm aware of, since July 2015. It might have been in before then, but that's certainly to my—

Senator KIM CARR: July '15? You want to be clear about—

Mr Woodford-Smith: July 2015—the overseas medical referral process for the government of Nauru has been in place, that I'm aware of.

Mr Pezzullo: Just be clear that the current form of the arrangements were put in place at a particular point in time, but there would have been antecedent arrangements.

Senator KIM CARR: I know that, and I'll get to that point. It's been put to me that, in July of this year, this department—that is, your department—mandated that all medical transfers be approved by the Nauru Hospital overseas medical referral committee. Is that correct?

Mr Woodford-Smith: I don't think that's correct, the way you're phrasing it.
Senator KIM CARR: Then how would you phrase it?

Mr Woodford-Smith: There have been changes to the overseas medical requests from the government of Nauru, and there were changes earlier in the year, particularly around terminations of pregnancies, but the process has been in place for a significant period of time in one form or another.

Senator KIM CARR: You said there were changes this year. Please describe to me what the nature of the changes are.

Mr Woodford-Smith: The change is that all requests for medical transfers to do with refugees on Nauru go through the Nauru government process of the overseas medical referral.

Senator KIM CARR: And when was that system put in place?

Mr Woodford-Smith: The slight change to that would have occurred around the middle of the year. I'd have to take that on notice.

Senator KIM CARR: The proposition I put to you a few moments ago of July this year doesn't seem to me to be too far from the truth.

Mr Woodford-Smith: It could be close in terms of that change.

Senator KIM CARR: It's a rather tortuous process we're going through at the moment, Assistant Commissioner. I just want to get to the matter. In July of this year—I'll come back to it again—were there changes put in place whereby approval processes were changed?

Mr Woodford-Smith: I don't know the exact date. I would have to take that on notice.

Senator KIM CARR: Were there changes made in the middle of this year? We can go through this if you like, but were there changes made in the middle of this year?

Mr Woodford-Smith: Senator, I'm trying to be helpful.

Mr Pezzullo: I think the officer is not recalling the details—

Senator KIM CARR: I can tell.

Mr Pezzullo: Could you perhaps allow him to go off and refresh his memory. I'm sure that he'll come back with a clean and clinical answer.

Senator KIM CARR: That would be very helpful if you could check your brief over the break. I'd like to know: is it correct that there are 50 people, however you define them, seeking medical assistance off island?

Mr Pezzullo: Or who were at the time of the newspaper report that you referred to?

Senator KIM CARR: As of 21 August, was that the case? If that's not the case, how many? I'd like to also know when the minister was briefed on this change in process.

Mr Woodford-Smith: I don't believe the minister was briefed on the change of process. I'd have to go back and confirm that. But, as far as I'm aware, he wouldn't have been briefed.

Senator KIM CARR: Wouldn't have been briefed at all?

Mr Woodford-Smith: I don't believe so.

Senator KIM CARR: You don't want to check your notes on that as well?

Mr Pezzullo: I think as part of the general checking of the facts here, we'll take on notice the brief of the minister.
Senator KIM CARR: I would like to know the date the minister was briefed, who actually approved the change and at what level within the department or the government the changes were approved. I'd like to also know: can the overseas medical referral committee overrule the Chief Medical Officer or the Surgeon General?

Mr Pezzullo: I'll answer that as a matter of principle and then perhaps elucidate some of the points that the assistant commissioner can look at through the course of the day, and if we can come back to you through the course of the day I'll give you this absolute assurance that we will. The medical committee, whether it's led by the Republic of Nauru—and I think you'll find that the material change here related to the fact that as Nauru's capability increased they wanted to have a greater say in who got treated within their facilities versus who was the subject of a request to come to Australia. In the end, to get to Australia you still need a visa, and your medical condition is certainly part of that consideration. But, as you heard in evidence previously given—and I know this to be a fact, because it goes back certainly over the three years that I've been the secretary of the department—in some cases we will expend the resources and the funds required to actually provide that support forward, to obviate the need for people to come to Australia. So, it's not a straight matter that the clinical advice is X and therefore the action is X. If the treatment can be rendered in Nauru, either through the Australian contractor or through the Republic of Nauru hospital, that is what is done.

Frankly, one of the risks you're dealing with here—and no-one wants to place anyone's life at risk and no-one wants to create the circumstance of the potential risk of permanent impairment—is that once folks turn up here it has occasionally been the case that once their medical treatment has been dispensed with through legal action, including legal undertakings that we take ahead of the almost inevitable injunction, we can't readily and easily return people back to Nauru. Regrettably, this becomes a medico-legal issue, almost—or a legal-medical issue is perhaps a better formulation. We have to have regard to Australia's sovereignty and the protection of the integrity of our own visa system. So, if the assistant commissioner can possibly arrange for the service to be provided in situ, noting that it's a sovereign country and people in the community attend hospitals, those factors also have come into play.

It seems to me that the best way to answer your questions that go to, if you will, chronology—and the assistant commissioner will take a careful note of this, no doubt—is to go right back to the start of the agreement: what were the arrangements entered into? We won't make this long and laborious; we will try to answer this today.

Senator KIM CARR: I appreciate the assistance you're providing, but—

Mr Pezzullo: But absent that history, if I may—

Senator KIM CARR: I understand that, but it's a simple proposition. There's an article that appears in a newspaper that basically says that we're now subverting the medical processes—

Mr Pezzullo: Subverting what?

Senator KIM CARR: We're subverting the medical process—

Mr Pezzullo: How so?
Senator KIM CARR: Insofar as you're now indicating—and I think it is the claim made in the article—that for legal reasons we don't want people to come to Australia to get medical treatment in case they use the legal system.

Mr Pezzullo: If we can treat them in situ, as I said. I'd appreciate the full—

Senator KIM CARR: But that's the thrust of the argument. Now, it goes further than that, because it then goes to suggest that the reason the—

Mr Pezzullo: And you can understand the perverse incentives that would be created—

CHAIR: Mr Pezzullo, this is not a debate. Perhaps you could let Senator Carr finish his question, and then perhaps he would let you give an answer to the actual question.

Senator KIM CARR: Thank you.

Mr Pezzullo: Thank you.

Senator KIM CARR: You see, it goes further than that, because the allegation then goes to the proposition that the Surgeon General of the Australian Border Force resigned because his capacity to do his job had been interfered with as a result of these changes.

CHAIR: The question is?

Senator KIM CARR: The question is: is that true?

Mr Pezzullo: No.

CHAIR: Okay; thank you.

Senator KIM CARR: And that's what I'm anxious about. If this article is true, that there are 50 people—and Mr Assistant Commissioner, you're going to have a look at your notes over the lunch break—

CHAIR: Well, Senator Carr, Mr Pezzullo said it's not true.

Senator KIM CARR: Well, hang on. That's one question I've asked. I've asked a series of questions. Mr Pezzullo, you're telling me that the Surgeon General at no point expressed to you his anxiety about the changes that are being made to the approval process for medical transfers.

Mr Pezzullo: He did not raise any anxieties with me, as my professional medical adviser. I've got legal advisers; I've got all sorts of advisers. He was heard in terms of the advice to be provided on a whole range of factors that have to be taken into account, and it's my job to balance that advice and to make decisions.

Senator KIM CARR: That's fair enough, but you're saying to this committee that the Surgeon General at no point expressed his reservations about these changes and that was no part of his decision to resign.

Mr Pezzullo: That's right. And further, I've stated, I don't accept the claims—I've got a recollection of that article; I'd like to refresh myself as to its precise claims. I remember at the time that elements of it, if not all of it, seemed far-fetched. But I'm happy, when the assistant commissioner goes back through the chronology of these matters, to reacquaint myself with what The Guardian claimed at the time.

Senator KIM CARR: There's also a report here in regard to one case—the provision of on-island medical facilities—where:
… in 2015, a government health contractor advertised on LinkedIn for a neonatologist to fly the very next day to Nauru to oversee a complex birth. The ad even invited doctors to nominate their salary for a week's work. Doctors told the government the mother should be flown, with the baby in utero, to a tertiary hospital. The woman ultimately gave birth on Nauru.

Is that true? Was that the circumstance that actually occurred?

Mr Woodford-Smith: I'd have to take that on notice, around that particular case.

Senator KIM CARR: Thank you.

Now, if that's becoming the circumstance, my concern goes to this, Mr Pezzullo: if it's becoming the circumstances whereby proper medical treatment is being denied for people, to prevent them exercising legal rights on the—

Mr Pezzullo: Sorry—legal rights?

Senator KIM CARR: To prevent them, hypothetically—because we don't know what they're going to do if they come to Australia—exercising, potentially, a legal right, including having access to proper psychiatric facilities, then it does seem to me to be a fair stretch.

CHAIR: What is the question?

Senator KIM CARR: My question is: is that an appropriate use, a proper policy position for this government to be able to pursue?

Mr Pezzullo: As a matter of policy, the chronology—you've asked lots of sub-elements in terms of dates, times and places—I can tell you; I don't need to research this myself, because I know what the policy is. The policy is that, wherever possible, if the medical assistance can be provided either in situ or by way of a third-country arrangement, that is always, as a matter of policy, preferable. In cases where—and indeed the former Chief Medical Officer and I had extensive discussions about this, because I was relying on his advice as to how to frame these parameters so I could best support the government in their execution of its overall policy—other than there being the case of threat to life or permanent physical impairment, as occurs with anyone in Papua New Guinea or Nauru separately, where they have local populations there who endure both chronic and acute medical conditions, wherever possible, even if we had to supplement the assistance on the ground, that assistance would be best delivered locally or by way of a third-country arrangement. We have some third-country arrangements. I just can't quite recall whether we've ever publicised them, so I'm not going to—

Senator KIM CARR: Fiji—

Mr Pezzullo: I just can't quite recall—

CHAIR: Senator Carr, this will have to be your last question for this area.

Mr Pezzullo: I can't quite recall whether we've nominated those countries, and out of respect for our diplomatic engagement with them I'm not going to just rattle them off, off the top of my head. But yes, if possible, the policy is to provide the medical assistance in situ or by way of a third-country option. That is the policy, absolutely. I don't need to research that.

CHAIR: All right. We've got two minutes left, which I might take as the government's time. You touched on the question I want to ask, Mr Pezzullo: what happens to residents of PNG who have those sorts of medical problems? What happens to residents, citizens of Nauru who have similar sorts of problems? What's the normal medical arrangement—if, I might say in many instances, there is any at all—in those countries?
Mr Pezzullo: I'm not an expert on such matters. Certainly in the case of Nauru especially, but PNG, I do recall that there might be some facility for treatment in hospitals in Queensland, but I don't want to mislead you otherwise. I do recall that. But generally speaking, if you're a citizen or a resident of those two sovereign jurisdictions your health needs are met by those two jurisdictions.

CHAIR: Do we medivac people from Nauru to Port Moresby for treatment in their—

Mr Pezzullo: As part of third-country support, yes, I believe we do.

CHAIR: Ms Newton, do you have any information on that?

Ms Newton: Yes. There are currently five people from Nauru who are being transferred to Port Moresby Pacific International Hospital and are receiving treatment at this time.

CHAIR: Pacific International Hospital—that's a private—

Ms Newton: Yes, it is.

CHAIR: reasonably well-equipped hospital, if my local knowledge serves me well. Is that right?

Ms Newton: Yes, that's correct, and there have been 10 transfers from Nauru to that hospital since 1 May 2017.

CHAIR: Do any go to the Port Moresby General Hospital, where most PNG residents find their health needs met?

Ms Newton: Normally they require specialist support or services or an operation to occur, so we actually seek the most suitable medical treatment for them with specialists, and that's why they are transferred to Pacific hospital.

CHAIR: Okay, but residents of PNG? Perhaps you don't know this; perhaps it's unfair to ask you. But residents of PNG: are they able to get to the Pacific International Hospital—unless they're very, very wealthy?

Ms Newton: If they have insurance they'd be able to use that hospital.

Mr Pezzullo: It's a private hospital.

CHAIR: Otherwise they would go to the Port Moresby General Hospital?

Ms Newton: That's correct.

CHAIR: All right. We might leave that there. We have, according to our program, now finished with corporate and general matters.

Senator KIM CARR: No, we haven't. I haven't finished.

CHAIR: Well, according to our program, we are now finished with corporate and general matters. We have from 1.30 until 3 pm, according to the program, which has been set by the committee—and I might say by Labor and Greens members of the committee principally—to finish that by 3 pm. Now, a lot of what we're doing in corporate and general is really matters that would normally have been in outcome 1—border enforcement, border management, compliance, onshore management and offshore management. So, hopefully we can finish that by 3 pm and then move onto outcome 2 so that we can finish the program, and we can try to give all senators who might have an interest in these other matters the opportunity to ask those questions.
Proceedings suspended from 12:32 to 13:35

CHAIR: Can the committee agree that we've finished with corporate and general, bearing in mind that most of the things that we've been dealing with—

Senator KIM CARR: No, the committee hasn't agreed.

CHAIR: Do you have non border management questions?

Senator KIM CARR: No, I have questions running through the whole program, but we're in the middle of a series of questions, and I'm waiting on answers from the department.

CHAIR: No, you're not listening.

Senator KIM CARR: I'm listening alright.

CHAIR: If it's related to border management, offshore management, regional cooperation, we've been dealing with it in corporate and general, because it was mentioned by both of the leaders who've given statements on their departments. This is not my program; this is a program adopted by the Labor Party and the Greens, which I'm happy to deal with. The program said we'd do corporate and general until 12.30 and then move on to outcome 1. We can continue with the offshore management issues, which is all that has been talked about so far, through till three as part of outcome 1, but unless anyone has particular corporate and general matters—

Senator KIM CARR: I have corporate and general matters, and I'll continue to ask the questions I'm asking.

CHAIR: Can you give the committee some idea how long you might be?

Senator KIM CARR: It depends on the answers. I have a series of questions I want to pursue.

CHAIR: You know what this is all about.

Senator KIM CARR: I know exactly what this is about.

CHAIR: This is your program, adopted by your party and the Greens, and it just means that those other senators who want to ask questions later in the program don't get a chance, because you—and others; not just you—have spent up until now on offshore management. I'm happy to do this. You know the rules.

Senator KIM CARR: Exactly: we know the rules. Now you're wasting time.

CHAIR: I'd like to try to let other senators know, as a courtesy, how long you think you might be on corporate and general matters.

Senator KIM CARR: It'll depend on the answers.

CHAIR: If that's your attitude, so be it. Your peers in the Senate can make their own judgement.

Senator McKIM: Mr Pezzullo, before the lunch break we had an exchange about whether or not Australia was involved in torturing people. Are you aware of a report of the United Nations Special Rapporteur on torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Mr Juan Mendez, from March 2015? He found, inter alia:

… the Government of Australia, by failing to provide adequate detention conditions; end the practice of detention of children; and put a stop to the escalating violence and tension at the Regional Processing Centre, has violated the right of the asylum seekers, including children, to be free from torture …
Mr Pezzullo: I'm aware of his report.

Senator McKIM: And you still deny that the department's involved in torturing people?

Mr Pezzullo: The government, then and now, doesn't accept his conclusions.

Senator McKIM: So Mr Mendez is wrong in his conclusions in your view?

Mr Pezzullo: We don't accept his conclusions.

Senator McKIM: Are you aware of the commentary from the Human Rights Committee of the United Nations in Geneva last week, which found that Australia was chronically noncompliant with recommendations of that committee?

Mr Pezzullo: Are these findings, or obiter dicta made during the course of proceedings?

Senator McKIM: These are comments made by the committee vice-chair.

Mr Pezzullo: He's entitled to make his comments, but I don't believe the government has accepted his commentary.

Senator McKIM: Specifically do you have a response to the comments of the vice-chair, Professor Yuval Shany, which raised concerns about: Australia's noncompliance with the principle of non-refoulement, the highly punitive nature of detention and offshore facilities, the length of migrant detention, inclusion of children and unaccompanied migrants in the mandatory migrant detention, poor safety conditions in offshore detention facilities, the failure of the government to take responsibility for the regional processing centres in Papua New Guinea and Nauru, and attempts to create a veil of secrecy about conditions in those centres?

Mr Pezzullo: I don't believe the government, then or now, accepts those findings and conclusions.

Senator McKIM: Is the department aware if any of the people seeking asylum at the moment in the centre on Manus Island are gay?

Mr Pezzullo: I'm not personally aware. I would assume that some are gay or LGBTI generally, but I might seek the deputy commissioner's assistance.

Ms Newton: We understand that some people within the centre are gay and other people have other various interests, sexually, as to how they determine who they are.

Senator McKIM: Do you know how many people identify as gay?

Ms Newton: No, I don't.

Senator McKIM: Does the department have that information on record?

Ms Newton: I'd have to take that on notice.

CHAIR: Surely you don't inquire of people's gender.

Mr Pezzullo: No, we don't, but it might be that the information has somehow incidentally come to our notice. We don't determine their statuses. It is possible that we might know.

Senator McKIM: You've taken that on notice, so thanks for that.

Mr Pezzullo: Yes.

Senator McKIM: But have you accepted that there are some men in that cohort who are gay?

Mr Pezzullo: I've said I think it's likely that there would be.
Senator McKIM: Ms Newton accepted that. Do you believe that, by kicking them loose into the PNG community, where consenting sex between men is illegal and punishable by a term of imprisonment up to some years, Australia is involved in violating their human rights?

Mr Pezzullo: Well, everyone has to—

CHAIR: Whether you believe that is not relevant to this committee; it's a matter of opinion and is not something you have to answer here, or should answer.

Senator McKIM: Has the department sought any advice as to whether the department, the minister or the government are involved in breaching people's human rights because of the circumstance that I have just outlined?

Mr Pezzullo: I don't believe we've sought advice of that character, no. I'm happy to have that checked.

Senator McKIM: Would you do the same for Nauru, please, as to the number of people that the department might be aware of who are LGBTIQ?

Mr Pezzullo: We'll check the same question.

Senator McKIM: I accept that it's a slightly different circumstance, but there are still cultural mores in Nauru with regard to LGBTIQ people, notwithstanding the very recent change in the law. I want to tidy up one other matter, if we can, in relation to Manus—that is, the recent death of Hamed Shamshiripour. Does the department have a copy of the autopsy report?

Mr Pezzullo: I don't know personally. I might inquire of other officers as to whether they have an answer for you.

Ms Newton: My understanding is that currently is still a matter for the coroner.

CHAIR: Which coroner?

Ms Newton: The PNG coroner.

Senator McKIM: Is the department aware of whether an autopsy has been conducted?

Mr Pezzullo: It might be that the assistant commissioner can assist with this question.

Mr Woodford-Smith: I believe that an autopsy has been completed. I believe the coroner has completed his report, but I haven't personally seen that.

Senator McKIM: By 'completed his report', would that include making his report public?

Mr Woodford-Smith: That would be a matter for the PNG government. I don't know.

Senator McKIM: You're not aware if that report has been made public?

Mr Woodford-Smith: I'm not aware of it.

Senator McKIM: But you've given evidence that you are aware that the autopsy has been completed?

Mr Woodford-Smith: That's correct.

Senator McKIM: Is the department aware of who conducted that autopsy?

Mr Woodford-Smith: I don't know who actually conducted it, but the autopsy was undertaken by a PNG authorised officer.

Senator McKIM: Did the department have any of its medical people present at the autopsy that you're aware of?
**Mr Woodford-Smith:** No. I'm not aware of any of our medical officers being involved in that autopsy.

**Senator McKIM:** Has Mr Shamshiripour's body been repatriated to his family?

**Mr Woodford-Smith:** Yes, it has.

**Senator McKIM:** Who paid for that?

**Mr Woodford-Smith:** The department paid and supported the government of PNG, after a request for support.

**Senator McKIM:** Has a bill been sent to his family for the repatriation of his body that you're aware of?

**Mr Woodford-Smith:** Not that I'm aware of. I don't think we would be.

**Senator McKIM:** You don't think what?

**Mr Woodford-Smith:** I don't think we would be sending through an invoice for his repatriation. I believe the department has paid for that.

**Senator McKIM:** You're not aware of the PNG government seeking any recompense there? I guess, given your evidence that the department paid for that, the PNG government would have no claim on the family for costs of repatriation in that case, would they?

**Mr Woodford-Smith:** That would be a fair assumption.

**Senator McKIM:** Have there been any inquiries as to why Mr Shamshiripour was not medevaced to Australia before he died?

**Mr Woodford-Smith:** Not that I'm aware of.

**Senator McKIM:** The department hasn't conducted a review of that case? The CMO, or the acting CMO, hasn't caused a review of those circumstances to occur?

**Mr Woodford-Smith:** I'd have to check with my colleagues, but I'm not aware of a review or a request for Mr Shamshiripour to come to Australia.

**Senator McKIM:** You're not aware of a request for Mr Shamshiripour to come to Australia. Are you aware of third-party requests that were made for Mr Shamshiripour to be medevaced to Australia on the basis of his severe mental illness?

**Mr Woodford-Smith:** I understand that there was some correspondence, potentially, with the Chief Medical Officer, but I'm not aware of the detail of that.

**Senator McKIM:** Would you please take on notice these questions: what requests were made in regard to Mr Shamshiripour's being medevaced to Australia? What was the department's response to those requests? Could you also provide an explanation as to why someone who was obviously incredibly mentally unwell was not medevaced to Australia. Also, what supports were put in place around Mr Shamshiripour, if any, to monitor his wellbeing on Manus Island?

**Mr Woodford-Smith:** We'll take those on notice.

**Senator McKIM:** I'm going to Nauru now. You've announced that Canstruct Pty Ltd has been granted a contract worth approximately $8 million for garrison and welfare services on Nauru. Is that correct?
Mr Pezzullo: I'll just check with the deputy commissioner as to whether the provider has been identified and the value of the contract, which are the two questions.

Ms Newton: At this point in time we haven't announced that a contract is completed and finalised with Canstruct Pty Ltd.

Senator McKIM: Have you completed and finalised a contract with Canstruct?

Ms Newton: No, we haven't.

Senator McKIM: Are you working with Canstruct on a contract for the provision of garrison and welfare services?

Ms Newton: Yes, we are.

Senator McKIM: Are you working with any other company on a like contract?

Ms Newton: No, we're not.

Senator McKIM: So it's Canstruct or bust?

Ms Newton: It's Canstruct—we're negotiating with one provider at this point in time and expect to complete on that very shortly.

Senator McKIM: You expect to complete on that shortly? Is that what you said?

Ms Newton: Yes. I said that we expect to complete and finalise that contract very soon.

Senator McKIM: Do you have a more specific time frame?

Ms Newton: No, I don't, sorry.

Senator McKIM: Does Canstruct have any previous experience delivering garrison and welfare services, because they're a civil construction company, are they not?

Ms Newton: Yes, predominantly, but they have considerable experience operating on Nauru and have operated there for some time.

Senator McKIM: Yes, my question was specifically: have they got experience in garrison and welfare services?

Ms Newton: I'll ask Mr Nockels to respond to that?

Mr Nockels: Senator, the answer is yes. Canstruct, although predominantly a civil construction company, has extensive experience in managing mining camps. So they have experience delivering the garrison-type services that we require.

Senator McKIM: Mining camps, Mr Nockels.

Mr Nockels: Garrison support—so, feeding, cleaning, et cetera, facilities maintenance and the like. That's what you would expect to see in a garrison support contract.

Senator McKIM: That's garrison.

Mr Nockels: They have experience doing that.

Senator McKIM: What about welfare? Do they have any previous experience in delivering welfare services?

Mr Nockels: Not directly. But, as we transition from BRS to Canstruct—which is the process that we are undergoing and which is what the deputy commissioner responded to in terms of, in the next few days, we'll move to signing a contract, we hope—they will be using a significant portion of the staff who currently deliver some of those services on Nauru. So
part of the transition was about ensuring that it was relatively smooth, and that involved taking up a significant portion of the staff who conduct those services at the moment.

**Senator McKIM:** So that I'm clear: you're about to award a contract for the delivery of garrison services and welfare services on Nauru to a company that has no experience whatsoever in delivering welfare services. Is that accurate?

**Mr Nockels:** We are working with Canstruct to deliver—

**Senator McKIM:** That's accurate, isn't it? What I've just said is accurate?

**Mr Nockels:** In many of these cases, Senator, we would go with the prime contractor, who, in turn, would subcontract in appropriate services. In this case, for instance, security is one that they might be subcontracting in. So we are going with a prime contractor to deliver a range of services, where the prime will have significant experience of and input into them, but not necessarily all of them.

**Senator McKIM:** I'll just be clear about my question, and this is with regard to the prime contractor, Canstruct. You are in the final stages of negotiating a contract with them for the provision of welfare services on Nauru when they have no experience at all of the delivery of welfare services. Is that correct?

**Mr Nockels:** They will be taking on some aspects of that, but at the moment the majority of the welfare services provided to refugees on island sits under a contract that's run by the government of Nauru, with an organisation called HOST. So they deliver the majority of the welfare services in terms of case management.

**Senator McKIM:** I'm aware of HOST. I'm not sure why this is a bit like pulling teeth, Mr Nockels, but I will ask you again—

**CHAIR:** This might have to be your last question.

**Senator McKIM:** are you in the final stages of negotiating a contract for the provision of welfare services on Nauru, with a company that has no—and I mean 'zero'—experience of delivering welfare services? That's accurate, isn't it?

**Mr Nockels:** The scope of the services that we're requiring from Canstruct is quite broad, as we just discussed a second ago, and the majority of it is around garrison support, and that includes facilities management—so ensuring that maintenance of the buildings is kept up—and also involves the provision of catering services in terms of feeding people at the centre—

**Senator McKIM:** That's all in 'garrison', though, isn't it? That's garrison. I'm asking about—

**Mr Nockels:** The breadth of our contract is quite broad, of which one aspect is welfare, as is security of the centre, et cetera. I go back to the point I made a short while ago: we're asking the prime contractor to deliver a range of services, and they would in turn potentially bring in subcontractors to deliver on that.

**Senator McKIM:** I thank you for all the extra information, Mr Nockels, but the question remains: is it correct that you are in the final stages of negotiating a contract with Canstruct for the provision at least in part of welfare services on Nauru when Canstruct has never delivered welfare services in its existence and has no experience of the delivery of welfare services? Is that accurate?
Ms Newton: Canstruct are working with Broadspectrum on transitioning across all of the supporting capabilities, practices and procedures associated with the delivery of services that they will be taking on. They will also look at transitioning staff that have been delivering those services for some time. So there will be substantial capability—

Senator McKIM: I'm not asking about capability.

Ms Newton: on the ground with Canstruct.

CHAIR: Senator McKim, I indicated that was your last question.

Senator McKIM: We'll come back to it. You can run but you can't hide.

Senator GRIFF: Mr Pezzullo, I would like to go back to facial recognition where we had asked a couple of questions prior to the break. I understand there is a tender process. Where is that currently at?

Mr Pezzullo: I wasn't quite sure of where you wanted to go with this so I'm not sure that we have summoned officers from other locations, but perhaps the Assistant Commissioner can start and if there is anyone otherwise in the room they can assist the Assistant Commissioner.

Mr Williams: Senator, can I clarify that you are referring to the contract in relation to airport arrival technology?

Senator GRIFF: Yes, correct.

Mr Williams: At the moment the services have been split into three parts, and the first part is for an integrator and a provider of new gate technology for incoming processing of passengers. There are a couple of other parts to the contract around managing the flow of information through the inwards process as well as the back-of-hall examination process particularly around customs and baggage inspection, which have not yet been awarded. So at this stage we've got a gate provider, which is starting to begin its work to prepare for roll-out of new gates.

Senator GRIFF: Which is Vision-Box?

Mr Williams: That's correct.

Senator GRIFF: Okay. When do you see that you'll be issuing for the other two?

Mr Williams: Pretty soon, actually. We're just in the process of going through the tender evaluation.

Senator GRIFF: Okay. So, the solution that you have, is it off-the-shelf to a certain extent or is it very much customised?

Mr Williams: For the new gates, off-the-shelf, given it's a fairly niche product, I guess, is probably a stretch to suggest, although it is a company that's experienced with delivery of gates in various countries, including Australia. That company has also delivered our outwards gates that have been recently installed and completed around the country quite successfully. You asked about it before the break, and we're now processing 73 per cent of travellers through the gates on outwards and also have been able to eliminate the use of the old outward passenger card because we've collected that information in different ways and we don't need to collect that anymore. The outward process is now much more efficient and quicker for just about everybody. We are hoping to replicate that kind of approach to the inwards.
Senator GRIFF: I know it's probably a bit of a difficult one to answer, but how do you stop this system from being hacked? How do you protect it and isolate it?

Mr Williams: The system has a bunch of fail-safes. There is a human element to the management of the system. If you look at the way we currently operate our outwards gates, we have a bank of about six gates with two or three human operators, people, working in order to make sure that the gates work efficiently and pick up any instances of attempts to circumvent it. Where the software isn't able to give us sufficient satisfaction about the facial recognition element of the processing it's referred to a person and the person's job is to consider both the facial recognition issue and any other factors that the passenger might present. As well as that there are some technology back-ups and fail-safes, which I'm not 100 per cent qualified to speak on, but are intended to prevent people dialling in and trying to hack the actual system as such.

Mr Pezzullo: I think, Assistant Commissioner, the senator's question goes precisely to that point. I certainly wouldn't be comfortable with, nor would authorise, the giving of any evidence to this committee that in effect—and I know you are not seeking this, Senator—would give our adversaries any kind of clue as to how to circumvent those controls. All I will repeat is evidence from earlier appearances, not today but prior, that we have considerable investment in cyber-security technologies, some of which relate to the headline measures that we're all obligated to have in place as Commonwealth agencies, some of which are more robust than that, which include operating the backend of the technology within a very secure enclave or secure perimeter. That is about as much as I'm willing to say in an open session, which doesn't just mean at the gate level but the network itself, and other controls that I'm not prepared to talk about, which are away from the gate, are kept as secure as possible. In this day and age, with everything being connected to everything else, it's a constant battle with our adversaries in terms of malicious coding that people try to deliver into any government—or indeed private sector network—and that's why we employ quite a number of people and spend quite considerable resources on defending.

Senator GRIFF: Just on that, the media has reported that the automated solution will actually match travellers against, and I quote:

… a database of facial images collected from airlines' advanced passenger processing systems …

Can you explain how that works?

Mr Pezzullo: Unless the assistant commissioner can explain that in sufficiently plain English but also unclassified terms, I'm not prepared for a lot of evidence to be given on this point.

Senator GRIFF: But, in the first instance, what information is collected by airlines, and then how does it come to you?

Mr Pezzullo: If the assistant commissioner can answer you in public record terms, he will; otherwise, he might need to take some guidance from me. I think some of this can be put on the public record; other elements cannot.

CHAIR: You might, if it were appropriate, offer Senator Griff a private briefing sometime offline—anyhow that's up to you.

Mr Pezzullo: We'd be delighted, I'm sure—but we'll see how the assistant commissioner goes in the first instance.
Mr Williams: In public terms, I can provide a little bit of information. Information is provided to the department by airlines as part of the process of checking in and transporting passengers in advance of their arrival. So that's well known as—

Senator Griff: So this is cameras in airports as they're processed?

Mr Williams: No. It's information provided and collected from passengers as they book and check in to travel. That's provided to the government in advance of their travel so that we can undertake certain processes. Then, on arrival, we make sure that the expected person is the person who arrives.

Senator Griff: But the actual facial images, which is what I quoted there: a database of facial images collected by airlines?

Mr Williams: At the moment, there is an opportunity to collect facial images at that stage, through the check-in process. But, at this stage, we collect the facial image at different points of the process, but not—

Senator Griff: So are you aware how airlines are actually collecting that information? Is it at check-in?

Mr Williams: It's possible to collect it at check-in. But airlines use facial images and other, I would say, passenger identifiers for different parts of their process—to link passengers to their bags, for example, and things like that—and it's possible that some of that information might be available.

Senator Griff: I would imagine very few members of the public would be aware that this is the case, and I think there would be privacy issues that the press would consider.

Mr Williams: That's correct.

Mr Pezzullo: All the information that we rely upon, Senator, has been lawfully collected and lawfully shared with the Commonwealth. We place great store on the use of that information within strict privacy limitations, I can assure you.

Senator Griff: So that information is coming to you from airlines, and you're then incorporating that with passport and other information that you may have?

Mr Williams: That's correct, Senator.

Senator Griff: Do you actually have access to these airline databases now—or the facial recognition databases?

Mr Williams: The access that we have complies with the legislation that we're operating under. We don't have unfettered access to databases in that sense, Senator. There are strict rules around the pushing and pulling of data between commercial entities and the department in those circumstances.

Senator Griff: But do you have access to these facial databases now from airlines, or is that going to be part of the new process going forward?

Mr Outram: I'm not aware of any facial databases, Senator, that the airlines keep and retain. We're interested in the passengers that are coming out by making sure we can identify who they are, and the biometrics is one way we can do that. So, if we've got an image on a passport, of course, on file, then we can check when they come in. But I'm not aware of any airlines retaining images of passengers in a database.
CHAIR: But doesn't the passport contain a photograph?
Mr Outram: Yes, Chair.
CHAIR: And is that what you check against?
Mr Williams: We do, Senator.
Mr Outram: Essentially, yes.
CHAIR: Can I just tell you I've just come in and out of overseas for the first time—not the first time—and my coming back through the SmartGate worked perfectly. It doesn't always work for me, so well done. Going out, though, they didn't like my face so they sent me to a person. In each case, it doesn't worry me, because I'm more interested in making sure that I'm safe on the trip. I don't care what you do to recognise me or anyone else, as long as I'm safe on the plane, so well done.
Senator GRIFF: Do you pay a fee for this information from airlines?
Mr Williams: No.
Senator GRIFF: And how long do you store the information that you receive from them?
Mr Williams: I would have to check how long we retain information provided through the advanced passenger processing facility. I don't know, I would have to take that on notice.
Senator GRIFF: That would be great. And do you share this data with other government agencies?
Mr Williams: Again, I probably would have to take that on notice.
Senator GRIFF: If you can get that on notice, that will be fantastic.
Mr Pezzullo: Senator, if I can be very clear, to reinforce the acting commissioner's evidence, we have access through our Customs authorities to the information that is chipped on the passport, both Australians coming and going—the chairman just referred to his own experience—as well as those with whom we have agreements to access their chipped information. I'm not personally familiar with that extending to any holdings that airlines might have. I would be very surprised. I'm not quite sure of the basis of your—you're reading from a document. I'm not sure if it's a government document or something that you've otherwise found on the internet. I'm not sure of airlines separately collecting, retaining, storing, disseminating facial images which are separate from the information that we've all got lawful access to, which is your chipped passport information.
There is a lot of biodata and biometric information collected as part of your passport, and that's the reconciliation that the acting commissioner referred to. When you present at the gate, if the machine recognises the biometric and biodata features—regrettably, it didn't happen in the chairman's case; perhaps he was wearing his glasses and perhaps the photograph in the chip was separate—that's how it's reconciled. Unless I'm advised otherwise, there is no other global repository of facial images that is not held in government control or available to governments.
Senator GRIFF: Can people opt out of the biometric information?
Mr Pezzullo: If you don't want to travel, I suppose, but increasingly passports are all chipped. And it's a condition of you gaining your passport that you agree to certain information. In relation to an Australian passport, I would refer you, for the detail, to our
colleagues in Foreign Affairs because they manage that. Globally, it is a condition of gaining access to a passport.

**Senator Griff:** I understand the aim of the department is to have 90 per cent of international travellers processed by automated means by 2020.

**Mr Pezzullo:** Yes.

**Senator Griff:** Does this mean that the automation will reduce the number of ABF staff needed for processing at airports?

**Mr Pezzullo:** It would mean that fewer staff are required to undertake what I would call the teller function, if you think of it in banking terms, or the retail function, and those staff are then available for other duties where their skills, expertise, field intuition, can perhaps be better targeted.

**Senator Griff:** How many staff would you imagine this is?

**Mr Pezzullo:** How many staff?

**Senator Griff:** That would have to be redeployed or perhaps made redundant. How many staff as a result of this?

**Mr Pezzullo:** We’re not looking at redundancies directly arising from the rollout of automated technology. We have government targets that we have to manage, too, both in terms of budget or FTE, full-time equivalent, employees, and the chief finance officer will assist me in this. In fact, I would request that the chief finance officer attend to assist me just so I get the numbers right. Over the forward estimates, we’ve got a fairly steady workforce number in both the budget year and the three years going beyond it. There might be some reductions but they’re not specifically tied to, ‘That measure means this fewer number of people; that measure requires this many more people.’ It’s a netting activity. But the chief finance officer is very erudite in these matters and is happy to give you evidence on this matter.

**Mr Outram:** Senator, while the chief financial officer settles in, I would mention as well that the volumes of passengers coming through the airports are rising, significantly, at each international airport. Most years, it is in double digits every year, 10 per cent-plus every year. So we need the technology to allow us to manage the increase in volumes. It’s not as though it’s a static number and we’re just managing the same number of passengers with technology. We’re using the technology to allow us to process more people every year, which is a good thing, of course, but the volumes are increasing significantly.

**Mr Pezzullo:** Mr Groves, the senator is asking about future ABF employment trends.

**Mr Groves:** We were funded for this as part of the 2014-15 budget under the customs reform program. There were no staff reductions budgeted as part of that particular measure. It very broadly encompassed a whole range of activities, including the rollout of the new gates. I was actually going to say exactly what the acting commissioner just said, that we actually don’t expect there will be staff losses; it’s actually maintaining current staff levels to deal with the volumes that are increasing over time.

**Senator Kim Carr:** On the Nauru matter, Mr Pezzullo, you were saying before that contract negotiations are underway for Canstruct. Is it the case that Canstruct have been able to secure a $8 million contract for a six-month contract?
Mr Pezzullo: I think the deputy commissioner gave evidence to the effect, and she will speak for herself, that we are in the final stages of closing that contract.

Senator KIM CARR: Is that the same contract?

Ms Newton: Yes.

Mr Nockels: The $8 million is associated with a letter of intent.

Senator KIM CARR: So a letter of intent has been issued. What date was that?

Mr Nockels: 28 September. That letter of intent was to commence transition activities.

Senator KIM CARR: And that's to take over Broadspectrum's work?

Mr Nockels: Correct.

Senator KIM CARR: Was that undertaken by tender?

Mr Nockels: Correct, limited tender.

Senator KIM CARR: Limited to who?

Mr Nockels: To Canstruct.

Senator KIM CARR: To one?

Mr Nockels: Correct.

Senator KIM CARR: Isn't that what the Auditor-General drew our attention to in the past about these arrangements, about not having open contracts for these contracts?

Mr Nockels: The Auditor-General has issued some reports on the garrison support contract; that's correct.

Senator KIM CARR: Has he complained or made observations about limited tenders of these types?

Mr Pezzullo: I think it's best if I take that question. As we've covered in these proceedings before, the Auditor-General has made the very proper and self-evident point that, all things being equal, as long as there are no other exigencies in play, you should always go for an open tender. But the Commonwealth always has to have regard to exigencies—are there diplomatic factors, are there factors to do with on-the-ground matters?

Senator KIM CARR: They are the standard questions that have been raised.

Mr Pezzullo: Yes.

Senator KIM CARR: In this case—

Mr Pezzullo: In relation to those exigencies, if you can justify why you have gone for a more restricted process, you need to be able to document both your rationale—

Senator KIM CARR: So you will be able to tell the committee why you've gone for a limited tender in this case?

Mr Pezzullo: Yes, they pertain to the exigencies that we're confronted with. Mr Nockels can add to that.

Mr Nockels: The Commonwealth procurement rules are what, as Commonwealth officers, we need to follow. Those rules talk about the fact that if the Commonwealth has gone to market, which we had in this case, and the market has not been able to come back and deliver us with a candidate, a preferred tenderer, then we can move to a limited tender.
Senator KIM CARR: So these were the only people available; is that the nub of it?

Ms Newton: Yes, we've made expressions of interest in addition to having gone to tender and there was nobody else in the market that was actually interested in the contract. So we went directly to Canstruct.

Senator KIM CARR: I've got it. That's your explanation, that Canstruct are the only ones who presented themselves. So it is a six-month contract for $8 million?

Ms Newton: No, that's incorrect.

Senator KIM CARR: Not correct?

Ms Newton: No. The letter of intent was about transferring services and staff, potentially, from Broadspectrum across to Canstruct so that they had adequate people as well as the information technology and skills to be able to perform the contract. That was $8,199,160 that was paid up-front as that letter of intent whilst we completed on the final contract negotiations.

Senator KIM CARR: So the $8,100,000 is an up-front payment?

Ms Newton: For them to prepare and be ready to take on the contract as well as make offers to staff so that they will be available and ready to commence the contract as of 1 November.

Senator KIM CARR: This is transmission of business, is it? So you've got to pay out redundancies and the like, do you?

Ms Newton: That's Broadspectrum's role in terms of ceasing their contract.

Senator KIM CARR: You don't make any payments for those?

Ms Newton: My understanding is no.

Mr Nockels: No. That's a matter for Broadspectrum, so, when staff depart from Broadspectrum, they would pick that up or the transfer to Canstruct.

Senator KIM CARR: But there's no question about the department having responsibilities? The $8 million is an up-front payment to the new entity so they're ready to roll?

Ms Newton: Broadspectrum were providing notice of four weeks or five weeks to their staff before leaving. It was enabling those staff to transfer across and have continuity of employment.

Senator KIM CARR: And you're not ready to sign a new contract yet? Is that the case?

Ms Newton: We're in the final stages of being able to complete that contract, but of course we also have to consult with the government of Nauru.

Mr Pezzullo: But it's imminent, isn't it?

Ms Newton: Yes, it's imminent.

Mr Pezzullo: I would say it's imminent.

Senator KIM CARR: So the approval authority is who?

Ms Newton: It's me.

Senator KIM CARR: You're the officer?

Ms Newton: Yes, I am.
Senator KIM CARR: You actually sign off, not the minister?
Ms Newton: Yes. I'll be signing off on the contract.
Senator KIM CARR: The minister is not required to sign off on it?
Ms Newton: No.
Senator KIM CARR: Are there any additional services to be provided?
Ms Newton: No additional services over and above what Canstruct is taking on from what Broadspectrum was delivering.
Senator KIM CARR: How did you calculate $8 million as an up-front payment?
Mr Nockels: I would have to come back to you, Senator, with some details on exactly what elements of the transition relate to that $8 million.
Senator KIM CARR: Thank you. Are you able to tell me what the term of the new contract will be, how long it will take? What are your intentions?
Mr Nockels: At this stage, obviously we are still in the final throes of contract negotiations, but we're looking for a 12-month contract.
Senator KIM CARR: Twelve months?
Mr Nockels: That is correct, with—
Senator KIM CARR: With extensions, the right for extensions.
Mr Nockels: Yes.
Senator KIM CARR: Is it the case that Broadspectrum actually wanted to get out of the contract earlier but the department insisted on it staying on?
Mr Nockels: No. Broadspectrum's ownership changed quite some time ago, nearly 12 months ago, I think, and Ferrovial, the new owners, assured the department that they're happy to fulfill the full term of the contract.
Senator KIM CARR: In the discussions with Canstruct, were you made aware that Canstruct had been a donor to the Liberal Party?
Mr Nockels: I beg your pardon?
Senator KIM CARR: Were you made aware that Canstruct was a donor to the Liberal Party?
Mr Nockels: No, I was not aware.
Senator KIM CARR: I understand that in 2009 they were a donor to an associated entity of the Liberal Party in Queensland, Forward Business Leadership. In terms of the government procurement guidelines, where does that fit in?
Mr Nockels: I would have to take some advice on that.
Mr Pezzullo: I'm not sure that there's any prohibition per se. Most of these matters are always managed at arms-length from ministers. This sort of contract—even though it's a large sum of money, we're very careful with every single dollar of the taxpayers' money that we get.
Senator KIM CARR: Of course you are, but has a conflict of interest been declared?
Mr Pezzullo: I was going to go on to say that it's well within the appropriation and the limit of the funds that Ms Newton can consider, but you've asked a question directly about, I think, political donations and whether there is any rub or conflict with the procurement guidelines. They're managed, of course, by the Department of Finance, but we'll take that on notice.

Senator KIM CARR: But if you're not aware of it—

Mr Pezzullo: We have probity advisers. All relevant legal and probity checks would have been undertaken. If there's a box that appears on the probity check that says, 'Is the entity a donor to the Liberal Party, the Labor Party or any other party?' and you've got to put a flag up, or you've got to get a special approval or it's denied or it's not able to be proceeded with, I'm sure the probity adviser would have otherwise advised us.

Senator KIM CARR: But the probity adviser—is there a question?

Mr Pezzullo: We will take on notice both what the guidelines require at the Commonwealth level—and I'm sure Mr Nockels would have been fastidious in ensuring that those guidelines—

Senator KIM CARR: I've got no doubt he was, but he was not aware that this donation had been made.

Mr Pezzullo: Presumably, because it's not a factor that you need to check against. If you knocked out all entities that donate to political parties, you would have two types of providers: those who have provided to—I think you said—an associated entity in this case; those who have provided directly to a political party or an associated entity. And I don't know where that stops in terms of non-government groups and trade unions. So you would have one class of providers and another class. I'm just not aware that that is a check that we have to conduct.

Mr Nockels: Secretary, I'm unaware as well.

Mr Pezzullo: Have you ever conducted such a check otherwise?

Mr Nockels: No, but, as the secretary just said, we've had an independent probity adviser providing advice on this process from the get-go, so I'm sure, given their independence, they would have raised an issue if they felt there was one around the project.

Senator KIM CARR: I'm sure that will come up with the relevant answers. Thank you.

Mr Pezzullo: We will check two things: what are the general rules, and how were they applied in this instance.

Senator KIM CARR: Thank you very much. Can I turn to the question of—the Border Force Commissioner is on leave?

Mr Pezzullo: Yes, he is.

Senator KIM CARR: Is the commissioner still on leave?

Mr Pezzullo: Yes, he is.

Senator KIM CARR: I take it he is being paid? He is on paid leave?

Mr Pezzullo: Yes, he is.

Senator KIM CARR: Has the minister been briefed?
Mr Pezzullo: On occasions, as the minister, he has been briefed. I don't know what his state of knowledge is at the moment, and I would have to ask him.

Senator KIM CARR: Mr Secretary, you, as secretary, are required to brief him on something like this, I would suggest.

Mr Pezzullo: Not necessarily, if there is a matter that is the subject of an investigation by a separate statutory body.

Senator KIM CARR: Sure. When was the last time you briefed the minister?

Mr Pezzullo: I keep him regularly up to date as to what the leave arrangements are—when that leave is going to expire and the fact that I've authorised that leave to be undertaken on a paid basis. They are all within my authorities, but, otherwise, the agency conducting the investigation reports independently and not to me.

Senator KIM CARR: I see. So what is the policy of the department in regard to these questions that are under investigation?

Mr Pezzullo: The policy in relation to the integrity question or to the employment question?

Senator KIM CARR: The employment question.

Mr Pezzullo: In relation to employment conditions, they are set by the Remuneration Tribunal—as part of the commissioner's entitlements, I think they are the same as all statutory officers. The question of paid and unpaid leave are matters where the relevant departmental policy applies—variously described as 'miscellaneous leave' or 'event leave'. In this case, I've determined that 'event leave' was applicable, so I've authorised the payment of leave on that basis.

Senator KIM CARR: I see. And who is actually investigating the allegations against the commissioner?

Mr Pezzullo: The Australian Commission for Law Enforcement Integrity.

Senator KIM CARR: How long do they expect this investigation to be undertaken?

Mr Pezzullo: I don't know.

Senator KIM CARR: How long has it been?

Mr Pezzullo: Well, the leave commenced in—I would have to refresh my memory—the latter part of May or possibly the early part of June. I will need to refresh my memory.

Senator KIM CARR: The allegation is with regard to a relationship between staff members; is it not?

Mr Pezzullo: I've seen press reporting to that effect. I'm not going to comment on that press reporting.

Senator KIM CARR: What's the policy of the department in regard to that matter?

Mr Pezzullo: In relation to?

Senator KIM CARR: Is there a departmental policy on that matter?

CHAIR: Well, I would have thought the policy would be not to make comment while the matter is under investigation.

Mr Pezzullo: That certainly is the case in relation to——
Senator KIM CARR: You said that. But is there a departmental policy on a relationship between senior officers?

Mr Pezzullo: Leaving aside the question of the investigation and leaving aside any comments that you may wish to impute that I might—when I'm speaking about general policy, I'm not going to simply comment on an ongoing investigation. As to relationships within the workplace, we have a general policy that is applicable to everyone, from myself down—the commissioner down—that all such relationships are to be declared to ensure that there is no conflict of interest.

Senator KIM CARR: And is there a Twitter account still being operated by the commissioner?

Mr Pezzullo: I will need to take advice on that. I know there is—I'm going to get my term wrong here—a Twitter handle that is the official handle of the commissioner, but, whether that's active or not, I simply don't know.

Senator KIM CARR: Is there anyone here who does know?

Mr Pezzullo: I will check. I'm advised that the handle—I think that's the right terminology; I don't have one of those, so I don't quite know whether I am—

Senator KIM CARR: I wouldn't know what they were anyway, but tell me.

Mr Pezzullo: Both of us are having a dialogue of the less than fully informed.

Senator KIM CARR: But I'm advised that such a thing exists and I'm also advised that someone has been using it.

Mr Pezzullo: I've seen a reference to that and, indeed, I had occasion—Ms Moy will assist me with this part of my evidence, but we've had occasion to ensure that that usage is being checked as to who might have been actively using that handle whilst the commissioner is on leave.

Senator KIM CARR: And what is your discovery here?

Mr Pezzullo: I will ask Ms Moy to advise me what I've discovered here. Ms Moy is the head of our integrity division.

Ms Moy: In regard to the Twitter account, Senator, the department is looking and still investigating the matter of the use of the account. The account is now locked down. The matter that you refer to in regard to a particular like, we are unable to—

Senator KIM CARR: 16 July.

Ms Moy: Yes. We are unable to identify at this stage the user of the account at that time, or whether in fact it was an official user, so we are still investigating that matter.

Senator KIM CARR: Are you suggesting it could have been hacked?

Ms Moy: Look, I really can't tell you. It's possible to—

Senator KIM CARR: Either it is an official user or it's not.

Ms Moy: Yes, it's possible to hack a Twitter account. Which way it will go, I'm unable to determine at this stage and we don't have any information.

Senator KIM CARR: It is a pretty serious proposition.

Ms Moy: It is a serious matter which is why we're investigating it.
Senator KIM CARR: How long have you been investigating it?
Ms Moy: When it came to our attention—
CHAIR interjecting—
Senator KIM CARR: Sorry, I didn't quite catch that.
Ms Moy: When it came to our attention in regard to—
Senator KIM CARR: I'm asking you how long you've been investigating it.
Ms Moy: From the date it came to our attention—
Senator KIM CARR: No, that's the chicken and egg argument. When did it become—
Ms Moy: If you just—
Senator KIM CARR: When were you made aware?
Ms Moy: Yes, we were made aware—
Senator KIM CARR: When?
Ms Moy: If I could just finish my answer, sorry, Senator. The department was made aware via a contact from media. I would have to get the exact date, but it was some time after the event, around September.

Senator KIM CARR: And it has taken you this length of time to establish who used the account?
Ms Moy: It is an investigation that is not necessarily something we can do by ourselves, so we need to—we've engaged ACLEI, Australian Commission for Law Enforcement Integrity, and we are also talking to Twitter.

Senator KIM CARR: And I presume the commissioner has told you he hasn't used it. That would be a simple answer: yes or no.
Ms Moy: I'm not aware of who the actual user was at the time.

Senator KIM CARR: But the commissioner has said he hasn't used it. Is that the case you are putting to the committee?
Ms Moy: I'm not putting any case to the committee, Senator. I'm saying that we are investigating.

Senator KIM CARR: But wouldn't you ask that question? Was it the commissioner? The answer is surely yes or no.
Ms Moy: Well, at this stage I'm not aware if it was or wasn't, because we are unable to determine who used the account.

Senator KIM CARR: You have asked the commissioner?
Ms Moy: I haven't personally, but I understand the commissioner has been asked. Yes.

Senator KIM CARR: Well, it is a hell of an investigation if you can't answer that.
CHAIR: Well, that's not a question.

Senator KIM CARR: Well, it is a question. Have you asked the commissioner?
CHAIR: Well, that has been answered.
Ms Moy: I just mentioned that the commissioner has been asked, and he says he hasn't used that particular account.
Senator KIM CARR: I would expect him to say that. The question is—but I'm troubled that you've known this since early September, and you can't tell us who has used it?

CHAIR: So what is the question? And it is your last question.

Senator KIM CARR: Who had authorisation to use that account?

Ms Moy: There was approximately six staff within the department who had authorisation to use the account at the time.

Senator KIM CARR: And they've all said they didn't?

Ms Moy: That's correct.

CHAIR: Okay. We will have to come back to you on that one, Senator Carr. Senator Leyonhjelm.

Senator LEYONHJELM: Thank you, Chair. I would like to take up from where Senator Griff was in relation to the facial recognition program. I'm still confused about the response to his question about airlines collecting photos. I understood the assistant commissioner to say that the airlines were doing that and that that was contributing to security processes. Is that right or not?

Mr Pezzullo: They certainly have to compile what, in the old days, used to be called manifests, now advanced passenger processing information. But the assistant commissioner can take up the tale from that point. I'm certainly not aware of a separate collection of facial data separate from what's already chipped into your passport.

Mr Williams: No, Senator. Apologies if I wasn't clear. Airlines do collect some information. It's largely biographic text based information, which they provide under the advanced passenger information process. They don't collect photographs and pass those to us.

Senator LEYONHJELM: I see. In anticipation of perhaps broader use of the facial recognition data, I'm going to return to another aspect which was raised earlier, and that's security of your data. There was a media report last week of a former model—obviously a pretty lady—whose personal details—

Mr Pezzullo: Sorry, a model?

Senator LEYONHJELM: A model, yes, whose personal details were accessed by Queensland Police, by 258 separate, individual officers more than 1,400 times. New South Wales Police have a fairly grim record on this issue as well of accessing data—

Mr Pezzullo: Sorry, Senator, I'm trying not to be obtuse here. Are you speaking about Immigration and Border Protection data?

Senator LEYONHJELM: Well, where I'm getting to is—

Mr Pezzullo: I do apologise.

Senator LEYONHJELM: Security of data.

Mr Pezzullo: Right, sorry, okay. So you're using examples of what's happened in other jurisdictions?

Senator LEYONHJELM: Correct.

Mr Pezzullo: But with their data, not ours?

Senator LEYONHJELM: Not your data—that's exactly where I'm going.
Mr Pezzullo: When you started speaking of those numbers, I had a slight sinking feeling, but I'm rising back up again.

Senator LEYONHJELM: I'm sorry to scare you. Where I'm heading with this is to get some comfort as to what you and your department are going to do to ensure that a pretty girl who is of some interest to your staff doesn't find her facial image being looked up to find out her details. The Queensland Police, as I said, with just one pretty girl, have done this in the case of this model 1,400 times by 258 separate police officers. There are quite a number of New South Wales cases where somebody—usually a young woman—has been identified on cameras as of interest to the police officers and they have checked her out, found out where she lives and all sorts of information about her.

Mr Pezzullo: I understand where you're leading.

Senator LEYONHJELM: This is an exceedingly dangerous activity, and there's no reason to believe that there wouldn't be the same interest in pretty girls in Australian Border Force as there is in the Queensland or New South Wales Police. So where I'm heading with this is: what are you going to do to ensure you don't go down that path too?

Mr Pezzullo: Can I give you and the committee an absolute assurance—and this is irrespective of gender, age, sexual orientation, any other distinguishing features—everyone is entitled under law to their privacy being protected and those legal requirements are very clearly set out in Australia's Commonwealth privacy legislation, and there is of course a statutory commissioner who checks on those things. We already have a situation where—forget about the introduction of new facial technology, facial recognition technology or other data analytics capabilities—whether in the immigration part of our historical business or in the customs side of our historical business, from the very time that computers started to be used en masse and images started to be collected, but beyond images, residential address, marital status, any identifying features around sexual orientation, all of that information is protected information. Officers can only access that information in the performance of their lawful duties. We have systems checks which other officers can speak to in more detail. There are audits undertaken to ensure that person who have accessed a database—I'm searching for the term here, a sort of a general interest in looking at the movements of—I think you referenced someone whose employment is a model. We wouldn't distinguish on the basis of any ground, whether you're a politician, a celebrity, a famous person, a not-so-famous person, whatever your line of employment—officers will only look at your details in the performance of their duties. If they don't, we have a very strict integrity regime that's underpinned and backed by systems checks, including audit trails about logged activity—who logs on, who pulls the particular file. There are members in this committee, in this very room, who I'm sure are well-known, their travel movements would be of interest. We're starting to get into sackable offences—I might ask Ms Moy to return to the table—both by way of mandatory reporting—that is, they are obligated to under a secretary's direction—colleagues say, 'Officer such and such was peddling this information or inappropriately downloaded it and showed it to me,' that would be one line of reporting. There are systems checks, there are audit logs that go to who has accessed the information and for what purpose—and if it doesn't, in the case of the Border Force, and the Acting Commissioner can speak to this. If it doesn't relate to an investigation that that officer is pursuing, or some other lawful activity that they're pursuing—all things being equal, and of course subject to due process, it could well result in their
dismissal. But perhaps Ms Moy in the first instance can speak to the checks that we undertake. And you're making a reference here to the Border Force. I might ask the Acting Commissioner to add to my answer, but perhaps we might go to Ms Moy first.

Ms Moy: The secretary has covered quite a bit of it, but we would refer to the issue as browsing. If a staff member of the department, be that Border Force or the department, accesses a file or information that they're not entitled to in the course of their duties, we would look upon that quite severely and be undertaking an APS Code of Conduct, so the Public Service Act. One of the many sanctions under that Act is termination of employment. As an example, we've recently gone out to staff, as part of our normal communications around the integrity framework, with a case that was very similar. Through our data analytics, in the case that you've mentioned, we would pick that up under our data analytics—because there was a number of continuous hits to a particular file. As we run the checks through our system, we would pick that up and ask, 'Why is this particular file being looked at by a number of people?' So we would have picked that up quite early in the process.

Senator LeyonhjelM: The Queensland Police also have that system. According to this media report, there was an 18-month internal affairs investigation, but then no officers faced criminal charges and only two were offered managerial guidance. What would be the consequences if Border Force staff accessed or browsed, as you call it— the article here calls it 'pervig'— if Border Force staff engaged in that activity?

Ms Moy: Well, whether it was a Border Force—

CHAIR: Look, it's almost hypothetical, and the trouble with this is I guess it would depend upon the gravity and the—

Mr Pezzullo: It would turn on the—

Senator LeyonhjelM: Chair, it's important because COAG has recently agreed to share facial recognition.

CHAIR: It might be important, but it is hypothetical.

Mr Pezzullo: Mr Chairman, it would turn entirely on the facts of the matter. People would be entitled to—

CHAIR: And that's why you don't ask hypothetical questions. It depends on the facts of the matter.

Mr Pezzullo: People would be entitled to natural justice, and due process.

CHAIR: I think it's better, Mr Pezzullo, if we leave it that it's a hypothetical and shouldn't be asked.

Mr Pezzullo: Thank you, Mr Chairman.

Senator LeyonhjelM: I don't think there's any prohibitions on hypothetical questions.

CHAIR: Yes, there is.

Senator LeyonhjelM: Is there a criminal offence involved in accessing this material?

Mr Pezzullo: I can answer that, not in the hypothetical, that inappropriate use—well, access and use of information, not quite in the example that you postulated in your question, but more to do with then passing that information on to others who don't have a right to know that information, including support of their criminal activities—has resulted in criminal
charges being laid. Whilst I don't wish to address the hypothetical situation of someone browsing—or whatever verb you choose to employ—the commissioner and I would certainly apply a very strict threshold here. Unless there was a reasonable excuse, and it would turn on the facts—and everyone is entitled to natural justice and the presumption of innocence—but the breach of faith in the first instance and then the sanction for that breach would be at the heavier end of the scale. But it would always turn on the particular facts and it would turn on what came forward through due process.

Senator LEYONHJELM: Acting Commissioner, do you want to add to this discussion?

Mr Outram: I can't make comment on Queensland Police or New South Wales Police and those other cases. From my experience of many years in law enforcement, there have been numerous cases down the years where officers who have accessed information or shared inappropriate information on police systems have been sacked. I can remember a case in the last five or six years where that has occurred. So police forces, by and large, take that very seriously. To characterise our culture in the Border Force and to say, 'It's obviously a problem for them; it must be a problem for you,' I don't necessarily accept the premise of that statement.

Those in our workforce are very acutely aware of their obligations in relation to privacy. We drum into them the importance of our information in relation to its sensitivity. Many, many of our staff receive security clearance vetting from the government agencies to appropriate government standards. All our systems are classified appropriately—whether that be 'protective', 'secret' or 'top secret'. We put all of our employees through employee suitability tests before we employ them. We have a lot of compliance activities, as has been spelt out to you, ongoing. Our workforce isn't just a load of blokes who like to look at pictures of pretty women—that's the way you've characterised it. We have a lot of women in our workforce and lot of people from diverse and other sorts of backgrounds. We're quite a diverse organisation. If anything, we value that diversity and we push hard to become more diverse. We have a lot of mechanisms by which people can report wrongdoing so that we become aware of it. So I challenge the notion that we must have the same sort of culture in our organisation.

In every organisation, of course, you get some people who let you down. And I wouldn't say we're immune from that. But it would be wrong to characterise what is a very dedicated and professional workforce in the Border Force in that way. We would look very seriously at any sorts of breaches that have been talked about.

Mr Pezzullo: I would add, if I may, that, in addition to the officers themselves being under all of those integrity injunctions, it's a requirement by lawful direction from the secretary that there's mandatory reporting of any instances of wrongdoing and misconduct that people come across. So not only are individual officers prohibited from engaging in the conduct that you've just described but if other officers become aware of it—you talked about sharing, for instance, and people viewing this material—they themselves would be in breach of our integrity standards were they not to report it and they themselves would, thereby, expose themselves to similar breaches and ultimate sanctions, which could include termination of employment. In other words, you can't passively say, 'That's happening in one part of my workplace; I'll just let it keep going.' You yourself become exposed to potential sanction if you don't report that action.
Senator LEYONHJELM: I have some questions about a particular import product. Is that outcome 1 or 3?

Mr Pezzullo: Imports, Mr Chairman, through you, would be under program 3—probably 3.2 to be precise.

Senator LEYONHJELM: Okay. Thanks. That's all, Chair.

Senator KIM CARR: There is a direct question that follows up from what Senator Leyonhjelm was raising. Mr Pezzullo, you say that you take up these questions where there are clear breaches.

Mr Pezzullo: Yes.

Senator KIM CARR: In a previous answer to a question on notice, there were six examples of AAT decisions being leaked to the Herald Sun. You said in the answer—this is BE17/011—it was under consideration and review by the department. That's some time ago. What's the outcome? What's happened?

Mr Pezzullo: I'm not sure that we would be directly investigating the leaking of confidential—

Senator KIM CARR: This is confidential material from this department—matters raised through the AAT?

Mr Pezzullo: Of their decisions, did you say?

Senator KIM CARR: Yes. The claim was made that some refugees were getting free stays in big homes in costly inner-city Melbourne suburbs. In the detail were street names, street numbers, suburbs and photos of houses that these people were allegedly living in. How did the Herald Sun get that information if it wasn't from your department?

Mr Pezzullo: I have no idea. If the information's been processed through the AAT, I don't know if other parties have access to that. Certainly to the extent that there's any disclosure by departmental officers, it's something that I would take a very dim view of.

Senator KIM CARR: I've got no doubt that's true, but given what was just put to us—

Mr Pezzullo: Can I just have a look at these questions—

Senator KIM CARR: This is the estimates hearing on 22 May.

Mr Pezzullo: And we've come back on notice.

Senator KIM CARR: You've come back on notice and said, 'The matter is currently under consideration and review by the department.' It's been some time since that question was asked. I have read from the question—budget estimates, 22 May 2017—and there was obviously a further report on 14 September. So there are two separate reports. Clearly, there are breaches.

Mr Pezzullo: Clearly. You talk about six instances—

Senator KIM CARR: The AAT and then there's this further example of the Herald Sun on 14 September.

Mr Pezzullo: Ms Moy will no doubt assist me. The assessment would go to how many people would have access to that information, how widely it would have been known and whether it is information solely in the control of and privy to the department or whether other entities, such as service providers and other people, have access to that information about
where people live residentially if they are living in the community on various forms of visas. Ms Moy can advise where that matter is currently at. I always take all of your quotations on trust but also on a verified basis, and you are right—it does say, 'The matter is under consideration and review by the department.' So Ms Moy can update us both.

Ms Moy: I'll just have to go back and check on notice, but I can do that before the dinner break. My understanding at this stage is that there was no indication that the disclosure came from the department. We ran quite a number of tests to determine if there were any emails leaving the department et cetera.

Senator KIM CARR: I'm familiar with that methodology. I once had someone that dropped a contract and I didn't realise that they had also been looking at some unauthorised sites and they got the sack. I asked the secretary at the time, 'Who dropped the contract?' I know that departments can check every keystroke from a departmental computer. Is that still the practice in the department?

Ms Moy: That's correct.

Mr Pezzullo: Everything is logged.

Senator KIM CARR: To be able to refer anything to the AFP, we would have to have evidence that it was actually disclosed by the department. In the instances where we have evidence that something is disclosed from the department that should not be, we refer that to the AFP and we undertake action with the Australian Commission for Law Enforcement Integrity and also through the code of conduct. In this case, and in many others, there is no evidence that the information came from the department or left the department's holdings to go to another party, a third party.

Mr Pezzullo: Or that it was necessarily classified. That interjection relates to the fact that I do recall this now. Senator Pratt asked me about it. What puzzled me at the time and perhaps still continues to puzzle me is that it relates to the 'leaking', as it is described in her question in the heading, 'AAT decision leaked'. I'm not sure if there are secret decisions that are leaked. So I'm sure what the confluence is between what the AAT heard and what it promulgated in terms of its findings versus what has come out of our systems.

Senator KIM CARR: So your point is that you need to be able to demonstrate that a crime has been committed—

Mr Pezzullo: Prima facie.

Senator KIM CARR: Prima facie, sufficient, presumably to get a prosecution?

Mr Pezzullo: Sufficient for the AFP referral mechanism to accept it. It's a slightly different test but it's in the ballpark.

Senator KIM CARR: The old plumber's test: how do you fix a leak?

Mr Pezzullo: I'm not familiar with that terminology.
CHAIR: Well, it's not a question, Mr Pezzullo.

Mr Pezzullo: I'm a bit younger than Senator Carr, so it's not something that—

CHAIR: Are you finished? You're five minutes through your time.

Senator KIM CARR: I appreciate that. In regard to the Nauru contracts, recently there was a notice displayed on Manus to say that people on Manus could volunteer to go to Nauru; is that correct?

Mr Pezzullo: That's the case. As I mentioned in my opening statement, and as Ms Newton has mentioned on a number of occasions today, there is a mechanism in place now that relates to men on Manus availing themselves of that opportunity.

Senator KIM CARR: How many have taken up that opportunity?

Ms Newton: At this time, we've requested an expression of interest for anybody that's interested. We've got two refugees that have expressed an interest and one non-refugee that would not be eligible.

Senator KIM CARR: That's three?

Ms Newton: That's correct.

Mr Pezzullo: You have to be a refugee, right?

Ms Newton: Yes, you have to be a refugee to be eligible to go.

Senator KIM CARR: Is it the case that the expression of interest had to be completed by 5 pm today?

Ms Newton: We were seeking initial interest as early as today to be able to respond. It doesn't mean that anybody that expressed an interest after this time wouldn't be given an opportunity.

Senator KIM CARR: I'm sorry, the notice actually said, 'The expression of interest must be completed and submitted before 5 pm Monday, 23 October.'

Ms Newton: Yes, we were seeking to find out how many people were interested in—

Senator KIM CARR: That's not right then?

Ms Newton: Well, the expression of interest at this time, but if somebody came back at a later time and showed an interest in going to Nauru, we would still consider that option.

Senator KIM CARR: Okay, it's just that's not what the notice says.

Ms Newton: The notice was to actually see how much interest there was, prior to the RPC closing on Manus, in moving to Nauru so that we could manage the logistics associated with transfer. We have to work with Nauru on their agreement as well as health checks and other things for people to transfer, and security.

Senator KIM CARR: Why have you offered this to men on Manus?

Ms Newton: Because it gives them a further opportunity for alternatives other than staying in PNG.

Senator KIM CARR: Are you surprised that only three have accepted it?

Ms Newton: I'm a little surprised at this time. I thought there might have been further interest.

Senator KIM CARR: What's behind that view?
CHAIR: Ms Newton, you are being asked—

Senator KIM CARR: It's not a trick question.

CHAIR: You are asking for her opinion, which as you know is not relevant to estimates committees. In fairness to yourself and—

Senator KIM CARR: Mr Chairman, I have asked this officer who is an expert in the field whether she is surprised by the fact that only three men have taken up the offer. She indicated, quite frankly, quite properly, that she is.

CHAIR: That's her opinion and it's not allowable. The question won't be allowed. That is made clear at the beginning of every estimates.

Senator KIM CARR: You have said that the refugees transferring to Nauru will have the same access to services and resettlement arrangements as other refugees on Nauru. What does that involve?

Ms Newton: They will be eligible for the US process. They will have an option of the consideration of Cambodia.

Senator KIM CARR: What payments would be involved?

Ms Newton: No payments to the refugees to transfer there. They would move there and they would be under the normal living conditions—

Senator KIM CARR: There would be allowances and other types of payments if they were to travel?

Ms Newton: Initially, they would most likely go into the regional processing in Nauru, where they would have meals provided and all of the other services—very similar to Manus.

Senator KIM CARR: That's right. So there wouldn't be any loss of financial benefits for them to move?

Ms Newton: No.

Senator KIM CARR: That's why I asked the question: are you surprised, and they wouldn't lose any capacity to apply for the United States?

Ms Newton: No. It gives them additional options, potentially, for Cambodia, as well as the United States.

Senator KIM CARR: Is that why you were surprised?

Ms Newton: I was surprised because I thought there might have been more people who could have been interested—from the conversations that we've been advised of over time about people who might wish to go to Nauru.

Senator KIM CARR: How much is Australia paying per refugee on Nauru at the moment?

Ms Newton: I don't have the detail of the individual cost for every refugee on the island.

Senator McKIM: A lot.

Senator KIM CARR: Yes.

Ms Newton: I'm sure we could extrapolate that and provide it to you.

Senator KIM CARR: Thank you. If you would, please.

Mr Pezzullo: I think we've provided an average cost before and we can—
Senator KIM CARR: Yes; it won't be hard to find. That hasn't increased much, has it? It's been pretty static?

Ms Newton: Yes.

Mr Pezzullo: The per unit amount has been fairly stable for quite some time, yes.

Senator KIM CARR: It would be the same amount per month for a person who's moving from Manus to Nauru for those three?

Ms Newton: It would be a slight variation to their allowance potentially of what they receive at the moment on Manus for personal effects that they might choose to buy, which is a very small allowance. It was a point system on Manus that they were receiving so that they could buy their cigarettes and other things. On Nauru, depending on the accommodation, we'll determine what allowance they receive, but it would be a similar equitable amount to undertake their normal living expenses.

Senator KIM CARR: Who initiated this proposal? Did it come from the government of Nauru or was it the Australian government?

Ms Newton: The Nauru government, the Papua New Guinea government and the Australian government have all agreed with the process taking place.

Senator KIM CARR: But who initiated it? Did the Australian government approach the Nauruan government?

Ms Newton: The Nauru government has showed interest for some time in taking any refugees from PNG if they wished to transfer. Australia agreed with that position.

Senator KIM CARR: I see. So the initiative came from Nauru.

Ms Newton: There have probably been discussions over a very long period of time about transfer of people between the two countries.

Senator KIM CARR: In this particular circumstance it was the Nauruan government that was seeking to take additional people?

Ms Newton: The Nauru government had indicated they would take additional people. The Australian government went to both Nauru and PNG and asked what their interests were.

Senator KIM CARR: Deputy Commissioner, I'm seeking to find out, in this particular occasion, if it was the Nauruan government that sought additional people from Manus—not that they were willing to take, but that they sought them out at this time.

Mr Pezzullo: I think the specifics of diplomatic engagements come into play here. I would want to reflect on how much of that to and fro between the three governments I would want to lay out here at estimates before we gave our Nauruan colleagues the courtesy of advising them in advance. We'll take it on notice.

Senator KIM CARR: Has the Australian government offered the Nauruan government any additional payments for taking additional people?

Ms Newton: The payments would be in accordance with what the visa costs were for those people to go to Nauru, which is the normal visa fee when going into that country.

Senator KIM CARR: So that's $10,000 each? They have a visa charge of $10,000, don't they?
Ms Newton: I'd have to take advance on exactly that amount. You're quite possibly right, Senator.

Senator KIM CARR: It's in that vicinity, isn't it? Is there a visa charge of $10,000 if you want to go to Nauru?

Ms Newton: I'll answer that in a moment when I get clarity on the price of the payment.

Senator KIM CARR: If you could, thank you. But there are no other payments?

Ms Newton: The payments are associated with what the costs are for the provider, which would be for Canstruct to deliver the services on island, as well as anything to do with Host, which is the provider for welfare services.

Senator KIM CARR: If you could, please—to whatever costs are involved.

Mr Pezzullo: I think the senator is asking, over and above, what might be, if you like, the volume.

Senator KIM CARR: Yes.

Mr Pezzullo: If there are more people, the greater the outlays, presumably offset by lesser outlays elsewhere. I think the senator is also going to: are there any particular and specific payments that attach themselves to men going from Manus?

Ms Newton: There are no payments to the Nauru government for individual men that move to Nauru. The visa fees are $2,000 for a refugee and $1,000 for a transferee.

Senator KIM CARR: So it's just $10,000 for journalists!

Ms Newton: It may well be.

Mr Pezzullo: We don't know. That's a matter best asked of the Nauruan government. We don't have a relationship with them over what they charge journalists or, indeed, any other person.

Senator KIM CARR: The fact sheets state that the government of Nauru will then decide which refugees can transfer. Are you able to advise the committee on what criteria will be applied to pick which refugees?

Ms Newton: In particular, Nauru want to ensure that their health is appropriate and that people don't have, for example, tuberculosis and other diseases that might be communicable on Nauru. They also want to ensure that there are checks associated with their security arrangements and whether they have any criminal backgrounds as well and that their overall mental health is suitable to transfer.

Senator KIM CARR: Have there been any rejections of the three?

Ms Newton: We've only sought an expression of interest. That material hasn't gone to Nauru yet. But, of course, one of those people is not a refugee, so therefore they will not be eligible and they are still preparing documentation for advice to Nauru.

Senator KIM CARR: Did the Nauru option come about because there aren't any other third-party countries that are taking refugees?

Ms Newton: Nauru has come about because both PNG and Nauru are comfortable with an arrangement of refugees moving between the two countries.
Senator KIM CARR: Which other countries is the government currently engaged with in terms of identifying third-party resettlement?

Ms Newton: I'm not in a position to discuss that.

Senator KIM CARR: Mr Secretary, are you able to advise the committee?

Mr Pezzullo: I'm sorry, Senator; I really do apologise.

Senator KIM CARR: Are you able to advise the committee which other countries Australia has had discussions with regard to resettlement of refugees from Manus and/or Nauru?

Mr Pezzullo: Over what time period?

Senator KIM CARR: Since the last estimates?

Mr Pezzullo: No, I'm not.

Senator KIM CARR: Why is that?

Mr Pezzullo: Firstly, because those conversations would be highly confidential and I would in that case claim the standing immunity that attaches to those conversations. Secondly, in any event, I'd want to refresh my memory as to precise dates.

Senator KIM CARR: Do you want to take it on notice or are you claiming public interest immunity?

CHAIR: In both cases, you should perhaps do it on notice.

Mr Pezzullo: It's a mixture. I'll take it on notice, but I do so advise that I don't think that there will be a very specific answer coming back to you.

Senator KIM CARR: Do you think the establishment of the new department of home affairs will actually lead to a higher priority being given to third-party resettlement?

Mr Pezzullo: It's hard to see—

Senator KIM CARR: It couldn't give it a lower priority, could it?

Mr Pezzullo: I was going to say that it's hard to see how we could afford it a higher priority. We've been engaged with a number of countries, and we've given evidence on this over the years. It remains of paramount concern in terms of our bilateral commitments with the governments of Nauru and PNG, where we've committed to assist them in finding durable solutions for everyone—not only those who are owed protection and therefore a resettlement outcome, other than coming to Australia. The establishment of the home affairs department will make no difference in that regard.

Senator KIM CARR: I see. New Zealand has a standing offer on the table to take 150 people. Are you considering that to be a viable offer?

CHAIR: Just before you answer, I would advise you, Senator Carr, that that's your actual 20 minutes. I've been remiss, but this can be your last question for this time. We are then going to afternoon tea at 3.15. I think the government has a question or two. Senator McKim and Senator Leyonhjelm, do you have more.

Senator LEYONHJELM: I will just check which section my question should be in, but I don't think I'll be very long, though.
CHAIR: Senator Hanson, you're right at the moment? We are supposed to finish, according to the schedule set by the committee, this by 3.15. That is outcome 1 as well as the corporate and general matters, which we sort of combined. Is that time, the next 15 minutes, likely to be convenient to everyone—mainly you, Senator Carr, I should imagine?

Senator KIM CARR: I think we might be able to move on. As you know, the program is only indicative, as you've indicated on several occasions.

CHAIR: Yes, I have, and it is. But the reason for having it indicative is so that other senators who can't be here all the time can look at it and say, for example, 'Well, I'll come along at five o'clock because that's when I will ask questions about outcome 2.' That's the only thing. Anyhow, let's carry on.

Senator KIM CARR: Thank you very much. Mr Pezzullo—

CHAIR: You're finished, or you had this last question.

Senator KIM CARR: No, I was halfway through a question.

CHAIR: Yes, you were.

Senator KIM CARR: Mr Pezzullo, the question I want to put to you is regarding New Zealand. There is a standing offer from New Zealand of 150 refugees, 150 people, otherwise from Manus. The new Prime Minister stated during the campaign that she stands by the commitment by the former Prime Minister. Maybe this is a question for the minister and I'm happy if the minister wishes to take it: is the department or the government prepared to re-engage with their New Zealand counterparts on this matter?

Mr Pezzullo: Minister, if you wish, I'm happy to commence the answer.

Senator Cash: Please do.

Mr Pezzullo: I'm aware of the comments made by the then opposition leader, now Prime Minister-elect—and sorry if I've got that wrong if she has been sworn in today—but certainly the Prime Minister-elect. Subject to the direction of the government of the day, we will always engage with one of our closest allies, partners and friends. I've given evidence on this question before that a number of matters would have to be examined, including the onward travel rights of any persons captured by such an agreement. I've given evidence on that in years past, and if the new Labor coalition—I think I'm referring to it correctly.

CHAIR: Just call it the new government.

Mr Pezzullo: The new government, indeed. If it wants to formalise the comments that the then Leader of the Opposition made, we will of course always engage diplomatically with our partners, friends and allies in New Zealand. Unless the minister wishes to add to that, that is the position.

Senator Cash: I think that covers the matter.

Senator KIM CARR: So it is not being rejected out of hand?

Mr Pezzullo: We would never not engage with New Zealand. We would always have a discussion with New Zealand. It is a very frank, full and very close and intimate relationship, and I can't imagine that we would do anything other than engage with them very earnestly on any matters that were on the minds of their Prime Minister or other members of their government.
CHAIR: Okay, thanks. Mr Pezzullo. Senator McKim, are your questions likely to take long?

Senator McKIM: Are they likely to take?

CHAIR: Well, five minutes, 10 or 15?

Senator McKIM: Probably closer to 15, I think, Chair.

CHAIR: In that event, I might go back to Senator Leyonhjelm who I understand has one question or one topic—

Senator LEYONHJELM: Yes, one topic.

CHAIR: and then we can finish with Senator Leyonhjelm and then go to afternoon tea and come back to you for 15 minutes when we return, Senator McKim.

Senator McKIM: Righto.

Senator LEYONHJELM: Thank you, Chair. My questions relate to the importation of Airsoft products.

Mr Pezzullo: Importation of?

Senator LEYONHJELM: Airsoft.

Mr Pezzullo: If the Acting Commissioner can assist me.

Mr Outram: I'm sorry. Airsoft?

Senator LEYONHJELM: You don't know what it is either?

Mr Outram: It is a brand, Senator?

Senator LEYONHJELM: No, it is a style of plastic firearm similar to paintball.

Mr Outram: Oh, I see.

Senator LEYONHJELM: I'm not entirely sure whether Border Force or the department has responsibility for the policy on it or whether it is the Attorney-General's Department that has policy responsibility. I do know who implements the policy; it is Border Force.

Mr Outram: Indeed, sir, if an import becomes prohibited in any way, and listed in the Customs regulations of prohibited imports—I think it is regulations of 1956 or wherever—then we are responsible for enforcing that law at the border. The policy, though, behind why something might be banned because it contains a chemical or because it is dangerous to children, wouldn't be our lead. We do of course engage across a whole lot of different government departments in relation to those policy discussions.

Senator LEYONHJELM: The gentleman to your left has something to contribute.

Mr Chandler: If it's a firearm, then the Attorney-General's Department has lead policy responsibility for that.

Senator LEYONHJELM: They look like firearms, yes, but they're plastic. They are imported for the Defence Force, the ADF. Do ADF imports go through you guys or are they able to do their own thing?

Mr Chandler: Sorry, Senator, when you say 'do they have to go through us'?

Senator LEYONHJELM: Are they subject to your scrutiny on the way in and therefore they're exempt? And are they exempt under your rules, or do they import them directly because they don't have to deal with you?
Mr Chandler: If it were a weapon and it required a permit for import, it would need to come through us.

Senator LEYONHJELM: So the ADF is importing airsoft equipment, but nobody else can import them. What's the policy background to that? How does that work?

Mr Outram: Perhaps we could take this question on notice, because none of us are aware of the background of this particular product.

Senator LEYONHJELM: I'm just wondering if I might be making it too hard for you by not having the right people here.

Mr Pezzullo: No, the right people are here. The point of principle is straightforward. The Defence Force can purchase fully automatic machine-guns. They're the defence force of the country. Those weapons are permitted and, when they cross the border, the Defence Force has the authority to import them through the Customs Act like any other entity. The Crown binds itself in law, as you all know, but because they're the Defence Force, it's part of a supply chain and they will let us know they've got a shipment of whatever coming in, I don't think Mr Chandler's people—who are the right people, by the way; they're sitting at the table—would say, 'We're going to have a look at whether the country's going to be defended.' No; if it's an authorised purchase made by the Defence Force, it's not part of a supply chain and they will let us know they've got a shipment of whatever coming in, I don't think Mr Chandler's people—who are the right people, by the way; they're sitting at the table—would say, 'We're going to have a look at whether the country's going to be defended.' No; if it's an authorised purchase made by the Defence Force, I'm not sure what the licensing and permitting requirements are, Mr Chandler—Border Force would say: 'We know about this importation coming in. It is a of machine-guns—or a batch of grenades—and it's the subject of collaboration between the ADF and the ABF.' Have I captured that, Mr Outram? We don't want any room for ambiguity here. The ADF isn't some sort of bootlegging organisation that can get around the Customs Act—let me be very clear about that.

Mr Outram: And there are processes in place with the ADF where they seek specific exemptions for certain things, so it's not an unregulated thing.

Mr Pezzullo: Missiles, torpedoes—what else, Mr Chandler?

Mr Chandler: Tanks and fighter aircraft.

Mr Pezzullo: Airsoft is probably at the gentler end of what they're allowed to get.

Mr Pezzullo: Airsoft is probably at the gentler end of what they're allowed to get.

Mr Pezzullo: Airsoft is probably at the gentler end of what they're allowed to get.

Senator LEYONHJELM: Very gentle, Mr Pezzullo. What I'm looking for is to find out which department is primarily responsible for the policy rather than just implementing the policy.

Mr Pezzullo: I think, as Mr Chandler stated, it depends on the nature of the goods. Therapeutic goods, obviously, comes under one act of parliament. In this case, it's a weapon or weapon-like importation. The minister was good enough to pull something up on her website. Perhaps you can help me out here—they look like very good replicas, but I presume they don't have a ballistic capability, and that's maybe the reference to 'air' and 'soft' being conjoined in the same phrase. Mr Chandler will check this during the proceedings, but they would still nonetheless have to be permitted. I have to say, if someone was just wandering around the streets with a firearm-like weapon that looked remarkably like an M4 carbine or an AR-15—and other weapons that those of us who have served in various capacities, full-time or reserve—you'd look like pretty heavy-duty weapons, and the constabulary would not want to be simply thinking to themselves: is that an airsoft or is that the real thing? So I'm sure there are—
Senator LEYONHJELM: So there is a policy issue here in relation to distinctions between these and paintball. What I want to know—

Mr Pezzullo: Sorry, Senator—sorry to interrupt: firearms policy, as Mr Chandler indicates, is with the Attorney-General's Department. The relevant minister is the justice minister and then the Comptroller-General of Customs and the head of the Border Force, Mr Outram, then executes that policy. I'm looking at the airsoft now—they look like pretty serious weaponry, so I can't imagine that they wouldn't be the subject of—

Senator LEYONHJELM: They're very lightweight plastic and they shoot these tiny little orange plastic things about two metres.

Mr Pezzullo: But if someone doesn't know that, Senator, they might think otherwise.

Senator LEYONHJELM: In any case, if there was going to be any justification offered for the current policy, it wouldn't be from you; it would be Attorney-General's, I think you're saying.

Mr Pezzullo: That's right.

Senator LEYONHJELM: That's fine; I'll leave it there.

CHAIR: Before we break for afternoon tea, Senator Singh has a few questions on the same area.

Senator SINGH: I just want to ask: what is the name of the contractor the government is paying rent to for the Lorengau transit centre?

Mr Pezzullo: The owner of the—

Senator SINGH: Yes.

Mr Pezzullo: The person to whom any payments are made. I'm not sure that we are paying rent. I will just need to check that. Mr Nockels will know.

Senator SINGH: Okay. I presumed that, if we didn't own the transit centre, we would be paying rent.

Mr Pezzullo: No; but it might be public land. We'll just check.

Mr Nockels: That's correct, Secretary. The land that the East Lorengau Refugee Transit Centre is on is PNG crown land, so there is no rent paid.

Senator SINGH: There is no rent paid at all? So there is a facility there on that PNG crown land—

Mr Nockels: Yes.

Senator SINGH: and we don't pay any rent. There is no contract then?

Mr Nockels: There is no rent contract or leasing contract.

Senator SINGH: At all? Are there any other transit facilities that we're engaged with which we're paying any contractual fees for?

Mr Nockels: No. The Commonwealth doesn't have any leasing arrangements in Manus. If we were to have leasing arrangements they would be through service providers, so the Commonwealth wouldn't hold that contract directly.

Senator SINGH: At Lorengau, there is just the one transit centre? Is that right? Or is there more than one?
Mr Nockels: There is a transit centre called the East Lorengau Refugee Transit Centre—often referred to as ELRTC.

Senator SINGH: That's the only one?

Mr Nockels: At the moment—

Senator SINGH: Is there another one proposed?

Mr Nockels: It was mentioned earlier this morning that, yes, there are a range of other centres that will be brought online in the next few days.

Senator SINGH: So perhaps it is these other centres that I'm asking about?

Mr Nockels: Possibly; but, again, the Commonwealth won't hold any leasing arrangement. It will be through service providers, who actually hold leasing arrangements.

Senator SINGH: When you engage with the service providers that hold the leasing arrangements, do you look at who they are holding those leasing arrangements with? As a government, do you look at who the service providers are holding leasing arrangements with?

Mr Nockels: Our expectation with our service providers is that, depending on the range of services we are requiring, they abide by PNG law. So, if there were a requirement to hold a lease, to pay rent et cetera, they would be doing that under PNG law. That's where we would engage with our service providers to ensure that the leasing arrangements were appropriate.

Ms Newton: Senator Singh, for every one of the facilities there has been an agreed location with the PNG government. They have authorised us to progress activity. Whether it's at Hillside House for nonrefugees—there has been consultation with the PNG government for that facility—the provider then goes through the process of lease arrangements with the local community landholders and puts in place the costs. Of course, with the facilities that are in place there at East Lorengau, a lot of that construction originally occurred with the department. Broad Spectrum provided the lease operations for that location.

Senator SINGH: Who are these local community landholders that the leasing arrangements are through?

Ms Newton: I don't have the details of exactly who owns the land.

Senator SINGH: That's what I would like to know. Can you take that on notice?

Mr Pezzullo: We'll take it on notice.

Senator SINGH: Or can you provide it later today?

Ms Newton: We'll see if we can provide it today, yes.

Senator SINGH: Thank you.

CHAIR: That's it, Senator Singh? We will break for 15 minutes and come back at 3.35. I will go to Senator McKim, and then Senator Carr has another question about corporate and general. Hopefully, we will be able to finish with that and move on to outcome 2.

Proceedings suspended from 15:18 to 15:38

CHAIR: We will resume the committee's inquiry into the additional estimates for the Department of Immigration and Border Protection. We are just finishing up with outcome 1, and I will go firstly to Senator McKim and then to Senator Carr.
Senator McKIM: Mr Pezzullo, have you had any luck chasing up the veracity of the notice that I tabled a translation of earlier?

Mr Pezzullo: Indeed—I'm not sure that I've had luck, but I've certainly been advised that notices that broadly follow that translation have been posted on the authority of the Immigration & Citizenship Service Authority of PNG.

Senator McKIM: When you say they 'broadly', I think you said, 'follow', you're not suggesting that the translation is significantly inaccurate in any way, are you, Mr Pezzullo?

Mr Pezzullo: No, no. I've read the English version, and I don't speak or read Farsi, so I'm taking it that it's a good-faith translation.

Senator McKIM: Yes, it's done by an official translator, obviously. Thank you. I want to follow up on some questions on the three facilities mentioned there. I do apologise if this ground was gone over before afternoon tea, but I took the chair on face value that we'd be going to Senator Leyonhjelm and then afternoon tea. I now understand Senator Singh popped in for 10 minutes or so before afternoon tea. So, again, apologies, if this ground has been covered. I'm specifically asking about Hillside House and West Lorengau house—neither of which, I understand, are ready to receive people as yet, should anyone decide to go there. I understand this has been asked so apologies, but who owns the facilities and who owns the land on which those facilities stand?

Mr Pezzullo: I'll ask the deputy commissioner to briefly summarise any evidence that she's already given and then to address your questions directly.

Ms Newton: Hillside House will be available for accommodating people from tomorrow. It's now met all of its requirements today to be able to proceed and have people living in that facility.

Senator McKIM: That's for nonrefugees, Ms Newton—is that right?

Ms Newton: Yes, that's correct. Site management services is an NKW Holdings-related contract, and we were asked a question by Senator Singh just before the break—I don't have the details associated with who owns that land because it's a contract that occurs between the contractor and the landholder. We're following up with further details on that on notice.

Senator McKIM: Does the new governor of Manus island have any interest in that land, to your knowledge?

Ms Newton: Because I'm not aware of who owns that land, I'm unable to answer that question.

Senator McKIM: So that's Hillside House. What about West Lorengau house?

Ms Newton: West Lorengau house—I also don't have the details of who owns that land, and we're following up on that information.

Senator McKIM: Thank you. What's the nature of the facilities at Hillside House—is it tents?

Ms Newton: No, it's fully contained hard-sided accommodation.

Senator McKIM: Is it shipping containers?
Ms Newton: At this point in time, there are some containers. There will be air conditioning available and other accommodation, which is transferable accommodation, for that site.

Senator McKIM: So you've got some containers on-site. You said this will be available tomorrow so presumably, as you'll be ready to go within a matter of hours, not days, to receive people. Is the air conditioning installed?

Ms Newton: All of the services are being installed. That's why it's operational from tomorrow.

Senator McKIM: So we've got some shipping containers. Are there any other accommodation units on-site at the moment apart from shipping containers? And, if so, what are they?

Mr Pezzullo: They call them transferable.

Ms Newton: Transferable accommodation containers which people can live in with adequate services being provided.

Senator McKIM: Do they have windows?

Ms Newton: I would assume they have windows, yes.

Mr Pezzullo: We'll check the details.

Senator McKIM: So to be clear, I'd like a—

Ms Newton: We'll provide you with further advice as to the details of what that accommodation looks like.

Senator McKIM: And same for West Lorengau house?

Ms Newton: Yes.

Senator McKIM: I'm aware of the East Lorengau transit centre scenario—we covered that reasonably comprehensively during our last estimates. I want to go back to the situation on Nauru. We had a bit of a farcical exchange before when I was putting what I thought was a non-contentious proposition and couldn't get an answer. So I'm just going to ask it again; aren't you in the process of awarding a contract to Canstruct that is in part for the delivery of welfare services when Canstruct has zero experience at providing welfare services?

Ms Newton: Senator, I understand I've answered that question to say that Canstruct will have people suitably skilled to provide welfare services and will be taking on practices, policies and procedures that Broadspectrum had in delivering those services. There will be a continuity of service—

Senator McKIM: The problem is, Ms Newton, that you're answering a different question to the one I asked. I will ask you again: does Canstruct have any experience in the delivery of welfare services?

Ms Newton: They'll have experience from day one when they have people there delivering those services—

Senator McKIM: As of now, Ms Newton?

Ms Newton: from the time that they commence—
Senator McKIM: No; you're answering a different question again. It's pretty simple. As we sit here now, does Canstruct have any experience in the delivery of welfare services?

Ms Newton: At this point in time, we don't actually have a contract with Canstruct, if we're talking about the capability at this time.

Senator McKIM: You have exchanged a letter which commits you to giving them over $8 million—I think just under $8,200,000. You have exchanged that letter, if you want to call it that, with them. The question is, again, Ms Newton, as we sit here now, when you have given evidence that the department is providing over $8 million to Canstruct for the provision of garrison and welfare services, as we sit here now, does Canstruct have the experience in the delivery of welfare services?

Ms Newton: I would expect the transfer of those people to Canstruct would give them experience in welfare services.

Senator McKIM: I am happy to sit here all night. So I will ask you, Mr Pezzullo, and see if we can get some sense out of you. As we sit here now, does Canstruct have any experience whatsoever in the delivery of welfare services?

Mr Pezzullo: We will contract them on the basis that they have that capability at the time that the contract is effective.

Senator McKIM: No, you are answering a different question again.

Mr Pezzullo: Well, as you said—

Senator McKIM: You don't get to pick and choose what questions I ask, so it is my—

Mr Pezzullo: I understand that.

CHAIR: Yes, but you do get to pick and choose your answer, and you've given an answer.

Senator McKIM: No, they have not given an answer—about five or six times. There are remedies available to the Senate. I would prefer not to have to use them.

CHAIR: Don't go on with your quarterly threat! It doesn't worry me.

Senator McKIM: Remember what happened last time you tried to boot me out?

CHAIR: It doesn't worry me.

Senator McKIM: Do you remember what happened last time you tried to direct me on what sorts of questions I could ask?

CHAIR: It doesn't worry me. I'm saying to the witnesses, 'You've given the answer, and you can keep repeating it until the cows come home.' It's a sufficient answer. I would have thought it was very reasonable. Anyhow, if Senator McKim wants to waste his time asking the same question and getting the same answer, that is up to him.

Senator McKIM: As we sit here today, Mr Pezzullo, does Canstruct have any experience in the delivery of welfare services?

Mr Pezzullo: We have to have regard to whether they will have the capability and capacity. That is the obligation that we have under the procurement guidelines.

Senator McKIM: So, basically, you're in the process of contracting someone who's got zero experience in the delivery of welfare services, and you are going to outsource to them the
responsibility for delivering welfare services to men, women and children who Australia has been torturing on Nauru for over 4½ years? That is a disgrace.

Mr Pezzullo: We haven't been torturing anyone.

Senator McKIM: You have been torturing people.

Mr Pezzullo: It's my practice not to allow you to simply—

Senator McKIM: I'm simply relying on the United Nations Special Rapporteur on Torture

Mr Pezzullo: You know that answer I gave you on that previously.

CHAIR: Do you have a question, Senator McKim?

Senator McKIM: For anyone who is watching, it would be abundantly clear—

CHAIR: You and GetUp! might think so, but nobody else does.

Senator McKIM: that the department is refusing to answer that question, because it doesn't want to embarrass itself.

CHAIR: That's not true; they've answered that several times.

Senator McKIM: They have not answered that question. I now want to ask about people who are being held on Manus Island and Nauru and who have spouses or children in Australia. I'm not sure if you need to get someone else up for that.

Mr Pezzullo: Who have spouses?

Senator McKIM: Yes, spouses and/or children. Do you know how many people fit within that category? That is, people on Manus Island and Nauru within the cohort that we are discussing—that I would argue Australia has responsibility for—who have either spouses or children, or both, in Australia.

Mr Pezzullo: We will be assisted in this evidence by Ms Hampton. Yes, there are persons who have been transferred to Australia, or who might have arrived in Australia through other lawful means—they're not necessarily medical transferees. And yes, I'm certainly aware there are some people here who have direct family relationships—I think principally on Nauru, but I might be mistaken in that.

Ms Hampton: There are 421 people in Australia who are transitory people, at the moment, who have transferred from Manus or Nauru to Australia for the purposes of medical services. I'm trying to find the information about how many of those people have family back on Nauru. If you can just give me a second, I will see if I can find that number for you. Can I get it for you in the break?

Senator McKIM: Yes, sure. I might park that line of questioning, if that is alright, and I'll come back to—

Mr Pezzullo: To ease enquiries, so we don't have to come back to you afterwards, you referred to spouses. Did you also make reference to children?

Senator McKIM: Yes. Spouses and/or children.

Mr Pezzullo: So, effectively, what we would define as a direct family relationship? Is that appropriate.

Senator McKIM: Yes.
Mr Pezzullo: Direct family relationships, thank you.

Senator McKIM: My next question was going to be how many specifically are currently separated—so where there is one member of the family offshore on either Manus or Nauru—

Mr Pezzullo: And other members of the family. We'll get you that information.

Senator McKIM: I want to go back to Canstruct briefly. I understand the contract's just been finalised, but you said it is imminent, so you are a fair way down the track, obviously. Is it intended that the contract will permit Canstruct or employees or subcontractors to use force against detainees?

Mr Pezzullo: I'll have Ms Newton and Mr Nockels speak to the scope of the contract. If they're subcontracting security services, I presume there are use of force provisions.

Ms Newton: Yes, it does include security services. That may require the use of force associated with a fight that might be going on within one of the RPCs, the requirement to detain somebody if they're attacking somebody else or, if there's a mental health issue, to transport them. In the main, that activity will be undertaken by the Nauru police wherever possible to follow up after an initial response.

Mr Pezzullo: This doesn't involve any additional security powers—

Ms Newton: No, it doesn't.

Mr Pezzullo: over and above what the Broadspectrum subcontractor would've had.

Ms Newton: No. It facilitates, really, stopping a breach of the peace occurring.

Senator McKIM: Do the use of force provisions in the contract differ substantially from the use of force provisions in the Broadspectrum contract?

Ms Newton: No.

Senator McKIM: Does Canstruct have any experience in using force against vulnerable people?

Ms Newton: Our understanding is that they'll be working very closely with the previous subcontractors providing those services historically to Broadspectrum, so, yes, they will have experience in terms of ongoing service provision on Nauru of people that have been performing that role now for some time.

Senator McKIM: I'm not going to go around this merry-go-round with you again, Ms Newton. You've again answered a question that wasn't asked. I didn't ask about the future; I asked about now. Does—that's present tense, for your assistance—Canstruct have any experience, as we sit here today, using force against vulnerable people?

Ms Newton: As I said, we are progressing the contract on the basis that there is a requirement for them to have that capability to deliver, as part of the contract on Nauru.

Senator McKIM: We'll take that as a 'no' as well despite the fact that, for whatever reason, you don't want to admit it. Can I ask if the department's aware of which companies Canstruct intends to be subcontracting to in this contract?

Mr Nockels: Perhaps I could take that.

Senator McKIM: Thanks, Mr Nockels.
Mr Nockels: The deputy referred to the fact that the previous subcontractor to BRS, Wilson's, from a security perspective—

Senator McKIM: So they will be subcontracting Wilson's?

Mr Nockels: That's the intention for Canstruct. As it comes to the range of other services, I mentioned earlier in my evidence that a significant number of BRS staff will work for Canstruct—

Senator McKIM: Did you say BRS?

Mr Nockels: A significant number of BRS staff who are currently with BRS, but soon won't be, will be transferring into the employment of Canstruct. That suite of services that we described earlier will be delivered by the people who are currently delivering them.

Senator McKIM: So is it right to say that at the moment the department's only aware of one potential subcontractor, which is Wilson's?

Mr Nockels: That's correct. I'd need to go back and check, and no doubt Canstruct will have a range of smaller subcontracting arrangements in terms of their logistics chain, et cetera. For purchase of food in Australia, they will no doubt need to have some subcontracting arrangements with Eigigu Holdings Corporation, which is a government of Nauru state-owned enterprise which focuses on bringing goods onto the island. There may well be a range of smaller subcontracts, but I would have to go back and check on those.

Senator McKIM: So you've taken that on notice, Mr Nockels. Are you offering to take that on notice?

Mr Nockels: I will take that on notice.

Senator McKIM: How many companies, apart from Canstruct, were approached by the department when you were beginning the process of deciding who would take this contract?

Mr Pezzullo: I should probably refer to our earlier evidence, but for the benefit of the senator it might be worthwhile summarising that.

Mr Nockels: I responded to a question from Senator Carr on that. We conducted a limited tender and Canstruct was the company we approached.

Senator McKIM: I understand that. I was here when you gave that evidence. I don't think from memory my question has been asked or answered, so I will ask it again. How many other companies did the department approach or did you only approach Canstruct?

Mr Nockels: If you're talking in terms of the most recent activity, it's only Canstruct.

Senator McKIM: You only approached Canstruct.

Mr Nockels: For this limited tender, that's correct.

Senator McKIM: Were any other companies approached prior to the commencement of the limited tender for this contract to ascertain—surely, you'd do some due diligence and give a few people a call to see if they'd be interested. You don't need me to give you a lecture on competition but they've got you totally over a barrel, Canstruct, and they're going to screw the Australian taxpayer, I have no doubt.

Ms Newton: We went to the market some two years ago to test the market to provide services, knowing that Broadspectrum would be finishing up their contract. In going to the market, negotiation took place with two different companies at that time. Both companies
chose not to progress through to finalisation of negotiations. We undertook an expression of interest in the market, and there was no interest in the market more broadly.

**Senator McKIM:** When you say you did an EOI to the market, is that subsequent to the process that you've just given evidence the two companies expressed interest through?

**Ms Newton:** Subsequent to those two companies making a decision, they didn't want to proceed with having contracts on Nauru.

**Senator McKIM:** Subsequent to that, did you again put out an EOI?

**Ms Newton:** We went out to the market to test who might be interested in the market. We received no responses that were positive.

**Senator McKIM:** Is it fair to say you went to the market twice? The first time you received two expressions of interest, neither of which materialised into a company that was prepared to take it on, and you went to the market the second time and there were no expressions of interest. Have I categorised that accurately?

**Ms Newton:** They're slightly different processes.

**Mr Nockels:** Perhaps I could clarify. As the deputy said, a while ago, nearly two years ago, we went to market. There was an expression of interest. A range of organisations put forward bids. We then moved to a process of evaluation. A preferred tenderer was identified and there was a secondary. We moved into a request for amended tender; this is the subject of the ANAO report around procurement with the garrison support contract offshore. At that process, around the request for amended tender, the preferred tenderer and the secondary declined to continue in that process.

**Senator McKIM:** Who were they?

**Mr Nockels:** In the first instance it was BRS and in the second it was Serco.

**CHAIR:** Do you have much more on this line, Senator McKim? If you do, I'll have to go to someone else and come back to you.

**Senator McKIM:** Not on this line, but I would just remind you that we are waiting for some information to come back in regard to family separation. That's in the same group of this estimates committee, but it's a slightly different line of questioning. We've agreed to park that while the information's being provided. So I'm happy for you to go, Senator Carr, if you come back to me.

**CHAIR:** I'll go to Senator Carr now and come back to you after Senator Carr. I think Senator Hume has some questions too.

**Senator Kim Carr:** Mr Pezzullo, I understand that the department has awarded $26 million over the past two years to Boston Consulting Group. Is that correct?

**Mr Pezzullo:** I don't know if it's quite that amount. I've seen a breakdown in preparations for these proceedings, but I'll get some colleagues, here, who can give you a somewhat more accurate breakdown. It certainly is an amount of money that is in the order of some $20 million, but I want to be very precise, here, in my answers. As my colleagues gather themselves and come to the table, principally, it is related to the pre-design work for what's known as the visa reform program, which is currently the subject of a market-testing and expression-of-interest process that Ms Golightly or others might attend. That's a program of work that will eventually involve the expenditure of several billion dollars worth of
expenditure. I'd classify most of the BCG work as being in the realm of pre-design to support that process. The chief operating officer and Ms Golightly can explain it in more detailed terms than I can.

Ms Golightly: As the secretary has just mentioned, BCG was contracted to assist us with the early stages of planning and design of the new visa reform program. That involved assisting with planning out the various phases of work that would need to be undertaken, helping us with market testing that's been undertaken and the design of those documents, and also into building, co-design and other scenario-testing strategies going forward. That's not the 26; it's much less than that. I can come back to that in two seconds.

Mr Pezzullo: Perhaps Ms Connell has the breakdown.

Ms Connell: You're referring to the article that stated $26 million over the last two years? The total was actually $25.8.

Senator KIM CARR: $25.8?

Ms Connell: Was the reported AusTender commitment. The actual cost was about $20.9 million over that period.

Senator KIM CARR: The total was actually $25.8.

Ms Connell: The actual expenditure for that period as of 30 September was $20.9 million.

Senator KIM CARR: Does that include GST?

Ms Connell: It is exclusive of GST.

Senator KIM CARR: What is it with the GST? What's on top of that—another 10 per cent, is it?

Ms Connell: Correct.

Senator KIM CARR: It's normally expressed with the GST, isn't it? Would that help get the two figures closer together?

Mr Groves: The contracted amounts of 25.8 were GST inclusive. What Ms Connell was quoting was the actual spend over the same period, over 2015-16 and 2016-17.

Senator KIM CARR: I see.

Mr Groves: It was over two years.

Mr Pezzullo: We reported contract value in the normal—

Mr Groves: In AusTender, yes. It's the contract value.

Senator KIM CARR: It's a standard practice. I take it that that wasn't a limited tender?

Mr Groves: No. I believe it would have been off one of our existing panels that are all done through an open market process.

Mr Pezzullo: We will absolutely confirm that, but my recollection is that it was a panel procurement.

Senator KIM CARR: The Australian actually reported it as being for consulting services relating to restructure of the department.

Mr Pezzullo: No. They might have chosen to have that checked. The majority of the work—and Ms Golightly might have the breakdown now—related to the preliminary design work involved in advising us on what a digital platform would look like. Effectively, the visa
reform program that both Ms Golightly and I have spoken about is to move the visa system, with a few notable exceptions around things like refugees, onto a global digital platform. It's a very intricate, complex and significant undertaking because it will involve—it's the kind of reform that you see in places like banking and elsewhere, where you have to change your service delivery model, retrain your staff, rebuild your computer system and secure the data in the back office. You get the general idea. Rather than plunging into that on a whim, as it were, doing some predesign work before you go to government with a preliminary business case is always a sensible and prudent thing to do.

Senator KIM CARR: What caught my eye though was that—

Mr Pezzullo: I should be clear: the value of those works—as Ms Golightly can better express; I do apologise. We're now in-between business cases. We had a preliminary business case that the government approved that authorised some market testing, which has now been refined to an expression of interest around a particular bundle of work to do with effectively digitising—all temporary visas, isn't it?

Ms Golightly: That's right; temporary visas.

Mr Pezzullo: And then we're on the hook, as it were, to go back to government with the definitive second-pass business case. At that point, government will consider the value-for-money merits, the security and other considerations that no doubt the government will wish to apply, and that will then authorise the definitive procurement. That program of work, which will extend, I suspect, many years into the future—

Ms Golightly: Absolutely, yes.

Mr Pezzullo: would be worth many multiples of that.

Senator KIM CARR: Can I be clear about this: the 20.9 actual that you're referring to is for one contract?

Mr Pezzullo: No. It's for a number of packages of work and either of the two deputy secretaries—

Senator KIM CARR: But it's for the same program? It's for the visa reform program?

Mr Pezzullo: No. As I said, the majority of the work pertained to visa reform. I know there were some other packages of lesser import, not in terms of their profundity but in terms of their magnitude. Perhaps Ms Connell has that breakdown for you.

Ms Connell: I'm advised that there were about 15 contracts but there were five main contracts. The one the secretary is talking about was for the visa reform phase 1, which was $13.5 million.

Mr Pezzullo: Of actuals?

Ms Connell: Yes. That was until 2 September of this year.

Mr Pezzullo: So 13 out of the 20—

Ms Connell: Correct. In actuals out of the 20.9.

Mr Pezzullo: in actuals were connected to visa reform.

Ms Connell: There was an amount of $1.3 million in 2015-16, which was strategic guidance and support for the ABF in the preparation of an ABF 2020 strategy. There was a
total spend of $2.1 million in 2015-16, which was for our ICT reform activities, and there was
a further reform activity in 2015-16 for $3.7 million.

**Senator KIM CARR:** What was that for?

**Ms Connell:** Strategic advisory services across a broad range of forms, people, technology
and process.

**Senator KIM CARR:** But that's another strategic advice. There is a couple of strategic
advices in there.

**Ms Connell:** That's their specialty.

**Mr Pezzullo:** That's what BCG does.

**Senator KIM CARR:** One of the contracts appears to have been upgraded from $370,000
to $2.8 million. Is that correct?

**Ms Golightly:** They are components of the $13 million that we just mentioned. The
$370,000 was for a two-week package on the high-level scoping around setting out what
would then follow. The second roughly $2.5 million was for the approach to the market that
we've already done, and, as the secretary was talking about, was helping us refine, now going
forward based on the information we're getting from the market, our business case.

**Senator KIM CARR:** Ms Golightly, is it correct that you said $370,000 for a two-week
package?

**Ms Golightly:** Yes, that was for a very high level scoping package. Yes.

**Senator KIM CARR:** A very high level scoping package?

**Ms Golightly:** Yes, for setting out how we would then approach the market and then the
next phases of the project, which I just mentioned.

**Senator KIM CARR:** That was an open tender too, was it?

**Ms Golightly:** No, as we've mentioned, these were selected off the panel arrangements.

**Senator KIM CARR:** So these were all panel?

**Ms Golightly:** Yes.

**Senator KIM CARR:** None of these were open?

**Mr Pezzullo:** Panels are authorised—

**Senator KIM CARR:** Yes, I know what a panel is, but I want to be clear: are they all off
the panels or all are they all open?

**Mr Groves:** They are all off the panels, but, certainly, there's still a requirement that we
test the panels on who's available and who's providing the best value for money for work.

**Senator KIM CARR:** Which panel is this?

**Mr Groves:** I don't have that. We've gone out for a consulting panel for consultant
services, I think, unless we've piggybacked off another government entity.

**Senator KIM CARR:** Perhaps you could tell me that. Which panel is it?

**Mr Pezzullo:** We'll check.

**Senator KIM CARR:** Who's on the panel? How do you get on a panel like this? This is a
hell of a lot of money.
Mr Groves: There would be many firms on the panel.

Senator KIM CARR: I'm sure there would be, but exactly how many and who are they?

Mr Pezzullo: Mr Groves will check for you.

Senator KIM CARR: There was a time when the Public Service could do this sort of thing, wasn't there?

Mr Pezzullo: I've been in the Public Service a long time. We've often used contractors for high-level business cases, but, as I alluded to—perhaps a bit too Delphically—when you've got complex interactions between technology, keeping current back office systems running, it's prudent to get advice on how this is done in other sectors. Banking is one example. I don't ever recall a time when the Public Service had fully formed, within itself, complete and absolute knowledge about how the private sector works in these sorts of areas. I understand the point I think that you're going to, Senator Carr. The public service doesn't relinquish control—never has and I think it'd be a dismal day if it ever did—of the overall policy, the strategy and the development of the business case. But as the internet of things comes online and as globalisation of technologies comes online, we are increasingly having to compete globally. You want to introduce best practice, data analytics and data management being two examples, and companies like BCG, though there are others, have got global comparators and they can access like standards across the world.

Senator KIM CARR: I understand the argument, Mr Pezzullo. But you've upgraded this contract from $370,000 to $2.8 million.

Mr Pezzullo: I'm not sure 'upgrade' is the right verb.

Senator KIM CARR: Was it changed?

Mr Pezzullo: There are packages added to as you go through the evolution of a business case. I'm not sure that upgrade is quite the—

Senator KIM CARR: How do you want to describe it then? I've said it's an upgrade. What were you going to call it—a downgrade?

Mr Pezzullo: No. It's not about the direction of travel; it's about, at particular points in time, as particular pieces of work need to be done, who is best placed to do that work. How would you describe it, Ms Golightly?

Ms Golightly: That's exactly it. One piece of work was $370,000; the next piece of work was $2.4 million.

Senator KIM CARR: So they're separate pieces of work?

Ms Golightly: Yes.

Senator KIM CARR: I see. Are there any ex-departmental officials now working on these contracts?

Mr Pezzullo: For whom?

Senator KIM CARR: For Boston Consulting Group being paid over $20 million—nearly $21 million actual, GST-exclusive.

Mr Pezzullo: I'm not sure about former officers.

Senator KIM CARR: Former officers of the department, transferred across to Boston Consulting Group and presumably earning a great deal more than they did as public servants.
Mr Pezzullo: I'm not aware of any cases, but we'll check. You wouldn't transfer, in any event. If you leave the employment of the Public Service, you resign.

Senator KIM CARR: No, you don't transfer. You just end up working on departmental work at a higher salary.

Ms Golightly: I'm not aware of any ex-officers working on the visa reform for BCG.

Mr Pezzullo: But we will check.

CHAIR: Would you know?

Senator KIM CARR: They'd know alright.

Mr Pezzullo: Possibly, yes, as part of separation of employment—

Senator KIM CARR: They're sitting in the same room. They'd know.

Mr Pezzullo: To Senator Carr's point, the team might well be saying, 'Such and such is back but with the contractor.' We would know, and I'd have an interest, in any event.

CHAIR: Are they sitting in the same room?

Mr Pezzullo: Possibly—if that were to occur. I'd have my own interest in terms of how that—

Senator KIM CARR: It's not uncommon, is it.

Mr Pezzullo: I wouldn't say it's common, but, as you know from defence industry and other industries, people do join the private sector, and they've got a perfectly lawful entitlement to do so, subject to their separation being appropriately managed.

Senator KIM CARR: Who signed off on these contracts? Who was the authorising officer for all of these contracts?

Mr Pezzullo: That I don't know, but it would've been at a relatively high level because of the amounts of money involved.

Senator KIM CARR: But the delegated officer would be either you or your delegate?

Mr Pezzullo: They're not signed at my level—I can assure you because I haven't signed any of these contracts—but it would be at a relatively high level. Ms Connell or Ms Golightly?

Senator KIM CARR: But on your delegation—would that be right?

Mr Pezzullo: Always, yes, of course. All delegations flow through the PGPA accountable authority.

Ms Golightly: We can check that for you—who signed it.

Senator KIM CARR: I'd like to know who it was in each of those cases. Has the Boston Consulting Group provided any advice on the department of home affairs?

Mr Pezzullo: Not to the department. Whether they've spoken to other people, I don't know, but there is no consultant that has provided advice to the department on the creation of Home Affairs—at all. I only cavetated that because, to the extent that BCG speaks to people, I don't know to whom they've spoken. To my department—

Senator KIM CARR: That you're aware of, to the current department as you know it. It may well be that they've provided advice to PM&C or other agencies.
Mr Pezzullo: It gets complicated, so I'll need to put a caveat on my answer. Once they were advised, for instance, that these were reformed as part and parcel of being part of immigration and border protection transitioning into home affairs, I can imagine that Ms Golightly's offices in particular would be having discussions with BCG in these terms: 'We're going to become Home Affairs—the entire immigration program will transition into home affairs. Bear that in mind as you go about thinking about both the market phase that we're in now and what this will look like as an integrated change program post consideration by government of the business case.' I can't imagine, Ms Golightly—because I don't wish to mislead the committee—that reference to Home Affairs would not have arisen in that strict context?

Ms Golightly: That is correct, Secretary. In fact, BCG has been given a briefing on the Home Affairs construct, as we know it, and exactly to the point that the secretary has just made, that the whole visa reform and visa process moves over into Home Affairs holus-bolus, but we need to put that lens over it as we're going forward with the future design.

Senator KIM CARR: Thank you for that. Mr Pezzullo, for the Hansard record, can you indicate to me when the department will be ready to answer the questions you've taken today in regard to the approval processes for medical treatment?

Mr Pezzullo: The assistant commissioner advised me as we were coming back from the break that it would be closer to 6.00 pm or thereabouts.

Senator KIM CARR: I will have to apologise in advance, because I have another commitment at that time. I guess someone else will have to take that up in that regard. I know other senators may have other matters, but I have questions in 1.1.

CHAIR: We are dealing with outcome 1, which includes 1. 1. Your time for questions has finished, unless it's—

Senator KIM CARR: All right. I'll come back to it.

Mr Pezzullo: Can we get a preview of this question?

Senator KIM CARR: I'm sure you will be able to predict them.

CHAIR: Senator Hume.

Senator HUME: I have questions for outcome 1.3.

CHAIR: That's all right.

Senator HUME: My questions are about the legislation that's been introduced on prohibited items in detention. Who do I ask about that?

Mr Pezzullo: The acting commissioner, noting that—and I will be guided here by the chairman—with live legislation that is before the Senate particular norms and practices are followed, but I think factual responses on matters can be proffered to the committee. But obviously we don't want to get into the situation where we are debating the legislation.

Senator HUME: No. I won't drag you into the weeds, I promise.

Mr Pezzullo: It's more about whether we're debating the merits of the legislation, which are properly matters for parliamentarians, of course.

CHAIR: You wouldn't be doing that anyhow.
Senator HUME: I'm more interested in exactly what types of things you are trying to prohibit. What are the prohibited items you're talking about?

Mr Outram: The bill strengthens the ability of authorised officers to conduct searches and seize things, primarily, in order to restrict those certain things from entering the detention environment that might undermine the health, safety, security and good order of detention facilities. This includes things that can be used to facilitate criminal activity, escapes or organise disturbances. That is the general thrust.

Senator HUME: So we are talking here about search and seize powers. My understanding is that mobile phones potentially are included in these search and seize powers? Is that correct?

Mr Outram: Yes, we've had issues with mobile phones and food within the detention environment creating risks for the safety and security of those establishments.

CHAIR: Senator Hume, I would prefer you didn't talk about the legislation but rather talked about whether there are problems with phones or food or something.

Senator HUME: That's what I wanted to ask about. What's the current status in terms of mobile phones in detention now?

CHAIR: And are there problems with them?

Mr Outram: There are indeed. We have had a number of instances where major disturbances, attempted escapes, protests and other serious incidents, including the introduction and distribution of contraband and illegal drugs, have been linked to the use of mobile phone in our detention facilities. You might be aware that an unusual situation arose whereby one cohort within detention was allowed to have mobile phones and one was not, depending on whether or not you were an IMA. So they became, if you like, a currency, or had value. Because of the risks they posed in terms of the safety for everybody inside that facility, whether it be a detainee, an employee or a visitor, we took the view that it would be safer to have them removed from the environment altogether. But before we did that we wanted to make sure that we provided access to phones on site for detainees. We didn't want to restrict communication, the internet and those sorts of things. So we rolled out a program to provide those facilities in the centres. But you may be aware that the department is currently subject to proceedings that challenge that policy in the Federal Court, so we were ostensibly injunctioned from proceeding with implementation of that policy.

Senator HUME: Was there any external advice that either went to the department or the ABF that suggested that that legislative change was necessary? Or was it from somebody within the detention centres that suggested this was necessary?

Mr Outram: Advice from our service provider, Serco, for one thing, and my officers on the ground. Also, of course, we collate information and intelligence about what's happening within the centres. We monitor the temperature in the centres, if you like, and we collect anecdotal information about where phones have been used for nefarious purposes. We were convinced that in order to maintain safety, security and good order we had to go down that path.

Senator HUME: Can I follow up with some questions about the mandatory cancellation provisions for criminals sentenced to terms of imprisonment of more than 12 months.
Mr Outram: Section 501?

Senator HUME: Yes. What sort of crimes has this cohort committed? Imprisonment of 12 months or more covers a fairly wide remit of criminal activity. Can you give us an indication of exactly what sort of criminals we're looking at? It's not pickpockets, is it?

Mr Outram: They are offences relating to violence—offences against a person, in other words. They could be of a sexual or violent nature. There are offences against property— theft, robbery, those sorts of things. Some offences will be particularly serious on the scale, so one offence in itself would attract a lengthy sentence. People commit serious sexual offences. Other people may attract a prison sentence because they're recidivists—so whilst one offence in itself may not ordinarily attract a prison sentence, the fact you're a recidivist offender could attract a prison sentence. There is a whole range of levels of offending on that scale.

Senator HUME: Has that cohort of detainees changed over recent years?

Mr Outram: Absolutely. I can tell you the number of people in held detention—I'll start with this. The use of detention is a means of last resort. We have about 1,257 detainees in Australia as of 30 September. When you go back to that number we spoke about earlier on—about 64,000 unlawful non-citizens in our community—it's a very small percentage. When you look at the number of IMAs that are in Australia, the vast majority of those are in the community.

There are three primary cohorts. There are people who arrive here, who we have to turn around at the border, or people who have overstayed their visas. There's a churn there; there are about a third of those. We have about a third of our people in detention who are 501 detainees—I'll get you the exact number in a moment. They're people who have been cancelled because either they've attracted the term of imprisonment that you mentioned or because the minister has determined on character that their visa should be cancelled. They would include people who are members of criminal gangs, including outlaw motorcycle gangs and those sorts of things. People can come out of prison or be cancelled because they're involved in criminal gang activity or associated with that activity. Then we have IMAs. By and large people are in detention because of the view that they represent a risk or a threat to our community in some way. We don't detain people for the sake of it.

Senator HUME: With that criminal cohort, what is the hold-up? Why are they in detention for so long?

Mr Outram: I'll take one group. If you come from New Zealand, in fact you can return to New Zealand and fight your case, in terms of the legal process, from New Zealand. But for some reason many of them choose to do that from held detention. So it's the amount of legislative checks and balances. There are a lot of legal processes to get through—for good reason, sometimes—if somebody doesn't want to voluntarily return to their country of origin. If they represent a risk to the community, and we can't involuntarily return them home quickly, then they have to sit in held detention for some time.

In terms of the cohort, I can tell you that about 446, or 35 per cent of the detention population on shore, have had their visa cancelled under section 501, and 421 of those we would rate as being high or extreme risk—by that I mean they represent a risk to the safety, security and good order of the facility, as I mentioned earlier. Out of the entire population of 1,257, 70 per cent—that includes all three of those cohorts—or 876 are rated high risk and
about two per cent, or 28, as extreme risk. So 329 or 26 per cent of the overall population are illegal maritime arrivals and 195 of those are rated high risk and seven are rated as extreme risk. We have 21 detainees that are recorded as being stateless. So the cohort has changed—far fewer IMAs in held detention and far more people who have been counselled under section 501 because of criminal behaviour who are being held there.

Senator HUME: I'm assuming that there have been attacks on staff in the detention facilities?

Mr Outram: Indeed, there have. There is a good news story. We've worked very hard over the last two years to enhance the standard operating procedures for the management of our detention facilities on shore, with our service provider, Serco, and we have employed a number of ABF superintendents to go into each facility and manage the facility in a consistent way and manage our contracts there on the ground with Serco. In 2016-17, there were 98 incidents that financial year that involved assaults on Serco staff but the year before, in 2015-16, there were 194 and the year before that there were 334. Yes, 98 a year is still a lot, so we obviously want to keep bringing that number down. But the number has significantly reduced.

Senator HUME: What legal powers do the staff have to defend themselves?

Mr Outram: The common law. We don't have things like capsicum sprays and weapons in detention centres, obviously, so they have the ability to restrain people through use of handcuffs, or physical restraint, but by and large that's about it. So it's the way we manage the facilities that becomes really important. But in terms of the use of force, whereas most police officers and corrective services type officers would have a statutory authority under the law to use force to protect themselves or the facility, prevent escape or protect others, Serco officers and Border Force officers have to operate in those detention facilities under the common law. That provides less assurance to the officers before they use force in terms of the legal protection they might have.

Senator HUME: When you say 'use force', what's the definition of 'force'?

Mr Outram: 'Use force' is, as it says, where you actually apply force to another person without their consent. That could be as simple as grabbing somebody's arm, or pushing somebody out of a doorway or into a doorway or handcuffing somebody or physically restraining somebody. In a policing setting, using force goes all the way up to and includes the use of lethal force, of course, which is use of firearms. Use of force is everything from grabbing hold of somebody, touching somebody, restraining somebody in some physical way, all the way up to, not in our setting but in a policing setting, using lethal force.

Senator HUME: It seems incongruent to have a number of quite dangerous detainees in your care and yet be unable to do so much as put an arm on their shoulder and show them the door, or whatever.

Mr Outram: It's a very challenging environment. We still have a way to go in terms of regularising the way that we use force. We have to apply the common law, which doesn't give officers the protections they need. The data that will tell you that per 1,000 detainees we are having a big impact in terms of reducing the amount of people who self-harm, threaten self-harm, escape or are involved in violent incidents in detention, notwithstanding that change in detention population. But, still, this is an extremely challenging environment. You can imagine where somebody comes out of a prison, having been convicted of a serious criminal
offence, straight into a detention environment, they bring that culture out of the prison with them. That creates a significant problem in detention, too. Criminals, whether they're in prison or in a detention facility, unfortunately a lot of them don't stop their criminal offending and networking from the inside.

Those networks and that offending and those conspiracies can continue. A lot of them are prone to violence. So, yes, we're having to work constantly to understand how we manage this. Some facilities have more capacity to handle higher-risk detainees than others. Where we place detainees is obviously critical to this, as is understanding the risk they represent; and monitoring that risk in an intelligence sense is crucial, too. So it's a constant effort. We don't want to use force. Use of force is a means of last resort, but sometimes officers have no choice. The protection they have in law is something that we have been looking at—does the common law provide adequate protection for officers?

Senator HUME: The media has reported recently on an enhanced escort position. That's not something I know an awful lot about. Can you explain to me why that enhanced escort position has been reported in such a controversial way?

Mr Outram: I'll ask Assistant Commissioner Woodford-Smith to deal with that position.

Mr Woodford-Smith: I haven't actually seen the article and I'm not sure why it would be dealt with in such a severe way. The enhanced escort position is simply an officer holding the elbow or the arm of a detainee as they might escort them somewhere. There is no form of physical restraint, as in handcuffs or some other mechanical device to restrain individuals. I'm not familiar with the article and I'm not sure why that would be so critical.

Senator HUME: You don't think it's a particularly controversial practice?

Mr Woodford-Smith: No, Senator. I think it's less invasive than actually applying mechanical restraints.

Mr Outram: To clarify that, we do quite frequently have to take detainees outside of the facilities for things like medical appointments, and some of those are psychiatric in nature, and therefore we and Serco have to look at the risk of escaping or hurting somebody. Where possible we try not to restrain by use of handcuffs. Sometimes we have no choice. This position that the Assistant Commissioner described is a lesser use of force than mechanical restraints, but still it gives the Serco officer a hold on somebody, so if they try to bolt they have a chance—

Senator HUME: Can you show me what it looks like? What does an enhanced escort position look like?

Mr Pezzullo: I'm not sure we will capture that in the Hansard.

Mr Outram: The way it's been described it would be holding on to somebody's arm like this.

Senator HUME: Do you have any sense of the effect that these new cancellation powers are having on the criminal activities of the outlawed motorcycle gangs?

Mr Outram: Absolutely. It's knocking a big hole in outlaw motorcycle gangs in Australia, there's no question about that. Some of the people we've successfully removed from Australia were very senior in outlaw motorcycle gang hierarchies—chapter sergeants at arms and those sorts of people—and they're serious criminals. If you speak to our colleagues in the Australian
Criminal Intelligence Commission, Federal Police, state and territory police, they think it's been a huge success in terms of our ability to look at and profile the serious organised and transnational criminals who are resident in Australia. There are many hundreds of them, and you can work out who are Australians and who are not Australians and then use the migration act as a means by which to seriously disrupt serious and organised crime. It is having a big impact.

Senator KIM CARR: I noticed before that there was some emphasis on the number of days it's been since a boat has arrived. I saw a report in August of a boat ending up on Saibai Island. What can you tell me about that? Six Chinese nationals arrived on Saibai Island on 20 August.

Mr Pezzullo: I might ask the Acting Commissioner.

Senator KIM CARR: What happened there?

Senator McKIM: They came to mainland Australia and then they were flown out of mainland Australia.

Senator KIM CARR: I'll let the officials help me out here.

Mr Outram: I can help you out here. I'll go to the thrust of your question, as I see it.

Senator KIM CARR: Is Saibai Island still part of Australia?

Senator McKIM: They were flown out of mainland Australia.

Mr Outram: I'm not sure which question I should be answering.

CHAIR: Senator Carr, what is your question?

Senator KIM CARR: Did a boat arrive on Saibai Island on 20 August?

Mr Outram: Yes.

Senator KIM CARR: Did it involve six Chinese nationals?

Mr Outram: Yes.

Senator KIM CARR: Was there a New Guinean people smuggler involved?

Mr Outram: There was a New Guinean person on there, yes.

Senator KIM CARR: A New Guinean?

Mr Outram: Papua New Guinean.

Senator KIM CARR: Those details are all correct?

Mr Outram: Yes.

Senator KIM CARR: Why is that not an arrival in Australia?

Mr Outram: It's not an arrival under the scope of Operation Sovereign Borders, if that's what you mean.

Senator KIM CARR: I see. How do we define that?

Mr Outram: I'll go back to the genesis of Operation Sovereign Borders. In 2012, of course, what was out of control and led to the establishment of the expert panel and ultimately Operation Sovereign Borders was the number of asylum seekers risking losing their lives on the high seas, travelling from the Middle East and Asia, primarily through Indonesia—some from Sri Lanka—to Australia. The expert panel, in fact, made no reference to PNG—
Senator KIM CARR: Let me see: if they land on Saibai, that's not a breach of Operation Sovereign Borders. Is that how it works?

Mr Outram: Let me finish—except to recommend the establishment of a regional processing centre. The entire scope of Operation Sovereign Borders is to take and turn back vessels to Asian countries, not PNG. We have to draw a line in terms of operational scope. If you extend OSB into the Torres Strait then why not bring yachts that come into Cairns or Eden into scope, and why not deserters and people who come off cruise ships—

Senator KIM CARR: Indeed!

Mr Outram: who we deal with all the time; it's a business-as-usual sort of event. In fact I personally issued an operational directive in December 2016 to my people reclarifying this scope. In that command directive I made it quite clear that in the Torres Strait illegal arrivals fall to Regional Command Queensland in Strategic Border Command. Even then, in December last year, I made it clear this is not an OSB matter. In fact we wouldn't even classify those Chinese people who arrived as a successful arrival, because five of them are now back in China—they've been successfully returned to China—and one is in custody.

Mr Pezzullo: Reluctant as I am to intervene or interrupt you in full flight, the other key difference is that we have a legal return agreement with Papua New Guinea that manages—because it's a littoral area. People can get in dinghies, surf paddles—

Senator KIM CARR: They could walk across at certain times of the year!

Mr Pezzullo: I'm not sure they can walk.

Mr Outram: They can't.

Senator KIM CARR: The crocodiles would get them! There's a crocodile problem.

Mr Pezzullo: I think only one person ever managed that in human history. I don't think you can actually walk. The point is, without being very precise, that that part of our, if you will, border perimeter is managed through a mutual agreement. There's a return agreement with PNG.

Senator KIM CARR: I just want to be clear. When the minister says that a boat hasn't arrived for a thousand days, it's got to be: as long as it's not Chinese, as long as it's not through New Guinea, as long as it's not from an Asian nation—is that how we define it now?—as long as it's not on the east coast. Is that right?

Mr Pezzullo: I think that's a rather superficial interpretation of the acting commissioner's evidence. People who arrive within the scope of OSB are handled within OSB's operational procedures. People who come through the Torres Strait illegally are, under longstanding agreements and arrangements, returned—if they have no lawful basis to be in Australia—to PNG directly, or, by way of mutual discussion with PNG, we'll return them back to their country of origin at our effort and expense. So that part of the border is, if you will, sealed. OSB has to cover a lot of territory, or water, and you don't need to duplicate efforts where you've got robust border protection arrangements in place.

Senator KIM CARR: I just wanted to be clear. Just as long as we understand what a thousand days means: it doesn't mean Chinese; it doesn't mean east coast.

Mr Outram: We get illegal arrivals in Australia at the border all the time and have done for many years, as you know. The reason OSB was set up was not to do with Papua New
Guinea, as I articulated; it was to do with people arriving on the high seas, primarily out of Indonesia and Sri Lanka.

Senator KIM CARR: I've got a deep interest in the boats that we build in this country. There were fast response boats that were delivered to Cairns in September 2016. Is that right? Were there some fast response boats delivered?

Mr Outram: No. We've got two fast response boats on order that we will put into operation in the Torres Strait. They are being built in the United States and they will go into operation in the Torres Strait. We'll take delivery, I'm told—and the deputy commissioner might assist me here—in late January 2018, so we would expect them to be fully operational by around Easter next year.

Senator KIM CARR: So they're late?

Mr Outram: Yes.

Senator KIM CARR: Are they on budget?

Mr Outram: I'll ask the deputy commissioner, who has the details, to take those questions.

Ms Newton: We expect delivery of those two boats around 25 December.

Senator KIM CARR: So it's a Christmas present?

Ms Newton: They are late as a result of some of the specifications having to be clarified with the US, particularly around the AMSA requirements and requirements for safety and security for Australia. We've had staff in country ensuring that all of those requirements have been met; therefore, they'll arrive in Australia at the end of December and they'll be fully operational in the Torres Strait from March next year.

Senator KIM CARR: I'm pleased to hear that. Have they been delayed before? Is this the first time they have been delayed?

Ms Newton: It has been the result of conversations previously at Senate estimates. It's one singular purpose for the delay.

Senator KIM CARR: How many times have they been delayed? When were they due originally?

Ms Newton: My recollection is that they were due originally in September this year.

Senator KIM CARR: And the problem is that they haven't met specifications. Is that the issue?

Ms Newton: In the build arrangements, the specification that the US build the boats to didn't meet the Australian requirement for the build, so, therefore, we had to ensure, for things like fuel tanks, that those specifications were met in the US and that they had priority in terms of the build process versus other builds that they were undertaking in the US.

Senator KIM CARR: Were there any other specifications that weren't up to Australian standards?

Ms Newton: They've met all the Australian standards in the build. It was ensuring that they did modify the design of the boats to meet our requirements.

Senator KIM CARR: So it's a quality assurance issue, is it?
Ms Newton: It's a quality assurance issue in us ensuring that they have built the boats to our specifications to meet Australian standards. It wasn't that they didn't meet those standards when they built it, because they built it to our standards; it was just providing clarity in the original design phase of the boats ensuring that they built them to our standard.

Senator KIM CARR: I can't understand why the delay then. If they were built to standard, why weren't they delivered on time?

Ms Newton: The original design of the boats had to be modified to meet the Australian standards. That wasn't clear in the early stages of the build, so, therefore, they had to seek clarity and agree to a design modification to be able to deliver a boat that met Australian specifications.

Senator KIM CARR: Were inspections undertaken during the build? These vessels aren't built in five minutes, are they?

Ms Newton: Inspections have taken place along the way, yes.

Senator KIM CARR: And you would have established that they weren't up to standard.

Ms Newton: The design we originally chose didn't meet our requirements once the assessment phase took place about Australia's requirements.

Senator KIM CARR: So you changed the standard?

Ms Newton: We changed the design that the US requires for things like fuel tanks to ensure they met the Australian standards when they were built.

Senator KIM CARR: And that wasn't clear in the contract? I'm trying to follow this. When was that not clear in the contract?

Ms Newton: It was to meet AMSA requirements in terms of the build of the boat.

Senator KIM CARR: Sure. What was the cost of these vessels?

Ms Newton: I'll just have to get the details of that. It's an 11.9 metre boat.

Senator KIM CARR: Metres, yes.

Ms Newton: I'll have to find the details for you and provide that on notice—the total cost.

Senator KIM CARR: When were they commissioned?

Ms Newton: In 2016.

Senator KIM CARR: They were commissioned in 2016?


Senator KIM CARR: When were they commissioned? When was the decision made to purchase?

Ms Newton: I don't have the exact date that they were commissioned.

Senator KIM CARR: Why weren't they built in Australia?

Ms Newton: Because the contract provided for—

Senator KIM CARR: They were ordered from an American company. I follow that.

CHAIR: Let the officer finish.
Ms Newton: The contract was provided to a US company that was building boats that the US Coast Guard had utilised that met the purposes for a fast boat that Australia couldn't provide in the same manner.

Senator KIM CARR: But you have vessels built in Western Australia at the moment.

Mr Outram: Every environment is unique. You're right; we've had the K-class vessels built for the high seas. They're a 54-metre vessel. We have a crew of 20, and they go out for 28 days at a time. They're a large vessel. The Torres Strait, as you'd be aware, is a very shallow water environment. We need boats that can go at speed, but they need a very shallow draft because of the reefs. Because of the issues we face in terms of illegal fishing and those sorts of things, we needed a boat that was specific to our requirements in that environment. We can come back to you with the exact details of the date we went out and the process we went through with the Department of Defence. That's the appropriate—

Mr Pezzullo: Acting Commissioner, am I right in recalling that this was a foreign military sale, an FMS?

Mr Outram: Yes.

Mr Pezzullo: You might just illuminate the senator, who, I'm sure, as a former minister for defence procurement broadly is aware of FMS procedures. But you go through a procedure where you identify, in the US system at least, where there's capability in their inventory—in this case, the US Coast Guard—that can undertake the sort of fast interceptor work.

Senator KIM CARR: Yes, that's right.

Mr Outram: Exactly.

Mr Pezzullo: It goes through what's called an FMS process.

Senator KIM CARR: We didn't have the capability in Australia to build these vessels?

Mr Outram: That consideration was gone through. We can come back with the outcome—

Senator KIM CARR: Yes, thank you—if you would, please. I want to be clear about this. You're saying that the contract was commenced in 2016; it was not the delivery date?

Mr Outram: We'd have to come back to you with the exact details. The delivery date was not going to be 2016, no. That's when the FMS process was put into place, either late 2015 or early 2016—about that time.

Senator KIM CARR: I see. When was the minister briefed on the delay and the delivery of these vessels?

Mr Outram: We'll take that on notice.

Senator KIM CARR: I take it the minister has been briefed?

Mr Outram: Yes.

Ms Newton: He's been briefed on a number of occasions.

Senator KIM CARR: Can I have the dates on which the minister was briefed, please.

Ms Newton: Yes.
Senator KIM CARR: The Border Force vessel Roebuck ran aground, I'm told, on 30 September. Is that correct?

Mr Outram: That's correct—Roebuck Bay. It's a bay class.

Senator KIM CARR: How many crew members does that vessel have?

Ms Newton: There were 11 crew on the vessel at the time.

Senator KIM CARR: What were the circumstances surrounding the vessel running aground?

Mr Outram: What I'll say, Senator, is that's the subject of an investigation by ATSB. Obviously, other organisations like AMSA and GBRMPA—the marine park authority up there—have an interest, so we are working with all of those bodies. It's too early to say the exact cause. You may be aware that, with the reefs out there, there are issues with navigation charts and depths. This occurred at one o'clock in the morning. Our navigation systems rely on data and they're automated. That's all subject to investigation, so I wouldn't want to prejudge—

Senator KIM CARR: So it happened at night: at one o'clock in the morning, it ran into the reef? Is that what happened?

Mr Outram: Yes.

Senator KIM CARR: Have there been upgrades of the Roebuck in the past year?

Mr Outram: In the past year?

Ms Newton: The Roebuck was refitted and recommissioned in June this year.

Senator KIM CARR: What was the cost of those upgrades?

Ms Newton: $3.5 million.

Senator KIM CARR: Right. And where were they undertaken?

Ms Newton: In Cairns.

Senator KIM CARR: So, at the Cairns shipyard?

Ms Newton: Yes.

Senator KIM CARR: I take it that the upgrades included navigation equipment?

Ms Newton: A range of equipment and charts.

Senator KIM CARR: But including navigation?

Ms Newton: I would have to check whether or not all of the navigation equipment was replaced. There's a substantial amount of it.

Senator KIM CARR: Was the vessel on operational duties at the time?

Mr Outram: Yes.

Ms NEWTON: Yes.

Senator KIM CARR: Did it take a while to be towed back to Cairns?

Mr Outram: Yes, it did take a couple of days.

Senator KIM CARR: How much damage has been done to the vessel?
Ms NEWTON: There's been substantial damage to the underside of the ship. We're currently assessing that damage to determine what the cost for repair is. We couldn't actually access all of our systems until such time as investigators had completed looking at it.

Senator KIM CARR: I take it there was some damage to the reef as well?

Ms NEWTON: There was some damage to the reef. There were no fuel or any other products left on the reef.

Senator KIM CARR: No pollution?

Ms NEWTON: No; no pollution.

Senator KIM CARR: I take it that the Australian Transport Safety Bureau has completed its investigation?

Mr Outram: No, that is ongoing. We were in touch with them the weekend—well, immediately or within hours—of the occurrence. I personally met with the head of AMSA. They always have an interest of course. Also, I discussed it on the phone with the head of the marine park authority who obviously have an interest, also in relation to damage to the reef. Everybody is now waiting for the ATSB investigation to run its course.

Senator KIM CARR: I take it there were a full crew on board on the day of the incident?

Mr Outram: Yes.

Senator KIM CARR: Is the department concerned about the loss of capacity in terms of policing illegal fishers?

Mr Outram: Indeed. Obviously we recommissioned, or we extended the life of this vessel, for a reason: we wanted to retain the base—

Senator KIM CARR: Yes, so how are you going to fill the gap?

Mr Outram: Primarily through our relationship with the Department of Defence. We get excellent support from Defence through something called Operation Resolute—which you may be familiar with—and, of course, they have the Armidale class patrol boats that support our operation.

Senator KIM CARR: Yes.

Mr Outram: We can maintain our posture without a critical gap, but obviously it makes us a bit thinner on the ground, so we would prefer to get this vessel back in action as soon as possible.

Senator KIM CARR: I take it that the fast-response boats are pretty important to fill that gap?

Mr Outram: They have a different capability, I would say. The Bay class is not a fast vessel. It carries a large crew. It's a larger vessel than the fast-response boats. Those fast-response boats are very much more about operations in the Torres Strait to do with illegal fishing and those sorts of things. They're a smaller, shallower craft. They are a different capability.

Ms NEWTON: The navigational equipment was upgraded as part of the refit.

Senator KIM CARR: Obviously, but not sufficiently to protect the vessel from this type of incident.
Mr Pezzullo: You can't assume that.

Mr Outram: Yes, you cannot assume that. Sometimes it may be to do with the quality of the data that you put into the navigation system. Charts are electronic. Not everywhere in the oceans, and particularly around our reefs, is well charted. Some of these charts go back many years.

Senator KIM CARR: I look forward to the explanation.

Mr Outram: Indeed, and so do I.

Senator KIM CARR: It is not a question of failure of equipment?

Mr Outram: We don't know that. That's my point: we don't know. That's why ATSB have got the investigation.

Senator KIM CARR: I will leave it there.

CHAIR: Following on from Senator Carr's earlier questions, were tenders called for that fast patrol boat, or was it decided to use the American vessel which was thought to be suitable?

Mr Outram: No, we went through the Defence procurement arrangements, as we said earlier on. We didn't go out to a tender process in the Australian market. I'll have to go back and look at the processes at the time in terms of what examination was done of what the market in Australia could produce, and similar. We would have been aware—we were aware, and I was aware—of the vessels that are used by the US Coast Guard in similar marine environments to where we intended to use this vessel and of the success of those fast boats they have over there.

CHAIR: Are they fibreglass?

Ms NEWTON: No. They are steel hull.

Mr Outram: They are steel hull, I think. Yes.

CHAIR: Steel hull? It's the oldest trick in the book, of course, to put in a quote and leave out half of the requirements, and to then come back later on and say, 'Sorry, we didn't know about that. Our quote is really more.' Someone who quoted properly on the first time round therefore misses out. Regrettably, it's an all too common arrangement with many government contracts, not necessarily this department. But that wasn't the case here; you didn't seek a price from anyone else except the ultimate deliverer?

Ms Newton: I'm following up with that detail at the moment.

Mr Pezzullo: It's possible that the market was tested by some means, which the deputy commissioner will check for you. Because the Border Force is the US Coast Guard equivalent in Australia and in the US system the coast guard is a military service, we're given access to what's called foreign military sales. Whether there was an approach to market that was either a test or potentially suspended or whether we went straight to FMS is the precise point of detail that the deputy commissioner will check for you.

CHAIR: Was the original price fixed on the basis of what you were buying?

Ms Newton: I'm not clear on that at the moment and that is why I'm seeking further information.

CHAIR: Has it increased since the original price?
Ms Newton: It cost an additional $1.5 million to meet the AMSA requirements on the boats as a result of the Australian standards.

CHAIR: Surely someone, either your department or the American manufacturers, would have made—I mean, it's boat building 101, that you find out the requirements for the territory it's going to work in. I find this very odd.

Ms Newton: It was about four years ago that this originally came up as a matter for the purchase. I will have to gather more information for the committee.

Senator KIM CARR: Can you confirm it was an open tender?

Ms Newton: That's what we need to find out.

Senator KIM CARR: Yes, I know that. I particularly want to know whether it was an open tender. One thing you can be certain of is if it's an American tender, they would have insisted it be built in an American yard.

Mr Pezzullo: I think they have legislation to that effect.

Senator KIM CARR: That's exactly right. They have quite specific legislation.

Mr Pezzullo: Understood. We operate within Australian laws.

CHAIR: The real question is: was there an Australian alternative? Our shipbuilders can build anything. I wonder if the reason it went to the United States was on price. If the price has changed, if they got it because it was cheaper, and then we find that the Australian manufacturers quoted on AMSA regulations and the Americans didn't, that's scandalous. That happens all too often, unfortunately, in a lot of government contracts—not necessarily yours. I thought you said the contract was signed in 2016.

Ms Newton: They were progressed in 2016 in terms of the build.

CHAIR: You are saying the decision was made four years previously?

Ms Newton: To actually work with the US Coast Guard on the purchase of vessels.

CHAIR: I remember there was quite a number of new boats arranged then, including the other boats you used which are built in Australian shipyards. I was very proud of that. I'm concerned to hear about this and I know we did ask about these at previous estimates.

Mr Pezzullo: You did. We'll check the history and we'll come back to you with a very concise chronology.

CHAIR: Just moving on to another matter Senator Carr raised. There is a treaty between Australia and PNG on the Torres Strait. I used to know the name of the treaty off the top of my head—the Torres Strait Treaty?

Mr Pezzullo: If it's not that, it's very close to that.

CHAIR: That has a lot of specifics about that which result from the closeness of the Queensland islands with PNG, and Saibai is about five kilometres across the ditch.

Mr Pezzullo: It might even be closer. That treaty provides for treaty monitoring to ensure that persons who transit across the strait for traditional purposes—people have been coming and going for centuries, if not millennia—those rights are respected and observed. Then there's treaty monitoring to ensure that persons return.

CHAIR: There is unabridged movement between PNG and the Torres Strait islands—
Mr Pezzullo: Which pertains to cultural rights and traditional patterns of movement and migration from the time when there was no border, as it were. I have to get the legal instruments clear in my head, but whether it's subordinate to that treaty or a parallel agreement, and others will assist me with this, there is a parallel supplementary arrangement that says if anyone else comes through that avenue, let's call it an avenue, who do not have any right to be in Australia, they will be returned under certain circumstances. That has been enforced for many years.

CHAIR: It's a very porous border.

Mr Pezzullo: No. I wouldn't say it's porous. It's certainly close. It's a littoral border that's close.

CHAIR: I can remember one of the first questions I asked in the Senate, back in 1990, was of Senator Schacht, who was then the customs minister—

Mr Pezzullo: He was the customs minister, indeed.

CHAIR: and it was whether he knew of this man with a red baseball hat who was bringing drugs across, which the locals had told me about. Senator Schacht and everyone else in the Senate laughed me out of court, but it was in fact true and it was symptomatic of a lot of—

Mr Pezzullo: Your question is in the annals of the Customs Service, I can assure you.

CHAIR: Is it really—the man in the red hat?

Mr Pezzullo: Yes. It's known as 'Macdonald's question'.

CHAIR: I only raise that to say that there has been a lot of illegal entry into Australia through Torres Strait.

Mr Pezzullo: It's a border that's policed very closely, both by the Australian Border Force and by the treaty-monitoring officers who are appointed pursuant to the treaty that our colleagues in Foreign Affairs and Trade oversee. We're also supported by the excellent efforts of the Australian Army, through the Australian Army Reserve, the Far North Queensland regiment, which does terrific work for us under lawful delegations, and there are helicopters and other sensors, some of which we talk about and some of which we don't, that help us manage that. I would never say it's a porous border, but it's certainly a close littoral border.

CHAIR: It was particularly porous when a former government removed the only proper patrol boat from Thursday Island at a time back five, six, seven or eight years ago.

Mr Pezzullo: I will take on notice, and maybe the acting commissioner has got the details—is it related directly to the Torres Strait Treaty or by some complementary agreement that we can return persons who otherwise come through that zone?

Mr Outram: The returns agreement is complementary to, but not part of, the Torres Strait Treaty. The treaty itself was signed in December 1978 and came into force in 1985. I will just give you a sense of the number of movements that occur under the treaty. In 2016-17 there were 27,309 recorded movements under the treaty.

CHAIR: Twenty-seven thousand?

Mr Outram: Yes. It's a lot of movements. In fact, the year before it was 34,000. We have border management officers stationed on Boigu and Saibai islands. They're locally employed
members of the Border Force who monitor the comings and goings, because they're familiar, of course, with all the village residents and those sorts of things and know who should be there and who shouldn't. In terms of aircraft and vessels coming through, as you say, Chair, there have been a number, over the years, of illegal arrivals through the Torres, whether they be people from PNG or from other countries, and we have a separate arrangement to return those people back to PNG.

CHAIR: I notice the fisheries minister, Senator Ruston, is filling in at the moment. She'd be well aware of the PZJA and the fisheries arrangements with PNG, which are sometimes difficult to—

Senator RUSTON: Indeed.

CHAIR: Do you still look after the PZJA?

Senator RUSTON: Yes, in conjunction with the Queensland government. We have joint authority.

CHAIR: That's me now. Senator McKim had some other questions.

Senator McKIM: I wanted to resume the line of questioning I was engaged in earlier around families that have basically been ripped apart by Australia's government and by your department. We heard—

Mr Pezzullo: Sorry, Senator, and I know the chairman is going to admonish me; we haven't ripped anyone apart.

Senator McKIM: Well, you have.

Mr Pezzullo: You asked earlier about separated families. My preference, my request to you—well, I'm going to respond in neutral terms, but we're not ripping—

Senator McKIM: That's fine. But they feel like they've been ripped apart, and they have.

CHAIR: Mr Pezzullo, Senator McKim uses colourful language which is usually inaccurate. Can I just suggest that, when you do answer, you start by saying, 'I don't agree with the premise,' so it's on the record.

Mr Pezzullo: Thank you, Mr Chairman.

CHAIR: Senator McKim will continue to use colourful language no matter what you or I or anyone else says. Nobody believes him. Anyhow, that was a suggestion to try and get through this. Senator McKim.

Senator McKIM: We've heard that there are 421 people in Australia currently transferees—I guess you'd call them—from Manus Island and Nauru. Ms Hampton, were you able to source any further numbers for us in the interim?

Ms Hampton: No. My apologies. My reporting team is absolutely marvellous and is working very hard on it but I haven't been able to produce anything yet.

Senator McKIM: Chair, I wonder whether there's a mechanism here where we could come back to this if the information may be available later. I don't want to unreasonably disrupt the committee, but I do have some questions about this issue. Ms Hampton, are you able to give us any guidance as to when that information might be available, given that it's five o'clock already?
CHAIR: Before you answer, Ms Hampton, I will say that estimates, from time immemorial, asks officials questions. If they don't have the information immediately before them or if there are not officers in the room who have information, they take it on notice and get back at the earliest possible time.

Senator McKIM: All right. Well, in that case—

CHAIR: We are not making special arrangements. The department has other things to do.

Senator McKIM: Thanks, Chair. You have made yourself very clear on my time.

CHAIR: I will extend your time by that two seconds.

Senator McKIM: Thank you. Is it correct that some parents and spouses who are on either Manus Island or Nauru have been told that, in order to apply for consideration by the United States under that agreement, they have to relinquish their relationship with their family, including their children?

Mr Pezzullo: I don't believe that's occurred at all. Sorry, just to be clear—I don't know what the source of that information is—but when you say 'relinquish a relationship', you mean sort of divorce or separate from their children somehow?

Senator McKIM: Yes.

Mr Pezzullo: I can't imagine that that's occurred.

Senator McKIM: I find it hard to imagine. But that's what I'm being told—directly from the people involved.

Ms Houghton: Senator McKim, I'm not aware of that circumstance happening. We wouldn't advise people of that position.

Senator McKIM: So can I ask, is it the case that the 421 people—the transferees currently in Australia—need to go back to Manus Island or Nauru to apply for the US deal?

Mr Pezzullo: Well, I've previously given evidence to that effect in May and it's the position of the government that the persons who are here for—quintessentially, I don't think there are any other cases for medical transference reasons. Once their medical treatment has been dispensed with, they need to go back to either Manus or Nauru, as the case may be. We have, if I recall my evidence from May, allowed people to express an interest in the US program, so we haven't distinguished as between the—

Senator McKIM: From Australia?

Mr Pezzullo: I believe. I will get the deputy commissioner and other colleagues to confirm this. But, going back to my evidence in May, it was certainly our intention to expedite and make the process as efficient and as seamless as possible to ensure that people who wanted to register an interest in the US program could do that from Australia. I think that's the case. But we have not agreed, as a sovereign government, that people will be in a position where they're adjudicated—well, assessed, adjudicated and then transferred to the US from Australia. I think that remains to be the case. But they can express an interest, as I recall?

Ms Houghton: That's correct. And I understand that at this point in time 40 people have expressed an interest.
Senator McKIM: To be clear, Mr Pezzullo, the evidence you're providing to the committee is that people can express an interest from Australia—

Mr Pezzullo: Yes.

Senator McKIM: but they can't actually go through the process from Australia. They have to be on Manus or Nauru. Is that right?

Mr Pezzullo: The US teams are visiting PNG and they're visiting Nauru.

Senator McKIM: So what I just said is accurate?

Mr Pezzullo: Yes.

Senator McKIM: Thanks. What's the policy intent behind that decision? Maybe I should ask the minister, but you might be aware.

Mr Pezzullo: The minister at the table may wish to answer it. It's not her regular portfolio so it might not be entirely fair to ask her. It's to ensure that the basis of transference to Australia is observed, and the integrity of that transference is maintained. It is for medical purposes. And, when that medical treatment has been dealt with, in some cases—Ms Hampton can assist me—some people have been here for some years, and their original ailment has been dealt with, in fact it was dealt with quite early. There's an expectation that they will return to either Manus or Nauru or indeed they could decide to go home if that's what they choose to do. But Australia is not a place from which they can enter into the US program. They can express an interest, just to administratively expedite the process, but they can't commence their journey, in terms of filling in their forms, being interviewed, having screening undertaken, having adjudication—which is the American parlance. They cannot do that in Australia.

Senator McKIM: Thank you. Is it then accurate for me to suggest that there are some people who are precluded from formally applying—leaving aside the expression of interest process for a minute—for the US deal because they have a medical condition that requires them to be in Australia?

Mr Pezzullo: That would turn on the facts of the case. But no, in the context of applications, as long as the medical treatment has been dispensed with—and I understand the point of your question, that they can apply. Ms Hampton, in cases where the medical treatment is ongoing and they've expressed an interest, to answer the senator's question—I don't want to agree with the presumption they're precluded—how is their interest, if you like, lodged in the US system?

Ms Hampton: I believe that they express an interest from Australia and at the time that their medical circumstances are changed, they can return to Nauru on Manus and make their formal application at that stage.

Senator McKIM: That's what Mr Pezzullo said a moment ago. My question relates specifically to people who have an ongoing medical condition that prevents or precludes them from being returned to Manus Island and Nauru within any foreseeable time frame. What happens to them? How do they apply for the US deal?

Ms Newton: First, we have 289 of those people that have transferred to Australia that haven't had their refugee determination finalised. They would not be eligible at this time, if they're still part-way through the process. Eighty of them have been determined as refugees
that are in Australia at the moment. Assessments are being undertaken as to whether people have completed their medical treatment in Australia and to their suitability to return to Nauru or PNG.

**Senator McKIM:** They're in Australia now, Ms Newton. I'll narrow the focus of my follow-up question to those who have been found to be genuine refugees because I understand the US isn't prepared to consider others, although I think that's hugely problematic. But my question specifically is for those who have been found to be refugees and who are in Australia. Presumably that means they've got ongoing medical needs. How do they proceed through the US arrangements if they can't go back to Manus or Nauru?

**Ms Newton:** If they've applied for the process, we will have to await the US deciding how they want to take those people into consideration.

**Senator McKIM:** They can't apply from Australia. Mr Pezzullo's just told us they can't apply from Australia.

**Ms Newton:** They've expressed an interest, which is what we clarify.

**Senator PRATT:** Would they have to go to Manus?

**Senator McKIM:** They do. That's the point I'm making. Basically people are being precluded from access to the US deal because they have a medical condition.

**CHAIR:** Senator McKim, there's no point you're making. We are here for questions.

**Senator McKIM:** Okay.

**Ms Newton:** That's a matter for the US to determine.

**Senator McKIM:** But I'm asking you: isn't it the case that that's a fact?

**Ms Newton:** No, I don't think it's a fact. They're not precluded from the process. Forty of them have expressed an interest in the US process.

**Senator McKIM:** But Mr Pezzullo has just given evidence, Ms Newton, that they can't proceed through the US process because an expression of interest is just an administrative arrangement—they need to actually apply. He's also given evidence that he's previously told this committee that in order to apply, people have to be on Manus Island or Nauru. Isn't it a chain of logic that would enable this committee to form a view that there are some people who are being precluded from applying because they've got a medical condition that requires them to be in Australia?

**Ms Newton:** Yes, there may be some people that are precluded. There are other people that have finished their medical treatment and are choosing not to return.

**Senator McKIM:** For families where one spouse and a child are in Australia—and we haven't got numbers on this as yet, so I'm just going to ask about one person in particular who's a detainee on Nauru, whose name is Arash Shirmoammad. Arash's wife and daughter are in Australia. He's never seen his daughter and Border Force has repeatedly refused his request to be reunited with his wife and daughter. His wife is unable to go back to Nauru due to her medical condition. On what basis does Border Force keep this family apart?
Mr Pezzullo: I'm reluctant to canvass specific cases. We might just speak about the principles or the background considerations that would turn on each individual case. Generally speaking, the repatriation to Australia, or the transference to Australia, is for the person who is in the need of medical assistance. If it happens to be a child—again, I'm not going to speak to the particular circumstances—then a parent or a guardian would ordinarily accompany them. Ms Hampton will correct me here, but I don't recall cases where whole families were transferred because one of the children was in need of assistance—which I think is the premise of the line of questioning. So one parent would come. I suppose in this case it was mum. I don't want to identify this family specifically by way of an inferred answer, but what would happen in a case like that is: dad has stayed behind because he wasn't subject of the transference agreement and he has no right to come to Australia in those circumstances.

Senator McKIM: Is there any assessment made of the welfare of the mother and the child in these cases in the event that the mother and the child are in Australia and the husband/father is offshore detained?

Mr Pezzullo: Any assessment?

Senator McKIM: Yes. Well, Mr Pezzullo, I'm sure you will agree—well, I don't know; maybe you wouldn't—ideally a child would be able to meet her father, wouldn't she?

Mr Pezzullo: I don't want to get into philosophy or—

Senator McKIM: We will come to your philosophies in a minute, because I read your speech that you gave for the philosophical context of the new department with interest and terror—equal parts, I might say. But, anyway, I will come to that in a minute.

Mr Pezzullo: Sorry; you were terrified?

Senator McKIM: I was terrified of your thought processes—yes. I don't like fascists and authoritarians.

Mr Pezzullo: I beg your pardon?

Senator McKIM: I thought there were some fascist tendencies that came out in that speech.

CHAIR: Senator, you will withdraw that, Senator McKim, immediately.

Senator McKIM: I beg your pardon?

CHAIR: You will withdraw that immediately, please.

Senator McKIM: All right. I will withdraw that just to help the committee through. So, Mr Pezzullo, were you going to answer the question about a mother and a child and a father?

Mr Pezzullo: As I said, ordinarily, depending on where people are—and the acting commissioner can speak about how these matters are managed onshore—the preference is always to keep families together. The issue here is that the persons who were being transferred to Australia were transferred—we're talking about a case in Nauru, I assume, here—

Senator McKIM: Yes.

Mr Pezzullo: They were transferred to Nauru on the basis of their unlawful mode of entry into Australia—and we can go over that ground, but that's what it is. During the course of
their detention initially and then, once it became an open centre, their residence on Nauru, someone has gotten sick. I don't know what the circumstances are, but these are just the general principles. Either the child has gotten sick or perhaps the child at that point wasn't born. Perhaps the mother came here originally with an unborn child. That might well be the case. And, again, I'm trying to avoid direct commentary on this case. These are difficult choices. Of course, no-one denies that. But you can imagine a circumstance where there are a number of siblings. If one child gets sick, in order to keep that family together you have to bring the whole family. In this case, it sounds like a nuclear family of mum, dad and one child, but maybe I've mistaken of the circumstances.

Senator McKIM: No. That's correct.

Mr Pezzullo: You can imagine, as a point of principle, if you have to bring larger families here—and, again, I'm going to say this neutrally, Senator, particularly given your concerns about my tendencies, as you have just said—people are entitled to get legal remedies. And as we've given evidence here, we often get injuncted or, in anticipation of an injunction, the minister will agree to an undertaking that those persons will not be removed. This has been going on for as long as the RPCs have been in existence.

Senator McKIM: Yes, it has.

Mr Pezzullo: And over time you get a creeping circumstance where more and more people are in Australia. So you have to draw some lines somewhere.

Senator McKIM: So is there an assessment of the welfare of the mother and the child in this case before a decision is made to refuse the father, in this case, permission to travel to Australia to actually meet his daughter for the first time?

Mr Pezzullo: Again, we're going to avoid discussion of a particular circumstance unless we have the facts clearly before us.

Senator McKIM: Mr Pezzullo, just to try and help—

CHAIR: Hang on, Senator McKim, please. I'm not sure you should be mentioning individual names.

Senator McKIM: I have permission from this person to do so.

CHAIR: The department does not, as I understand it.

Senator McKIM: In that case, in order to progress the discussion: in a circumstance where the mother is brought to Australia while pregnant for medical reasons, and the father applies to come to Australia before and after the child is born and is refused by ABF, in those circumstances, is there a consideration given by ABF of the welfare of—I'm talking about the medical welfare—of the mother and child? It's not desirable to have a pregnant woman highly stressed, and that can impact on the health of the child as well. Is consideration given to the welfare of the mother and the child before a request is refused for the father to come to Australia and meet their daughter for the first time?

Mr Pezzullo: The only circumstances under which the decision-maker would agree—noting that this is a subsequent transference, in this type of case, generally speaking, the mother would have come here—I don't know the circumstances of the case—either to give birth or because there might have been complications associated with the birth. So that's the medical transfer. As I said, we have to draw a line somewhere and try to keep the numbers to
a minimum of people who are coming to Australia to gain medical attention and then, under our law, and under the policy of the government, having to be returned to Manus or, in this case, Nauru, as soon as that medical treatment has been dispensed with. Then, any subsequent desire, application, request to come to Australia would be looked at on very strict grounds. Is this necessary for medical reasons? No doubt, the decision-makers in this case—if an actual decision has been taken, and I'm reluctant to speak about the circumstances—would take all relevant considerations into account.

**Senator McKIM:** Sorry, was that a yes or a no, that the welfare of the mother and child is factored in to those decisions?

**Mr Pezzullo:** All relevant considerations would be taken into account.

**Senator McKIM:** Chair, I have a number—

**CHAIR:** No, that's more than your time, Senator McKim. I will go firstly to myself and then to Senator Pratt, who has some questions on outcome 1. Mr Pezzullo, Senator McKim's questions about someone being in Australia for treatment of a medical condition and having to return to Nauru or PNG to make application to go to the United States, that is, in fact, the situation, isn't it?

**Mr Pezzullo:** Yes.

**CHAIR:** I thought you were being obtuse in answering—no criticism of you, but my understanding is that is the fixed view of the government. Is that correct?

**Mr Pezzullo:** Yes.

**CHAIR:** While Senator McKim may not like that, I think 98 per cent of Australian citizens think that's the appropriate way to do it.

**Senator McKIM:** You just made that up.

**CHAIR:** And, as far as you're aware, it's not the government's intention to change that.

**Mr Pezzullo:** I've got a high level of certainty that it's not intending to change the policy, that's right.

**Senator PRATT:** I want to flick back to issues about vessels offshore. I'm told that in September this year an abandoned vessel was washed up off the reef of the coast of Cocos Islands. When did the department become aware of the vessel?

**Mr Pezzullo:** I will ask my friend and colleague the acting commissioner to address that.

**Mr Outram:** I will get you the dates, Senator, soon. I don't have those dates to hand, but we became aware of the vessel. It was inspected and looked as though it had been abandoned and derelict for quite some time.

**Senator PRATT:** When you did inspect the vessel?
Mr Outram: I'll have to take advice on the dates, Senator; I don't have a brief in relation to that matter.

Senator PRATT: Was a search-and-rescue operation undertaken to ensure there was none on board and it had not been used by asylum seekers?

Mr Outram: I don't know if you'd characterise it as a search-and-rescue operation, because the vessel looked abandoned and derelict.

Senator PRATT: It might have been abandoned and derelict, but how do you know that some months before there had not been some disaster on it—or some more recent disaster?

Mr Outram: That would be a matter for AMSA, if it was a search-and-rescue matter. From our point of view, we were satisfied that it wasn't an illegal-entry vessel—there were no people around on Cocos and Keeling who shouldn't be there. From a Migration Act and Customs Act point of view, we were satisfied we had no responsibility, but nobody called a Safety of Life at Sea issue. Acting Deputy Commissioner, do you have any more advice?

Mr Murray: I don't have any specific details, but I can assure you that, together with the Australian Federal Police who are also deployed on Cocos and Christmas islands, a search of the vessel was done when the tide allowed for a safe check. There was no evidence to suggest there was any crew at any time on that vessel. It was a derelict vessel.

Senator PRATT: What's the likely origin of such a vessel to be found derelict at sea like that?

Mr Murray: I'll take that on notice, but my recollection of the event was that it appears to be an old Indonesian fishing vessel.

Senator PRATT: Had the vessel ever been used to transport asylum seekers—was there any previous registration or previous incidents associated with that boat?

Mr Outram: We have no information to identify the vessel at all or to get to any of our intelligence or information holdings. To be absolutely sure, I'll take that on notice and we'll double-check.

Senator PRATT: That means you can't guarantee that the vessel was never a turned-back vessel as part of Operation Sovereign Borders, or you don't know?

Mr Outram: I'll take it on notice. We didn't recognise the vessel—that's my point—or identify the vessel. So I doubt very much it was anything to do with Operation Sovereign Borders.

Senator PRATT: If you can take on notice—I'm assuming, if you say you didn't recognise the vessel, that there is a—

Mr Outram: I've said that already.

Senator PRATT: record that says this is a new vessel for all intents and purposes, and you can rule out it ever having been identified as part of Sovereign Borders.

Mr Outram: I understand your question. I will go back to my answer earlier: we didn't recognise the vessel. We have no information holdings that identify the vessel which would suggest that it had been associated with any take-backs, turn-backs or Operation Sovereign Borders but, to be abundantly cautious, we'll take that on notice and check.
CHAIR: If you're taking that on notice, can I ask you to take on notice how you know for sure it wasn't full of people, who would be illegal entrants, who drowned at sea when the ship sank? How do you know that?

Mr Outram: That we couldn't be sure of.

Air Vice Marshal Osborne: Perhaps if I can—obviously, this came to our attention. We were interested for many of the same reasons that you've asked about—potential people being on it. Even if it wasn't possible people smuggling, it could've been people just in trouble anyway. So we worked and we gave information back to the Indonesians—they had no record of it; there was a name on the vessel. The actual vessel had a lot of marine growth over it. It had been at sea for a very long time. Can I give you an absolute guarantee that nobody was on board and no-one drowned? No, I can't, but we exhausted all possible reasons we could find that it was certainly not a recent event and, as far as we know, it was an Indonesian fishing vessel.

CHAIR: But it could have been one that five years ago sank with substantial loss of life long before Operation Sovereign Borders.

Air Vice Marshal Osborne: I don't think it would have been five years ago, Chair. However, like I said, I couldn't rule it out categorically, but we exhausted all possible leads and all intelligence leads. We could find no link to the vessel, no history of the vessel.

Senator PRATT: Are you able to tell us how a vessel is able to get that close to Cocos Islands—in fact, wash up on it—without being detected by the ABF?

Air Vice Marshal Osborne: The vessel could have been at sea for a very long time. It could have been low in the water. It could have been in sea states. It could have been all sorts of things that would've made it—

Senator PRATT: I guess if there is no-one on board, it could come from a non-traditional direction that you wouldn't be used to seeing a boat coming from?

Mr Outram: Washed in on the tide.

Air Vice Marshal Osborne: Absolutely; coming with currents.

Senator PRATT: What do you do to monitor such vessels, whether you can see them or not? Would you have expected to see a vessel like that?

Air Vice Marshal Osborne: Not necessarily. We rely on a large range of means to look for our vessels. A lot of intelligence is involved. There are a lot of air and maritime surveillance capabilities that we employ.

Senator PRATT: Have any other boats arrived on Cocos Island or Keeling in similar circumstances?

Air Vice Marshal Osborne: Not that I'm aware.

Mr Outram: The only thing I would say is that, when a boat's under steam, it behaves very differently than—

Senator PRATT: Yes, that was my point. So an investigation by the department was conducted. What did it find? Did it simply find that it was abandoned and that there was no-one on it?
Air Vice Marshal Osborne: Senator, I've pretty much given you everything that we were able to find.

Senator PRATT: What happened to the vessel?

Air Vice Marshal Osborne: My understanding is that it was going to be destroyed. That doesn't fall within the ABF. I'd have to take on notice what the status of that is.

Mr Murray: Senator, we'll take that question on notice.

Senator PRATT: Thank you. Moving to a different topic, I wanted to ask about work that's been undertaken on cargo passenger security and screening at airports.

Mr Pezzullo: Cargo and passenger screening?

Senator PRATT: The Prime Minister statement on 16 August, 'I've asked the Minister for Immigration and Border Protection to undertake further work on cargo, passenger security and screening at airports.' When did the immigration minister ask the department to commence this work?

Mr Pezzullo: At about the same time as the PM's statement, we took on—not that it's directly in our current portfolio responsibilities—a coordinating role with the relevant departments, noting that the Office of Transport Security, which is our principal interlocker on these matters, is part of the infrastructure department, and there would have been other departments engaged. I might ask Ms Geddes to assist me. At about the time of the Prime Minister's statement, obviously we were knowledgeable about his intentions and his forthcoming statements, so we had that work in hand. But exactly as to when we started to take that coordinating role, Ms Geddes, who led the work for me on behalf of the department, can give you a more precise answer.

Ms Geddes: It was immediately after the statement that we took on that coordinating role, primarily with the Office of Transport Security and the Australian Federal Police. We worked with the Department of the Prime Minister and Cabinet, the Department of Infrastructure and other departments to do that work.

Senator PRATT: Is this direction a response to the department missing their targets for the number of air and sea cargo inspections in the previous financial year?

Mr Pezzullo: No. It has nothing to do with the volume targets. If I go back to the Prime Minister's announcement—and I stand to be corrected here—the Minister for Immigration and Border Protection is also the incoming Minister for Home Affairs or the minister designate, I think, was the phrase used by the Prime Minister. He was given the coordinating role to look at relevant cargo screening and transport security arrangements in consultation with, obviously, those ministers who have current legal authority in that area.

Senator PRATT: Targets for cargo screenings and passenger screenings have increased year on and they've been escalating, as I understand it.

Mr Pezzullo: The volumes have.

Senator PRATT: The target volume has increased. So your target has increased for each of those areas.

Mr Pezzullo: I'm not sure that's right. The acting commissioner, who is also the Comptroller-General of Customs, can assist me there. I don't know that the targets escalate with volume.
Mr Outram: No. As an example, in 2016-17, our target was to receive 38 million import reports, and we actually got 42.1 million; and to inspect 5.1 per cent of that, and we made 4.8 per cent. The targets are percentages, as you can see. I guess there'd be a net increase, but they're actually a percentage based target.

Senator PRATT: So the increases are because they're a percentage increase. Because you're required to meet a percentage and the overall volume has increased—

Mr Outram: I was talking about air cargo. It's different for sea cargo. Sea cargo, I think, is on the number of containers that we examine—the full size of containers. For mail, it's different again—we talk about percentages again in mail. So our targets for air cargo consignments, for containers that come in by sea and for mail are reported differently.

Mr Murray: With respect to sea containers, our target is fixed. It's at 100,000 TEUs—twenty-foot equivalent units.

Senator PRATT: Irrespective of volume?

Mr Murray: Correct.

Senator PRATT: Did you get an increase in resources for screening at ports in the last year?

Mr Outram: No.

Senator PRATT: Because your target has remained the same.

Mr Outram: We haven't got any additional people, but—Acting Deputy Secretary Geddes might mention this—we have received money from government to enhance our X-ray screening capability and equipment, rather than additional people.

Senator PRATT: What's the process for screening parcels that come into Australia?

Mr Outram: It depends on which way they come—via air cargo or mail.

Senator PRATT: Let's go with air cargo.

Mr Outram: Everything is risk assessed. When air cargo comes in, everything's logged in our integrated cargo system, so we get advance information about consignor ID details and a description of what's in the package et cetera. We obviously risk assess that based on a range of factors, which are called profiles. I won't go into too much detail, because that can be quite sensitive. From that, we'll select a number of those for, say, X-ray. If it's in DHL, for example, we have ABF officers embedded within the facility there. They have an X-ray machine as part of the facility, so we X-ray on site. We do that for TNT, UPS and FedEx. If it's in one of the other freight forwarding organisations, say in Sydney, we have mobile X-ray facilities and we ask the organisation to hold the consignment for us until we clear it. We'll go there and X-ray it, and the X-rays will lead us to either examine what's inside—look through the contents—or not.

Senator PRATT: It was reported in early August this year in the Financial Review that a number of bomb components crossed Australia's border through posted air cargo. They were sent in the post by Islamic State operatives and were supposed to be assembled to build a fully functioning bomb, with a plot to smuggle it onboard an Etihad flight. On what day did you become aware of that plot?
Mr Outram: On 29 July 2017, a major counterterrorism operation involving the Federal Police, ASIO and the New South Wales Police Force disrupted plans to place an improvised explosive device onboard an international aircraft. That's the day on which we became aware of that particular plot.

Senator PRATT: Did the minister order an immediate investigation into how bomb components made it into Australia?

Mr Outram: We initiated a whole lot of measures to support the AFP in their investigation. I want to be a bit careful here because there are people being charged criminally in relation to this plot and they are yet to appear before the courts. The Office of Transport Security and a whole range of other agencies came together to examine our processes at international airports and in relation to the supply chains coming into Australia. We made certain enhancements in relation to, for example, the screening of cargo.

Senator PRATT: What were the findings of your investigations?

Mr Outram: Again, I'm reluctant to get into detail here because of impending prosecutions. It would potentially go to the AFP case and evidence.

Senator PRATT: I note, though, that many of those facts have been widely reported in the press.

Mr Outram: Whether they're facts or speculation on facts, there's been a lot of reporting about it, but we obviously have to confine ourselves to the evidence and intelligence. Because of the impending prosecutions, as I say, I'm a bit reluctant to get into too much detail around that.

Senator PRATT: Police have confirmed they built a replica device and attempted to get it past airport security. Did the minister order similar tests at Australia's international mail centres to test whether bomb components could get through our mail centres?

Mr Outram: No, there was no specific test to get it through. We obviously looked at our own capability in screening mail and cargo. A lot of screening, you would appreciate, occurs in other countries. So let's take a parcel that might be sent via air cargo to Australia from—let's just pick Germany—which would, of course come through a company like FedEx, and it would no doubt be screened before it's put onto an aeroplane, and then it's sent to another country and aggregated there. It would then be put on another aeroplane to be brought to Australia. We don't control those screening processes in the supply chain that FedEx may have in, say, the Middle East and Europe, before things arrive here.

Senator PRATT: I understand that. You said you looked at your procedures, but have you tested them by putting sample components through to see what your pick-up rate was?

Mr Outram: Again, without getting into too much detail, there's a lot of work going on internationally with partner organisations and agencies in this space. We're not responsible for aviation security. I want to be clear here about our role at the border, and there are two complementary things at play here. One is in relation to transport security, and the first of the screening processes happens before parcels get on aeroplanes before they're being brought to Australia. When things have actually arrived at the border, our interest then is in whether they contain anything that's prohibited. Obviously, explosives, firearms and drugs are the sorts of things that we are interested in. Again, without getting into details about what we know now, would we have found it and all that—
Senator PRATT: Are you actually posting things through the mail to see what your detection rate is? You don't need to give anything away by saying that.

Mr Outram: We obviously test a lot of things in our X-ray systems, and we work with a whole lot of intelligence partners and agencies internationally around those systems to make sure that our technology is as up to date as everybody else's.

Senator PRATT: It sounds to me like you're not putting components through the system to see at what rate they would be picked up by your existing regime. You said you're looking at your systems and you look through your X-rays but you haven't actually said that you would put the kind of objects through the post that you'd hope to identify, to see what percentage of them actually got picked up. Why haven't you done that?

Mr Outram: We don't have component explosive parts to put through our system. What I'm saying to you is that the people within the department who support us in providing us with our technology and the various other things we put into our X-ray machines are working with domestic and international partners and intelligence agencies constantly to do make sure our technology is as up to date as anybody else's.

Senator PRATT: Surely it would be best practice to test the border to check for those weaknesses, given there are clearly attempts being made to get these kinds of things through air cargo—

Mr Outram: What I'm saying is there's a lot of testing going on constantly, not necessarily by us, the Border Force, simply trying to concoct a device and send it through our own X-ray machines. We buy machines and use data and technology in those machines, and a lot of things that are the same as other countries, so we collaborate with a number of other countries in that regard.

Senator PRATT: But you're not actively trying to get components through your own system to see where the failings in randomised trials. Why aren't you doing that?

Mr Outram: That's not strictly true. If you spoke to the Office of Transport Security, they would tell you they do have testing regimes and systems in place and so do a number of our partner organisations.

Senator PRATT: Does that include mail?

Mr Outram: I don't have an area in the Border Force that's technologically competent enough to build an explosive device and put it through our X-ray system.

Senator PRATT: You wouldn't want it to be a functioning explosive device, but clearly you'd want something similar enough so that you could see what your detection rate was, surely.

Mr Outram: In terms of explosives coming in, you mean?

Senator PRATT: Yes.

Mr Outram: Our people at the border are looking for a whole range of different things at the same time. So we're not just looking for explosives. Obviously, this is one case where explosives have come in. We're looking for narcotics, we're looking for firearms and firearms parts, we're looking for a whole range of other prohibited imports that might be relating to asbestos or what have you. There are a whole range of prohibitions that we're worried about. X-ray technology is an important part of picking that up.
Again, without getting into the details of this particular case that would go to what's going to go on in court, let me just say this: since that plot came to light, there has been a significant amount of work going on within the Border Force, the department and with our domestic partners and internationally to make sure that our technology will pick up that kind of material if it's sent through our border.

Senator PRATT: Replica devices were picked up 100 per cent of the time by airport security in tests. Why haven't such similar tests been ordered for the mail system?

Mr Outram: When you're going into an airport to leave Australia, we have complete control of the passenger and the bags. In Australia, according to our laws, our processes, our systems and the Office of Transport Security, we are responsible for that. When mail, or cargo, is being sent to Australia, we don't control the screening processes in all the countries that it could be sent to us from or at the airports in the various different countries that it could be sent to us via. So we don't have any ownership of, or control of, what certain airlines' processes might be.

Senator PRATT: But surely that's quite alarming, though. Surely, these are the things that you should be doing with international cooperation to test the system—so that we know if something has been posted in country A, B or C to Australia so that you can see what's picked up.

Mr Pezzullo: Is it the case that in terms of either outwards-goods movements or inwards-goods movements there is any jurisdiction on the face of the planet that inspects and examines every single sea container, every single air cargo consignment and/or every single registered or unregistered mail item? I think the point you're making—when a passenger attends the airport, there are a whole lot of controls that are ICAO standard. Bags are put through screening—outwards. Senator, your question goes to then: what is the—sorry.

Senator PRATT: My question goes to the fact that there were trials done for the point in airport security. I appreciate that to do something similar for the mail you would need to do it—

Mr Pezzullo: No. Senator, to get the sort of coverage that I think your line of questioning implies—because, otherwise, they'll just go to sea containers or whatever; whichever one you're not checking—it would require, my colleagues to my right will advise, every single jurisdiction in the world putting every single piece of traded good, sea containers, air cargo—

Senator PRATT: No. My question is—

Mr Pezzullo: Which holes are you suggesting—

Senator PRATT: If we said to country A, B or C, 'We're trying to test our own mail systems. Can we put these things through the post? We want to see at which points they're picked up in the system, but we want to see where they're picked up within Australia?' Why aren't you running those kinds of trials to see what that detection rate looks like within our own mail system.

Mr Pezzullo: Acting Commissioner, is it the case that, both outwards from a country to here and inwards, every single item of physical good is at some point put through an X-ray?

Mr Outram: This is an issue for OTS, to an extent. But if something's going to go and be put on an aeroplane, it's screened, as I understand it. There's an international standard around
that. Goods are screened when they're put onto aeroplanes—whether they're in cargo or whether they're in hold luggage. We know that things coming here by air are screened. But when you're asking about what we then screen at the border when it arrives—once it has actually physically arrived at the border—to give you an example: in 2016-17, we inspected 50 million. And that's only a small percentage. So the idea that we would be able to, on arrival at the border here, X-ray, inspect, screen everything—

Senator PRATT: I'm not saying screen 100 per cent of it. I'm saying how can you be confident what proportion of it you're likely to pick up unless you're actually running some randomised controls.

Mr Outram: Let me give you an example. After this incident in Sydney, we did a saturation screening—I'm not going to the countries of origin, but we did saturation screening; that's 100 per cent—over a lot of countries that we might be slightly worried about and found nothing of concern during that exercise, which lasted several weeks.

Mr Pezzullo: It was an intense randomised trial.

Mr Outram: It was absolutely intense. If your question is: do we have confidence in our technology? The answer is, yes. If your question is: are things that are brought here by aeroplane screened in other countries? The answer is, yes, and OTS group can probably give you a more detailed answer about the standards that are applied there. Border Force is interested in two things. First, is it a prohibited import when it arrives here, and, second, is there any duty which is payable which should be raised? We're interested in things once they arrive.

Clearly, we have a concern about the safety of our community and we don't want bad things being sent here. We do collaborate through the World Customs Organization, and with organisations like the Universal Postal Union that regulate the global postal system to try and ensure that, yes, we can get good data, good intelligence and good analytics around what's being sent around the global systems.

Senator PRATT: I guess the point I'm trying to make is the border was checked for airport security, and these devices were picked up 100 per cent of the time. But you can't tell us how often they would be picked up if they were to come through our mail system?

Mr Outram: No. As you'd be aware, we believe that something came through our mail system and we didn't pick it up. It's not clear, though, that that's because it defeated our technology, but I don't want to get into too many details about this particular case, as I've said, because it's getting into the realms of what's coming into a court process.

Senator PRATT: There was an act of best practice to test the border in the case of airports, but you haven't made a similar decision in the case of the mail system to run specific tests?

Mr Pezzullo: I think the acting commissioner said that a saturation effort was undertaken.

Mr Outram: It was.

Mr Pezzullo: And we're not going to discuss the precise details of that, and nothing untoward was detected.
Senator PRATT: You can take this on notice. What type of X-ray machines are used to scrutinise air and sea cargo? Are these the best ones available on the market? What other technologies are you using to ensure we have the best protection available?

Mr Outram: Yes, I will take that on notice, in terms of the actual makes of machines.

Senator PRATT: Feel free to take that on notice.

Mr Outram: They're different, obviously, for a sea container and for air cargo and for mail, for that matter. There are other technologies—detector dogs and other things—but we'll come back to you with an answer in writing.

Senator McKIM: I'll just indicate I do have a number of questions in these output groups that I'll put on notice. But, Mr Pezzullo, I did want to ask you about a couple of things that you referred to in your speech to the Trans-Tasman Business Circle. This, of course, is the philosophical context around the new home affairs department that you referred to in your introductory statement. You're a fan of Lord of the Rings. I think that's probably fair to say from your comments. Did you make it through to the end?

Mr Pezzullo: I'm sorry.

Senator McKIM: You've read it, I take it?

Mr Pezzullo: Many times.

Senator McKIM: And you've made it to the end every time?

Mr Pezzullo: Every time.

Senator McKIM: You remember what happened at the end, don't you?

Mr Pezzullo: Yes.

Senator McKIM: 'The scouring of the shire'.

Mr Pezzullo: I did distinguish between the books and the movies.

Senator McKIM: I know. I have no disagreement with you in your comments in regard to the book versus the movies, but—

Mr Pezzullo: My comments were explicitly related to Peter Jackson's film trilogy.

Senator McKIM: Understood. But you've said in your speech that the Hobbits—after saving Middle-earth by casting the Ring into the fires of Mordor.

Mr Pezzullo: The One Ring.

Senator McKIM: Yes, thank you, the One Ring. They come back and you said, 'The comfortable Hobbits who stayed behind looked at them suspiciously. These fellows are a bit above themselves.' I think you're paraphrasing there, which is fair enough.

Mr Pezzullo: The movie—I was trying to be very clear.

Senator McKIM: Alright, thank you.

Mr Pezzullo: I thought someone would pick me up on this. The book version has a different ending.

Senator McKIM: It does, but you're talking about the book here. We've established that.

Mr Pezzullo: I'm talking about Tolkien's work as interpreted by Peter Jackson.
Senator McKIM: Yes, but you've said here that the Hobbits go back into their gardens, 'They go back into their very beautifully kept Hobbit holes not knowing the sacrifices that have been endured to keep them safe.' But in fact, that wasn't the end of the book, was it? What actually happened was the Hobbits came back. The four protagonists of Lord of the Rings came back and they actually scoured the Shire themselves, didn't they, without help from Gandalf or anybody else? In fact, they took care of their own problems without compromising their freedoms and their liberties and their values, didn't they?

Mr Pezzullo: Well, they took on Saruman—that is right.

Senator McKIM: And beat him.

Mr Pezzullo: Indeed. The book ending is very different from the movie, but I was very clear to the trans-Tasman circle—

Senator McKIM: I guess my point—who were the hobbits, in your analogy, Mr Pezzullo?

Senator Ryan: Senator Macdonald, I'm wondering if this is more appropriate for the Arts Council section in another committee.

Senator McKIM: Who are the hobbits? Are the hobbits the Australian people? In this fantasy, are you Gandalf, Mr Pezzullo?

Mr Pezzullo: I think we're over it—I think we're overextending the analogy here. I think the use of the analogy, in my remarks to the trans-Tasman circle, was self-evident. I don't wish to extend the metaphor or the analogy. Could I ask, Senator, are you a fan as well?

Senator McKIM: Yes.

Mr Pezzullo: Do we have a common point—

Senator McKIM: Yes.

Mr Pezzullo: We've got a common point of interest.

CHAIR: What has this got to do with—

Senator McKIM: There'll be many people wondering about us both.

CHAIR: Senator McKim and Mr Pezzullo, you might be having fun—

Senator McKIM: No, I do have—there is a point.

CHAIR: Hang on, Senator McKim. You might be having fun, but the rest of us—well, I've got no idea what you're talking about and I don't know how it relates to Senate estimates. We do have a long way to go. We're three hours overdue. If you could ask the question and get a concise answer, that would be helpful to everybody. So Senator McKim, a question, please.

Senator McKIM: I'll ask you this, Mr Pezzullo: were you suggesting that Australians have some kind of false idea of the safety of ourselves as Australians, as I think you were alluding to that the hobbits did in your categorisation before?

Mr Pezzullo: No. The point was—and this is a particular point of reference that I made clear in my speech—that we all, from birth, and this includes me, have a comfortable sense of what home is. My speech was about how the nature of home, the idea of home and the level of assurance and safety and comfort that you can have at home is changing with globalisation,
which has got, in net terms, a positive beneficial impact on humanity, but there are some features of globalisation that give rise to concern.

**Senator McKIM:** I'm not sure about that in environmental terms, but we won't go there tonight. You said in that speech that, in your view, the state has to embed itself invisibly into global networks, supply chains and the virtual realm in a seamless and largely invisible fashion.

**Mr Pezzullo:** We just had a discussion with Senator Pratt about how to gain information about air cargo movements, for instance, and whether you rely on intelligence, whether you screen—that's an example of the sort of embedding that we're undertaking.

**Senator McKIM:** But, Mr Pezzullo, would you accept that there's been an ongoing erosion of civil liberties in Australia in the last 15 years? It would be pretty hard to argue against that, wouldn't it?

**Mr Pezzullo:** I'm not sure that—

**Senator Ryan:** I think erosion is more of a judgement—

**Mr Pezzullo:** And I'm not sure that it's within my competence to answer the question.

**Senator McKIM:** What about you, Senator Ryan?

**Senator Ryan:** This is not my specific field of expertise. I'd say there's an ongoing balancing of the requirements of various state actors and individuals with respect to challenges that have emerged. I don't know if 'erosion' is the word I'd use.

**Senator McKIM:** There have been over 200 amendments to state, territory and Commonwealth acts that actually have eroded civil liberties in the last 15 years in this country, Senator Ryan, according to Professor George Williams. So I don't think it's a contestable statement. I guess I'm just trying to explore—

**Senator Ryan:** Senator McKim, please. That's a word you're using, and I don't think it's reasonable to ask—you can ask an official a factual question.

**Senator McKIM:** I've asked it to you, Senator Ryan. I accept that it's not a reasonable question to ask Mr Pezzullo; that's why I'm asking you.

**Senator Ryan:** And I've given my answer.

**Senator McKIM:** Mr Pezzullo, given you've set up, within the philosophical context of the move to a new home affairs portfolio and a department, in the case of your speech, and you've categorised it as 'part of a fight against evil'—which you did in your speech—are you—

**Mr Pezzullo:** I think I said 'the globalisation of crime, terror and evil.'

**Senator McKIM:** Yes, yes. Do you accept that giving government agencies more powers to surveil—which is something that's happened and is continuing to happen; there's legislation flagged to come before the parliament soon in regards to facial recognition and sharing of drivers' licence photos, for example, from state and territory governments. Do you accept that, at some stage in this process—and please tell me if you think this is an unreasonable question—the danger is that we end up throwing away too many of the liberties that we've actually fought so hard to create and protect through our country's history?
CHAIR: Senator McKim, as you well know, you're asking this officer for his opinion on something. If you ask him what the government's factual position is, that's one thing. If you're just going to ask him opinions about what he thinks might be happening, that is not appropriate and I will not allow the question.

Senator McKIM: All right.

CHAIR: Senator Pratt, I have to leave and, as deputy chairman, you'll be in charge for about half an hour.

Senator WATT: What type of visa do overseas workers need to crew a vessel in Australian waters?

Mr Pezzullo: The maritime crew visa is the relevant visa. Either Deputy Secretary Golightly or Ms Dacey who runs the visa division will take up the evidence from that point. Over to Ms Dacey.

Senator WATT: For these maritime crew visas, what types of checks are undertaken before the department grants those visas?

Ms Dacey: We get advice, typically, from shipping companies about who is on the crew manifest. We do the standard range of checking through our security systems, for want of a better word, that capture information on people's immigration history. We also do the standard range of character and security checks.

Senator WATT: What's the risk profile that the department uses before agreeing to grant these visas?

Ms Dacey: It largely happens by virtue of that process I was talking about of running applications we get through a range of corporate systems that capture information on previous immigration history, any other matters of concern. The term 'profiling' is probably not something I would use in that regard. It is, largely, a facilitated visa, so there's not detailed profiling about cohorts if that's what you're asking me.

Senator WATT: Is it true that these maritime crew visas are usually approved in two to five days?

Ms Dacey: Yes.

Senator WATT: How many of those visas were issued last financial year?

Ms Dacey: For the 2016 program year, the grants were 296,386.

Senator WATT: Visas?

Ms Dacey: Yes.

Senator WATT: Is that 296,000 individuals?

Ms Dacey: Yes, it would be.

Senator WATT: You'd probably be aware that on 3 July this year it was reported in the Gladstone Observer that a Chinese sailor in Australia on a visa jumped ship in Gladstone. He was apparently the third sailor in the Gladstone region to jump ship this year. Are you familiar with that report?

Ms Dacey: Not that particular case, but I'm certainly aware that, from time to time, people desert vessels, yes.
Senator WATT: To your knowledge, has there been a particular problem in Gladstone?

Ms Dacey: That's well outside my area of expertise, I'm afraid. My ABF colleagues might have a little more detail, but I'm not sure.

Mr Outram: I'm not aware of a particular problem in Gladstone. We do, from time to time, get people jumping ship. We keep an eye on the vessels they've jumped from and, obviously, the shipping lines that they're employed by. We do watch very carefully for any trends in that regard, but I'm not aware of any particular problem with Gladstone.

Senator WATT: You said, Ms Dacey, something like: from time to time, this kind of thing happens. Do you know how often over the last financial year someone holding a Maritime Crew visa has jumped ship?

Ms Dacey: I would have to say no. I know that there are obligations for the master of the ship to report deserters. That's under the Migration Act, but I don't have the detail about the numbers.

Senator WATT: Who do they report that to?

Ms Dacey: To the department.

Mr Outram: We could get that information for you.

Senator WATT: If you could take that on notice—in Australian waters, generally; maybe if we could get it for the last three financial years?

Ms Dacey: Yes.

Senator WATT: And, if it's possible, can you break that down by port, or in some way narrow it down, so we can see whether there are any particular areas causing concern?

Ms Dacey: Hotspots; yes.

Senator WATT: I take it then that you don't have a number of confirmed and suspected cases of overseas sailors abandoning their ship in the hopes of slipping into Australia unnoticed?

Ms Dacey: I don't have that number, I'm sorry.

Senator WATT: Is that something you could take on notice?

Ms Dacey: I think we could agree to take it on notice. I'm just not sure—

Mr Outram: Obviously, the masters are under obligation to report deserters. If it's reported, then we'll be able to provide that information.

Senator WATT: As well as providing it by port, could you provide the numbers of sailors; the dates they were reported to have abandoned their ships; the name of the ship; and the companies running those ships? Could you take that on notice, presuming you have that information.

Ms Golightly: To the extent we can get it, yes.

Senator WATT: For those cases where it was confirmed that sailors had abandoned their ship—again, it might be best if you take this on notice—could you advise us what visa they were in Australia on?

Ms Dacey: If they've abandoned their ship, by virtue, that would be a Maritime Crew visa.

Senator WATT: I imagine so.
Ms Dacey: Yes.
Senator WATT: We can assume then, when we get those figures, that they were all on Maritime Crew visas?
Ms Dacey: Yes.
Senator WATT: Do you know whether any of those people were subsequently found?
Ms Dacey: I don't know.

Mr Outram: We would have found a number of them through our normal compliance operations but, again, we'll have to work through our systems and come back to you about how many are still here and how many we've managed to return.

Senator WATT: Have any of those who were found explained why they jumped ship?
Mr Outram: Again, I'm not aware of any anecdotal information with regard to their reasons. I suspect they'd be very personal to the individual—they may have friends here, seeking to better their life, employment opportunities, whatever. I imagine there's a whole range of different reasons as to why they'd want to stay.

Senator WATT: Do you know whether any of them have lodged claims for asylum?
Ms Golightly: I think there has been a number, but I don't have that here. We could take it on notice and see if we can get it for you.

Senator WATT: That would be great. After they jumped ship, did the department investigate to see whether the individuals or their employer had misrepresented things or lied on their visa application form?
Mr Outram: We look at the material facts. When a ship's coming in, we get advance information from the master. Obviously, we get a list of the crew and their travel documents so we can verify the status of the Maritime Crew visa for them. We have a system that we use to do that, so we'd know before they arrived if there was a valid visa in place or if there wasn't. They're the checks we do. In terms of deserters, unless there's a particular area of interest there, we wouldn't investigate. We have 260 investigators, roughly, in the Border Force nationally. We wouldn't use them to investigate a deserter, necessarily. We'd ordinarily wait until that individual was rounded up, unless we get information in time proximate to the desertion, in which case quite often we'll work with local police to try and find them. That's happened quite a lot, where we've found them at local bus stops trying to get a taxi or whatever. They come into Hedland or someplace like that and they try to get down to Perth. We do scoop quite a few up in that way from time to time, but we don't investigate per se, because ordinarily what we'll then do is simply detain them under the Migration Act with a view to returning them to their country of origin.

Senator WATT: If you did see that there were particular ports or particular ships or particular companies where this was a larger than usual problem, would you or do you investigate the circumstances at that sort of hot spot to see whether there's any sort of a pattern?
Mr Outram: Yes, we do. We have an intelligence division within the department and we look at and examine those sorts of trends. We do compliance operations from time to time, so, where we know that there's a vessel that may be a vessel of a line that concerns us, or coming
from a port that concerns us, or there's a history, then we will sometimes deploy our compliance officers around that port to try and pick up any deserters as they come off.

Senator WATT: You are aware of some of those types of investigations into particular hot spots?

Mr Outram: You call it an investigation. I call it a compliance operation. But yes. Constantly our intelligence division are examining those sorts of trends to inform our operations so we can try and prevent that from occurring.

Senator WATT: Have any of those compliance operations suggested any reasons for why particular ports or ships or companies might be—

Mr Price: We actively look at all of the cases. In some particular cases, we're fortunate enough to respond quickly enough to apprehend the individuals deserting the vessels, because quite often they're in remote ports. The vast majority are normally of low rank within the crew, and our examination of some of the so-called hot spots has identified some connections, so we continue to actively pursue those. We have also identified high-risk vessels that come to our shores, and we will actively undertake operations to prevent the deserters or we would speak to the master or to the crew in relation to the possibility of desertion, so we proactively try to prevent the desertions from happening.

Senator WATT: What makes something a high-risk vessel?

Mr Price: I don't want to go too much into it; however, history plays an important part. Historically, if there's crew on board, in the case of— I can generalise here—livestock vessels, they normally have a number of low-skilled workers on board to feed the animals on the export-bound leg, and we've found cases where those crew members have arrived on the coast and they have then jumped ship. So we tend to focus our attention on those vessels as well. That's just an example.

Senator WATT: Are there particular countries or destinations where this has been a particularly big problem?

Mr Price: We've had examples from Pakistan, because of the export market of livestock to those countries, so you'd particularly have that. Equally we've had Chinese deserters predominately, but I'd rather we wait to get you the figures to provide a breakdown as you've requested.

Senator WATT: Sure. Just returning to this particular instance in Gladstone in July, the newspaper report said that, because this was the third time in the course of a month that a Chinese sailor had jumped ship in Gladstone, it raised concerns that someone in the region could be assisting the workers in deserting their ships. Do you know whether any compliance activities looked into that?

Mr Price: Yes. We have been actively looking at the cohorts, and we work with the maritime crew visa issuing group that are based in Brisbane. And we've been working with them, and looking at the applications from those countries—and also, through our intelligence, looking at what connections there are between the crew members concerned and their background and information.

Mr Outram: Senator, just to go to your question: this is sort of anecdotal but, generally speaking, these people will tend to head towards the major populations, major cities—
Sydney, Melbourne, Perth et cetera. So whether they're locally organised—I am not, personally, aware of any evidence to suggest that they're locally organised; rather, they tend to gravitate back towards the major populations.

Senator WATT: That report also quoted a chaplain in Gladstone who obviously does some work with seafarers. He said that, as a result of this incident, he expected Australian Border Force to tighten their controls on Chinese crew led ships off the back of the previous appearances. Has the department tightened its controls on issuing visas to Chinese nationals seeking a maritime crew visa?

Mr Outram: I think the assistant commissioner just answered that question, Senator, in terms of the focus and the attention that we're paying to applicants for maritime crew visas, based on intelligence and data. And so where there's a history of recidivism in relation to a particular vessel or a particular company—or a particular sector, for that matter, whether it's agriculture or what have you—then we respond to those profiles. We're very much an intelligence-led organisation; we have to be, we've only got a very limited number of Border Force officers, so we have to be guided by the intelligence that points us to where the areas of highest risk are. So yes, in that sense, we are very focused on this issue.

ACTING CHAIR (Senator Pratt): Senator McKim?

Senator McKIM: Thank you, Acting Chair. I have some questions about our onshore detention regime. I wanted to start by asking whether you've got a deadline for closing Christmas Island?

Mr Pezzullo: I'll have to get the relevant officer, probably Mr Nockels. I think there's a plan to put it into a state of dormancy, but Mr Nockels will respond.

Mr Nockels: That's correct, Secretary. At this stage, we're looking to move Christmas Island into a state of 'hot contingency' by the middle of next calendar year. Hot contingency consists of being able to be stood up in about 72 hours.

Senator McKIM: Okay. Is there a reason why you're not— I don't know what the technical terms are, Mr Nockels— putting it at a lower stage of readiness than hot contingency?

Mr Nockels: From an OSB perspective? Sorry; no, that's why we're keeping it at 72 hours.

Senator McKIM: Why? Because you think there might be relatively large numbers of people arriving with relatively short notice, at some stage?

Mr Nockels: It could be. From a policy perspective, and the OSB stance, the requirement is to keep it at hot contingency. That means that all of the people in detention there will be moved on to mainland Australia, and spread throughout the various detention centres across the network.

Senator McKIM: Thank you. So can I just check: hot contingency means no detainees there in the regular course of events, but a capacity to house detainees there within 72 hours of the need becoming apparent. Is that right?

Mr Nockels: That's correct.

Senator McKIM: Okay. Are you winding down the population already at Christmas Island? Or when will that start?
Mr Nockels: Not at the moment. I would expect that the population at Christmas Island will stay pretty static until towards the middle of next year. And within the last month or so we would look to start to move people into the network around Australia. The rationale for that is because we are working on upgrading some of the facilities in the network. Government provided money a couple of years ago to develop the infrastructure across the network. Once that's in place then, obviously, that will then dictate that ability to wind down Christmas Island and move it to hot contingency.

Senator McKIM: Thanks, Mr Nockels. I'm not sure if you're the right person to ask this next series of questions to, but I'll just fire away anyway. These are relating to the categories of people who are held in onshore detention. Firstly, how many people seeking asylum are held in onshore detention in Australia?

Mr Pezzullo: Perhaps Ms Zakharoff can answer that; otherwise, the acting commissioner might have information.

Mr Outram: As at 30 September 2017, there are 329 IMAs within the onshore detention network.

Senator McKIM: So they are people who sought asylum in Australia and arrived by boat?

Mr Outram: Indeed; yes.

Senator McKIM: Are you aware of how many of these people have a criminal record?

Mr Outram: Not exactly, but we obviously do risk assessments in relation to all of our detention population because we are trying to get the number down, and we have been successful. We brought it down to 1,257, which, as you would appreciate, is a significant reduction on previous years. But, still, we have to detain some people because of the risk they present to our community. Of 329, 195 are rated as high risk and seven are rated as extreme risk. You'd be aware that some of those individuals were, in fact, previously in the community and have had to be re-detained, unfortunately, because of criminal offending et cetera. The vast majority of IMAs who arrived between 2012 and sort of 2014-15 are in the community.

Senator McKIM: Yes.

Mr Outram: 26,000-plus.

Senator McKIM: Yes.

Mr Outram: Our default position is that detention is a means of last resort.

Senator McKIM: Did I get the numbers right? There are 195 high risk and seven extreme risk?

Mr Outram: Extreme—yes.

Senator McKIM: So there's just over 120 that are below high risk?

Mr Outram: They'll be in detention for a range of other reasons and factors that we are having to work through. Without going case by case, I couldn't explain each of those. But, by and large, we want to put people out of detention rather than keep them in detention.

Senator McKIM: Would you have statistics around how many have criminal records and how many don't?

Mr Outram: We could possibly compile that.
Senator McKIM: Perhaps you take the question on notice and if you can't compile it then say that you don't keep the data. If you can, then please provide it. How many people held in onshore immigration detention in Australia have been recognised as genuine refugees?

Mr Outram: Again, I'd have to take that question on notice.

Senator McKIM: Thanks. Also, if you can take on notice, given your previous two responses, the percentage of asylum seekers and the percentage of refugees in onshore immigration detention with no criminal history who have been held for periods in excess of three months? I presume you'd be able to take that on notice?

Mr Outram: That's pretty clear. We can take that on notice.

Senator McKIM: Thank you. I wanted to ask about the visiting processes for people visiting in Australia's onshore detention. Has policy changed since we last spoke with regard to visits? I am specifically asking with regard to food that people can bring in for detainees.

Mr Outram: The policy has been changed because people were, unfortunately, bringing in food items in order to actually bring in contraband and other things that they shouldn't be bringing in concealed within the food. We haven't banned food, but what we're saying now is that, if visitors want to bring food into the visitors' area, they can do so provided it's commercially packaged, labelled, factory sealed, has a visible expiry date et cetera, the packaging is not made of metal or glass and that the food is of a quantity that can be consumed during the visiting period. So, to that extent, we have changed the policy. That policy was communicated to detainees and visitors from 23 August this year. Prior to the implementation, which occurred on 11 September—you might be aware that there are proceedings afoot in the Federal Circuit Court challenging the new policy implementation.

Senator McKIM: Was there a review that underpinned this decision or was it just a decision that was done without review or consultation?

Mr Outram: No, we are obviously in close consultation constantly, particularly with our service provider Serco, about the safety, security and measures we have in place within our detention centres. It is based on lots of examples where contraband has been smuggled into a centre within food.

Senator McKIM: Do you know how many examples of that there were?

Mr Outram: I haven't got that information to hand, and I don't know if we would. We sit down with Serco and discuss these issues constantly, and we have ABF superintendents on the ground in every detention centre. Previously, each detention centre worked pretty much on its own process, and we've standardised that. From my point of view, my focus is making sure that we continue to drive the improvements that we have seen in relation to the safety within our centres. These measures will further enhance that safety. We've reduced serious assaults by 41 per cent since 2014-15; self-harm by 52 per cent; major disturbances by 73 per cent; sexual assaults by 45 per cent; and even escapes are down. I mentioned before that the number of assaults that are going on still is unacceptable, including on Serco staff. Contraband, including narcotics and things like that, is something we don't want in our detention centres, because we want everybody to be safe in there. Whilst we've tightened up on the policy, we haven't banned food; we've simply gone to a more sensible approach in terms of the kind of foods that can be brought in.
Senator McKIM: Did you say earlier that you didn't think you would go publicly about how many cases there were of contraband and the smuggling in of food?

Mr Outram: It would be impossible to get that data, but we could anecdotally pull together examples. We don't collate that data.

Senator McKIM: Oh, I thought you were saying there was an operational reason that you wouldn't go there publicly. But you've just said that you may not keep the datasets?

Mr Outram: No.

Senator McKIM: I would just ask you to have a look at that and, if possible, provide some data. If you don't keep the data sets, that's fine. When you say 'contraband', you mentioned, I think, illicit drugs earlier?

Mr Outram: Indeed—illicit drugs, weapons.

Senator McKIM: So you have examples of weapons attempting to be smuggled in?

Mr Outram: Yes, and things to be made into makeshift weapons.

Senator McKIM: Having been Minister for Corrections in Tasmania for four years, I can reliably inform you there's probably not a prison or place of detention in the world that's free of illicit drugs. So all the best. You can only try and improve it.

Mr Outram: We try to minimise the amount of illicit drugs in detention centres.

Senator McKIM: I appreciate that. I wanted to ask specifically about the, I guess, effective ban on home-cooked meals. This is something that's hit morale, on my advice, quite significantly, both from people who want to take them in but also for the people inside detention who used to get a crack at a home-cooked meal every now and again and now don't. Is there no way that you could satisfy your security requirements and still allow home-cooked meals to be brought in by Australian people for detainees?

Mr Outram: I will let Assistant Commissioner Woodford-Smith speak, but I would say that over the last two years we have standardised our approach to managing detention operations. That's in relation to placement decisions and the way that the service provider, Serco, do their operations. We've driven the issue down significantly, with a lot of success in making them safer and more secure places. But, of course, in order to achieve that, you have to make some policy-type decisions. The minute you start to undo that a bit for some people and not for others or at some centres and not others, we go back to where we were before. My inclination would be to not do that, because the overall effect would be detrimental, I think, to safety, security and good order within our detention centres. But I might ask Assistant Commissioner Woodford-Smith, who is closer to the action than I am, to give us his thoughts.

Mr Woodford-Smith: The only other issue I'd raise is that key concerns for us are not only about the security side but also about the health impacts of some of these foods that might be brought in. As you'd be aware, home-cooked foods, takeaway and those kinds of things can spoil or gather bacteria quite quickly and become a health factor back into the centre. That's one of our key concerns. But, as I think we highlighted earlier, there is still opportunity and flexibility to bring in things like birthday cakes and potentially things like flowers, as we've heard about before. So they would be open to a security review. We are trying to be flexible, but I think the reality for us is those two key issues are significant for the ongoing safety and health of the resident population.
Senator McKIM: Just so I understand, is it the case that people can make application to bring something in, and it'll be assessed on a case-by-case basis?

Mr Woodford-Smith: That's correct.

Senator McKIM: Given you've said you've standardised across the network, that's available at all detention centres?

Mr Woodford-Smith: That's correct.

ACTING CHAIR: Do you have anything you want to clarify before the dinner break?

Mr Pezzullo: Only as to whether any officers can be released to go home, be with their families and have a cooked meal. Where are we up to in proceedings, if I might be so bold as to ask?

ACTING CHAIR: I know both Labor senators and Senator McKim still have questions in outcome 1. I can tell you some of ours pertain to the detention of dual citizens, and others to pets.

Mr Pezzullo: In that case we're still in program 1, by and large.

ACTING CHAIR: Yes.

Senator McKIM: If you have pets in detention, wouldn't that be settlement services? I have pets as being in outcome 2. Mr Pezzullo, where we would ask about bans on pets for people in the community?

Mr Pezzullo: There are no bans, but when we get to it, we'll explain. That is in the realm of 1.3 or 1.4.

ACTING CHAIR: My apologies to all of you that have been here all day.

Proceedings suspended from 18:32 to 19:35

CHAIR: Ladies and gentlemen, I declare resumed this hearing of the Senate Legal and Constitutional Affairs Legislation Committee, which is dealing with the additional estimates. We're dealing with the Department of Immigration and Border Protection.

Senator WATT: I'd just like to ask a few questions about a recent media report about restrictions applying to asylum seekers who wish to have a pet. This got some coverage a few days ago. My understanding of the policy is that, in essence, an asylum seeker requires departmental approval to own a pet. Is that a correct reading of it?

Mr Pezzullo: It's less about ownership and more about ensuring that the relevant tenancy rights have been enlivened—landlords have rights in terms of animals on their premises—but also to ensure that there's no unreasonable burden on the public expense that others would have to pay for privately. The deputy commissioner and Ms Hampton can speak to the details of the policy.

Senator WATT: I'm having a look at what I think is the manual—section 12.5—and it's more than simply upholding the rights of landlords. It says:

Recipients—

by which I presume is meant asylum seekers—

may own a pet if permission is granted by both the department and the landlord.
Mr Pezzullo: On the former, it really relates to ensuring that taxpayers' dollars are not unreasonably expended. But Ms Newton can speak to that part of the policy—or, perhaps, Ms Hampton; I do apologise.

Ms Hampton: It's a relatively new policy, and it was created in response to inquiries we were receiving from SRSS providers about whether or not people in receipt of those benefits—

Mr Pezzullo: You might need to explain what SRSS is.

Ms Hampton: Status Resolution Support Services—or people under a residence determination could own a pet. This addendum to the operational procedures manual was created to address those inquiries that we were getting from the providers. It's intended to address two different circumstances: the first is when somebody is in the community under a residence determination. They are in fact in a form of detention, and, as a consequence, they can be moved—the residence determination can be changed by the minister at any time—and so the question of pet ownership is relevant to the potential movement of those persons or the potential change from residence determination to held detention.

In relation to Status Resolution Support Services generally, the policy was intended to make it clear that those payments would not be accessible for the purposes of supporting a pet as well, so people needed to check with their landlord, in the normal way of life in Australia, as to whether or not they could have a pet on the property. We are also trying to make sure that people did not expect those SRSS payments to also stretch to the maintenance of a pet.

Senator Watt: I don't think anyone would argue that an asylum seeker, just like anyone else, would need to comply with laws about getting landlords' approvals about pets and things like that. I think what's caught people's attention is that there seems to be an additional requirement, which is obtaining departmental approval prior to owning a pet.

Ms Hampton: I acknowledge that the policy could have been more clearly written, and, given this recent media, we'll try to be clearer with that. It certainly was the intention to require permission for those people on a residence determination, but it was also just to make it clear to those people in the community receiving SRSS benefits that those benefits were not intended for the maintenance of a pet.

Senator Watt: I take it then that the policy rationale for this is that the department's view is that it's not an appropriate use of funds for an asylum seeker to have a pet—is that what it comes down to?

Ms Hampton: Yes, Senator. Just in terms of—

Senator Pratt: Pets can have strong mental health benefits.

Ms Hampton: The payments that are made under the SRSS payment scheme are intended to support people where their status is unresolved. It is not intended to be a long-term welfare support. It is not intended to be anything of that nature and so, given the short term and transitory nature of SRSS payments, we are just trying to make the best use of the government's money.

Senator Watt: Do you have any idea how many asylum seekers own a pet?

Ms Hampton: No, I don't, and I just asked for numbers as to how many people had made inquiries of us in relation to this policy, and there have been not very many at all.
Senator WATT: And just to be clear: the asylum seekers we're talking about here are people living in the community? So if you're on Manus and Nauru, I'm presuming you don't have a pet; you can't have a pet. If you're in Villawood, BITA—any of the other detention centres—you wouldn't have pets in those environments. So we're talking about people living in the community in a home like anyone else, free to come and go—

Ms Hampton: Not quite, in two ways: the first is under a residence determination—they're not free to come and go.

Senator WATT: From their house, I mean.

Ms Hampton: But they certainly need to go back to their home each evening and stay the night. It's the nature of a residence determination that the minister can revoke that at any time or move a person as part of that. However, people on SRSS support generally are living in the community while their status is being resolved, and those are the people for whom we wanted to make it clear that those payments were not intended to support the sometimes very high vet bills and other things associated with pet ownership.

Senator WATT: But why is it that the rights of an asylum seeker should be different to anyone else to own a pet?

Ms Hampton: It's not just in relation to those who are just receiving SRSS payments. What we intended to do with the policy was clarify that emergency financial payments would not be used to subsidise vet bills, for example, but it is different for residence determinations.

Senator WATT: On that logic, wouldn't there be an argument for a department of the Commonwealth to prevent other people receiving other forms of government assistance from owning pets as well—pensioners, unemployed people, people on disability pension?

Ms Hampton: The principal concern is around residence determination, which is that determination made by the minister, which can be revoked and which would then result in, potentially, a person going back into held detention. So you can see the difficulties with pet ownership in those circumstances. People on SRSS payments generally—the intention of the policy was to just make them aware of that there would not be additional financial support for costs associated with a pet.

Senator WATT: Does the department not recognise that—I mean, we're talking generally about people who are pretty traumatised because of the experience they've been through—owning a pet might provide some support and comfort to someone as they're trying to integrate into the Australian community?

Ms Hampton: The policy wasn't developed with that in mind at all. The intention with the SRSS—

Senator WATT: Isn't that the problem—that it wasn't thought of?

Ms Hampton: It's not that it wasn't thought of. We attempted in this policy to just clarify the fact that pet ownership would incur costs. Those costs would not be subsidised through the SRSS program and were to be met by the individual pet owners.

Senator WATT: But you could achieve that by saying that vet costs, for instance, wouldn't be met, but it wouldn't need to prevent someone owning a pet, if they were prepared to take the risk of that and incur those costs.
Ms Hampton: Yes, absolutely. I think that could certainly be clearer, but we have tried to articulate that, saying that all costs associated with pet ownership are the individual responsibility of the pet owner. I want to reiterate: there's no blanket rule against pets.

Mr Pezzullo: Can we just be clear about this, Ms Hampton, because that's the operative point: you can own a pet; you just have to bear the costs—is that right?

Ms Hampton: That's right, in relation to SRSS recipients, generally.

Senator WATT: With the department's approval, you can own a pet.

Mr Pezzullo: We need to make sure that that policy has been given effect to. Those persons who are the subject of—what did you call it—residence determination, shorthandedly, we've previously used the phrase 'community detention' in this committee. You're in detention. You don't meet the threshold for being held in held detention, but your detention can be modified, revoked, rescinded, and you could be put back into held detention, depending on the decision-makers' prerogatives and we are not going to pay for pet removal or other costs in those circumstances.

Ms Newton: It actually articulates all costs associated with pet ownership, such as council registration, microchipping, desexing, surgery, food, veterinary checks and the associated costs, vaccinations, equipment, toys, bedding or other accessories will not be covered by the department. The recipient must cover the full cost of the purchase, care and maintenance of the animal. That would also include if the animal damaged a residence and there were costs associated with that at the end of the lease.

Mr Pezzullo: What's unclear about that, Ms Hampton? I think your officers have drafted a very clear policy, if I might say.

Ms Hampton: They're wonderful.

Senator WATT: So what date did this procedure come into effect?

Ms Hampton: Only recently, I understand. I'm sorry, I don't have the date but I can get that for you. It was drafted in response to questions that we were getting from SRSS providers around these circumstances.

Senator WATT: When we're talking about pets, are we talking cats or dogs? If someone wants to own a goldfish, do they need departmental approval?

Senator PRATT: They want to foster a dog.

Ms Hampton: We haven't gone into that level of minutiae, but I'm quite sure that goldfish would be fine in almost all circumstances.

Senator WATT: But they'd still need approval from the department to own a goldfish.

Mr Pezzullo: I think the senator is asking what nature of species or animal falls within the definition of a pet. I think any living sentient being, irrespective of whether it's fish, fowl or another type of animal that's considered to be a pet, consistent with the ordinances of the local municipality, presumably, and there are no doubt operative definitions, would fall within the definition.

Senator PRATT: What if you're fostering a dog but just paying for its food out of your meagre allowances from one of the animal rescue places? Do you need permission to get that? You don't own it. You want to care for it.
Ms Hampton: Well, it would depend on the circumstances. If a person is on a residence determination then it is subject to the minister's discretion as to whether that residence determination remains in place, or is revoked or is changed.

Senator PRATT: That might be why they choose to foster a pet—because it's a temporary arrangement.

Ms Hampton: These are all things—we take a very practical and pragmatic approach to these sorts of issues, so when it comes to us we'd take all of that into account.

Senator PRATT: They would still need to apply under the policy to foster a pet?

Ms Hampton: If a person is under a residence determination, it would be wise to come for advice and to seek guidance about whether that's—

Mr Pezzullo: We call it community detention. Isn't it called community detention? Perhaps I'm old-fashioned.

Senator PRATT: It's quite significant micromanagement of people's lives. Surely, you have to apply to the department to foster an animal from the local animal welfare shelter.

Ms Newton: These people are in community detention, though. They're not in held detention. They don't have the same rights as everybody else in the community.

Senator PRATT: We understand that.

Ms Newton: We're not saying that they can't have a pet, but we want to make sure there's clarity so that there is no cost borne by the Commonwealth of them maintaining a pet or the damage that the pet might make to a house.

Senator PRATT: I think your micromanagement of these issues is likely to cost the taxpayer more than the costs associated with the small number of people that would have pets, but anyway.

Senator WATT: I was wondering, is it a good use of your time, taxpayers' funds, to be requiring someone to get approval to own a goldfish?

Ms Newton: I guess what would occur is that they talk to the provider that they're working with, which is the group of people that we've provided this advice to. They have to meet with their provider on a regular basis because they are in community detention; therefore it's a matter that can come up in their conversation about the suitability and their ability to sustain a pet in their residence and whether they have sought to get authority also from the owner of the house that they're living in, if that's being rented.

Senator WATT: It seems like an awfully long, cumbersome approach for someone who just wants to own a goldfish.

Senator PRATT: How much time did it take to write this policy? How many vet bills would that have actually paid?

Ms Hampton: Given that it's four paragraphs, I think it took very little time at all, frankly.

Senator WATT: What legal powers is the department acting under in enacting this procedure?

Mr Pezzullo: I might just ensure that this answer is a safe one with Ms De Veau responding, but it would almost certainly flow from powers under the Migration Act.

Senator WATT: We'll wait for Ms De Veau to join us.
Mr Pezzullo: She might just be joining us to confirm the secretary's answer, which she sometimes feels obligated to—

Senator WATT: Except when he's wrong.

Mr Pezzullo: She might add to my answer.

Ms De Veau: I haven't personally looked at it but the secretary is correct in saying that there are powers in the Migration Act that set out the terms and conditions of the basis of detention placement in the community, and I expect it falls under those terms and conditions.

Senator WATT: When was the minister briefed about this new procedure?

Ms Hampton: The minister hasn't been briefed about this new procedure.

Senator WATT: Has he provided any feedback on the procedure since it's been reported on?

Ms Hampton: None at all.

Senator McKIM: I want to ask about enforcement. Presumably you haven't got dog-detector vans and goldfish radar and stuff like that, so how are you going to enforce this?

Mr Pezzullo: We have detector dogs, but I don't know that we have dog detectors!

Senator McKIM: How do you enforce this?

Ms Hampton: We don't have an enforcement regime around this very tiny operational policy.

Ms Newton: The service providers are there to have a conversation with each of their clients about the ongoing support that is provided to them, financial support, housing support, medical support and other things. This is just one of the things in the toolbox that we provide them to give guidance and direction to those people who are under community detention so that they are very clear—for example, if you come from Nauru to Australia, people might not know that you can't have a dog in a house unless you get approval from the owner of the house to have pets there or cats or any other sort of pet within the house.

Mr Pezzullo: You'd better say goldfish, just in case.

Ms Newton: And goldfish as well, potentially. We would want to ensure that they are aware of their obligations to the owner of the residence and of the fact that we wouldn't pick up the costs associated with care for the pets, ongoing veterinary bills or any other costs associated with damage to the house and that if they're able to support a pet we wouldn't have an issue with it, as long as the owner of the house is also happy with that position.

Senator McKIM: What about sanctions? When I came in, did I hear someone talking about the minister potentially cancelling some permission? What are we looking at here? If it comes to the department's attention that someone has a dog or a cat or a goldfish—

Mr Pezzullo: I don't think that was the burden of the evidence. The evidence was in relation to a residency determination, which is the decision taken in relation to community detention. What was being stated is that that position might change, a person might be taken back into held detention, so—

Senator McKIM: For having a pet?
Mr Pezzullo: No. But in the course of that, if you have a pet, there would be an implied cost as to what's going to happen to the pet. That might have been the evidence that you were hearing.

Senator McKIM: Thanks, Mr Pezzullo, I appreciate the clarification. So what are the potential sanctions if people breach this policy, and what would the department do if it came to your attention that someone had a goldfish or a canary without permission?

Ms Newton: If the goldfish had to go to the vet and be checked at the vet, we wouldn't bear the cost and we will have told that person upfront, via the provider, that the costs wouldn't be paid for under the contract by the Commonwealth government.

Mr Pezzullo: I think the senator is asking what if there's a secret goldfish—in other words, one that hasn't been disclosed.

Senator McKIM: Yes, one that has not been disclosed, a secret goldfish. Let's run with that.

Ms Newton: If there's a secret goldfish and it's sick, I'm sure there are plenty of other options that the person can work out, whether they want to take it to the vet or not—or if it's a hamster or anything else.

Mr Pezzullo: But if it comes to our notice that the secret goldfish exists—

Senator McKIM: I think Mr Pezzullo is interested in this answer as well.

Mr Pezzullo: I'd love to know myself.

Ms Newton: We would be pretty practical about it. If a dog causes damage to a house and if the owner of the house comes back and wants some payment for that, in terms of the bond, then that's a matter for the refugee.

Mr Pezzullo: That's a separate issue. If the dog is an authorised dog, that's one thing. Let's talk about parrots. If there's a secret parrot, what happens in a circumstance where the existence of the secret parrot comes to our attention?

Senator WATT: Just the fact we're talking about this just demonstrates how absurd this policy is.

Mr Pezzullo: No, it demonstrates—

CHAIR: I've got to say spending this time on these questions also shows how—

Senator McKIM: Anyway, we have a secret parrot, it's caused no damage, but it comes to the department's attention. The veil of secrecy is lifted off the parrot.

Ms Newton: We would advise that person that they hadn't actually requested approval for the parrot and I'm sure we would be pragmatic in considering whether or not it's feasible for them to keep the parrot. They wouldn't get a fine.

Senator McKIM: I appreciate that. That's where I was going. So there's no intention for the department to sanction people by withdrawing supports or funding or residential arrangements or anything like that, simply for the fact that someone has a pet, but hasn't asked for permission from the department.

Mr Pezzullo: We'd probably regularise the status of the parrot, I would have thought.

Ms Newton: If we found out that the parrot had to go to the vet, then we wouldn't be paying the vet fee for the parrot.
Senator McKIM: Have you heard the saying about the canary down the coalmine?

Ms Newton: Yes.

Senator McKIM: This is what it sounds like to me—it's the canary down the coalmine.

Ms Hampton: Senator, before you came in, we did explain that the purpose of this policy was to provide some clarity to SRS providers, who were getting inquiries from people in receipt.

Mr Pezzullo: We do like to provide certainty, Senator.

Senator McKIM: In fact I think that's what we're all trying to do here—just get a little bit of understanding of how this policy setting is going to work.

CHAIR: What about Outcome 1?

Senator McKIM: I think Senator Watt indicated he had a few more questions.

CHAIR: Well, I appreciate that, but I happen to be asking Senator McKim if he has anything more on Outcome 1, because if so, go ahead and do it for the remainder of your 15 minutes, which is about another 10 minutes.

Senator McKIM: I do have one other line of questioning. I want to ask about people who are being sent back to country of origin, perhaps both from onshore and offshore detention, but I'm more specifically interested in offshore detention. This comes about because, just through a fluke of coincidence, the last time I was on Manus Island, I flew back on the same flight with someone, who I understood from conversations with other refugees was being returned to Iran. Given that we've heard evidence at various Senate committees about mental trauma and mental illness that some detainees are suffering, I want to ask whether any psychological assessment is done prior to people agreeing to be returned to their countries of origin, or even to a third country, to see whether that person is in a position to give an informed consent to that?

Mr Pezzullo: The clarification that you provided at the start of that question is important. If the persons are in regional processing, that is to say offshore, then in the end those decisions are ones to be taken by officials, either in PNG or Nauru, as the case may be. We certainly provide advice, assistance and support both with regards to voluntary returns and compulsory returns. Both Papua New Guinea and Nauru observe non-refoulment but they also observe complementary protections that relate to other forms of international obligations that they have engaged in—some of which relate to the matters you mentioned in your question. As to how these assessments are made, I might refer the question specifically to the Deputy Commissioner. When removal or return—I think you said to country of origin?

Senator McKIM: Or a third country.

Mr Pezzullo: I'm sorry. So, both in the case of country of origin and third country, how are the assessments about fitness to travel, fitness to be returned or removed, undertaken?

Senator McKIM: And fitness to agree to a return or removal.

Mr Pezzullo: I'm sorry; you did say 'informed consent'. Perhaps the deputy commissioner can amplify those points.

Ms Newton: Yes. An assessment is undertaken if there are any concerns about mental health issues associated with the returnee. A psychological assessment is undertaken, a fit-for-
travel assessment is undertaken, and, if there's a period of time that occurs between the request to return home and the time in which documents are received to travel, further psychological assessments are undertaken during that period of time prior to someone travelling, by IHMS and our providers both in PNG and Nauru that undertake that activity. People that have travelled recently may have spoken to the mental health nurse on a couple of occasions, a psychologist, a psychiatrist—all to ensure that they're fit to travel home and that they were able to make an appropriate decision to return home.

**Senator McKIM:** It's the second part of that that I'm most interested in, and that's the issue around, as Mr Pezzullo has said, informed consent. Does everyone who agrees to either be returned to their country of origin or to a third country—is everyone in that situation assessed by a psychologist or a psychiatrist to determine whether they're in a position to give informed consent?

**Ms Newton:** I would say to a third country—say they've applied for the US process—the medical process that they will go through would substantiate any issues prior to their travel as to whether or not they're consenting adequately to travel.

**Senator McKIM:** What about for return to country of origin?

**Ms Newton:** I'll have to just check as to whether or not it's on all occasions or only on occasions where we understand somebody may have a mental health issue and has been treated under the IHMS contract for a period of time for mental health.

**Senator McKIM:** Okay. Thanks. Could I ask you to take on notice that issue—specifically, whether it's a requirement or a practice that there is, by either a psychologist or a psychiatrist, an assessment of whether the person's in a condition to give informed consent or not, and whether the department's aware of anyone who has been returned to a country of origin without such assessment. Thank you. Do you have a deployment number for DIBP and ABF staff currently in PNG? Would that be something that you'd have available?

**Mr Pezzullo:** Ms Newton almost certainly will. She might need to just check her papers.

**Ms Newton:** I'm just trying to recollect whether it's 34 or 35, but I'll check as you keep talking, Senator.

**Senator McKIM:** I'm interested, firstly, in whether you've got current numbers. I presume that might be a few days or a period of time old but whatever the latest number you have and also whether you've got projected numbers post 31 October, when the services are going to be withdrawn to the Manus Island RPC.

**Ms Newton:** There are currently 35 ABF staff on island, on Manus.

**Senator McKIM:** Is that the totality of the DIBP staff?

**Ms Newton:** Yes. That's correct.

**Senator McKIM:** There are no other DIBP staff apart from ABF staff?

**Ms Newton:** No.

**Senator McKIM:** Have you got some projections? You've given evidence, Ms Newton, or it may have been Mr Pezzullo—I'm sorry; I can't quite recall—but one of you has given evidence that all ABF personnel will be withdrawn from the RPC by 31 October.

**Ms Newton:** Yes. That's correct.
Senator McKIM: Is it your intention there be no ABF staff left in PNG soon after that date?

Ms Newton: There will be no staff that are ABF staff on Manus Island.

Senator McKIM: After that date?

Ms Newton: After that date.

Senator McKIM: What about in PNG more broadly?

Ms Newton: In PNG, we continue to provide support to ICSA. That support is in terms of contract management for the contracts on Manus as well as voluntary returns and seeking paperwork associated with that from other countries as well as ongoing determination related matters.

Senator McKIM: Okay, so the people that do that work would be there now, and it's intended that they remain post the 31st—

Ms Newton: Some of these people will be new into Port Moresby to perform those roles.

Senator McKIM: And is that all that they do for ICSA—those things that you just mentioned in terms of contract management and returns to country of origin?

Ms Newton: Capacity development related activity in the main, and of course contract management support.

Senator McKIM: Are you aware who determines access for official visitors to the RPC on Manus Island?

Ms Newton: Yes. ICSA determines visits to the centre.

Senator McKIM: And ABF aren't involved in that in any way?

Ms Newton: We have no involvement in any sort of visitor entry whatsoever.

Senator McKIM: I've been denied permission twice now by ICSA on both of my visits. When one of my staff rang up to find out what was going on, they actually got put through to an ABF officer, who said he just happened to be passing the phone and picked it up. I'm just wondering the extent to which ABF officers are embedded in ICSA and how it could be that, when an inquiry was made by my staff about a senator visiting the Manus Island RPC, they were put through to an ABF officer.

Mr Pezzullo: I'm not sure, Senator, that that's the premise that we're dealing with. They were put through to a phone—and did I hear you say that the officer said, 'I just picked up the phone'?

Senator McKIM: Yes.

Mr Pezzullo: Well, I don't think that qualifies as being put through to the officer.

Senator McKIM: Well, that's a fair comment. Anyway, asked and answered. There's no involvement—

Mr Pezzullo: We have no authority and no legal powers to either grant or deny you permission to visit.

Senator McKIM: No worries; thank you. I've got some other questions around the numbers of people—

CHAIR: We might have to come back to you, Senator McKim, if you're starting a new—
Senator McKIM: I'm nearly done.

CHAIR: Because your time's sort of finished.

Senator McKIM: Yes.

CHAIR: We are still trying to finish outcome 1. Has the department any means of calculating the amount per annum which it has cost the Australian taxpayer for illegal maritime arrivals—that is, people who were not invited to Australia, who paid criminal people smugglers up to $15,000 per person to get here, who tried to jump the queue of Australia's very generous refugee regime? Is there a way of calculating the total costs of apprehension, looking after illegal maritime arrivals per year, per person, first of all, generally and, secondly, since, say, Operation Sovereign Borders started; that might be an easier calculation to make. Is it possible to do that?

Mr Pezzullo: I think we've even given evidence to this effect, and Mr Groves could assist me in updating it. For the illegal maritime arrivals that recommenced in financial year 2008-09, I think we've provided both oral evidence and, I suspect, evidence on notice for the maritime operations, the apprehension and the transference into immigration detention; and then subsequently, with the establishment of regional processing in 2012, I think we've given evidence about those costs. Then I think we've also given evidence on the ongoing costs of Operation Sovereign Borders. I can tell you the amount is in the billions—I do recall those amounts being provided. But Mr Groves might be able to assist us both in terms of drawing attention to both previous evidence and any updates he might have.

CHAIR: Well, thank you, and I'll await what Mr Groves can tell us. But I'm interested whether it's possible to calculate that roughly on a per person, per annum basis. I get sick and tired of people talking about air-conditioned premises, which many Australians don't have. I'm wondering what the Australian taxpayer pays per person for these people who are not invited here, who paid people smugglers lots of money and who've jumped the queue for our very generous—of anywhere else in the world, per capita—refugee regime. I get sick of hearing this. I'm wondering if we have a figure.

Mr Pezzullo: We do. If we take the defined group, Mr Groves has been noting that approximately 50,000 persons arrived during the period that I described. About 2½ thousand persons were transferred variously to Manus or Nauru. Some of them have been retransferred here for medical treatment. We would have the by-air breakdown for regional processing in both countries and we would know what the population was—roughly a thousand per site. To go to your question about per capita, if we limited it to Manus and Nauru, could we venture an answer, Mr Groves?

Mr Groves: I've got figures going back to 2012-13 for what is currently called our IMA offshore management program, which is covering all costs offshore. To the end of, I think, September that was just under $4.5 billion.

Mr Pezzullo: That is over what time?

Mr Groves: That is offshore from 2012-13 to September of this year. There are costs that we also have attempted to calculate previously around onshore costs but, obviously, there's a mixture of both IMA and non-IMA costs included within that cohort. If I looked over the same period for onshore compliance and detention from 2012-13 to September of this year,
it's another $9.9 billion. In total, it's just under $14.4 billion from the period 2012-13 to end of September.

CHAIR: So that's about five years?
Mr Groves: It is 5¼.
CHAIR: So that's approximately $3 billion a year.
Mr Groves: Yes.

Senator McKIM: Does that include OSB or is that just for the operation of the detention centres?
Mr Groves: No, it doesn't include the maritime costs of conducting OSB or any offshore disruption costs.

Senator McKIM: Do you have those numbers, as far as DIBP is concerned?
Mr Groves: No, I don't.

Senator McKIM: Are they able to be distilled out of the department's budget?
Mr Groves: They can. For instance, in maritime surveillance costs, we do attempt to estimate those each year but, obviously, it goes to the management of all of the maritime risks. We don't break it up between particular risks that we're managing. Roughly, that's another $300 million-odd a year around our maritime capability. That's just us, not including Department of Defence.

Senator McKIM: Thanks, Chair. Sorry, I was just trying to assist.
CHAIR: You said that, for the offshore arrangements, it is about $4.5 billion.
Mr Groves: Correct.
CHAIR: Over?
Mr Groves: Over 5¼ years.
CHAIR: So that's about $900 million per year—
Mr Groves: Average.
CHAIR: I'm certainly talking on average. It is divided by how many people?
Mr Groves: The population varies depending on the year. Depending on particular years, we have determined an average offshore cost. On PNG it is, on average, $420 up to $506,000 per person. Obviously it depends on the populations per year.

CHAIR: Is that $420,000 or $420?
Mr Groves: It is $420,000 per person per year. Nauru would be similar, in a range of a low of $389,000 up to a peak of $506,000, depending on the year and whether there are large capital works programs happening in a particular year or not.

CHAIR: Between $420,000 and $304,000—per annum is that?
Mr Groves: Per person per annum.

CHAIR: I find it almost impossible to believe those figures. Is it a fair assumption that, now that we've stopped the 50,000 coming across the border, we're saving something like 50 times $420,000 to the Australian taxpayer? Is that assessment accurate?
Mr Groves: Certainly probably the average may be staying at similar levels, but certainly the total quantum of cost per year is dropping, commensurate with the number of people.

CHAIR: And because there have been no new ones for a thousand days, I guess that's a saving to the Australian taxpayer for the last three years or so, by having stopped them—without taking any regard of the saving of lives. But it's certainly a saving of taxpayers' money.

Mr Pezzullo: I think both General Bottrell, the previous commander, and Air Vice-Marshal Osborne, the current commander, have given evidence to this committee over the years that there was no theoretical upper limit to the rate of flow or the volume of the flow.

CHAIR: I perhaps should have gone in camera to take that because, when taxpayers learn that they're paying $420,000 per person for people who are not invited here, who pay people smugglers, who are illegal arrivals and who jump the queue, I think you'd almost get a revolt out there in voter land if they were to hear that figure. Thanks to the Australian taxpayer, I guess.

Senator WATT: You might be familiar, Mr Pezzullo, with an interview the minister did with Ray Hadley on 2GB in late September where, among other things, he said, 'Somebody once said to me that the world's biggest collection of Armani jeans and handbags are up on Nauru waiting for people to collect them when they depart.' I gather there's been a little bit of questioning about this today, but I'd like to explore that a bit further. Who provided the minister with the advice that the world's biggest collection of Armani jeans and handbags are on Nauru?

Mr Pezzullo: I'm not sure that he was being literal, but in terms of being figurative, I think the minister has subsequently spoken about that. I would refer you to his comments.

Senator WATT: Can you remind me what he said?

Mr Pezzullo: I'd have to remind myself what he said. But in subsequent media exchanges, following that interview with Mr Hadley, I think he had occasion to be asked about those comments, and he's spoken for himself in relation to that remark.

Senator WATT: Have you ever given the minister that advice—that the world's biggest collection of Armani jeans and handbags is on Nauru?

Mr Pezzullo: No. I've never spoken to him about where the world's largest repository of those jeans are. Whether or not they are there or elsewhere, I just don't know.

Senator WATT: What about you, Mr Outram?

Mr Outram: I have not provided any advice about Armani jeans.

CHAIR: Mr Pezzullo, it would be helpful if you could take it on notice and get the minister's statements—where he has spoken about it.

Mr Pezzullo: Yes. And I'm happy to refer the question, in any event, to the minister.

Senator WATT: So that advice was not provided to the minister by an officer of the department or Border Force?

Mr Pezzullo: Again, when you say 'advice'—we provide advice on our operation's activities. I suspect you'll find that it was a figure of speech that relates to the—
Senator WATT: He said that someone once told him that, so I'm trying to work out who that person might be.

Mr Pezzullo: Someone once told me that when you say that someone once told you something, it's a figure of speech. But I'll refer the matter to the minister. I'm sure he'll be delighted to come back to you.

Senator WATT: It's a pretty big accusation to make—that the world's biggest collection of Armani jeans and handbags are on Nauru waiting for people to collect when they depart. We can speculate about what the minister's motives might be, but if he's out there saying that somebody has told him that—

Mr Pezzullo: As he subsequently made clear—and the chair has very correctly indicated that I should refresh myself with the minister's statements—I do recall him making the point that, in some cases, people who have come by illegal maritime means who have subsequently been held in Manus or Nauru and who are now the subject of transference to the US under the US resettlement program were not particularly destitute. I think that was the point the minister was referring to. Now, what figure of speech—

Senator WATT: That's not what he said, though. That's not what he said originally.

Mr Pezzullo: What figure of speech or what rhetorical argument he was employing to make that point, he chooses his figures of speech and his interpretation of those facts. As I said, I'll refresh myself as to what he said both in that interview and also subsequently. But, more importantly, I'll refer your question to him.

Senator WATT: Are you aware of any evidence of shipments or delivery of Armani jeans and handbags to Nauru?

CHAIR: For $420,000 per person per year you could buy a lot of Armani.

Senator WATT: That's true, I suppose.

Senator McKIM: They're not getting it in cash.

CHAIR: Thanks heavens for that.

Senator WATT: Mr Pezzullo, are you aware of—

Mr Pezzullo: I'm not aware of, under the relevant customs classification, what designer jeans are imported into either jurisdiction. I can take that on notice if you wish me to.

Senator WATT: Mr Outram, do you know anything about shipments of Armani jeans and handbags to Nauru?

Mr Outram: Again, going to the secretary's point about rhetorical statements, and so on, I am aware of information about some detainees who have a large amount of wealth on Nauru. So whether the minister was—and I don't know but I'm personally aware of some circumstances where some people on Nauru have a significant amount of wealth at their disposal.

Senator WATT: In whether someone becomes a refugee, it's not a factor of whether they're poor or wealthy, is it? It's about having a well-founded fear of persecution, whether you are rich or poor.

Mr Pezzullo: I think the point in passing was also related to those who have—you're absolutely right in terms of the international definitions and the international covenant. It
relates to a well-founded fear of persecution. And this discussion is occurring in UN circles this year as we speak in the context of the Global Compact. How do you manage the flow of people who are seeking to avail themselves of such protection? Some people are in such parlous circumstances—from the point of view of not just the persecution but also their access to material means that they can't pay anyone to commence, undertake or complete the journey. Others are in a different position. I suspect—and I would want to check—that that might have, in part, animated the minister's commentary.

Senator WATT: But to the best of your knowledge it's not correct that the world's biggest collection of Armani jeans and handbags are on Nauru?

Mr Pezzullo: In a literal sense?

Senator WATT: Yes.

Mr Pezzullo: I'll take that on notice.

Senator WATT: You don't have a view on that?

Mr Pezzullo: I want to be very precise in my answer.

Senator WATT: I'm just trying to hold the minister accountable for his comments. He's out there making comments in the media that are obviously designed to inflame tensions—

CHAIR: Senator Watt, we've got until 11 o'clock, and I don't care how you waste your time until then.

Senator WATT: I don't think it is a waste of time to hold the minister accountable for his comments.

CHAIR: The secretary has already said three times he will refer your questions to the minister and get you a response from the minister.

Senator WATT: Senator Cash, being the minister here, are you aware of—

CHAIR: No matter how many times you ask that you're going to get the same answer. Could I just suggest we might move on.

Senator WATT: I would just like to ask Senator Cash: you have represented the minister and previous ministers in this portfolio for a while, are you aware of a large collection of Armani jeans and handbags being on Nauru?

Senator Cash: Certainly not to my knowledge, but, again, I'd have to take it on notice.

Senator WATT: Mr Pezzullo, after the minister made those comments, did the UNHCR raise any concerns with the department about those comments?

Mr Pezzullo: Not to my personal knowledge but it might well be that discussions have been had not in my knowledge.

Senator WATT: What about the US Embassy?

Mr Pezzullo: I don't believe so but I'll need to check.

Senator WATT: Is there anyone here who would be in a position to know that?

Mr Pezzullo: Let's see who comes forward.

Senator WATT: Anyone?

Mr Pezzullo: You can see; I can't.

Senator WATT: Who would be the responsible officer?
CHAIR: I'm sure they've got better things to do with their time.

Mr Pezzullo: They may or may not be in the room. I just don't know who—

Senator WATT: Who would be in a position to know this?

Mr Pezzullo: We're a very joined-up organisation. There are any number of officers who might have knowledge of this.

Senator WATT: And yet no-one wants to come to the table.

Ms Newton: Certainly we'll provide the experience of dealing with UNHCR.

CHAIR: Do you have questions, rather than abusing officers.

Senator WATT: I'm not abusing anyone. I'm just inviting them to come to the table.

CHAIR: I have some questions that I want to ask. So can we move on?

Senator WATT: No, no. This is what I'd like to ask questions on. I've got the call. I've still got time, and I'd like to ask who in the department would know about—

Mr Pezzullo: I will see, Senator. I might even turn my head at this point. Are there any officers sitting in the room who can assist with this inquiry, either in terms of representations or comments that might have been raised by the UN High Commissioner for Refugees or the staff thereof or officers of the embassy? I said that, in my personal knowledge, I'm not aware of any such comments. Is the head of our international area here?

CHAIR: I hope he or she has better things to do.

Mr Pezzullo: In the meantime, whilst Ms Geddes comes to the table, I dare say that I don't think the minister is the first political leader of our nation ever to engage in figures of speech. But I will check, literally, whether he had in his mind, in his state of consciousness, that there was this cache of Armani jeans on the island—the largest in the world. I'll check that explicitly because that's what you've asked me. Otherwise, I'll see if there is anything else he wishes to add.

Senator WATT: Ms Newton, I think you were trying to say something there as well in answer to my questions about the embassy and the UNHCR.

Ms Newton: Neither of those groups have raised those matters with me.

Senator WATT: With you?

Ms Newton: With me.

Senator WATT: Ms Geddes, are you aware of anything?

Ms Geddes: No, I'm not aware, and I will take it on notice.

Senator WATT: My concern is that we seem to be relying very heavily on the US to resettle a large number of people from Nauru, and I'm wondering if it's helpful for the minister to be describing the very people who are seeking resettlement in those terms.

CHAIR: You can't ask these officers whether that's helpful to the minister. That's a matter, if for anyone, for the minister. If you want to refer that to the minister you can do that, but I'm sure you'll get the sort of response that deserves. Do you have any other questions?

Senator WATT: We do.

Senator PRATT: I do. I have some questions about citizenship checks that are undertaken before a person is placed in onshore immigration detention centres.
Mr Pezzullo: We'll have a combination of the relevant ABF lead, which is Operations, combined with our Community Protection staff.

Senator PRATT: I'll wait for the officers to come to the table.

Mr Pezzullo: I would have thought it's a matter for Assistant Commissioner Buchhorn. Assistant Commissioner Buchhorn might care to join us. I should add the assistant commissioner is a serving member of the AFP that performs inline duties under the direction of the ABF Commissioner.

Senator PRATT: Thank you for clarifying that. What identity and citizenship checks are undertaken before a person is placed in immigration detention, and are these checks applied to every single situation before a person is transferred to an onshore immigration detention centre?

Mr Pezzullo: I might ask the acting commissioner if he wishes to lead off. Then, perhaps, the departmental officers can assist.

Mr Outram: The decision to cancel a visa is normally taken by an officer in the department, but not exclusively. Sometimes Border Force officers can make that decision in the field where they're doing compliance operations. Of course, one of the primary concerns there is to establish identity to establish a reasonable suspicion, at least, that the person is an unlawful non-citizen. They will obviously require information about identity, travel documents, passports and those sorts of things to make sure that they know who the person is that they're dealing with. When people arrive at the border, they will generally have a passport of some description with them that will establish identity. There are the checks, but police officers around the country are also designated under the Migration Act. They can take people into custody if they suspect they're an unlawful non-citizen, and there, again, would do their normal checks as a police officer would do in various systems.

Senator PRATT: Are there any additional checks that are applied to a person being transferred from a jail to onshore immigration detention?

Mr Outram: There would obviously be checks in relation to various indices, databases, data about their travel history—when people arrived here, the travel document they had when they arrived here, what's their visa history, what decisions have been taken through time in relation to visas. They'll be speaking to the corrective services department about what information they have, there would be a whole lot of records there, so there is a whole lot of information that would be gone through in relation to establishing a person's identity.

Senator PRATT: What legal powers do the ABF have to detain individuals whilst such checks occur?

Mr Outram: If they have reasonable grounds to suspect that the person is an unlawful noncitizen, they can detain them under the Migration Act. In fact the Migration Act, from memory, compels them to detain them. So if an officer of the department has reasonable grounds to suspect that a person is an unlawful noncitizen, then they should detain them.

Senator PRATT: None of those grounds went specifically to checking whether someone is in fact an Australian citizen. Would it be unlawful to detain them if, indeed, they were an Australian citizen?
Mr Outram: It goes to departmental systems, of course. We have case management systems in relation to somebody's visa history—what decisions have been taken—so there'd obviously be checking of databases in relation to any decision to cancel a visa. For example, if somebody is in prison and their visa has been cancelled under section 501—they're mandatorily cancelled because they serve more than 12 months—or somebody is in the community and they are being cancelled under character under cancellation of section 501. Then what the border force will do is check the departmental—

Senator PRATT: Knowing someone's a foreign citizen doesn't presume that they're not an Australian—

Mr Outram: I'm sorry?

Senator PRATT: I guess I should probably just get straight to the point which is that in July of this year The Australian reported that two Australian citizens were wrongly detained by the department, one on Christmas Island in late 2016 and one on the Australian mainland earlier this year. Is that correct?

Mr Outram: I believe that is correct. To your question about the Border Force and what the officers would do, I was just answering your question. They would check the departmental systems to see whether or not the person is recorded as having entered Australia and having had a visa and having had a visa cancelled so—

Senator PRATT: Surely, there would be history of that person becoming a citizen at some point?

Mr Outram: Exactly—becoming a citizen, you say?

Senator PRATT: Yes, you would be able to see if someone had become a citizen or not within your system?

Mr Pezzullo: It would depend, and I will ask Ms Golightly to go through this very carefully and precisely. The cases in question are known to us, obviously. It would depend on whether any citizenship rights arose as a matter of historical exigency. If someone had been born in the then external sovereign territory of PNG, when it was an Australian territory or colony, certain rights to citizenship arise, that would be one example. As everyone is very well aware, citizenship law around the world is very complicated and complex—

Senator PRATT: We're living through that at the moment—

Mr Pezzullo: Rights arise in different kinds of ways through descent, conferral, on application, by operation of law—it is a complex area—so I'll ask Ms Golightly just to go carefully through the circumstances without being so particular as to identify the gentleman in question and to advise the senator accordingly.

Ms Golightly: There were two individuals detained after their visas were cancelled mandatorily under section 501 of the Migration Act. As soon as it was confirmed that each individual held Australian citizenship—it wasn't known at the time—arrangements were immediately made for their release following the immigration detention.

Senator PRATT: How did this situation occur for these two individuals? Why did the department not know that they were citizens?

Mr Pezzullo: That will be the next point she is about to get to—
Ms Golightly: Yes, both of the cases involved highly-complex citizenship issues and including acquisition of citizenship by operation of law, as the secretary has just mentioned, rather than by them applying for citizenship.

Senator PRATT: That's how everybody acquires citizenship. If you don't actually apply at some point, you get it because you are born here or you're born in an overseas territory, how can you assume that—

Ms Golightly: So if I could just—

Senator PRATT: Do you check everybody who leaves prison as to whether they're an Australian citizen or not, or do you test everyone who has another passport?

Ms Golightly: I was just about to get to some of that. One of these individuals was born in Australia but to New Zealand parents and acquired citizenship later in their life—I think on their 10th birthday. The other individual had, as it turned out, dual British and Australian citizenship, and this individual was born in the external territory of Papua prior to the PNG independence. So they were quite unusual in that sense. Both individuals, as I mentioned, had a mandatory cancellation, and the fact that they had visas, as well as the fact that their citizenship wasn't quite as straightforward as some of those you mentioned and those ones we'd be more familiar with, and that added to the situation. As soon as that Australian citizenship was established, they were immediately released.

Mr Pezzullo: There are many people who come in and through and out of the ABF's jurisdiction, so it would be a reasonable assumption on first blush to the ABF officer that, if a person is a visa holder, ipso facto, they are here in a privileged manner under the Migration Act. They have a visa. If, as it subsequently turns out, either upon someone asking the question or someone or checking records—'Hang on, this person was born in what was then the external territory of Papua, based on my knowledge of citizenship law, they might have an entitlement—if that check, in one case at least unbeknownst to the person themselves, as I recall.

Ms Golightly: That's right. Exactly.

Mr Pezzullo: Then, as Ms Golightly said, as soon as that became known to the ABF, they said, 'Hang on, we need to, potentially, release this person once that check is undertaken.' That was done expeditiously and diligently.

Senator PRATT: Are there people put into the position of needing to review visas in Australia when they are in fact citizens?

Mr Pezzullo: Sorry, are there people—who?

Senator PRATT: In the case of these two individuals, New Zealanders have a permanent right to remain, but—

Mr Pezzullo: It doesn't give them citizenship.

Senator PRATT: No, how many people do you think are on your books as having visas who, in fact, might hold an Australian citizenship?

Mr Pezzullo: I don't think we're aware of any other cases, are we?

Ms Golightly: No, we reviewed all of the other cases of people in detention at the time and established that there were no others.
Senator PRATT: But what about people in the general community who in fact hold citizenship but are unaware of the fact that they might hold it?

Ms Golightly: We'd have no way of—

Mr Pezzullo: People in Australia who, not having had it conferred and not having made an application but who might have some latent underlying right to seek citizenship—

Senator PRATT: Not to seek it but hold substantive citizenship.

Mr Pezzullo: Under Australian law it's conferred, you apply for it. There are some citizenship laws around the world that involve, by operation of law, automatic conferral. Some countries even talk about citizenship by blood. In Australia, we don't quite recognise that legal doctrine, but Ms De Vea can clarify that for me.

Ms De Vea: Not off the top of my head, but it's something that I would definitely take notice of and I can provide an explanation as to why—

Mr Pezzullo: But you've got to apply to have it conferred, right?

Ms De Vea: It depends on how you obtained it, but you can ask, if you think you might have it, for it to be confirmed and that would set up a series of inquiries that could provide the outcome for a person, if there was some lack of assurance.

Senator PRATT: Have you gone back to check whether there are any people who have been deported under 501 who did in fact hold citizenship under similar circumstances?

Ms Golightly: I could take that on notice. We certainly have gone back and made sure we reviewed every other case in detention to make sure there's no-one else in these circumstances.

Senator PRATT: If I can ask about deportations, and if perhaps you might look at some of the common countries to which people are deported but for which they might commonly also require citizenship by conferral—that being New Zealand and PNG would be probably another good example. Deportation back to New Zealand is not uncommon nor is being born in Australia or coming to Australia as a child by New Zealand parents uncommon.

Mr Pezzullo: We'll take that on notice.

Senator PRATT: How long were each of these two individuals wrongly detained for?

Ms Golightly: One was less than two weeks and the other one just over three months.

Senator PRATT: Was compensation paid to any of these individuals for their wrongful detainment?

Ms Golightly: I'm happy to others to add, but my understanding is compensation or any claim for compensation would be a matter for the individuals and their legal representatives. I'm not aware of any claim being made.

Senator PRATT: I note that The Australian has reported that their detention has been reviewed. So I take that there's been two separate reviews of the circumstances in each case. Is it possible to have a copy of those reviews?

Mr Pezzullo: I'll take that on notice. It's a single review. It's one prepared at my request, and it's a report to me.

Senator PRATT: What changes have been implemented in the department since these issues arose?
Ms Golightly: I could perhaps start and Ms Zakharoff can add. We definitely have reviewed all of our training to make sure it's absolutely clear on these particular sets of circumstances, because they were a little bit unique.

Senator PRATT: Does that mean they weren't included in your previous version, your previous checks?

Ms Golightly: They were; we're just drawing our officers' attention to these particular circumstances. We've gone through our procedures and instructions again to make sure that they're clear. We did the review of everyone in detention that I mentioned to make sure there was no-one else in the same circumstance—the review the secretary just mentioned was being undertaken. Ms Zakharoff might have some other more detailed actions.

Ms Zakharoff: I probably don't have a lot more to add in terms of the general highlights other than, between the department and ABF, we've got a range of activities to bring to the forefront of decision-makers' minds and remind them of our obligations to consider issues of citizenship generally, but highlighting where there might be more likely circumstances where it might be a relevant condition—and you've mentioned New Zealand and Papua New Guinea.

Senator PRATT: Okay, I'll await the advice.

Mr Outram: Senator, I might just add to that. Of course, on the Border Force side, we enact quite often the decisions of departmental colleagues. But what we make sure is we're actually joined up in relation to that training and that education. For example, when somebody comes into detention, if a Border Force officer comes into information that suggests they might be an Australian citizen then they will raise that; similarly, in relation to a decision to remove somebody from the jurisdiction, from the country. I might ask Assistant Commissioner Buchhorn if he's got anything to add.

Mr Buchhorn: Just to reiterate that the link with the visa and citizenship side, some of the more esoteric ways of acquiring citizenship are certainly being just reinforced with the members, so that they're asking those questions—should they be going through the removal process or should they be having discussions with some of the people who may be on the removal pathway to raise those issues, so that we're pursuing them.

Senator PRATT: In the last five years, have there been other instances of Australian citizens being wrongly detained that you're aware of?

Ms Zakharoff: I'm certainly not aware of anyone.

Senator PRATT: Have all recommendations following the 2005 inquiry into the circumstances of the immigration detention of Cornelia Rau and Vivian Alvarez been fully implemented by the department?

Mr Pezzullo: The short answer is yes, but we are constantly looking at our processes and procedures. But the short answer is yes.

Senator PRATT: Is it true that, as The Guardian reported:
Sweeping changes were made to department processes and oversight for deportation and detention orders but department sources have told Guardian Australia these have been steadily eroded or reversed.
Is that an accurate reflection of the processes in the department? If not, how are two Australian citizens wrongfully detained in immigration detention?

**Mr Pezzullo:** The circumstances of the case in question are very different to the two cases that sparked the 2005 inquiry—point 1. Point 2: you make reference to a *Guardian* report which in turn turns on unnamed sources speaking about matters that may or may not be within their competency. I've got no comment.

**Senator PRATT:** Will you check the citizenship status of people who have been deported to New Zealand and PNG previously? I know you took that on notice, but it wasn't clear to me that you were actually going to retrospectively check the nature of the inquiries to see if there are any gaps there?

**Mr Pezzullo:** Given this has been the subject of independent review, I will need to take my own counsel on whether that would be a worthwhile exercise to undertake.

**Senator PRATT:** Surely, having deported someone, we would want to know if we had wrongly deported them or not?

**Mr Pezzullo:** Nothing has come to my attention that suggests that we've done that. In this case—at least in one case, if not both—our own officers raised their own inquiries. In one case, a person had been born when Papua was an external territory. In the other case, an officer had the wit to understand that certain citizenship conferral rights become active on your 10th birthday—I think in the case of New Zealand.

**Senator PRATT:** Yes, but in that case there would be other people who arrived here or were born here who turned 10 in Australia, for whom that might be applicable.

**Mr Pezzullo:** As I said, I will take the question on notice.

**Senator PRATT:** As an MP, I've certainly had many cases of people who plead to not be deported because they've been here since they were small children, and it wouldn't be uncommon to have pleas like that for people who have come from New Zealand.

**CHAIR:** Senator, your time has finished.

**Senator PRATT:** Thank you. We are ready to go onto the next outcome.

**CHAIR:** Outcome 2?

**Senator PRATT:** Yes.

**CHAIR:** I have one more question on Outcome 1. Can you tell me, either now or on notice, the number of UNHCR refugees there are at the present time around the world?

**Mr Pezzullo:** In broad terms—we will check this and give it to you on notice—there are 65 million people who are displaced, approximately 22 million have crossed borders in the course of being displaced and, last time I checked, the number of refugees who have been determined and who are seeking resettlement certainly is in the order of about a million. It is at least a million, and it could be higher. I will check.

**CHAIR:** That will do me.

**Mr Pezzullo:** There are 65 million displaced globally and approximately 21 to 22 million who have crossed a border in the course of being displaced. Then, of that number, the number who have been determined and who are, if you will—it's not quite the right legal phrase—
accredited, that is to say they are seeking a settlement place, would be in the order of about a million.

CHAIR: And that figure has been roughly the same in recent years?

Mr Pezzullo: The displacement numbers have been steadily going up. The High Commissioner for Refugees puts out fairly regular bulletins, certainly annually, and a global assessment. In my recollection, over recent years the headline number has been steadily going up, given, particularly, conflicts in the Middle East. It hasn't been held entirely static but has been steadily increasing. In fact, I think Mr Grandes' last report indicated that the numbers, the 65 million, the 21 million-odd and the million ready for resettlement, were the largest in those categories, I think, he said since the Second World War.

CHAIR: Briefly, what does Australia currently take? We took 12,000 Syrian refugees.

Mr Pezzullo: From Syria and Iraq. Our program is in the order of 16,500. What's the current program?

Ms Golightly: 16,250.

Mr Pezzullo: 16,250 and that will steadily increase to 18,750 over the next couple of years.

CHAIR: That's genuine refugees who will come into Australia. In addition to that, the 12,000 Syrian and Iraqi refugees.

Mr Pezzullo: Yes, and that program has been concluded.

CHAIR: They've all arrived?

Mr Pezzullo: Yes, all those places have been filled.

CHAIR: Settled happily somewhere in Australia?

Mr Pezzullo: Well, they are certainly settled, and I understand them to be happy, yes.

CHAIR: Do you have details of where they've ended up? Did they end up in Sydney and Melbourne or did they—

Mr Pezzullo: We wouldn't necessarily have all of those details. The Department of Social Services takes over the settlement piece. To get them to Australia, we work with UNHCR and other bodies such as the IOM, International Organization for Migration, and then there is a hand off to our colleagues in DSS.

CHAIR: Per capita, is Australia still a world leader in acceptance of refugees?

Mr Pezzullo: We're normally in the top three. I can't quite remember the sequence, but it is ourselves and the Canadians that normally fill two of the top three places, per capita.

CHAIR: Does anyone else have questions on outcome 1? If everyone agrees, we'll move onto outcome 2.

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.

[20:51]
Senator McKIM: Off the back of the Senate's decision to reject the legislation last week, I'm seeking confirmation that the department's processing citizenship applications under the previous guidelines.

Mr Pezzullo: Yes, under the extant law.

Senator McKIM: I beg your pardon?

Mr Pezzullo: Under the current law, yes.

Senator McKIM: Yes, under the current law. One matter I need to ask specifically about here is the length of time that people are required to be permanent residents before the department will assess their applications for citizenship.

Mr Pezzullo: Under the current law?

Senator McKIM: My advice is that there's no statutory time frame currently in the Migration Act for a period of permanent residency and therefore it was in effect an administrative action or would have been an administrative action by the minister. I'm happy to be corrected on that.

Mr Pezzullo: I'm not sure that's right.

Senator McKIM: We perhaps could address that.

Mr Pezzullo: It is a matter of law. Ms Golightly can address that.

Ms Golightly: Currently they need to have four years in Australia and at least 12 months, I think, in permanent residence.

Senator McKIM: Are you suggesting that's in the act, Ms Golightly?

Ms Golightly: That's certainly my understanding, but I would like to double check it.

Senator McKIM: That's fine, but in any event, regardless of whether that's a legislative requirement or simply an administrative practice of the department—

Mr Pezzullo: I do think it is a matter of law.

Senator McKIM: That's alright. I wasn't actually intending to go there, I was just framing up the question. In any event, regardless of whether it is in the legislation, the department will now assess applications for citizenship made by people who have a minimum of one year permanent residency in Australia, is that right?

Mr Pezzullo: In light of the decision of the government to move an amendment, I understand that the legislation has been discharged from the Notice Paper, I get that, but that gave us policy authority which we have confirmed with the minister. It's the government's intention that the policy apply prospectively. As you'd be aware, Mr Dutton has made an announcement—and this is separate from how the Senate has dealt with it. I'm just speaking of what the government's policy is. The government has said that it intends to proceed with the measure and there is a change around language that no doubt we might even come to and then with respect to what would otherwise have been retrospectivity, back to 20 April, that has been set aside by the government, and Mr Dutton has announced a policy, pursuant to the amendment that was tabled in the Senate, that the policy would apply prospectively from 1 July next year, should the law come into effect. Ipso facto, it follows logically, but we have confirmed this, that all applications currently on foot will be considered under the current law.
Senator McKIM: And the current law, just to be clear, Mr Pezzullo, is that, if you've been a permanent resident for one year, you can apply for citizenship?

Ms Golightly: No, you have to have had four years of lawful—

Senator McKIM: I understand, I am talking about permanent residency.

Ms Golightly: Yes, that has to include 12 months of permanent residency.

Senator McKIM: I understand there is a broader requirement. I thank you, Ms Golightly, for your assistance, but there was major concern amongst a lot of people around the change in policy—from requiring one year of permanent residency to four years of permanent residency. As long as those other requirements are met, then the department is processing applications from people who have had over one year of permanent residency. In other words, the department is not requiring four years before—

Mr Pezzullo: Consistent with current law, that's right.

Senator McKIM: Yes, consistent with current law. Mr Pezzullo, I may have misheard you or misunderstood you and I am not making any allegations there, could you go back and talk about what will happen at 1 July next year? What has said the minister? What's your understanding of that?

Mr Pezzullo: The minister has said publicly—and it's been a long time since I focused on Senate procedures—the bill has been discharged from the Notice Paper.

Senator McKIM: Yes, it has.

Mr Pezzullo: Mr Dutton, as the minister, has said that the government's attitude is as follows: it intends to proceed with the amendments to the citizenship legislation, although in terms of the government put forward last week by way after amendment.

Senator McKIM: By way of amendment, that is right.

Mr Pezzullo: So those amendments, albeit to a bill that is now being discharged, I understand that nuance, those amendments reflect the government's policy intent. There is an amendment around language and there is—

Senator McKIM: It goes from IELTS6 down to IELT5.

Mr Pezzullo: And there is an amendment that pertains to the date of application.

Senator McKIM: Yes

Mr Pezzullo: When the bill was first presented to the parliament and, indeed, passed by the House but not by the Senate, the date of application, which is consistent with lots of ways—

Senator McKIM: Was the date of announcement.

Mr Pezzullo: Date of announcement, 20 April.

CHAIR: This committee has already been through that particular bill and, in fact, the majority recommendation was that those two matters be addressed.

Senator McKIM: Thanks for your assistance, Chair,

CHAIR: All I am saying is that we have been through fully, just in case that helps to get onto other things.
Senator McKIM: I was asking Mr Pezzullo about the minister's response post the Senate discharging the bill on the Notice Paper.

CHAIR: I think you said that, yes.

Mr Pezzullo: And the minister has said that the government intends to proceed on the basis of the language standard being varied as discussed and with date of application being from 1 July next year.

Senator McKIM: Yes, but on the advice from Miss Golightly, there would need to be an amendment bill brought back into the parliament, wouldn't there?

Mr Pezzullo: Of course, yes.

Senator McKIM: And until that happens—

Mr Pezzullo: That's how laws are made yes.

Senator McKIM: I beg your pardon?

Mr Pezzullo: That's how laws are made, of course.

Senator McKIM: Well of course Mr Pezzullo, I am just making sure we are all singing from the same hymn book here. Until that happens, the department is going to process under existing law?

Mr Pezzullo: Yes, certainly up until we get to 1 July next year. I suppose, as the secretary of the department, I am faced with—I won't say a conundrum—but well in advance of 1 July, I will seek policy authority from the government as to how to proceed if the legislation is still potentially before the Senate, but we will deal with that as we get closer to 1 July.

Senator McKIM: When your department gave evidence to this committee's inquiry into that legislation, I was asking whether the department was proactively applying the new requirements. I was told—and I'm paraphrasing—that the department wouldn't get to applications made after the announcement until about the end of the calendar year.

Mr Pezzullo: That's right, yes.

Senator McKIM: Is that still your best estimate as to—

Mr Pezzullo: That is still our best estimate. Ms Golightly might have more-precise information. With the volume of applications, the case load that the officers have and the time per application taken, I think we estimate that we'll get there in December—won't we?

Ms Golightly: That's correct, yes. Our current estimate is still a couple of months away, so that would—

Senator McKIM: There was evidence given that a few special circumstance cases have been pulled out of that already and were either dealt with or being dealt with at that time. But, apart from those cases, is it the case that you are yet to start, if you like, bulk assessing those postannouncement applications?

Ms Golightly: That's correct. It's simply a function of the way the pipeline works. We get to them in accordance with the date that they're received, and we just haven't got to that set yet.

Senator McKIM: What was that last thing you said?
Ms Golightly: The way the pipeline works is that we process them more or less in accordance with the date that we receive them, and we haven't yet reached that part of the pipeline yet.

Senator McKIM: Is your average time taken to process a citizenship application still running at about 14 months?

Ms Dacey: Yes, around that.

Senator McKIM: Do you have anything more specific than that?

Ms Dacey: I've got the September numbers for conferral lodgement to ceremony: 75 per cent of applications are processed in 10 months; 90 per cent are processed in 14 months. It depends on which percentile you want to pick.

Senator McKIM: Do you have an average time?

Ms Dacey: No, I don't. We just work on percentiles, but I'm sure we'd be able to calculate one for you.

Senator McKIM: I'd appreciate that. Has there been a drop-off in applications since the announcement in April this year—per week or per month?

Ms Dacey: There was a very large spike on about 20 April. Then there was kind of a plateau, which was lower than compared to 12 months ago. Then, since the announcement last week, there has been another surge.

Senator McKIM: There has been another surge since last week?

Ms Dacey: Yes.

Senator McKIM: Do you have records as to—do you provide that in a graph or a chart? How could you plot that for this—

Ms Dacey: I'll take it on notice and see what I can produce for you?

Senator McKIM: Thank you.

Ms Golightly: It's possibly obvious, but we still have a high demand of people wanting to be citizens, as you can imagine. I don't think there'd be any drop-off in demand, but we're happy to take on notice what that profile might have looked like to see if we can see if there was—graph somehow or display somehow the ups and downs within that.

Senator McKIM: I'd appreciate that. Is the department aware of any citizenship ceremonies that have had to be cancelled since April due to low numbers?

Ms Dacey: Not that I'm aware of.

Senator McKIM: Did the department provide any advice to the assistant minister, Mr Hawke, in regard to the instruments he's tabled to deny councils' capacity to conduct citizenship ceremonies, on the basis that they don't want to conduct them on 26 January anymore?

Mr Pezzullo: The department has provided advice to the assistant minister on those matters—yes.

Senator McKIM: Did the department draft those instruments for the minister?

Mr Pezzullo: I'm assuming that—

Senator McKIM: I mean, that would be the normal course of events, in my experience.
Mr Pezzullo: I'm assuming that was the case, yes. If that needs to be corrected, I will, but, in the ordinary course, we would prepare that sort of paperwork.

Senator McKIM: I'm happy if you want to take these on notice, but if you could provide the date that the department was asked to do that by— I'm not sure if it would be Mr Dutton or Mr Hawke, but one of the two?

Ms Golightly: We'll take that on notice.

Senator McKIM: The date that the department was asked to do it and the date that those instruments were put back up to whoever's office it was that asked you. Did the department advise either Mr Dutton or Mr Hawke that the two councils, which are Darebin and Yarra councils, were in breach of the code of conduct relating to citizenship ceremonies?

Mr Pezzullo: I think we did provide advice on that matter, but I'll ask Ms Golightly to refresh my memory on that.

Ms Golightly: We may have to check the exact wording of the advice, but we certainly outlined for the ministers the particular part of the code which talks about ceremonies being non-commercial and apolitical. My recollection is that the advice would have gone to options for the minister, but we can check exactly for you.

Senator McKIM: Are we talking about Mr Hawke or Mr Dutton here?

Ms Golightly: Minister Hawke.

CHAIR: Are you going into what advice the department's given?

Mr Pezzullo: In general terms, I'm happy to provide the fact that advice has been given. As to the particulars, we have taken it on notice as to when and the specifics of the advice.

CHAIR: When and where is appropriate. What it was, I'm not sure—is that appropriate?

Mr Pezzullo: I think at the moment we've been asked whether we provided advice on the code and whether the code had been breached or potentially was at risk of being breached, I suppose, and, accordingly, whether we prepared relevant instruments. I'm comfortable with those questions going to procedure.

Senator McKIM: That is the question that I understand that you've offered to take on notice. Is anyone able to answer this now: did the advice indicate that the code had been breached? On a first-blush reading of the code, it relates to how citizenship ceremonies are conducted as opposed to when they are conducted, and it's the 'when' that was the issue—

Mr Pezzullo: Except insofar as how you go about doing something might disqualify you from when you conduct it.

Senator McKIM: You've lost me there, Mr Pezzullo.

Mr Pezzullo: I don't want to canvass the merits of the advice. I'm just being cautious here, particularly in view of the Chairman's reminder. I'll refresh myself as to the advice, but you're right to state, in summary terms at least, that the code relates to how you go about the presentation of the ceremony.

Senator McKIM: By the way, I think it's perfectly reasonable that someone like me wouldn't be able to get up to say, 'The Greens are the best political party ever.' That's totally appropriate, that they shouldn't be politicised in that way. I don't think there's any—

Senator Watt interjecting—
Senator McKIM: Very good, Murray. I don't think there's any disputation there, Mr Pezzullo. The issue was 'when', as opposed to 'how'.

Mr Pezzullo: I want to be careful that I don't canvass the substance of the advice. I think the issue might be that, in how you present the ceremony, if you make certain statements, not of the completely and clearly partisan nature of the type that you've just described—I mean, it's almost advocating a vote—but, if you make a political statement, which might not be partisan in the sense of advocating a vote but might make references to the status and standing of Australia Day as being from a particular political perspective, that might call in question your adherence to the code.

Senator McKIM: But, Mr Pezzullo, the distinction I'm trying—

Mr Pezzullo: So the 'how' then relates to the 'when'.

Senator McKIM: Understood. The distinction I'm trying to draw, though, is that if that were to happen within the ceremony, then I conceded that would be a potential breach of the code. If it was simply a council deciding not to have a ceremony on a particular day, that's not the same thing at all.

Mr Pezzullo: I can see the distinction you're making, but we're starting to canvass the substance of the advice, so I'll need to check it.

Senator McKIM: Perhaps you can put that to the minister, but you can do that next time, Senator McKim, because your time's finished for this round.

Senator WATT: We've got some questions on citizenship as well. I'll try not to go back over the ground we've just covered with Senator McKim but there was one thing you said in passing—

CHAIR: Senator Watt, I'm sorry to interrupt. I did indicate to Senator Xenophon previously that, as he only had a couple of questions, I'd go to him next.

Senator WATT: That's fine.

Senator XENOPHON: Thank you Senator Watt—I'll be very brief. These are matters that have been raised with me by Civil Air Australia. I understand that Airservices Australia has made an application to the department to allow about 10 air traffic controllers—where there has been a shortage—to remain in Australia after air traffic controllers were removed from the 457 visa eligible jobs list. Can you advise the status of this application from Airservices? There's been a lot of frustration. I think this is a case where both the union and Airservices Australia have worked in conjunction to try and keep these people here because there is a shortage of skilled air traffic controllers. There has been a lot of frustration about the delays involved, can you advise the status of the application and when they could expect a response?

Ms Golightly: I'm not aware of the particulars of that case, but I'm happy to take it on notice and find out.

Senator XENOPHON: Also, how is the application progressing in terms of processing times compared to other similar applications? These men and women are really in limbo, they can start looking for jobs, I guess, anywhere else in the world, but there is a great shortage of skilled air traffic controllers. I think that's why it's one of these occasions where both the
employer and the unions have been working together to try and get an outcome, but they've being frustrated by the delays, so if I can put that.

Mr Pezzullo: The head of Airservices hasn't raised anything with me. They can pick up the phone whenever they want. I'm just not aware of any concern that they have.

Senator XENOPHON: My understanding is Airservices Australia has made application to the department to allow them and there has been some frustration amongst the air traffic controllers who have been left in limbo.

Mr Pezzullo: I will check the first part of your question. I don't accept the premise of the second part.

Senator XENOPHON: Well maybe you can tell me how long it'll take because these people's lives are in limbo. Thank you, Mr Pezzullo.

Senator WATT: In answer to Senator McKim's questions, you said there was something you expected to be done by Christmas. What exactly was that?

Ms Golightly: We were talking about the current case load, workload, on hand of citizenship applications and I was explaining that the way the pipeline works is we process them more or less in the date order that they're received, and it's likely to be in the next couple of months, December, that we'll get to ones that were received around the 20 April date.

Senator WATT: You stopped processing applications on 20 April.

Ms Golightly: No.

Mr Pezzullo: No, because we had a case load on hand.

Senator WATT: Okay.

Mr Pezzullo: That fell under what was—

Senator WATT: Right. So those lodged prior to 20 April have continued being processed?

Mr Pezzullo: That's right, yes.

Senator WATT: In accordance with what is the current law?

Mr Pezzullo: Yes, the current law—which is something the government announced on the 20th.

Senator WATT: Yes, I remember that.

Mr Pezzullo: It's like a tax announcement, I suppose. The government says, 'As of this date, future matters will be dealt with under the law subject to the passage through parliament'—it's just like tax legislation—'but all applications on hand prior are processed in accordance with the current law.'

Senator WATT: Yes. The ones you expect to be done by Christmas are applications that were lodged prior to the 20th?

Ms Golightly: It's not by Christmas. The processing pipeline will reach applications that were received around about that date.

Senator WATT: When do you expect to begin processing applications made since 20 April?

Ms Golightly: It's like a pipeline.
Ms Dacey: About December.

Senator WATT: I know citizenship ceremonies on Australia Day tend to be particularly big and if we're looking at a big backlog being cleared potentially by Christmas, will councils have the capacity to—

Mr Pezzullo: I'm not sure there's a backlog; there's just a flowing pipe.

Ms Golightly: That's exactly right. There has been no stop. Applications have continued to be processed all year in accordance with the date that they were received and in accordance with the laws of the day.

Mr Pezzullo: Are you making reference to Australia Day next year, 26 January 2018? The persons who are conferred on that day would have had their—well, I don't think you'd consider that in December, and they're standing there in January.

Ms Golightly: No.

Mr Pezzullo: There's a pipeline. So persons who have had their approval and conferral then organised would have been in the pipeline for months.

Senator WATT: Just this point about the minister proposing to change the English language requirement from IELTS 6 to 5, I know we canvassed this at the inquiry into the bill.

Mr Pezzullo: Yep.

Senator WATT: But my recollection is that there wasn't any particular expert advice that settled on level 6.

Mr Pezzullo: Well, I'm not quite sure that's right. I'll just refresh my memory as to what the evidence was Mr Wilden, you've been waiting there patiently all day. As the person who gave evidence, I think, to the inquiry the senator is referring to, if you can just refresh us all as to what you said.

Senator WATT: I'm remembering Mr Wilden chortling when he was saw me on the plane with my broken leg—

Mr Pezzullo: He would not have been chortling.

Senator WATT: Well very, very kindly, though.

Mr Wilden: I thought it was sympathetic.

Senator WATT: I thought you were having revenge for previous estimates. Now it's time for me to get some revenge.

Mr Pezzullo: It would be unbecoming if he was chortling at your state of impairment.

Senator WATT: Absolutely, I agree.

Mr Wilden: As you noted at the evidence we gave at the Legal and Constitution Affairs Committee hearings around citizenship, on the issue of a landing point there's nothing empirical to say there is an exact level of English that gets a particular outcome. We discussed the fact that competent was a level that the government was after and that the way that was translated was through our existing system, where competent is deemed to be IELTS 6.

Senator WATT: We're now proposing level 5, is there any expert advice that is supporting level 5 as being the right level?
Mr Wilden: Similar to the advice I gave the committee, there's no right level, if you like. Every country looks at what their requirements are for their native tongues—and I think I walked you through some of that evidence around how other countries have looked at their levels. We have all gone, if you like, for a band of competence, which ranges, depending on which instrument you go to, from IELTS 4, 4½, up to IELTS 6. So within that band, everything there is competent. We have moved the proposal from the minister. He is to drop it down one level to 'modest,' I think is the actual word that is used on the IELTS scale.

Senator WATT: Or maybe 'moderate'.

Mr Wilden: Yes.

Senator WATT: So why would level 5 be a more appropriate setting than level 6?

Mr Wilden: Again, the issue of 'appropriate' is a matter for the government. The government at the moment makes a series of decisions around the English standards that it requires across a range of our visas. For example, under the skilled visas, we have IELTS 6 for our permanent stream, but it's only IELTS 5 on the temporary stream. What we look at is, if you like, the balance of what you are expecting out of those visas or, in this case, citizenship. There's no right or wrong level in terms of if it's a five, six, 4½, whether it's an average, whether it's each; they all just prescribe a standard that the government thinks is right for the circumstances.

Senator WATT: The department has commenced drafting amendments to—

Mr Wilden: Well, the amendments were tabled.

Mr Pezzullo: I think amendments were put.

Mr Wilden: Yes, amendments were tabled. That's the work that's been done.

Senator WATT: Amendments have been tabled in the last week?

Mr Wilden: I'd have to check. I'll take this on notice as to the exact day. I think the day that they were to lapse or be taken off the notice order, the government did table the two suggested amendments going to the date of effect and going to the English language. But it wasn't brought on for debate, therefore it lapsed.

CHAIR: Where was it tabled?

Mr Wilden: In the Senate, I believe, yes. But as I said, I'll have to check that.

Senator WATT: When did the department receive the request to begin preparing those amendments?

Mr Wilden: I'd have to take that on notice.

Senator WATT: If you could, please. Is there consultation occurring around those amendments with stakeholders?

Mr Wilden: I'd have to refer that to the office.

Senator WATT: Okay. One of the recommendations of the Senate inquiry relating to the English language requirement was that—I think it was in paragraph 3.123 of the report—the government reconsider the imposition of a two-year ban on applications for citizenship following three failed attempts of the citizenship test and consider other arrangements that allow additional tests on a cost-recovery basis that would deter less genuine applicants. Do you know whether it's intended to adopt that second recommendation?
Mr Wilden: At this stage, the amendments are the two amendments that have been proposed. I can't speak to any other matters outside that.

Senator WATT: At this point, are neither that nor any other recommendations of that report proposed to be adopted?

Mr Pezzullo: That would be a matter for the government. We could refer your question in relation to the two-year issue and also other recommendations to the minister.

Senator WATT: In terms of processing applications, we know now that the department has started processing applications that were received after 20 April.

Mr Pezzullo: No, that's not the evidence you were given. We haven't stopped processing applications. The best judgement of the officers at the table who run the process is that, come December 2017, if you think of the flow or the pipeline, what will come around on the train are applications for citizenship that would have been received on or immediately after 20 April. It's just like a big flowing train—or a conveyor belt.

Senator WATT: Because people have continued submitting applications since 20 April?

Ms Dacey: I think the misapprehension is that we took them out and put them to one side, and that had just never happened. They've always been in the pipeline. We've just been working through the applications that came on 10 April and 10 March and 10 February.

Senator WATT: So by Christmas you expect you might start seriously considering those that were lodged after the 20th.

Ms Dacey: Yes. That's when we think we'll have dealt with all of those previous.

Mr Pezzullo: It is like a big conveyor belt.

Senator WATT: Did we get you to say the number of people who are now waiting? I've seen reports of 120,000 or thereabouts.

Ms Dacey: That's right, Senator. The case load on hand is, I think, about 119,000, but I'll find you the exact number.

Senator WATT: That's as at today's date?

Ms Dacey: I think the last date was 30 September. It was 118,136. That's the number of conferral applications on hand in our pipeline.

Senator WATT: Okay. With this point about what will happen by Christmas, is the way to best understand that that will be the time at which people who lodged applications after 20 April will receive a letter inviting them to sit the citizenship test?

Ms Golightly: No. That's when we will get to their application and start the process of processing the application.

Senator WATT: Does that mean that—this is quite normal practice—there's a period of months between the date that someone lodges their application and anyone in the department first begins considering it?

Ms Dacey: Yes.

Ms Golightly: That's right. It's a reflection of the demand and the processing times.

Senator WATT: Right. So when would you expect to begin inviting people who've submitted applications since 20 April to sit the citizenship test?
Ms Dacey: I think it would depend on the complexity of every individual case. Some cases are quite straightforward and it might happen quite quickly, but others would be more complicated, whether there are identity or character issues. It would be impossible to take a stab at that.

Ms Golightly: I think we provided evidence a little while ago about the percentiles. It's 75 per cent, I think, in 10 months and 19 per cent in 14.

Senator WATT: Was that 10 months before they get citizenship or they are invited to sit the test?

Ms Golightly: No, that's from the time the application is submitted to conferral.

Ms Dacey: There's a few different stages—you apply, then we do the assessment, then you sit the test, then you go to the ceremony. Each of those are discrete things. Until you say the pledge at the ceremony, you're not considered to have acquired, so it just depends at what point in the process.

Senator WATT: Do you have any figures on the percentage of applicants who applied between, say, 1 March and 19 April who have been sent letters inviting them to sit the citizenship test?

Ms Dacey: I'd have to take that on notice.

Senator WATT: Okay. Similarly, if you could take on notice the percentage of applicants who applied between 20 April and 30 May. Well, the answer to that would be: none of those people have been invited to sit the citizenship test yet because they applied after 20 April?

Ms Dacey: Correct.

Ms Golightly: And simply because the conveyor belt hasn't come around yet, not because we parked.

Senator WATT: With that number you gave me before—of about 119,000—that is citizenship application on foot?

Ms Dacey: On hand.

Senator WATT: Some of which may have been pre 20 April, and some of which since?

Ms Golightly: Yes, that's correct.

Senator WATT: Do you know how many have been submitted since 20 April?

Ms Dacey: I'd have to double-check for you, Senator.

Senator WATT: If you could take that on notice.

Ms Golightly: We'll take that on notice.

Senator WATT: Again, none of those are currently being processed?

Ms Dacey: No—I mean, there might be some very unusual outlier in there, but it would be pretty unusual.

Senator WATT: Are any special measures being taken to try to process the backlog of applications that have been—you're saying there hasn't really been a failure to process applications, because I think the perception in the community is that they've been put on hold.

Ms Dacey: That's right.
Senator WATT: It's just they don't really begin being processed, even under your normal circumstances.

Ms Golightly: Nothing was put on hold.

CHAIR: That was made clear in the other hearing.

Senator WATT: Is there any plan to hire additional staff to process applications more quickly, especially those lodged since 20 April?

Mr Pezzullo: No, because I've got to make very carefully balanced decisions about where I allocate resources, particularly if there are concerns around security or terrorism and the like. It's all one fungible pot of money and resources.

Senator WATT: Has the minister received any complaints regarding the original bill that you're aware of?

Mr Pezzullo: The original bill?

Senator WATT: Do you have any sense of the volume of complaints the minister received about the bill?

Mr Pezzullo: It has been the subject of public comment and controversy.

CHAIR: There were about 13,000 submissions to the—

Senator WATT: I think there were two that were supportive of the bill. Yours was one of them; you and Australians for Constitutional Monarchy.

CHAIR: There were 13,000 opposed to it which means the other 99.9 per cent of Australians supported it.

Senator WATT: That might be one inference.

Mr Pezzullo: I am aware of criticisms of the bill, yes.

Senator WATT: I understand that the department keeps its website up to date with citizenship application processing times.

Ms Golightly: That's correct, Senator.

Senator WATT: Feel free to take this on notice. Can you advise what this website stated the application processing times were in April 2017 and every subsequent month?

Ms Dacey: Yes.

Ms Golightly: We can take it on notice.

Senator WATT: You don't have those figures with you?

Ms Dacey: No. There is one thing I would draw to your attention, though. It's relatively new reporting.

Ms Golightly: We'll take that on notice. I think Ms Dacey was just going to explain the type of reporting that's there.

Senator WATT: Part of the reason we keep asking these questions is that we have certainly received reports from people that the processing times they've been going through, say, in the last six to eight months, have been longer than other people they know who had applied, say, this time last year, before the changes were mooted. But you're saying there's been no—
Ms Golightly: I think, as Ms Dacey was explaining before, the processing time of any one particular application can differ because, for example, some are more complex than others. I think that's what you were mentioning.

Ms Dacey: The only other thing I was going to say—and we have talked to this committee before about this—is that the case load complexity is rising as we are seeing a flow-through of previous humanitarian entrants. It might well be the case that there are bigger delays now because the cases we are looking at now are actually more complicated.

Senator WATT: Is it true the department updated its website regarding citizenship requirements before the citizenship bill had been debated in the Senate?

Mr Pezzullo: As a statement of policy, again, as with a tax measure, it's entirely appropriate for an agency to articulate, by way of description, government policy. I presume, Ms Dacey, we would have said 'subject to passage of legislation'.

Ms Dacey: Is there some specific change that you reference, Senator?

Senator WATT: I don't have specifics but I understand that the department did revise its website to outline what the new requirements would be before the bill was debated.

Ms Dacey: Are you talking about last week?

Senator WATT: At some point prior to last week when it was withdrawn.

Ms Dacey: No. There was nothing before the bill was debated. Immediately after—the next day—we updated. We are very careful with the language around 'subject to the passage of legislation'.

Mr Pezzullo: Sorry, when you say—

Ms Dacey: It was after the bill was taken off the Notice Paper.

Mr Pezzullo: Yes, but at the time—

Ms Dacey: No, there was nothing before.

Mr Pezzullo: On 20 April, we would have advised the public at large that, subject to the passage of the relevant legislation, the requirements of citizenship will change in the following ways. I assume that was on our website somewhere.

Ms Dacey: That's right. There were changes made to the website on 20 April with that first set of changes, and then there were changes made last week after the bill was struck off the Notice Paper to talk about what is in prospect for 1 July 2018. Both of them referenced—

Senator WATT: No changes were made in between those times which presumed that the original changes were going to pass the Senate?

Ms Golightly: No, it was all subject to the passage of legislation.

Senator WATT: You're saying that's common practice, Mr Pezzullo?

Mr Pezzullo: It's like a tax announcement. The government is entitled to say on budget night, 'Subject to the passage of legislation, here are the new tax rates that will apply,' and the ATO provides that advice. It's no different from a tax measure.

Senator PRATT: Unless parliament, of course, knocks it back.

Mr Pezzullo: Indeed. If the parliament then sees fit to pursue another course, then you adjust your public information.
CHAIR: We might have to leave that there. We're 15 minutes late for the tea break.

Senator WATT: Chair, I could probably knock over all my citizenship questions within two more minutes, if you'd like me to do that.

CHAIR: We do have other senators. Senator Griff, did you have questions on this?

Senator Griff: Not on this subject.

CHAIR: Okay. Let's finish you, Senator Watt, and then we'll go to a 15-minute break.

Senator Watt: Thanks, Chair. I haven't looked at your website since the bill was withdrawn last week and new amendments were flagged, but you're saying that, if I were to look at it now, it outlines what the proposed two new amendments would be?

Mr Pezzullo: That's a statement of government policy. As with the statement of policy on 20 April, the government, through the minister, has said it's the government's intention (a) to proceed with amendments to the legislation, and (b) that those amendments will take the following form—that is to say, all of the original amendments, with two exceptions: one relating to language and one relating to the prospective date of application, being 1 July. Mr Dutton has said words to the effect—I don't want to put words in his mouth—of, 'And we will continue to negotiate with the crossbenchers and others, as required, to see these changes dealt with in a positive fashion by the Senate.' In that circumstance, it's no different from any other announcement of government policy. As public servants, we're in fact obligated to advise the public to say, 'If the legislation passes, here will be the new rules'—in this case, prospectively—in the future.'

Senator Watt: I suppose I'm conscious that this whole process has caused tremendous uncertainty and angst in the community. I'm wondering why it's considered helpful to advise people on your website that, potentially, new laws might apply from July next year when there's absolutely no guarantee those laws will be passed.

Ms Golightly: It is subject to passage.

Mr Pezzullo: I haven't got the website in front of me, but it would say something like, 'Subject to the passage of legislation.'
Senator WATT: It is basically in those words.
Ms Dacey: It is absolutely those words.
Mr Pezzullo: There you go. I fluked that, didn't I?
Senator WATT: Okay. That's it for citizenship for us.
CHAIR: We'll come back in 15 minutes and go to Senator Griff first, then Senator Hume. The hearing is suspended until 10 to 10.

Proceedings suspended from 21:35 to 21:49

CHAIR: We will resume.

Senator Griff: I'd like to ask about the Community Proposal Pilot and its replacement, the Community Support Program, which launched in July. The Refugee Council of Australia has cited a number of concerns stemming from the pilot program, such as the difficulty sponsored people face in assessing settlement services on arrival, and the fact that the job-ready criteria may exclude vulnerable people in need of resettlement. What is the difference between the CSP besides the doubling of places that were in the pilot?

Ms Golightly: I can talk generally while Mr Mansfield gets his papers ready. But one of the big differences I think from this and the previous program is that this particular program will mean that the sponsor guarantees or puts a bond up-front to cover the costs of the refugee. If the person hasn't accessed income support et cetera for a period of 12 months, that bond will be refunded. Mr Mansfield can take you through in more detail.

Mr Mansfield: Ms Golightly has covered the main differences between the pilot and the program. The only thing I would add is, of course, there are other places outside of the 1,000 places for the Community Support Program that people can enter Australia under the refugee and humanitarian program, which the secretary mentioned earlier has grown to 16,250 places this year—of which 15,550 places are estimated to be available for offshore.

Senator Griff: The Refugee Council raised concerns that people sponsored through the pilot could not always access settlement services because providers are excluded from doing so under their funding grants. This also means that there's no safety net for sponsored people in case of a relationship breakdown. Has this been addressed or will this be addressed?

Mr Mansfield: Under the program, sponsors are required to pay, as Ms Golightly said, an up-front bond that covers the costs if the person was to draw down on Centrelink payments. They're also required to meet the costs associated with settlement through a humanitarian service provider. They make those payments up-front and the full costs associated with the person's settlement in year 1 is covered by the sponsor.

Senator Griff: Why are the program places taken from existing humanitarian and refugee intake numbers, rather than additional?

Mr Mansfield: That's a matter of government policy, but the program is also growing to 16,250 places.

Senator Griff: Can these places be used for asylum seekers who are in offshore detention or who arrive by boat but have since been returned or resettled in another country?

Mr Mansfield: No.

Senator Griff: Why is that?
Mr Mansfield: No, Senator.

Mr Pezzullo: Those persons can never exercise a right to come to Australia; there's no right for them to come to Australia ever.

Senator Griff: I'd just like to refer to the assurance of support bond for the CSP which, as we mentioned before, I understand is about $20,000 for adult applicants and $10,000 for each family member of working age. I understand under the pilot program that bond was just $5,000. Why was the bond substantially increased?

Mr Mansfield: I'll take that on notice.

Senator Griff: Okay. What restrictions are placed on approved proposing organisations with regard to sponsoring people who may be family members or relatives of employees?

Mr Mansfield: Sorry, can you repeat the question?

Senator Griff: Are there restrictions placed on approved proposing organisations with regard to sponsoring people who may be family members or relatives?

Mr Mansfield: Approved Proposing Organisations themselves—we are in the process of establishing who will be an Approved Proposing Organisation. They're subject to a robust application process prior to appointment. Approved Proposing Organisations must demonstrate they're of good character and reputation and are financially viable, that they're applying a reasonable price schedule and that they're suitably experienced to provide case management services. They're required to source reputable and suitable employment opportunities, provide case management services for 12 months following arrival and ensure CSP entrants and their Australian supporters understand rights and responsibilities to live, work and study in Australia, and to immediately report any incidences of exploitation to the department. We would not anticipate that Approved Proposing Organisations themselves would sponsor family members into Australia. They may connect with family members who have an interest in sponsoring relatives from overseas, but we imagine that there will be a number of different circumstances in which people might access the program. There's considerable interest from community and non-government organisations and faith based groups, and we anticipate that some family members will seek to sponsor relatives through this arrangement, community organisations may seek to sponsor people. Indeed, employers may also seek to sponsor people under this arrangement.

Senator Griff: So there's no restrictions for APOs, to the people associated with that—family members and relatives associated with APOs—at all?

Mr Mansfield: Individual sponsors may choose to sponsor a family member to Australia.

Senator Griff: Sure. As I understand it, the pilot program has five APOs in total. Is that correct?

Mr Mansfield: We actually haven't made decisions on who will be an Approved Proposing Organisation under the community support program as yet. We recently went out for an expression of interest process and we're currently assessing those expressions of interest. We anticipate that in coming weeks we'll be able to make a decision around the Approved Proposing Organisations under this program.

Senator Griff: How many are likely to be outside of the major capital cities?
Mr Mansfield: We haven't made decisions around that at this time, other than that we will ensure that there is national coverage of the Approved Proposing Organisations.

Senator GRIFF: Are you planning to put a cap on the number of APOs?

Mr Mansfield: We're not putting a cap per se. We will just assess the expressions of interest we've received and make decisions based on whether they meet the assessment parameters.

Senator GRIFF: Every state will have an equal number of APOs, relative to their population?

Mr Mansfield: Not necessarily. We will just ensure that there is adequate coverage to support all states and territories in Australia.

Ms Golightly: Mr Mansfield can correct me if I am wrong, but, for example, an APO might actually cover more than one state.

Mr Mansfield: That's correct.

Ms Golightly: So it's not in that sense state-by-state. The aim is to get good national coverage.

Mr Mansfield: Indeed. I would anticipate that there will be at least a few providers that service the whole country.

Senator GRIFF: Going back to the pilot, was it run over four years—the community proposal pilot?

Mr Mansfield: I think that's correct, but I will check that.

Senator GRIFF: Can you provide a breakdown of the processing times for successful applicants under the pilot for each year since establishment?

Mr Mansfield: I will take that on notice.

Senator GRIFF: Thank you. What oversight does the department have over the screening processes undertaken by APOs to determine applicants?

Mr Mansfield: We're undergoing an assessment process of expressions of interest. We will also enter into deeds of agreement with each approved proposing organisation. We will monitor their implementation of that deed of agreement, and we reserve the right to terminate those agreements should an APO not be complying with the requirements of that agreement.

Senator GRIFF: Thank you.

Senator HUME: I want to ask some questions about the new temporary skills shortage visas. How's the rollout of the new visa going? Obviously it's replacing 457 visas. Perhaps the panel could explain the difference between a 457 and a new temporary skills shortage visas?

Mr Pezzullo: Mr Wilden will be delighted to assist you.

Mr Wilden: The fundamental difference is that the 457 was a single process that had up to four-year stays and was based on a very broad list of occupations. In essence, the whole of the ANZSCO list, levels 1, 2 and 3—ANZSCO being the Australian and New Zealand Standard Classification of Occupations that the ABS use. That meant that some occupations were rarely used and some were used a lot. It was very hard to get a full handle on the impacts on the labour market with such a broad coverage. So the government announced changes to the temporary skills shortage visa. The core element was to split it into two parts in that there is a
short-term list and a longer term list. The short-term list is for a two-year duration. The longer term list is for a four-year duration.

We have worked with our colleagues—who are the leads on this in the labour market—the Department of Employment, to determine which occupations should be on the short-term list or the longer term list or removed from the list, based on the old ANZSCO list. They came up with a series of recommendations, which were approved by the minister earlier this year. We then undertook consultation as part of the regular review. On 1 July, there were a series of amendments made, and the Department of Employment has kicked off a second review of the occupations to see where they’re placed for next year.

Senator HUME: There was a lot of controversy, at the time of the policy announcement, about the types of occupations that were taken off the list—things like 'goat farmer' and 'private drama tutor'. Can you tell me what the criteria were that were used to remove certain jobs from the list?

Mr Wilden: On the initial list, a range of processes were gone through and, then, subsequently through the review. Usage was one—are these used at all? In the odd situation—because it was a full transplant of the ANZSCO list—there were jobs on there that foreigners couldn't actually do because there was a requirement to be an Australian citizen. Those were removed from the list. We then worked with our colleagues in the Department of Employment to look at current labour market statistics. Where they believed there was adequate supply, we talked to the Department of Education about supply coming through the education system. Based on putting all of those into the mix, we came up with a first cut, which had the lists for the two-year and the four-year visas. They were then released. Then we had a broad public consultation, and stakeholders told us if they felt they had evidence that was provided to us that an occupation should not have been removed, for example, or should have been on a different list. They had to have hard evidence and not just that they would like it to be on the list. In receipt of that hard evidence, we put together all of the information for the minister and the minister made some amendments to the list for 1 July.

Senator HUME: There was considerable talk at the time about new integrity measures that applied to the new visa. Can you walk us through what those integrity measures are and how integrity has been applied to the process?

Mr Wilden: Certainly. Integrity itself had two fronts. At the time of the announcement, there were additional changes made to the permanent program as well, which really went to the pathway. Probably the biggest change to integrity was looking at the large number of people who were coming in on 457s and were then going on to 'employer nominated', which is a permanent visa. The numbers had gone up quite significantly over, probably, the last three to four years. Employer sponsored visas had become the largest component of our skilled migration program. The pathway in had a lower standard than someone coming in from overseas on our permanent skilled program. They'd come in, work and flowed through, as opposed to a hard stop and a reapplication process. The biggest integrity change was to say that we probably didn't have as rigorous screening or requirements on the visa at the 457 stage, but completion of a period of residency on a 457 was enough to get you permanent residency. Under the new system, if you like, there's a hard brake and it's a fresh application. We make sure everyone that's coming through meets the higher standard—hence the changes I mentioned around the permanent stream, where we upped the English language requirement.
Senator HUME: My understanding is that one of those integrity measures is mandatory police checks.

Mr Wilden: Correct.

Senator HUME: I was blown away that that wasn't already in place beforehand. Can you explain that to me?

Mr Wilden: It's a bit hard to explain the whys of various decisions of previous governments about where you apply 'mandatory' and where you apply 'discretionary'. But, certainly, one of the keys of this was, as well as those already listed, that all applicants for these visas would now be required to provide mandatory information and, in particular, the clearance to go back in all countries of residence for a number of previous years—I think it's 10 years. If you've lived in four or five countries around the world, we want police clearance certificates from all of those countries.

Senator HUME: I think that's a no-brainer. I can't believe it wasn't there before. Can I ask about the rationale for the two-year work experience requirement? If that wasn't already a requirement, what was there to stop international students coming in and competing with Australian graduates for jobs?

Mr Wilden: An international student in Australia could meet that if they had done their qualifications in Australia. There is a graduate visa. If you've done your bachelor's degree in Australia, you can get a visa to work for a period of time, which gets up your work experience. As part of the integrity measures, what we were seeing was a growing pattern of people who were coming in and we didn't have strong evidence that they'd actually worked in the occupations—they may have held a qualification, but they'd not necessarily worked in their occupation. It raised that question of was this more of a family migration outcome being sought, because they were bringing in a qualified family member, versus someone who was actually experienced, which was the whole premise of the program. So we strengthened that with the new TSS.

Senator HUME: There was a lot of hype at the time that this would be very beneficial to regional Australia. The vast majority of migrants settle in the cities, in the metropolitan areas. Can you tell me about how the policy benefits regional Australia?

Mr Wilden: One of the things we've done is we've created a series of caveats. Certain occupations under this—and I can provide a list on notice—are only available for regional areas.

Senator HUME: Right.

Mr Wilden: I'm sorry, but I can't recall off the top of my head what some of them are. There'd be obviously agricultural-type ones. But some occupations where we don't have any evidence of a shortage particular to the whole of Australia, but where we know there are situations in regional Australia where they are regularly calling on 457s, can come onto the list with that regional caveat.

Senator HUME: Can I move on to the Skilling Australians Fund. This is a new initiative. Can you explain to the committee how the Skilling Australians Fund will work?

Mr Wilden: Sure. The short version is we previously asked for commitments from employers to assist in the training of Australians by meeting what was called a training
contribution levy. Without spending too much time on this, we looked at what their payroll was and one per cent of payroll being spent qualified you, or you put a percentage of your payroll into a registered training fund. The problem was there wasn't a strong correlation between what fund it went into and what they did with that. You might be employing an engineer; you put money into a training fund, but you may not do anything to train engineers.

What the government was seeking to do with the Skilling Australians Fund was to get a much stronger correlation between, if you like, the impact of a 457-now TSS program—or soon-to-be TSS program—and how we actually seek money to support the development, training and education of Australians to do those jobs. We have moved from putting money blindly into a training fund. We collect a levy from employers. That levy will then go to the department of education where it will go into a fund, and they will then look at addressing the key areas of focus where we are seeing skill shortages requiring a lot of 457 or TSS workers, and they will look at spending that money directly on the training of Australian citizens.

Senator HUME: So essentially it's a levy that replaces existing financial obligations?
Mr Wilden: It does. It's far stronger, though, and much more targeted.

Senator HUME: Is that levy tax deductible?
Mr Wilden: I might have to take that one on notice.

Senator HUME: If you could.
Mr Wilden: I may have it with me.

Senator HUME: That's all right. I'm just wondering whether you have had much feedback on the implication of that levy on employers?
Mr Wilden: Like all of these issues, we get everything from 'it's sensible' to 'it's not going to cost us anything more'. Our modelling suggests, for a lot of employers, it's a very similar cost for those who are paying into the training funds.

Senator HUME: I think, logically, it would be tax deductible. You would think that, if it's already replacing an existing obligation and it's tax deductible, it would reasonably be assumed to make a very low impact on it.

Mr Wilden: Indeed. I think legislation is still to pass to bring the fund into effect, so we also have to be cognisant of that. The legislation was introduced on 18 October.

Senator HUME: So it's pretty new?
Mr Wilden: Yes. The policy proposition is there, but the bill still has to pass to bring it to effect.

Senator HUME: How much revenue is it expected to raise?
Mr Wilden: I might ask the CFO to provide that, because I haven't got those financial projections.

Mr Pezzullo: Mr Wilden, just remind me: is this our legislation?
Mr Wilden: Yes, this is our legislation.

Mr Pezzullo: It is our legislation.
Mr Wilden: Yes.

Mr Pezzullo: It's a much varied and extensive portfolio, isn't it?
Mr Wilden: We contribute in many ways to government.

Mr Pezzullo: I thought we were the collectors, are we not?

Mr Wilden: We are, but the bill we have put in is, in effect, to enable us to collect that revenue from the employers.

Mr Pezzullo: I see, but then the administration of the fund and how it operates—

Mr Wilden: Is all done through the Department of Education and Training.

Mr Pezzullo: Education, okay.

Senator HUME: It is a many-splendoured thing, Mr Pezzullo.

Senator McKIM: I want to start by asking some questions about recent changes to the SRSS supports. Am I right in suggesting there have been recent changes to the rules around SRSS support?

Mr Pezzullo: We'll shortly be joined by the officers who administer that program.

Ms Zakharoff: I'm not aware of any particular change to SRSS that you might be referring to.

Senator McKIM: Have there been either recent changes or recent notifications given regarding changes in SRSS support for people who have either sent or received money from overseas?

Ms Zakharoff: That is not ringing any bells for me. Ms Hampton may well know, as the service delivery arm.

Senator McKIM: Ms Hampton, are you aware of any recent changes or recent notifications around changes in the rules for people who may send or receive money from overseas?

Ms Hampton: Not of changes in the rules, but certainly some enhanced practices around the identification of people who have sent significant funds offshore while in receipt of SRSS benefits.

Senator McKIM: What about receiving money from overseas?

Ms Hampton: I'm not aware of anything in that respect.

Senator McKIM: So there are no changes there, as far as you're aware, and no enhancement of practices around people who send money?

Ms Hampton: Who send money? Yes.

Senator McKIM: Sorry, people who receive money?

Ms Hampton: The purpose of SRSS support is to help people overcome barriers while they're resolving their status. It's generally used for people who have no other form of income support. Were there to be other forms of income support available to the individual, it would call into question their qualification.

Senator McKIM: Is it not a scheme that's similar, for example, to unemployment benefits where you can earn some money and then there's a sliding scale that kicks in? Are you saying that if you are on SRSS and you earn a single dollar then that's enough to disqualify you from the entire payment?
Ms Hampton: No, I don't believe that's the case, but I don't know what that sliding scale is. I don't think it's exactly the same as social security benefits, and the payments are not quite comparable to that.

Senator McKIM: But there is a sliding scale, is there not?

Ms Zakharoff: There is a small dollar value that people can acquire before we would be considering whether payments are still appropriate or not. So you're right, but, like Ms Hampton, I don't know that figure. We can take that on notice.

Senator McKIM: Is the fact that someone is sending money overseas enough for DIBP to deem that they're no longer eligible for SRSS support?

Ms Hampton: Certainly, the fact that somebody might be sending significant amounts of money overseas would be—

Senator McKIM: How would you categorise that?

Ms Hampton: Anything over $10,000.

Senator McKIM: So if people are sending over $10,000 overseas—in a particular period of time?

Ms Hampton: That's just an example. I think that any amount of money that demonstrates that the individual who's in receipt of SRSS payments has access to another form of income or income support would call into question their qualification for SRSS. It's recognised that individuals might send small amounts of money to family members offshore while in receipt of payment, provided that amount is consistent with the income that they're receiving through SRSS and which we believe is their only form of income. Were they to send significant amounts of money offshore, that might suggest that they have an alternative form of support that we are not aware of and might call into question their qualification for the support.

Senator McKIM: Would you be able to provide the committee, on notice, with the rules around this—in other words, when the sliding scale kicks in and what the sliding scale is, if there is one? Presumably, the more people earn, the bigger the reduction in their SRSS payments. Is that something you could do for the committee?

Ms Hampton: Certainly.

Senator McKIM: Are people receiving SRSS payments informed that sending money overseas may compromise their SRSS payments? I've got case studies here where debts have been raised, in one case up to $38,000, by the department and the person was never informed that they couldn't send money overseas. That's what I'm advised—that they were never informed of that. How are people informed that sending money overseas may impact on their SRSS payments?

Ms Hampton: I don't know what specific information is provided to them at the time, but I can get that for you. But the capacity to send $38,000 offshore is potentially not consistent with the scheme.

Senator McKIM: I'm not suggesting that the person sent $38,000 offshore. I'm suggesting that she sent a far, far, far smaller amount than that offshore but that the department deemed that she had been ineligible from 2015 to receive SRSS, and the debt is the paid SRSS that the department's now trying to reclaim from her. I want to be clear about that. I'm not suggesting that quantum of funds was sent overseas. My advice is that it's a relatively minuscule amount
that was sent overseas and this woman's now facing a nearly $40,000 debt by having her SRSS retrospectively taken away from her by the department. I'd like, if possible, all the rules around this—the sending of money overseas, the earnings of money and the notifications, if any, that have been given to people who are receiving SRSS payments.

Ms Hampton: Certainly.
Ms Newton: I might be able to provide further information. Certainly, each person will be required to nominate any income that they're receiving in terms of decision-making—

Senator McKIM: To Centrelink?
Ms Newton: Yes—about whether or not they're entitled to the full amount of money against the SRSS category that they're allocated to.

Senator McKIM: I understand—I don't mean to interrupt, Ms Newton, I will allow you to finish. I just want to clarify that point first. That notification would need to be made to Centrelink; is that correct?
Ms Newton: Human Services.

Senator McKIM: Centrelink is run by Human Services; isn't it? Are SRSS payments distributed through Centrelink?
Ms Hampton: Some of them are.

Senator McKIM: If someone was receiving it through Centrelink, presumably they'd have a notification requirement to Centrelink. My advice in this case study is that every dollar earned was notified to Centrelink at the time.

Ms Newton: If I give you some examples: there are currently a number of clients that owe in excess of $10,000. There's approximately 6,500 SRSS recipients with a determined debt, and the total amount of debt being recovered is approximately $10 million. The largest debt currently with DHS is $66,458. The number of recipients with deductions and the total amount of deductions being recovered is approximately 2,964 customers with a deduction with over 902,000 recovered. The number of people cancelled due to income precluding eligibility: there's over 7,300 customers who have been cancelled for income related reasons. So all of those people haven't necessarily informed the department that they're receiving other income.

Senator McKIM: What was the last figure you gave, Ms Newton? Was that the number that had their SRSS cancelled?
Ms Newton: 7,300 customers have been cancelled for income-related reasons.

Senator McKIM: When you say 'cancelled', that's cut off entirely?
Ms Newton: Yes.

Senator McKIM: From SRSS payments. Have I been clear, Ms Hampton, of what the committee is after here?
Ms Hampton: Yes.

Senator McKIM: I think we heard evidence earlier today that there are about 26,000 people in the community—I don't know how you describe it administratively within your department, Mr Pezzullo, you might be able to help me here—that have arrived by boat.

Mr Pezzullo: The IMA legacy case load.
Senator McKIM: I'll just call them the legacy case load. They're being progressively transitioned through different visa classes at the moment; are they not? Is there anyone who can give me a quick overview of the visa classes that are relevant here?

Mr Pezzullo: Ms Golightly can speak to that.

Ms Golightly: As the minister announced earlier in the year, and indeed before that, the IMA legacy case load were invited to apply for visas to resolve their status in Australia, and they had to do that by 1 October. The types of visas, someone can correct me if I get this wrong, are basically protection visas or SHEVs.

Senator McKIM: Safe havens, SHEVS?

Ms Golightly: Yes.

Senator McKIM: Or protection visas.

Ms Golightly: Yes, temporary protection visas.

Senator McKIM: TPVs, yes. And they're coming off bridging visas generally, are they?

Ms Golightly: Yes, generally they would be.

Senator McKIM: Am I right that there's about 26,000 in the community?

Ms Golightly: From about 13 September there was 30,500. When the minister made the announcement about the 1 October deadline in May this year, at that stage there were 7,500 who were yet to lodge an application. As at 1 October this year, the deadline, there was only 71 who hadn't—

Senator McKIM: Hadn't lodged?

Ms Golightly: Lodged. The others either had already left Australia or had had their status resolved and were in the process of making arrangements to go onto a visa or leave, or had just lodged their application and were in the process of processing that application.

Senator McKIM: Are you aware of anyone currently in Australia from that cohort who has not lodged an application for either a TPV or a SHEV?

Ms Golightly: Yes, the 71.

Senator McKIM: That's as of now?

Ms Golightly: That's right.

Senator McKIM: I understand.

Ms Golightly: That was as at 1 October.

Senator McKIM: How are we going in terms of working through that workload?

Ms Golightly: We've got through roughly 50 per cent of those lodgements. We have about 16,000 on hand to work through.

Senator McKIM: You've processed about 16,000?

Ms Golightly: Roughly, yes.

Senator McKIM: Yes, that's fine. Thank you.

CHAIR: Senator McKim, we might make this your last question if we could please.

Senator McKIM: All right. I wanted to ask whether you have on you a breakdown of the primary applications here and the results of the ones that you've processed so far, on a state-
by-state basis, because I'm hearing anecdotally in Tasmania there's an extremely high refusal rate. I'm trying to understand why that might be. Have you heard that by the way? Are you aware of that?

Ms Golightly: I haven't heard that, no, and I don't have a state-by-state breakdown on me. But I think—and someone can correct me if I'm wrong—but about 30 per cent, roughly, of the ones we have processed to date were refused, or their application wasn't successful.

Senator McKIM: That's at a national—

Ms Golightly: Yes, that's nationally. I haven't got a state-by-state breakdown.

Senator McKIM: Could you provide a state-by-state breakdown please?

Ms Golightly: I will take that on notice.

Senator McKIM: Thank you.

If you could put a percentage in there, because obviously the number of applications in Tasmania would be quite a bit lower than most other states and territories. Is there any difference in the way applications are processed in Tasmania in terms of the people who are processing them—the potential for access to legal advice for people who are making the applications? I'm hearing very regularly from stakeholders in Tasmania, those who are part of national organisations, who think something's going wrong in Tasmania.

Ms Golightly: I'm not aware of any difference in the processing.

Mr Mansfield: Mr Mansfield?

Mr Mansfield: [inaudible]. We run nationally consistent standards for processing of applications. We have quality assurance processes and quality control processes that operate nationally. While the majority of applications for people in Tasmania would be processed by our Victorian state office, they could be processed anywhere, because we have moved to a national processing model and we have people, where appropriate, being interviewed by video conference. So, they could be processed anywhere. The only other thing I was going to say is that I don't have with me the profile of applicants from Tasmania but, of course, depending on which country they're from and which claim sets they have, that could, of course, affect the percentages of grants or refusals, as could a number of other parameters, including, which applications we may have dealt with first, the patterns of lodgement of people in Tasmania and the countries that they're from.

Senator McKIM: I've got some other questions, but I'll place them on notice.

Senator PRATT: How many 457 visas were issued in the 2016 financial year and how many in the current financial year?

Mr Pezzullo: I think Ms Golightly, assisted by Ms Dacey—which financial year?

Senator PRATT: The last financial year and the current one, noting we are only partway through it.

Mr Pezzullo: 2016-17 and the year to date.

Ms Dacey: I've got the numbers from 1 July this year to 30 September this year in front of me. The number granted: 8,263. That's the visa applications. I don't appear to have the last program year full number.

Senator PRATT: That's okay. Can you take that on notice? We're short on time.

Ms Dacey: Yes.
Senator PRATT: Has the department conducted modelling to see what revenue will be lost or gained from the government's changes to the skilled migration program? If you have done such modelling, can you provide me with a copy of that modelling on notice?

Ms Dacey: I think we'd have to take it on notice.

Senator PRATT: Has the modelling been done?

Ms Dacey: That's not in my area of responsibility. I'm the program administrator. I don't know the answer.

Senator PRATT: Does Mr Pezzullo know?

Mr Pezzullo: Modelling in relation to—

Senator PRATT: Revenue lost or gained from the skilled migration program changes to the 457 visa program.

Mr Pezzullo: Revenue—that would be second-order fiscal effects.

Senator PRATT: You can take that on notice if you don't know.

Mr Pezzullo: We'll take that on notice.

Senator PRATT: On what date in March 2018 does the department expect the abolishment of the 457 visas to take place?

Mr Pezzullo: It will be subject to the date that's enshrined in the law that this parliament may or may not see fit to pass.

Senator PRATT: The date's not legislated for; it's a question of timing as to when the legislation is passed—is that what you mean?

Mr Pezzullo: The government intends to introduce a new scheme, effective in the month of March, without going back over the ground previously covered under citizenship, subject, of course, to the passage of relevant laws.

Senator PRATT: What's your timeline for having it pass this parliament to implement it on a date in March next year?

Mr Pezzullo: It will need to pass before March, I suppose. I don't manage parliamentary business.

Senator PRATT: Well, what if it was amended substantially? You'd need later than March to implement it.

Mr Pezzullo: Our job is to plan on the basis that government policy will be given effect. We then have to have contingencies within contingencies, I suppose. The new scheme is meant to come in place from March—that's the government's intention, is it not?

Senator PRATT: That's right.

Mr Pezzullo: The visa is statutorily described in the Migration Act at the moment, so it will have to be amended.

Senator PRATT: Correct. So, it requires legislative change?

Mr Pezzullo: Yes.

Senator PRATT: I want to also ask about changes to skilled occupation lists. On which date did the department brief the minister about the 1 July changes to the lists?

Mr Pezzullo: We've given some evidence on ANZSCO and related matters.
Mr Wilden: I would have to take on notice the exact date that the information was provided to the minister.

Senator Pratt: That makes sense. Did the immigration minister make any of his own amendments to the list? Did he add or remove any occupations from the list?

Mr Pezzullo: We will take that on notice. That is a matter for the minister. Ordinarily in the course of these proceedings, as the chairman has reminded us recently, we will brief you on process. We provide advice for the minister to accept in whole or in part. If he then wishes to provide information to the Senate through its committee as to what variances he decided upon, that's a matter for the minister.

Senator Pratt: So, there are two specific occupations—

Mr Pezzullo: We'll ask him—

Senator Pratt: on the skilled occupations list, and they include medium- and long-term strategic skills list child care centre manager, and medium- and long-term strategic skills list early childhood (pre-primary school) teacher. Has Minister Dutton declared a pecuniary interest in childcare centres at any time?

Mr Pezzullo: I'll need to put that to the minister.

Senator Cash: I would need to take it on notice.

Senator Pratt: Did the minister disclose to the secretary or cabinet colleagues if any of the employees at his childcare centre were employed on visas under the medium- and long-term strategic skills lists?

Mr Pezzullo: As the minister said, that's a matter to be put on notice to the minister.

Senator Pratt: These occupations currently remain on the list. Did the department put forward a list that took those occupations off the list at any stage?

Mr Pezzullo: As I said in my previous answer, we've taken on notice the dates upon which the advice was given. We don't ordinarily canvass the specifics of the advice. The chairman reminded us of that guidance earlier this evening, in relation to another matter. We certainly don't canvass what elements of the advice the minister has accepted, rejected, modified, added to or subtracted. That's all a matter for the minister.

Senator Pratt: But what if there were a pecuniary interest in relation to those matters?

Mr Pezzullo: I understand the point of the question, and I've taken it on notice.

Senator Pratt: Have any immigration cases the minister has personally intervened in concerned employees at his childcare centres?

Mr Pezzullo: I don't have any personal knowledge of that, and I'll need to take it on notice through the minister at the table and ask him.

Senator Pratt: Has the minister been involved in any discussions about childcare workers appearing on the list, given this conflict of interest?

Mr Pezzullo: Well, you're asserting a conflict.

Senator Pratt: I'm asserting a conflict of interest.

Mr Pezzullo: Yes, you're asserting that. I've got no basis for either accepting or not accepting your assertion.
Senator PRATT: Yes.
Mr Pezzullo: Your question was: has he had discussions with persons unstated?
Senator PRATT: Yes.
Mr Pezzullo: About what?
Senator PRATT: I'll just draw to your attention that the minister is listed as a beneficiary of the RHT Family Trust on his register of interests and that that family trust owns two childcare centres. What assurance can be given that none of the employees at the minister's childcare facilities within this trust are employed on visas that appear on a list that he personally approved?
Mr Pezzullo: I'm not in a position to give you any such assurance or to provide you with any information on that matter at all. As I said, through the minister at the table, I'll ask him and we'll take it on notice.
Senator Cash: We'll take that all on notice.
Senator PRATT: What assurances can the government give that the minister will abstain from future changes to the skilled occupations lists, and these particular occupations, given his pecuniary interests in child care and any other related industries that are affected by the skilled occupations list?
Mr Pezzullo: Well, you're describing his interests in your terms. I'm not in a position to give you any advice on that. See my earlier answers.
CHAIR: Your lead questions, if they're relevant, should go to the minister himself. It's not something you can ask officials.
Senator PRATT: I'm done with my line of questioning.
Senator WATT: I've just got some questions about the temporary work (short stay specialist) visa, subclass 400. Just for starters, how long has that type of visa been available? Is that a new thing, or has it been around for a fair while?
Ms Dacey: It's been around for a while.
Mr Pezzullo: We should be precise.
Ms Dacey: Yes, and I'm just having a look to see if I can give you a start date. Do you have it, Ms Golightly?
Ms Golightly: I've got numbers granted between 2012-13 and 2017-18, so it's been around at least that long.
Ms Dacey: It was introduced in March 2013.
Senator WATT: I might get you to provide on notice those numbers that you've got going back to—was it 2012?
Ms Dacey: March 2013.
Senator WATT: Actually, if it's not lengthy, I might just get you to rail them off.
Ms Golightly: Certainly. In 2012-13 it was 6,224—noting that it was partway through the year. In 2013-14 it was 40,894. In 2014-15 it was 54,688. In 2015-16 it was 55,008. In 2016-17 it was 47,932.
Senator WATT: Is there any reason there was such a big increase over that three- or four-year period from 2012-13?

Ms Dacey: It was only in effect for the last three months of that first program year, which is why it was so low. Basically, the 2013-14 year was the first full 12 months.

Senator WATT: Is that type of visa intended to be a long-term work visa?

Ms Golightly: No.

Senator WATT: Is there any time frame put around it?

Ms Golightly: I think it's for three months.

Ms Dacey: About 92 per cent of the visas are for three months or less, and the other eight per cent are for up to six months. Six months is the cap in duration.

Senator WATT: Do you have any figures on the rate of renewal, to see whether people are just renewing those three-month or six-month visas?

Ms Dacey: No. I could take it on notice for you. I do know that any repeat applications are scrutinised more closely.

Senator WATT: Maybe the way to put it is the proportion of three- or six-month visas that are renewed, if that's the right way to put it.

Ms Dacey: Yes.

Senator WATT: And for how long. Are subclass 400 visas only available to occupations on the skilled occupations list?

Ms Dacey: I don't know. I'll take it on notice because I don't want to give you the wrong information.

Senator WATT: What I mean is: occupations where it's considered there's a skills shortage.

Ms Dacey: I don't think so, but I want to be sure.

Mr Wilden: I'll take it on notice to confirm, but I don't think there's any skills shortage test because of the very short-term nature of the visa.

Senator WATT: What's the rationale, then, for providing a short-term visa if there's not a skills shortage?

Ms Dacey: There are a bunch of reasons why we might grant it. The most readily explicable example is you have these big exhibits that travel the world, like big telcos, liquid oil and natural gas, and they have these big complicated stands that need to be put up and down. They actually have a workforce that follows the exhibits around the world and they've got all the proprietary experience—they understand how these things work. They literally fly into the country, put the stands up and fly out. Then the conference is over and they come back three days later and take it down, and then move it on to Auckland and then on to Dubai.

Senator WATT: Are there labour market testing requirements for this visa?

Ms Dacey: The phrase is 'being paid remuneration that's equivalent to arrangements that Australian workers would be getting', bearing in mind there are very specialised skills.
Senator WATT: I suppose I'm thinking of labour market testing in a different way. I'm not so much talking about comparing the pay rates. I'm talking about whether there are people in Australia who could do the job.

Ms Dacey: We do have discussions with employers about whether they have tested the market and what might be available domestically to them. But it's not labour market testing like you're thinking of in the 457 program.

Senator WATT: I've forgotten for the moment exactly what the process is for 457s.

Ms Dacey: It's quite a structured process.

Senator WATT: You've got to undertake a certain amount of advertising in a certain period of time.

Ms Dacey: That's right.

Senator WATT: Is there nothing as stringent as that in relation to these visas?

Ms Dacey: It's not as codified. The decision-maker would be having a conversation with the applicant to talk through and understand what they have and haven't done.

Ms Golightly: I think we routinely request that evidence, I think it would be fair to say.

Senator WATT: So the department speaks to applicants and employers—

Ms Dacey: Yes.

Senator WATT: And unions?

Ms Dacey: We usually get the employer to talk to the union. That's a conversation for them. But we will take it into account because the unions quite often will make representations to us as well.

Senator WATT: So you largely rely on employers to talk to unions. Is it the department's view that it's appropriate for subclass 400 visas to be used to replace and extend a subclass 457 visa, if a 457 visa has expired?

Ms Dacey: I guess I just think of them as different visas. One is a two- and four-year visa and one's a three-month visa primarily—I think of them as apples and oranges. You couldn't get any sort of workforce continuity on a series of three-month visas.

Senator WATT: Is the department aware of any instances in which someone's 457 visa has expired and that person has been retained on a subclass 400 visa?

Ms Dacey: That might have happened. I'd have to take it on notice. I certainly couldn't rule it out. Maybe their 457 expired and they just had another couple of weeks of work to do. But I don't think it's a standard business practice.

Senator WATT: Could you take on notice the number of subclass 400 visas that have been issued to people who were on 457s immediately prior?

Ms Dacey: Yes.

Senator WATT: What instructions has the minister given to the department about the use, or issuing, of subclass 400 visas in the last 12 months?

Ms Dacey: None.

Senator WATT: What about you, Mr Pezzullo? Hasn't it come up?
Mr Pezzullo: As the government announced when it announced the 457 changes, that was the first instalment of a fundamental review of the entire visa framework and structure. The policy group—my colleagues to my left—have been engaged in a public consultation around the whole visa framework. No doubt the 400 visa will be picked up as part of that. It is the government's intention to, after further deliberations within government, come back to the parliament with a fundamental rewrite of the law. On 457s, they have already been mentioned but with a fundamental streamlining and review of the entire structure of the visa system completely. I imagine, Ms Geddes, that the 400 class will be part of that?

Ms Geddes: Yes, they will be included in the visa reform.

Senator WATT: The minister hasn't given you any particular guidance or direction as to how he'd like to see these 400 visas used?

Ms Geddes: No, not specific guidance on the 400.

Senator WATT: Did the department issue any subclass 400 visas in respect of the occupations ship engineers, ship's masters and ship's officers prior to 18 April 2017?

Ms Dacey: I would have to take it on notice.

Senator WATT: Are you aware of any increase in the issuing of subclass 400 visas over the last few months for those occupations?

Ms Dacey: Not particularly, but I would want to check.

Senator WATT: If you could take that on notice and advise for each of those occupations separately.

Ms Dacey: Yes.

Senator WATT: Has the minister provided any direction to the department to restrict the issuing of subclass 400 visas for marine engineer officers, masters and ship's officers as long as there are unemployed Australian personnel available to do such work?

Ms Dacey: Not to my knowledge. There has been no discussion.

Senator WATT: I understand that it is alleged that there are a number of Australians, trained for those occupations who are looking for work, who have been unable to get that work. But at the same time, employers have been obtaining these subclass 400 visas to employ people in those occupations.

Ms Golightly: We have taken it on notice, but my understanding of the whole policy premise is that Australian workers have priority and that any foreign workers are only there to supplement and not to substitute for the Australian worker.

Senator WATT: You talked about the labour market testing, of a sort, that you undertake for these visas. Specifically in relation to these occupations—ship's engineer, ship's master and ship's officers—what steps has the department taken to ensure that those skills are not readily available in Australia prior to issuing these visas.

Ms Dacey: I will take it on notice, but it will be along the lines of what I described to you before. When we get an application that involves some of that, we would have a conversation with the employer or the agent who is lodging the application to get some background understanding of what testing of the market they had done domestically.
Senator WATT: Are you aware of subclass 400 visas being used as a substitute for 457 visas now that the 457 visa is not available for those occupations—ship's engineers, ship's masters and ship's officers?

Ms Dacey: I would just go back to my statement before. I just think they are completely different visas. One is a two-year visa and one is a three-month visa. To my mind, that's hard to compare.

Senator WATT: I can understand what you're saying and you might question why someone would want to do that, but what I am asking is whether you are aware that having occurred?

Ms Dacey: No, and we are paying close attention to it.

Senator WATT: To those occupations in particular?

Ms Dacey: Generally.

Ms Golightly: To the industries that are affected.

Senator WATT: To give you a specific instance: is the department aware that on the offshore support vessel South Ocean, which is owned by Bourbon Oceanteam for Bourbon OS and is managed by North Sea Shipping—both Norwegian companies—non-Australian engineer officers who have held subclass 457 visas are now seeking subclass 400 visas in order to continue working in Australian waters?

Ms Dacey: I will take it on notice.

Senator WATT: Yes, could you have a look at that case?

Ms Golightly: Yes.

Senator WATT: I do think it would be worth having a chat to the relevant unions because there do seem to be some particular issues in that sector.

Ms Dacey: Yes.

Senator WATT: That will do it for me.

Senator KAKOSCHKE-MOORE: I am moving on to the subject of illicit tobacco.

First up I will start with media release from Border Force dated 6 December 2016, 'ABF arrests four men linked to illicit tobacco syndicate'. I'll just read a couple of quotes from the release. It says:

The Tobacco Strike Team began the operation after identifying a significant tobacco smuggling network linked to a 'cheap cigarettes' website.

It says that one of the four men arrested was suspected of managing this cheap cigarettes website. The release goes on to say:

All four men arrested during this operation have been charged with importing tobacco products with the intention of defrauding the revenue, contrary to section 233BABAD (1) of the Customs Act 1901(Cth).

I did some research this afternoon about cheap cigarette websites available in Australia, and there was one that stood out in particular: cheapcigarettes.net.au. Is this the website that has been referred to in this release?

Mr Buchhorn: I will just try to find it.
Senator KAKOSCHKE-MOORE: The reason I ask is that I was able to go onto that website this afternoon and it looks like it's still quite clearly open for business, advertising the fact that they are operating out of Melbourne, they use Australia Post to express post their product, saying they don't refer customer details to any other authorities. So I just wanted an explanation about how a website like this could still be operating when the man who is suspected of managing it was actually arrested in November last year.

Mr Outram: We will have to confirm through Assistant Commissioner Buchhorn whether that's the same website as the investigation we're referring to. I'm sure we will now have a look at the website you're referring to and see if there are any other investigations ongoing or any intelligence that we have behind that that's of interest to us. Unfortunately—

Senator KAKOSCHKE-MOORE: With the release from December—you can provide this answer on notice as well—could you advise whether or not these matters have been referred to the AFP and if the AFP have any involvement now?

Mr Outram: If these offences are committed under the Customs Act, they wouldn't necessarily be referred to the AFP. However, if we identify syndicates importing tobacco illegally that also have a nexus with transnational organised crime—some transnational organised crime syndicates are actually moving into illicit tobacco, and they are also dealing in drugs—then we would obviously have a conversation with the AFP, or state and territory police for that matter. But by and large offences of importation of illicit tobacco under the Customs Act are prosecuted by ourselves and investigated by ourselves under the Customs Act.

Senator KAKOSCHKE-MOORE: You've just reminded me of another line of questioning to do with Border Force, and that's the fact, from my reading of the situation, your investigative powers are relatively limited compared to those of the Australian Federal Police.

Mr Outram: That's very true. The ability to collect evidence through exercise of warrants, for example, is far more limited than for the Federal Police in relation to, say, narcotic offences. Our ability to undertake things like controlled operations or controlled deliveries and to use surveillance devices, for example tracking devices, to support that—we don't have those powers available to us either.

Senator KAKOSCHKE-MOORE: Has the lack of those powers inhibited your effectiveness or your ability to pursue cases that you would like?

Mr Outram: On occasion, yes.

Senator KAKOSCHKE-MOORE: How many occasions?

Mr Outram: Many occasions. Obviously, when tobacco is imported, what we have to do is try and connect the people importing the tobacco with the actual product. I won't mention too many details here, but obviously the investigative sorts of powers that are available to the AFP would be very beneficial to enable us to do that. There have been many times where we've been unable to collect sufficient evidence to prosecute, absent those powers.

Senator KAKOSCHKE-MOORE: So there have been many occasions when you haven't had the powers to gather the evidence necessary in order to launch a prosecution?

Mr Outram: Indeed.
Senator KAKOSCHKE-MOORE: In the interests of time, I'll move on to the Department of Immigration and Border Protection's annual report, but staying on the subject of illicit tobacco. On page 91 of the report it says:

Smuggling of illicit tobacco continues to be a focus of entities trying to breach Australia’s border laws. They are becoming increasingly responsive and resilient to law enforcement interventions and tactics to disrupt and dismantle the involvement of organised crime.

I wondered whether you could provide some examples of how these criminal entities are becoming increasingly responsive and resilient to your interventions.

Mr Outram: One example would be—and Assistant Commissioner Buchhorn might step in here—concealment methodologies. We've seen examples of illicit tobacco or cigarettes being concealed in ways that previously would have been within the confine of drug dealers. So that is one example. Plus, the way that they set up the various transactions and networks between the point of wholesale import and distribution within Australia and the sheer scale and volume of importation, it's not an inexpensive activity in and of itself—to send a sea container packed full of 10 million cigarettes. That in itself is an expensive exercise. And then there are the methods that are then used to conceal the profits and launder the proceeds, whether that be through the regulated financial systems—and that's, of course, of interest to AUSTRAC—or through cash smuggling, offsetting arrangements through hawala-type systems and that sort of thing. Across the board, the methods that have been used by transnational and serious and organised crime to ship drugs, conceal that illicit trade and benefit from the profits of that trade, we're seeing them applied to the syndicates that are now behind tobacco.

Senator KAKOSCHKE-MOORE: On the subject of concealments, an example was put to me a while ago about drug syndicates being increasingly sophisticated when it comes to cocaine. They're managing to incorporate cocaine into plastics and to have those plastics moulded into things like car dashboards. Can you provide some examples of the types of concealment you're seeing with illicit tobacco. I imagine it's quite a different exercise to cocaine.

Mr Outram: There was one recently that came concealed in steel gates, as I understand. So it's not just sitting there in a container, where you just open it up and there's a whole lot of tobacco staring at you. It was concealed in a way that, previously, you would only see with narcotics concealed in that sort of method.

Senator KAKOSCHKE-MOORE: Is it more common than not to see illicit tobacco concealed in this way?

Mr Outram: We're seeing it now. We haven't seen it previously. But, of course, the thing with tobacco is it depends on what form it comes in. The importations are large. We're seeing tonnes of loose-leaf tobacco coming in sea containers. It's hard to hide that sometimes. If you're bringing in 10 million sticks of cigarettes in a single container, it's pretty hard to conceal that, too. But the concealment methodology there is the sorts of information that are provided in our integrated cargo system and the lengths that people go to to either piggyback on companies' importations that would ordinarily appear to us as legitimate. In other words, they're trying to defeat our profiling at the border, because they know how we work at the border. Then, of course, you have the age-old issue of trusted insiders—that is, people who work within the supply chain either just before, at or just after the border. So they understand
how the Border Force operates around the borders. It's quite a complex environment. Infiltration by organised crime at the border is another problem that we face.

Senator KAKOSCHKE-MOORE: When you say organised crime at the border, would that include where officials have been corrupted by these crime groups?

Mr Outram: Potentially, and I mentioned that in my opening statement. There was a case of a Border Force officer who has been criminally charged. But also, of course, people who work at the border—in the warehouses, in the supply chain, on the wharves, in cargo, freight forwarding areas. In the whole supply chain, there are vulnerabilities there in general.

Senator KAKOSCHKE-MOORE: We've been speaking about organised crime syndicates and these gangs that have been responsible for much of this illicit tobacco trade. How many of these gangs have international links? Where you do see these international links, what countries tend to pop up?

Mr Outram: Virtually all of them, because the tobacco is coming from other countries. They've got links into Indonesia, Middle East, China, Vietnam and a whole range of South-East Asian countries where tobacco comes from. There are a whole lot of countries that it does come to Australia from. It isn't just one country. Of course, in all of those countries somebody has to acquire the product, package it up, get it through the supply chain and into the cargo system, and get it onto a vessel or onto an aeroplane. We are seeing tobacco coming through air cargo, as well. In fact, that was the case last week where somebody brought in, as a passenger, cigarettes with them that had a duty value of about $27,000—that was one passenger by air. Most of these syndicates have links back into other countries.

Senator KAKOSCHKE-MOORE: I have just one final question, Chair. I've seen in your annual report that there are KPIs for illicit tobacco that relate to sea cargo and international mail, but there don't appear to be KPIs for air cargo or air passengers.

Mr Outram: No, there may not be KPIs but we do capture our statistics around that. Maybe that's a quirk of history.

Senator KAKOSCHKE-MOORE: Is that something that could be incorporated into future reports?

Mr Outram: I think that that's something we would probably look to fixing into the future.

Senator KAKOSCHKE-MOORE: According to the last report, with sea cargo and international mail there was about 311 tonnes of illicit tobacco seized. All up, in that same financial year, 381 tonnes were seized. So I think that 70-tonne difference is down to air cargo and passengers, but it would be interesting to see those details.

CHAIR: With that, we've come to the conclusion for the estimates for this department. Thanks to Hansard, thanks to the secretariat, thanks to you and your team, Minister.

Senator Cash: Thank you, Chair.

CHAIR: We look forward to seeing you in February or March, or something like that.

Senator PRATT: I would like to express our thanks to the minister and all the officers.

Senator Cash: Thank you.

Committee adjourned at 23:01