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SENATE

LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE

Monday, 23 February 2015

Members in attendance: Senators Bilyk, Kim Carr, Cash, Dastyari, Hanson-Young, Leyonhjelm, Ian Macdonald, Madigan, Muir, O'Neill, O'Sullivan, Reynolds, Xenophon.
IMMIGRATION AND BORDER PROTECTION PORTFOLIO

In Attendance

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

Senator Ronaldson, Minister for Veterans’ Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC, Special Minister of State.

Immigration and Border Protection Portfolio

Executive

Mr Michael Pezzullo, Secretary

Mr Roman Quaedvlieg, APM, Chief Executive Officer, Australian Customs and Border Protection Service

Mrs Marion Grant, PSM, Chief Operating Officer, Deputy Secretary Corporate Group

Mr Michael Manthorpe, PSM, Deputy Secretary, Enabling Group

Ms Rachel Noble, Deputy Secretary Policy Group

Ms Cindy Briscoe, Deputy Secretary, Immigration Status Resolution Group

Mr Peter Vardos, PSM, Deputy Secretary, Visa and Citizenship Group

Mr John Cahill, Acting Deputy Secretary, Border Enforcement

Policy Group

Ms Janice Wykes, Acting First Assistant Secretary, Strategic Policy and Planning Division

Ms Sharon Nyakuengama, Acting First Assistant Secretary, Trade, Customs and Industry Policy Division

Mr Garry Fleming, First Assistant Secretary, Immigration and Citizenship Policy

Mr Robert Hoitink, First Assistant Secretary, International Division

Mr David Walsh, Acting First Assistant Secretary, Compliance and Case Resolutions

Corporate Group

Ms Linda Geddes, Acting First Assistant Secretary Executive Division

Mr Craig Farrell, First Assistant Secretary Support Division

Ms Paula Goodwin, Acting First Assistant Secretary People Division

Mr Steven Groves, Chief Finance Officer, First Assistant Secretary, Finance Division

Ms Pip De Veau, Acting General Counsel, Acting First Assistant Secretary, Legal Division

Ms Jan Dorrington, First Assistant Secretary, Integrity, Security and Assurance Division

Enabling Group

Ms Maree Bridger, First Assistant Secretary, Portfolio Reform Task Force

Ms Karen Harfield, First Assistant Secretary, Intelligence Division

Mr Matthew Yannopoulos, Chief Information Officer, First Assistant Secretary ICT Division

Mr Randall Brugeaud, First Assistant Secretary, Major Capability Division
Visa and Citizenship Services
Mr Jim Williams, First Assistant Secretary, Visa and Citizenship Management
Mr Kruno Kukoc, First Assistant Secretary, Refugee, and Humanitarian Visa Management
Mr Stephen Allen, First Assistant Secretary, Community Protection
Ms Rocio Trapaga-Saul, Acting First Assistant Secretary, Digital Channels Task Force

Immigration Status Resolution Group
Mr Ken Douglas, First Assistant Secretary Status Resolution and Detention Operations
Mr Mark Painting, Acting First Assistant Secretary, Infrastructure and Services
Ms Kate Pope, PSM, First Assistant Secretary, Community and Settlement Services

Border Operations
RADM Michael Noonan, Commander, Border Protection Command
Mr John Beveridge, Acting National Director Investigations
Mr Ian Laverock, Acting National Director Border Force
Mr Terry Price, PSM, Commander Strategic Border Command

Operation Sovereign Borders
Lieutenant General Angus Campbell DSC, AM, Commander Joint Agency Task Force, Operation Sovereign Borders
RADM Michael Noonan, Commander, Border Protection Command
Mr Steve Lancaster, Assistant Commissioner, Deterrence and Disruption Task Force, AFP
Mr Andrew Goledzinowski, Ambassador for People Smuggling Issues

Migration Review Tribunal and Refugee Review Tribunal
Ms Kay Ransome, Principal Member, Migration Review Tribunal and Refugee Review Tribunal
Ms Amanda MacDonald, Deputy Principal Member, Migration Review Tribunal and Refugee Review Tribunal
Mr Colin Plowman, Registrar, Migration Review Tribunal and Refugee Review Tribunal

Office of the Migration Agent Registration Authority
Ms Dora Chin-Tan, Chief Executive Officer

Committee met at 09:00

CHAIR (Senator Ian Macdonald): I open this hearing of the Senate Legal and Constitutional Affairs Legislation Committee looking at the additional estimates. The Senate has referred to the committee particulars of proposed expenditure for 2014-15 for Attorney-General's and Immigration and Border Protection and certain other documents. The committee may also examine annual reports of the department and agencies appearing before it. The committee has fixed close of business on Friday, 17 April as the date for return of answers to questions taken on notice and written questions on notice should be provided to the secretariat by the end of Friday, 6 March. The committee proceedings today will examine the Immigration and Border Protection portfolio.
Under standing order 26, the committee must take all evidence in public sessions, including answers to questions on notice. I remind all witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of the evidence given to the committee; it can be a contempt. By resolution in 1999, the Senate endorsed the following test of relevance of questions at Senate estimates. Any question going to the operations or financial position of the departments or agencies which are seeking funds in the estimates are relevant questions for the purposes of estimates hearings.

I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from parliament or its committees, unless parliament has expressly provided otherwise. The Senate has resolved that an officer of a department shall not be asked to give opinions on matters of policy and should be given reasonable opportunity to refer questions asked of an officer to superior officers or to the minister. The resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for an explanation of policies or factual questions on how and when policies were adopted.

I particularly draw the attention of witnesses to the order of the Senate of 13 May specifying the process by which a claim of public interest immunity should be raised. Witnesses are specifically reminded that a statement that information or a document is confidential or consists of advice to government is not a statement that meets the requirements of the 2009 order. Instead, witnesses are required to provide some specific indication of the harm to the public interest that could result from the disclosure of the information or the document; much of that, of course, is self-evident, I might say.

The extract read as follows—

Public interest immunity claims

That the Senate—

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

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

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

(1) If:

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

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

(2) If, after receiving the officer’s statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.
(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

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

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

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

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

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

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

(13 May 2009 J.1941)

(Extract, Senate Standing Orders, pp 124-125)

I might also indicate that we have a program but, under a standing order of the Senate, the program can only be wishful thinking because there is a standing order of the Senate that says that, as long as there are questions to be asked on any particular subject, the committee is required to continue to hear those until all questions have been exhausted. We have found, since that rule has been in place, that very often we do not get beyond the first few areas. I hope that we do not have lots of officers sitting around all day, waiting for the important things at the end of the day and then finding that they are not being called. But we will try to stick to the timing, bearing in mind that standing order introduced into the Senate just before the Senate changed last year.

I might just indicate as well—I will not get a resolution on this at the moment—that for tomorrow’s program we have ASIO at some time in the afternoon, but it clashes with a meeting of the National Security Council which both the ASIO chief and the minister will be required to be at. So I will be seeking the permission of the committee later to move them forward and put someone else in their place so that they can attend that meeting. With that, I indicate that we will try to accommodate all questions from all senators. It is my normal rule to go in 10- or 15-minute tranches—probably 15 minutes today—but we will keep coming back to you until you have exhausted all your questions.
Department of Immigration and Border Protection

[09:06]

CHAIR: With all those formalities out of the way, could I welcome very much the Assistant Minister for Immigration and Border Protection, Senator Michaelia Cash—welcome, Minister; it is good to be with you again—and also Mr Pezzullo; thank you for being with us and congratulations again on the work your guys do. Minister, would you or Mr Pezzullo like to make an opening statement?

Senator Cash: I will not, Chair, but I understand that the secretary does have an opening statement.

CHAIR: Thank you.

Mr Pezzullo: Thank you, Chair. I have a brief opening statement and it will be made available for the committee. I have been Secretary of the Department of Immigration and Border Protection since 13 October 2014, a little over 19 weeks. I will be joined today at various points by my colleague Mr Roman Quaedvlieg, the Chief Executive Officer of the Customs and Border Protection Service, as we are increasingly working together in partnership ahead of the integration of the department and the service on 1 July 2015, subject to the passage of relevant legislation in the meantime.

As the committee would be aware, the government intends to bring together the department and the service and to create within the department the Australian Border Force, or ABF. The ABF will act as a single front-line operational agency to enforce customs, immigration and maritime laws and to protect our border. To this end, from 2 March 2015, the Immigration and Border Protection portfolio will begin to operate in a fully integrated structure that delivers on this intention short of the ABF being created by law.

On that day, we will move to the following six group structure: a policy group, which will be led by the newly appointed deputy secretary, Ms Rachel Noble, who commenced in that role on 16 February 2015; a corporate group, which will be led by our chief operating officer, Ms Marion Grant; and the intelligence and capability group, which will be led by the soon to be appointed deputy secretary, Ms Maria Fernandez, who will join us from the Department of Defence, where she is currently the Director of the Australian Geospatial-Intelligence Organisation. She will join us on 27 April.

The fourth group will be the visa and citizenship services group to be led by deputy secretary Michael Manthorpe. The immigration status resolution group will be led by the newly appointed deputy secretary, Ms Cindy Briscoe, who commenced in that role also on 16 February 2015. And the border operations group will be led by the newly appointed deputy chief executive officer of the Customs Service, Mr Michael Outram, who will join us on 9 March 2015 from the Australian Federal Police, where he is currently serving as an assistant commissioner.

Additionally, deputy secretary Peter Vardos will, from 2 March, lead a major review of how we might best improve our visa and citizenship decision-making processes and the tools, powers and capabilities that our staff will need to use in future to facilitate the flow of more than five million visitors and migrants while, at the same time, better protecting the community. We need to re-examine how we make these decisions so that we can deal with the expected increase in the number of visa applications, as well as prevailing global trends in

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migration, labour mobility, transnational crime and national security, bearing in mind our portfolio's twin imperatives of facilitating legitimate travellers, migrants and citizenship applicants whilst protecting the Australian community.

Mr Vardos's review will include recommendations on how to strengthen the legal and policy framework to support visa and citizenship decision making, how to support client services staff through the increased use of intelligence and data analytics, as well as a workforce strategy to invest in and build the capability of those staff.

I would like to make it abundantly clear to the committee that we want to empower our staff to make better informed decisions on visa and citizenship applications. We will empower our officers to say no more often where circumstances warrant and within the law through better use of information, intelligence and data analytics, as well as ensuring that our staff have the training and support to make defensible adverse decisions. As these structural changes come into effect, we will continue to engage with our staff. Last week the chief executive officer and I released the plan for integration, providing detailed information to our staff about how and when activities and changes will affect them as we progress towards the milestone of the 1 July integration and beyond.

In addition, we are consulting staff to develop the suite of policies that will form the integrity framework for the new department. These policies are designed to protect our people, property, systems and information from infiltration and corruption. This firmer stance on integrity is not a reflection on the trustworthiness or dedication of our people; rather, it reflects the fact that the mission of the department is broadening and that our staff face a broader range of threats.

Further, the department holds a privileged place at the border and on behalf the Australian community. Every day we make decisions that affect the safety, rights and freedoms of people, as well as Australian trade and commerce. Our staff exercise considerable and often coercive powers with wide discretion, often under limited supervision. We must do everything that we can to ensure that we exercise these powers reasonably, lawfully, impartially and professionally. Mr Quaedvlieg will later provide you with more detail about integrity matters, particularly relating to the Australian Customs and Border Protection Service, as well as the work that is underway to establish the Australian Border Force that I mentioned earlier.

I would like to briefly reflect on the department's mission as it undergoes its most significant transformation since it was established in July 1945. Australia will always be a settler nation. Whether we are speaking of Indigenous settlement in times of long distant past, the British foundation of our modern social and political order from 1788 or the diversity of our contemporary society, settlement will always be part of who we are as a nation. But we have to go beyond a focus on settlement; as Australia changes, so must the department.

In future, while respecting our history as the department which delivered the successful post-war mass managed migration program, we will increasingly change our focus and mission. Looking to the future, we aspire to become Australia's trusted gateway to the world and the world's gateway to Australia in an increasingly interconnected world. This gateway function will embrace the entirety of the border spectrum: trade, travel, migration and maritime activity, all encompassing people and goods and Australians and foreign non-citizens.
As the department and the service work together to build a new agency of state, we are acutely conscious of our historical legacy and our new role. Bringing together two large and complex organisations remains a large and complex task in itself. However, we are confident that we are well on the way towards creating the one department that government requires and that it will deliver against three principle outcomes for government and the community: strong national security, a strong economy and a prosperous and cohesive society. Thank you, Chair.

CHAIR: That was a nice focus on the department and its involvement in the development of modern Australia; thank you very much for that. Do you have a copy of that that we could give to the committee members?

Mr Pezzullo: Yes.

CHAIR: I will get the secretary to organise that.

Senator KIM CARR: Chair, I understand that there is some further change. Is it the intention to change the program for this morning at 10.30? I understand that the secretary is required to be with the Prime Minister for an announcement; is that correct?

CHAIR: We hope that we will finish the cross-portfolio corporate and general by 10.30. If we do not—well, it is up to the committee—I would suggest that we just go on without the secretary and the CEO at that stage. We may not get all the answers we need and we may have to take more on notice. The alternative would be to interrupt, if we are still going on corporate and general, and bring forward the MRT and the OMARA. I am really in the committee's hands. I am relaxed about it, whichever—

Senator KIM CARR: It is just that nothing was said about it; you are obviously very relaxed about it. I would think it would be better, if we have cross-portfolio matters, to actually have the secretary present.

CHAIR: We can adjourn that, if you like, Senator Carr. As I say, I am relaxed about it. The secretary has to go, I understand. Under the old rules, he could have gone at 10.30 because we would have finished at 10.30, but under the new rules we continue as long as anyone has questions.

Senator KIM CARR: As long as I have been here, secretaries who have been required to be with the Prime Minister have had leave of the committee to go, but it is custom and practice to tell the committee.

CHAIR: I think we did do that, Senator Carr; you may not have been there.

Senator KIM CARR: I have been sitting here and I did not hear anything.

CHAIR: We did it last week at the committee hearing which everyone here at the table was at except you, Senator Carr.

Senator KIM CARR: Thank you. We have that cleared up, so we will go on to another agency if Mr Pezzullo is—

CHAIR: We will do what the committee decides to do, not what you decide to do. But I am relaxed and happy to take the majority committee view on that. I might start with Senator Carr and we will go for, say, 15 minutes. I then have some questions. Senator Hanson-Young has indicated that she would like some questions. So we will go to her and then back to Senator Bylik and back to my colleagues. So let us get underway, Senator Carr.
Senator KIM CARR: Minister, have you read the report of the Human Rights Commission, *National inquiry into children in immigration detention*?

Senator Cash: I have received a copy of the report and I have briefed myself on it, yes.

Senator KIM CARR: So you have not actually read it?

Senator Cash: I have read it.

Senator KIM CARR: You have read it?

Senator Cash: Yes; it is on my desk.

Senator KIM CARR: On your desk?

Senator Cash: Yes.

Senator KIM CARR: Since you have read it, what is your response to the report?

Senator Cash: If one looks at the statistics in relation to children in detention, one can clearly see that, as at today, the number of IMA children in held detention in Australia is 126. Under your government, Senator Carr—when I believe you sat at this table as the minister—the peak of children in detention in July 2013 was 1,992. On any analysis, it can be said that this government is the government that is committed to getting children out of detention.

Senator KIM CARR: So what is your intention in regard to responding to the report?

Senator Cash: My own personal intention?

Senator KIM CARR: The government's. I presume you will speak for the government.

Senator Cash: My understanding is that it was the Attorney-General who tabled the response on the day that the report was tabled. I could possibly refer you to that response.

Senator KIM CARR: So the tabled statement is the government's response? Have I understood you correctly?

Senator Cash: On 11 February 2015.

Senator KIM CARR: So the government has responded to the report? Is that what you are saying?

Senator Cash: Yes.

Senator KIM CARR: You have no intention to respond in any more detail beyond that statement?

Senator Cash: You would need to speak to the Attorney-General. I understand potentially you could address those questions to the Attorney-General tomorrow because that is obviously when the Attorney-General's department will be appearing. But again, Senator Carr, in relation to the report itself, the report is clearly based on concerns about children being in detention. I go again to the statistics. When you sat here as the relevant minister—representing, obviously, the minister in the other place—at the peak of children in detention in July 2013, there were 1,992. Let me repeat that figure for you: 1,992. Under this government, in the short time that we have been in power, we have actively—unlike your government—released children from detention. Currently there are in held detention in Australia 126 children. So, Senator Carr, you can pursue this line of questioning for the next 10 minutes; but I can assure you that, based on the facts, this government, as compared to your government, is clearly committed to getting children out of detention.
Senator KIM CARR: So, on 17 February, a minister confirmed that there were 136 children in detention. Are you saying that the figure is no longer that?

Senator Cash: Based on the fact that as at today there are 126 in held detention in Australia and based on the statistics you have put forward, it would appear that under this government further children have been released from detention.

Senator KIM CARR: Are there still 116 in detention on Nauru?

Senator Cash: I can ask the secretary to take you through the relevant statistics.

Mr Pezzullo: Senator Carr, these numbers will vary from the ones you have quoted simply because, with the passage of the legislation pertaining to the resolution of the legacy caseload, the flow of children, amongst others, out of the detention centres has commenced. So as at Friday morning, 20 February, as the minister has just indicated, there were 126 children in held detention. Of these 126, if I can put the following data on the Hansard record—it might assist further discussion—19 children within that 126 have already been approved for placement in the community either on bridging visas or in community detention. They are in the process, as we speak, of being moved to new accommodation; I do not mean literally today but certainly in coming days. Of the remaining 107 children—that is of the number 126 that I quoted earlier—there are 20 children in families whose cases are being very actively progressed under the new legislation to resolution, and subsequent community placement is likely to occur in the near future. Of the remaining 87 children—once you have netted off the numbers I have just quoted—there are 68 children in families who have come to Australia for medical treatment from Nauru and who will, by agreement with Nauru and under our law, return to Nauru when their medical treatment or that of family members, because they are travelling with family members, is concluded.

So, once you net all those figures off, that leaves 19 children in families where there are law enforcement, national security or other issues pertaining to a close adult relative which require immigration resolution. This is preventing their movement from held detention into the community. In these difficult cases—and I acknowledge that these are difficult cases—work continues to resolve the remaining barriers to community placement where possible. In appropriate circumstances, parents will be offered the option of placing their children in the community either with one parent, if there is an issue that pertains to the other parent, or with other relatives where this is possible—obviously in cases where potentially both parents might be the subject of concern.

Senator KIM CARR: Why is that difficult?

Mr Pezzullo: In some cases, it relates to adverse security assessments that are the responsibility of another agency—not, obviously, about the children but about their parents. So we need to work with the family unit as a whole to understand what their wishes are in terms of the care of their children when one or both parents are the subject of an adverse security assessment, that being one example.

Senator KIM CARR: Are you saying that, of these 19 children, there has been some objection from the families to placing them with another relative?

Mr Pezzullo: No, I am not saying that at all. I am saying that, as we work through those issues, some families will want to avoid that circumstance and some families, I think, will be happy with that outcome. With the law being changed in December, we can now work with
each family on a case-by-case basis. As to the state of discussion with each family, if Ms Pope or someone from the Immigration Status Resolution Group can shed more light on that, I would refer to them. But our starting point in relation to each of these families is that we would like the kids in each case out of detention.

**Senator KIM CARR:** Do you have an officer here who can help?

**Mr Pezzullo:** I might in the first instance ask Ms Pope to address that question.

**Ms Pope:** Senator, where it is possible and where a family may have other relatives outside of detention or some arrangement that can be accessed, the family is given that opportunity. Not every family has that option, and not every family would choose to be separated from their children, regardless of whether that means remaining in held detention or not.

**Senator KIM CARR:** So, of the 19, how many have relatives in Australia?

**Ms Pope:** I would have to take that on notice; I do not know.

**Senator KIM CARR:** How many have said that they do not want to be separated from their children?

**Ms Pope:** I also do not know that number offhand.

**Senator KIM CARR:** You have been working on this since December—since the legislation was passed?

**Ms Pope:** Yes; although efforts to put children into community arrangements and others have been ongoing. But this legislation has allowed us greater options to pursue that.

**Senator KIM CARR:** So for the better part of eight weeks you have been working on this?

**Ms Pope:** If that is the amount of time since December, yes.

**Senator KIM CARR:** I am wondering why it takes eight weeks to get an answer to those questions.

**Ms Pope:** These cases are very complex and, if it is to work with families, they are ongoing.

**Senator KIM CARR:** On Nauru, how many children are in detention?

**Ms Pope:** There are 116 children on Nauru at the moment.

**Senator KIM CARR:** So there has been no change in that number since 17 February.

**Ms Pope:** Since 20 February, no—

**Senator KIM CARR:** There was a statement made on 17 February.

**Ms Pope:** Indeed.

**Senator KIM CARR:** Is it the intention to move any of those children out of detention?

**Ms Pope:** The children who are in detention on Nauru are being processed for refugee status by the government of Nauru and are progressively, as they are found to be refugees, moving into the community.

**Senator KIM CARR:** How many incidents of sexual assault of minors, either at onshore or offshore immigration centres, have been reported in the last 12 months?
Ms Pope: I am not sure that the answer to that lies entirely with me.

CHAIR: Senator Carr, it is up to you whether you ask these questions in a broader theme; but you will note that at program 3.1 to 3.2, later on today, all the officials will be here that deal with compliance detention status resolution. But, if we can help you now—

Mr Pezzullo: I think, Chair, most of the officers are here. Whether we have the data disaggregated by annual or financial year et cetera might require some leeway.

Senator KIM CARR: What can you tell me?

Ms Pope: I would need to take the question that you asked on notice.

Senator KIM CARR: What? You cannot tell me how many reports there have been of sexual assaults on minors in the last 12 months?

Ms Pope: The last 12 months is a period from February to February.

Senator KIM CARR: Sure. We do not want to get caught up here in any misunderstanding. What data do you have on reports of sexual assaults on minors in detention centres, either onshore or offshore?

Ms Pope: My colleague is coming to the table.

Mr Pezzullo: Senator, while one of Ms Pope's colleagues joins us, we have extensive data on what are known as 'reportable incidents'. Not all of those incidents relate to sexualised violence, although some do. I am happy, through the Chair, to have the data reviewed and sliced and diced as you have requested. I give you an undertaking that we will come back to you through the course of day as early as possible so that you can continue your line of questioning rather than taking it formally on notice.

Senator KIM CARR: Fair enough, and I appreciate that.

Mr Pezzullo: It also will allow me to be here potentially after I have attended another event.

Senator KIM CARR: Sure, but if I could ask the officer: what data do you have? What is the nature of the data?

Mr Douglas: As the secretary has said, we have a range of data that can be sliced and diced. The difficulty we have is that whittling down a large number of incidents into those that might specifically relate to a sexual assault is a lot to work on at the moment. I would prefer to take some time to be completely assured, but my latest information is that currently in the order of 44 sexual assaults are undergoing still active investigation or may have, in fact, been resolved.

Senator KIM CARR: Thank you. Of those 44, over what period of time and how far back do those claims go?

Mr Douglas: My recollection—subject to further confirmation over the course of the day—is since the beginning of January 2011.

Senator KIM CARR: What is the process for investigating those claims?

Mr Douglas: These would have been claims that were reported to the various police authorities, and the police would be undertaking those investigations.

Senator KIM CARR: So it is police in Australia?
Mr Douglas: Yes.

Senator KIM CARR: Federal Police?

Mr Douglas: For example, on Christmas Island it would be Federal Police, but on mainland Australia it would be individual state police.

Senator KIM CARR: State police, wherever the detention centre is.

Mr Douglas: Correct.

Senator KIM CARR: What about on Nauru?

Mr Douglas: Those matters would be investigated by the Nauru Police Force.

Senator KIM CARR: Of the 44, how many relate to offshore facilities?

Mr Douglas: Those are onshore numbers. I would have to take on notice and come back to you through the day about the numbers in Nauru.

Senator KIM CARR: Thank you very much.

CHAIR: I give notice that I want to ask a bit more about being better able to say no on visa matters that the secretary mentioned. I also might ask about the Australian Border Force training facility and I want to talk about changeover of staff. But before I get to those, I want to talk about the changeover of staff in the department since September 2013. Could I quickly get the statistics that Senator Carr started on. You have told us that, at their peak, the children in detention numbered 1,992 and there are currently 126.

Mr Pezzullo: That is right.

CHAIR: First of all, what is your hope with those 126? When do you expect to deal with them? Can you give us some sort of a time line? I will not hold you to it.

Mr Pezzullo: Certainly. I can give you an absolute assurance about our intentions. I need to break it into two components. Of the 126, by law and by policy, 68 of those children are here temporarily because we have an agreement with Nauru in support of their processing of transferees held on Nauru to attend to medical conditions that are beyond the capacity of the Nauruan medical system to cope with. So 68 of the 126 children are here temporarily. In some cases, obviously depending on the nature of the illness, that could be quite a long period; in other cases, it is more perfunctory and those children can be returned. Can I stress that it is not always the case that the children themselves are ill; it could be an intimate family member, and they are obviously here with mum or dad or—

CHAIR: Of the 126, 68 you expect would be going back?

Mr Pezzullo: Over a period, pursuant to medical treatment. Of the rest, all of them are on a pathway to being placed in the community. There are two ways under the law that you can be placed into the community in this circumstance with the passage of the legislation: initially, community detention; and, ultimately, there is a pathway to what is known as a temporary visa. There are various classes of visa that the parliament has now given us.

CHAIR: Thank you. I just want to know when you anticipate that they will be out of detention.

Mr Pezzullo: Days and weeks, principally. The more difficult cases that Ms Pope referred to could be months and, in some cases, could be beyond that; and that is where law enforcement or security concerns are pertinent.
CHAIR: I am just after these stats. So it is days and weeks for the balance.

Mr Pezzullo: Yes.

CHAIR: Just on what Senator O'Sullivan would call hard markers, at the change of government, which was September 13, how many children were in detention? I know that you have these figures because you did give them to us in another committee hearing.

Mr Pezzullo: Yes, indeed. The best I can do is that the peak—

CHAIR: It was August, I think.

Mr Pezzullo: The peak was July 2013. I think you have just asked about September. If I can answer that within the next few hours, I will. I just do not have—

CHAIR: just thought you had an August figure.

Mr Pezzullo: It might well be the case that Ms Pope has better figures to hand.

Ms Pope: I can give a monthly figure but not a figure by that date. In August, there were 1,743 children being held in detention.

CHAIR: That will do for the moment. My time is limited, as is everyone's. Senator Carr mentioned a report by the Human Rights Commission. At the time that was announced, how many children were in detention?

Mr Pezzullo: I am sorry, when the inquiry was initiated by the commission?

CHAIR: Yes.

Mr Pezzullo: I think Ms Pope will have that data. I think, from memory, Ms Pope, that was January 2014.

Ms Pope: I beg your pardon; I was—

Mr Pezzullo: When President Triggs announced the initiation of the inquiry.

Ms Pope: That is right. It was January 2014.

Mr Pezzullo: And the number of children?

Ms Pope: I beg your pardon. In held detention, it was 1,006.

CHAIR: So 737 had been released from detention between September 2013 and January 2014. When the commission's report was finalised—I am not sure when that was; was that earlier this month?

Mr Pezzullo: It has a date on the front of November 2014.

CHAIR: Do we have a figure then of—

Ms Pope: Yes; 556.

CHAIR: Now there are 126. That completes that for me. Thank you for that. Mr Pezzullo, the training facility for the Australian Border Force, where are we at with that?

Mr Pezzullo: I might ask my colleague the chief executive officer. I know of the Customs Service, but we are working in partnership on the establishment of the ABF.

CHAIR: As he comes to the table can I just move to something—

Mr Pezzullo: He is just about here. Essentially, we have an interim location with our customs facilities up in Sydney. We have not made a final decision as to where the national headquarters of the college will be, suffice it to say—and I will ask the CEO to add to this
answer—it will be a federated campus, in the sense that you might have venues all around Australia to deal with particular specialist training. But the CEO and I have not made a final decision about where the national headquarters will be. But I might ask the CEO to join me in the answer.

**CHAIR:** I am not so much interested in the headquarters but where the actual training will take place.

**Mr Pezzullo:** The principal training, the classrooms, the induction training and the like will be in the headquarters, and the specialist training will go to things like water-borne training and the like. But I might ask the CEO to add to that.

**CHAIR:** Mr Quaedvlieg, welcome.

**Mr Quaedvlieg:** As the secretary has indicated, we have an interim college. Its primary campus currently is in the Custom House building in Sydney. It has a number of hub-and-spoke campuses where we conduct our operational training, such as Neutral Bay and Fyshwick. The intent, of course, is for the primary campus of the new Australian Border Force college to be co-located with our new national headquarters, for which the secretary has indicated we do not currently have a decision in relation to location. However, I do stress the point that, in addition to the primary campus that will be contained at the national headquarters, we will have a number of federated both internal campuses as well as leveraging off institutions and locations that are held by our partnership agencies, for example, the Australian Federal Police and the Australian Defence Force.

**CHAIR:** Thank you very much for that. When would you expect that the decision will be made, Mr Pezzullo or Mr Quaedvlieg?

**Mr Pezzullo:** Certainly before 1 July and it might involve some discussions with the government, so I would prefer to be slightly imprecise at this point.

**CHAIR:** Thank you for that. Can I just move very quickly to questions that have been asked of your staff about how difficult it is to deal with particular cases of children in detention and, I assume, everyone. Can you tell me, of the staff of your department now, has there been a big turnover since September 2013, or are they more or less the same people, as I expect they would be?

**Mr Pezzullo:** I think it is fair to say that, since October 2014, a period more recent, there has certainly been a considerable change-out at the leadership level. I announced in my opening statement the appointment of four new deputies who are coming in at various stages.

**CHAIR:** Mr Pezzullo, I am more interested in the people who do the day-to-day hard work—

**Mr Pezzullo:** The rank and file, if you like. They would have come and gone, retired and new people would have arrived just in the course of natural attrition.

**CHAIR:** I think they did a mighty job at the time when there were people coming in—dozens every day. I really felt for what was then the staff of your department. They must have been under enormous pressure and I assume you had a lot of them on stress leave because, if they were not, I suspect that they should have been. I am not after particular figures but would the bulk of your assessors, the people that deal with these things, be the same?
Mr Pezzullo: Unless one of my colleagues can add to this, and I might look to the head of our people division to come and assist, I am not aware of any kind of aberrant or outlier spikes in terms of lots of people leaving or lots of new recruits coming in. As I have said, there has been considerable change at the leadership level; that has been more in the last six months.

CHAIR: I appreciate that. What I am after are the people who actually do the hard work: they are the same now as they used to be?

Mr Pezzullo: I believe that to be the case but subject to retirements and natural attrition.

CHAIR: They did a fabulous job then and I think they would be doing an equally good job now.

Mr Pezzullo: Thank you. I might have a better answer for you by asking a real expert, the head of our people division, Ms Goodwin.

CHAIR: Thank you, Ms Goodwin.

Ms Goodwin: We are not seeing a large turnover.

CHAIR: As I say, I am more or less wanting to say that much the same people are doing much the same job now as they were a couple of years ago.

Ms Goodwin: The attrition at that level is at the usual level, yes.

CHAIR: So the complexities of dealing with a lot of these complex issues are being dealt with by the officers professionally now as they were being dealt with professionally in the days when they were under what I would suggest was a lot more pressure.

Ms Goodwin: That is correct.

CHAIR: Have the numbers in the department reduced with the lessening of the number of illegal maritime arrivals?

Mr Pezzullo: Not directly as such. There are some budget measures that relate to our funding model, but they do not necessarily tie to staff. The decisions that I make about how many staff to employ within our affordable budget is a separate calculation. But like every department, we have been bit by bit—

CHAIR: Mr Pezzullo, it would seem to me common sense that, with so many fewer arrivals—what were there, 50,000 illegal maritime arrivals having to be processed by your officials under great stress—now that they are not coming, I would assume that you do not need quite as many officials.

Mr Pezzullo: It does not quite work out like that in the sense that the surge capability is essentially contracted. So, in these proceedings going back many months, indeed several years, that I have been attending them, including in my former capacity, you have heard discussion of various service providers—Transfield, Serco and other providers get mentioned—that is where your surge capability essentially comes from. I might just confirm with both Ms Goodwin and perhaps our CFO about whether we have any tied funding, but essentially—

CHAIR: No; that is sufficient. We are under pressure for time and I have three minutes left. I want to ask you about being better able to say no to visa things, but I might leave that to the appropriate time, which is later in the proceedings.
Mr Pezzullo: I might have something more to say after the Prime Minister's statement later this morning.

CHAIR: Okay; that is interesting. Perhaps it is appropriate that I leave that and I will stop there. I did indicate that I would go to Senator Hanson-Young next and then Senator Bilyk or Senator Dastyari, one of you.

Senator HANSON-YOUNG: Thank you. I have some questions. I first want to kick off on a business trip that was scheduled for China. The contractors were paid for by the Australian government, as well as some immigration officials. Mr Pezzullo, the trip is of course that which took place on 23 July. Do you understand the trip I am referring to?

Mr Pezzullo: I am cognisant of the media reports about that matter but I am also cognisant of some internal disciplinary actions—

Senator HANSON-YOUNG: I am sorry; I just want to correct that. I think it was 23 June and not 23 July.

Mr Pezzullo: It was certainly in that time period but, in a sense, it is immaterial because I am not going to speak too much about the matter in issue other than to say that there are some following investigations occurring and I do not propose to speak about them in any detail until they are concluded.

Senator HANSON-YOUNG: I am going to pursue some questions in relation to this—

Mr Pezzullo: Of course; as you are entitled to.

Senator HANSON-YOUNG: It is Australian taxpayer money, of course, being spent here. How many trips has the immigration department paid for to China in the last 12 months?

Mr Pezzullo: Across everything that we do or in relation to this particular contract?

Senator HANSON-YOUNG: In relation to the Manus Island detention centre.

Mr Pezzullo: I would not have a clue but Ms Briscoe might have some information on that.

Ms Briscoe: We would have to take that on notice. I do not actually have information about that travel.

Senator HANSON-YOUNG: How are trips like this usually organised? Who signs off on a business trip?

Mr Cahill: I am answering these questions from my former role—I was acting in the deputy secretary role previously in immigration—and also my substantive position is responsible for the contractual arrangements with service providers. So your question is about the approval arrangements for overseas travel?

Senator HANSON-YOUNG: Yes.

Mr Cahill: Ultimately, those trips are approved by the secretary. They go through a process of consideration and clearance at various levels, including my position.

Senator HANSON-YOUNG: So it is the secretary who is responsible for signing off on those trips?

Mr Cahill: Ultimately, the secretary signs overseas travel approvals, yes.

Senator HANSON-YOUNG: Who approved the trip on 23 June last year?
Mr Cahill: I would have to confirm that, but I am assuming it would have been the secretary at the time.

Senator HANSON-YOUNG: Has the invoice for that trip been paid for?

Mr Cahill: The arrangements for those particular trips are essentially part of the contractual arrangements that we have with subcontractors. If there is construction work of buildings et cetera being undertaken by companies who receive contracts to do that, generally, as part of the contractual arrangements, officers of this department will travel to the location to confirm that there is a factory and there is a proper construction process. So it is an assurance process that is part of the contractual arrangements.

Senator HANSON-YOUNG: That is meant to be the purpose?

Mr Cahill: Yes.

Senator HANSON-YOUNG: But has the invoice been paid for by the Commonwealth?

Mr Cahill: I am not sure that there would be a specific invoice for that specific trip because—

Senator HANSON-YOUNG: Variation.

Mr Cahill: It is part of the contractual arrangements.

Senator HANSON-YOUNG: A variation of the contractual arrangements.

Mr Cahill: It is not a variation of the contractual arrangements; it is part of the contractual arrangements that a visit would be undertaken to where the construction of the properties is occurring.

Senator HANSON-YOUNG: Do these visits usually involve expensive bottles of whiskey and call girls?

Mr Cahill: No, they would not do that.

Mr Pezzullo: Can I interrupt?

CHAIR: I think she is talking about a former parliamentary colleague, actually.

Mr Pezzullo: I am not sure who is being referred to, but I have read the article in detail. It alleges that an officer of my department engaged in the activities that are being described in the question. To the extent that that allegation is before our internal disciplinary unit, I am still awaiting a report. All we can confirm for you is that I have seen those allegations and they are being dealt with, I can assure you.

Senator HANSON-YOUNG: Have you seen—

Mr Pezzullo: I can assure you absolutely that, if any of my officers—I will not speak for the contractors, because they need to be disciplined within the remit of their companies—have engaged in the sorts of behaviours that were described in the article, they will be appropriately disciplined. I am willing to give you that assurance but there is no more detail that I can provide.

Senator HANSON-YOUNG: Mr Secretary, have you seen a copy of the invoice which itemises the expenses for this trip?

Mr Pezzullo: Like you, Senator, I have read lots of stuff in the press which—

Senator HANSON-YOUNG: Have you seen the invoice?
Mr Pezzullo: I have seen media reports of the said material.

Senator HANSON-YOUNG: You have not seen the invoice?

Mr Pezzullo: I run a big department. I see media reports. I say, 'Look into this.' My officers—

Senator HANSON-YOUNG: Did you know about it prior to it being published in the newspaper?

Mr Pezzullo: Indeed I did because I was briefed on—

Senator HANSON-YOUNG: So have you seen the invoice?

Mr Pezzullo: Senator, if I could actually answer the question that you have asked, allow me maybe to put a punctuation mark and then maybe you can interrupt me after that. Yes, I am aware of sensitive investigations. I was briefed on those coming into the job in October. There was a case that pertained to this; I am not going to say anything more about it.

CHAIR: Mr Pezzullo, in fairness, there is a question: have you or have you not seen the invoice?

Mr Pezzullo: I have seen a media report of the invoice.

CHAIR: No. Have you seen the invoice?

Mr Pezzullo: My staff are examining all of the documents involved in the allegation.

CHAIR: I take it that your answer is no, you have not.

Mr Pezzullo: Me personally, no. But I have staff who review these things.

CHAIR: That is the question that Senator Hanson-Young asked. So the answer is no, Senator Hanson-Young; with a bit of help from me. Remember it.

Senator HANSON-YOUNG: When is the investigation going to be completed?

Mr Pezzullo: I would like it to be concluded as soon as possible. It has not yet concluded. The matter does go to the middle of last year; I would like it to be concluded sooner rather than later.

Senator HANSON-YOUNG: Can I ask when the investigation started?

Mr Pezzullo: I will have to check that because I am briefed on the fact that it started before my arrival as secretary. I would have to see. If Ms Briscoe cannot answer that question then the head of our internal disciplinary area can.

Senator HANSON-YOUNG: What due diligence does the department have to make sure that these types of business trips are actually good value for taxpayer money? What do you do to make sure that paying for bottles of whiskey and call girls is not included in business trips?

Mr Pezzullo: I will try to answer the actual point of the question. All trips, as Mr Cahill has indicated, whether it is for this purpose or for international delegations of any variety, are put to the secretary with a business case signed off by a relevant deputy or first assistant secretary at a minimum. I am assuming that Mr Bowles, the former secretary, would have had such paperwork before him. It would have stated the case. I do not think that business case would have indicated that the officers would indulge in expensive liquor; I assume that would not have been part of it. To the extent that has occurred, that is a subject of the investigation that I have just referred to.
**Senator HANSON-YOUNG:** I understand the point about investigating one of your own officers.

**Mr Pezzullo:** Thank you.

**Senator HANSON-YOUNG:** The fact is, though, that this was a trip for a number of people, which was then billed back to the Australian government. In that sense, I would like to know what is being done to find out exactly what happened on that trip, and cost recovery.

**Mr Pezzullo:** It is part and parcel of looking into the behaviour of any individual officer; I make no imputation in saying that. It is not just looking at their personal behaviour but whether the Commonwealth has been in any way overcharged or defrauded, because that would be part and parcel of the same activity. Our investigators are skilled at looking at contracts. They look at work undertaken pursuant to contracts. There could potentially be a disciplinary outcome here—and again I do not wish to imply that that is necessarily going to occur here—and, during the course of that, if it is discovered that we have been charged for matters that certainly under no reasonable definition are public purposes, we will enforce and pursue our rights under the contract, absolutely.

**Senator HANSON-YOUNG:** Do you know whether the department has a fully itemised bill in relation to the trip?

**Mr Pezzullo:** That goes to the earlier question. I do not personally know, and I will caveat my response.

**Senator HANSON-YOUNG:** Is there anybody here today who could answer that question?

**Mr Pezzullo:** I will ask Ms Briscoe in the first instance and then perhaps I will ask Ms Dorrington to join us as well.

**Ms Briscoe:** No, I have not seen the invoice; I am not aware of it.

**Senator HANSON-YOUNG:** You are not aware of it or you are aware of it?

**Ms Briscoe:** No, I am not aware of it. I have not seen the invoice that Mr Pezzullo mentioned.

**Senator HANSON-YOUNG:** Who is responsible for checking the invoices of the department when business trips like this occur?

**Mr Pezzullo:** It is a two-part answer to the question. Mr Cahill, in his substantive area—he referred to the division that he normally runs. He is out of position at the moment because he is acting across another area. His area manages contracts, so they will look at contract management issues—checking invoices pertaining to work charged against contracts for which he is responsible. Internal audit, fraud and investigative matters, particularly those related to discipline, fall under a separate independent division, which is headed up by Ms Dorrington, who has joined us at the table. She heads up our integrity, security and assurance division. She may have further light to shed on this. I might ask her to respond.

**Ms Dorrington:** As Mr Pezzullo has said, I can assure you that an investigation is underway. We have, within the context of that investigation, had a look at all of the relevant documents. I could possibly pre-empt your question: no, I have not seen invoices myself. But I have folk in charge of that investigation who will go through all of the documents, all of the
records, anything that was known by people to determine whether in fact that person has breached the Australian Public Service code of conduct or not.

**Senator HANSON-YOUNG:** How long should an investigation like this normally take?

**Ms Dorrington:** Depending upon the complexity of the documents that need to be examined, reconciled and so on, it might take some three or four weeks.

**Senator HANSON-YOUNG:** And this was a trip that happened in June last year?

**Ms Dorrington:** Yes.

**Senator HANSON-YOUNG:** How long has the investigation been going currently?

**Ms Dorrington:** I will check the date for you during the morning tea break or in a break, if that is possible, and come back to you on the date of the start of the investigation, but it was within recent weeks.

**Senator HANSON-YOUNG:** It was within recent weeks. Who ordered the investigation?

**Ms Dorrington:** Mr Pezzullo and I.

**Senator HANSON-YOUNG:** Was that after it became public knowledge that this trip had occurred?

**Ms Dorrington:** I had some discussions with my departmental colleagues about the trip and concerns that might be being reflected about the trip before the media reporting. So we did have it in mind to investigate the matter before media reporting. But, as I say, I will get back to you about the precise date of the start of the investigation. The precise date of the start of the investigation is not the date of the start of the concerns about the matter.

**Mr Pezzullo:** As late as last year, this matter essentially arises from—I would characterise it as—a bitter dispute between contractors, subcontractors and others. That was known to me, certainly, upon arrival as secretary. Specific allegations around dodgy trips, expensive liquor, callgirls and the other matters that you have mentioned have come up in more recent memory. Subject to Ms Dorrington's precise checking, we were aware of those allegations because they had been, as it were, the subject of notice—not in a whistleblower sense but someone had come forward saying, 'You need to look at this.'

**Senator HANSON-YOUNG:** Someone in your department or—

**Mr Pezzullo:** I will get Ms Dorrington to check the facts but we were certainly cognisant of the fact that there was a potential problem—and I need to keep stressing, as I stressed to you before, a potential problem, because we undertake investigations impartially, obviously—and then the media reporting, which had things like scanned invoices and all sorts of things, which added to our store of knowledge.

**Senator HANSON-YOUNG:** Why wasn't a full investigation ordered when concerns were first raised rather than just in the last few weeks?

**Mr Pezzullo:** I might ask Mr Cahill to speak to this point in precise terms. Certainly, going back to late last year—because I was briefed upon coming into the department, not about the dodgy travel issues but about the dispute around the nature of the works, payments—

**Senator HANSON-YOUNG:** I am specifically talking about the trip to China.
Mr Pezzullo: That was more recent. We will get Ms Dorrington to get a precise date as to when the allegations first came in. I think it was initially privately and then they were obviously the subject of disclosure to the media, and then we commissioned the internal review that Ms Dorrington has been speaking about, without delay.

Senator HANSON-YOUNG: When you check the time of when the investigation started, could you also get back to me about what documents you have in terms of checking the expenses for the trip?

Ms Dorrington: Yes.

Senator HANSON-YOUNG: My understanding is that the trip cost almost $44,000 in total—airfares, accommodation and overheads. Overheads, of course, seem to be the issue of contention. What is the due diligence that normally occurs for what 'overheads' should cover?

Mr Cahill: The way in which these visits normally occur is in accordance with the normal rules for overseas travel for public servants. So there would be a proposal put forward, which has already been outlined, in terms of the approval process. There are allowances that would go to the officer, and the fares would be paid at the appropriate class based on public service standards. In that sense there would be nothing exceptional in the approval process in relation to that. The contracts themselves have clauses in them that require officers from the department to essentially go through an assurance process with the tenderers, with the people proposing to build things for us, to make sure that, with respect to the factories and so on which they are going to build, there are proper processes in place—the factory exists, they are going to do it properly. So an assurance process is undertaken. Ordinarily, you would not expect any additional payments or processes to be involved beyond the normal public service standard processes.

Senator HANSON-YOUNG: So it was out of the ordinary—

Mr Cahill: What we seem to have here—without getting ahead of the game and without contradicting certainly anything that the secretary has said—is that we have had going on in the background for some months what amounts to a commercial dispute between two companies, a contractor and one of their subcontractors, and that has been bubbling away with increasing intensity over a number of months. The allegations in relation to an individual officer and the appropriateness of their conduct while on this visit are more recent allegations and they triggered the investigation that Ms Dorrington has talked about. So that process is underway. There is a proper process to investigate those allegations and we will know more when the outcome of those investigations is known.

CHAIR: Thank you, Senator Hanson-Young. We can come back to you later, if need be. Senator Dastyari.

Senator DASTYARI: On a slightly different issue, Mr Pezzullo, we have been talking about the refugee issues. Could I talk a little bit about the broader migration portfolio and the outlook for overseas migration? I am not sure who the right person is to deal with that.

Mr Pezzullo: In the first instance, Ms Noble and her officers. Perhaps commence your line of questioning and we will be able to refine that.

Senator DASTYARI: You produce a report every three months. How often does this get produced—The outlook for net overseas migration?
Mr Pezzullo: I might just ask Mr Fleming to address that question.

Mr Fleming: I will double-check. My understanding is that we do publish it quarterly on the website.

Senator DASTYARI: Every three months you produce an outlook for net overseas migration and the outlook effectively looks at the forward estimates; it looks about four years ahead.

Mr Fleming: That is correct.

Senator DASTYARI: I want to get my head around this. Last year or the year before the ABS produced some big Australia projections. Other things like the Intergenerational report obviously will make projections. How does that work? Do those other reports that are not produced with the tag 'Department of Immigration and Border Protection' get the figures off you?

Mr Fleming: We certainly provide input that they can take into consideration.

Senator DASTYARI: So for something like the intergenerational review report, do Treasury use the ABS or do they use you to get them figures?

Mr Pezzullo: I think it is fair to say that Treasury reaches out to all competent agencies that have something to contribute. We certainly have a lot of data around net migration, temporary visitation and permanent visitation. You have to net off permanent from temporary, obviously. When you are looking at long-term intergenerational population projections you are really looking at the permanent component. The assumptions are about the size of the program, noting of course that it is always set by government; it is an annual rolling governmental decision that has been taken for a long time by both sides of politics on an annual basis. There are modelling assumptions about what might have been in the long run. There are assumptions then built into that: as permanent migration occurs, the size of family units—are they going to have 2.1 kids; are they going to have 1.9 and so on and so forth? I think Mr Fleming and perhaps others might be able to assist. There will be assumptions made about high, medium and low projections. The Treasury, in the end, I think it is fair to say, have to own the ultimate integrity of the Intergenerational report. They no doubt reach out to the Bureau of Stats and others as well.

Senator DASTYARI: Sure. I am very interested in this. I have been an advocate for a big Australia for a long time. You guys are the authority on the projections on this part of future migration.

Mr Pezzullo: Indeed.

Senator DASTYARI: I will be very frank. For the purpose of the creation of the Intergenerational report, did you supply numbers to Treasury?

Mr Pezzullo: We have certainly been engaged with the Treasury, as has occurred going back to the time of the first Intergenerational report.

Senator DASTYARI: I have the one from 2010 here.

Mr Pezzullo: Indeed. I think there might have been one even prior to that.

Senator DASTYARI: There was.
Mr Pezzullo: Going back to either the late 1990s or early 2000s. The head of our strategic planning and research area, Ms Wykes, might be able to further assist you.

Ms Wykes: We work with Treasury on a number of occasions on the Intergenerational report, as the secretary said, as do a number of other agencies who input into it.

Senator DASTYARI: Ms Wykes, the thing that surprises me in the Intergenerational report—

CHAIR: Does the minister, Mr Pezzullo or any committee member object to being filmed by the media?

Mr Pezzullo: I do not. It is not a very pretty result in my case.

CHAIR: There is nobody; that is fine.

Senator DASTYARI: Ms Wykes, how does it work? Do you supply one set of figures across to Treasury? Is that what happened—you sent one set of figures across?

Ms Wykes: We sit around the table with Treasury on a number of occasions to talk about possible net overseas migration. We also provide figures to the ABS on net overseas migration.

Senator DASTYARI: So they sit down with you and they work the numbers out with you, or you work out the numbers and you send it to them?

Ms Wykes: We work out our numbers. We send it to Treasury and then they use a number of different sources of information to come up with the population projections.

Senator DASTYARI: Where else can you get population projection figures outside of the department?

Mr Pezzullo: I think it is fair to say that there are lots of sources that Treasury rely upon. I have no doubt they talk to the Reserve Bank; they talk to the Productivity Commission.

Mr Pezzullo: But there is a difference between data. There is basic data: how many people have arrived, how many people have immigrated, what are your assumptions about certain groups in Australia who have got the right to be permanently resident, such as New Zealanders? Given the fact that we do not have five or 10 or 15-year set plans, because government, quite rightly, reserves the right to modify the program, you have to build in some assumptions. That is not a question of data. That is a question more of modelling.

Senator DASTYARI: No. Ms Wykes said two very separate things that I want to get my head around. One thing she said was that you effectively supply your data to them. You go, 'These are our projections'. Then government does what it wants. Treasury, who own the documents, do what they want with your projection. The other thing you said is, 'We sit around the table and we work it out together in conversations'—

Mr Pezzullo: Hang on—

Senator DASTYARI: Is it one or the other?

Mr Pezzullo: I will get this clarified for myself because I have asked the very same question as part of my incoming secretary orientation. I think we need to distinguish between data. How many people have actually arrived? There are historical trends and you can draw projections, and then there is modelling. This is a much more iterative process, which goes, as
Ms Wykes said, to 'sitting around the table'. If there are assumptions to be built in about the
future composition of the permanent program, what is the balance going to be between the
skills component and the family component? That will affect things like birth rate. Family
units under one scenario are different from family units under another. I think it is fair to say
that there are discussions about those assumptions. There is no single authoritative—

Ms Wykes: No.

Mr Pezzullo: You are not, if I may say so, Ms Wykes, the authoritative tsar that
pronounces on these matters, I assume.

Ms Wykes: No.

Mr Pezzullo: Or tsarina, perhaps.

Senator KIM CARR: Roll them around—tsars and tsarinas. I hear they are very
fashionable.

Mr Pezzullo: They go in and out of fashion.

Senator DASTYARI: On overseas migration, for the year ending 21 December 2014 it
was 225,800; correct? That is a number that on projections has, with some small dips here and
there, consistently been over 200,000 since about 2010; is that correct?

Ms Wykes: That is right.

Senator DASTYARI: Is there any reason to foresee that that is going to be going down?

Ms Wykes: It is difficult to say because there are all sorts of things that feed into net
overseas migration. Net overseas migration, obviously, is a very technical term as well. It is
people that are resident in the country for 12 out of 16 months. People come in and come out.

Senator DASTYARI: Has the long-term trend been stable, a decline or a gradual increase
in our net overseas migration over the past, say, 10 years?

Ms Wykes: There has been a gradual increase.

Senator DASTYARI: Has there been a period where it has actually gone down or has it
consistently been increasing?

Ms Wykes: It has been consistently increasing.

Senator DASTYARI: In the Intergenerational report, the last one, the 2010 report, I
think the long-term figure for net overseas migration is 180,000; is that correct?

Ms Wykes: I will take your word on that. Yes, I think so.

Mr Pezzullo: We should indicate that we will check if—

Senator DASTYARI: That is fine.

Ms Wykes: We will check that.

Senator DASTYARI: That is the figure.

Mr Pezzullo: I suspect you have read it more recently than I have.

Senator DASTYARI: I have, but that goes to show what I do on my weekends. If the
gradual trend has been an increase, is there any reason to believe there is going to be a major
change in that trend in coming years?

Mr Pezzullo: The statisticians and the researchers have to work within assumed policy
settings. I might ask to go back to—
Senator DASTYARI: This is in policy settings.

Mr Pezzullo: Mr Fleming, if you will, Senator.

Mr Fleming: Much of it can depend on the time frames that you are looking at. We only project out, effectively, over four years.

Senator DASTYARI: Yes, four years.

Mr Fleming: If you take a longer term view—for example, if you look back to when NOM peaked in the year ending December 2008 at 315,700—it has obviously come down considerably when you look over that longer term period. They are the sorts of differences in parameters that you are looking at.

Senator DASTYARI: Sure. Can you take a question on notice? When in the past 10 years has it ever been as low as the 180,000 that is projected in the last Intergenerational report? In fact, you will find it has not, but that is fine. If you can actually get that number for us? That process has now been completed for the production of the Intergenerational report; is that correct?

Mr Pezzullo: I think it is fair to say that we have made all of our contributions. That has concluded.

Senator DASTYARI: Ms Wykes, on how many occasions did Treasury sit down with you to actually go through the projections? You supplied a set of figures to them and then they started sitting down with you and discussing modelling. You sent the raw numbers and they sat down with you to discuss the different models and what impacts the models would have; is that correct?

Ms Wykes: They sit down with a number of agencies, yes.

Senator DASTYARI: But they sat down with you as well to do that?

Ms Wykes: Yes.

Senator DASTYARI: How many occasions did they do that on?

Ms Wykes: Personally, I sat down with them twice.

Senator DASTYARI: I am very conscious of the time. You sent them an initial set of data. Then they came back to you and said, ‘Hang on. If this was our modelling’—because they have to model, which is understandable—‘what impact would this have on the raw numbers?’

Mr Pezzullo: They might do that. I was not a party to these meetings.

Senator DASTYARI: Ms Wykes was, so can I ask her if that is what happened?

Mr Pezzullo: I have seen the correspondence. I have records of some of these discussions. Some of it goes to simply clarifying terms and clarifying our own assumptions. I will ask Ms Wykes to answer in her own terms.

Ms Wykes: Could I have the question again, please?

Senator DASTYARI: The question is: you send a set of numbers to them. They sit down with you after looking at the numbers. They say to you, ‘Okay. If we do X, Y, Z to the model’—because they have to model, which is understandable—‘what impact would that have on the number?’ Do they do that with you?
Ms Wykes: I think that would be something that you would ask the Treasury as to how they come up with their number.

 Senator DASTYARI: Sure. But you were there. Is that what they did with you?

 Ms Wykes: I was not there. That is something that you ask the Treasury.

 Senator DASTYARI: Okay. What were they doing with you then, Ms Wykes? You said they sat down with you personally on two occasions.

 Ms Wykes: They sat down with a number of agencies.

 Senator DASTYARI: I know. But you said they sat down with you on two occasions. On those occasions when they sat down with you—

 Ms Wykes: They sat down with a number of agencies around the table in discussion of the Intergenerational Report, around a whole lot of different areas of discussion.

 Senator DASTYARI: That was not the question though, Ms Wykes. The question was: when they sat down with you on at least two occasions that you were personally there for, what were they sitting down with you about?

 Ms Wykes: They—

 Senator DASTYARI: 'A range of issues' is on anything. That is just talk. Why were you there then?

 Ms Wykes: To talk about the net overseas migration numbers.

 Senator DASTYARI: You sent one set of figures. Then they are sitting down with you to discuss that one set of figures—

 Mr Pezzullo: This is the point I was trying to get to before. Even if the officer was party to those conversations, we are really starting to get into the deliberative part of the discussion. This is a Treasury lead. We provide them with both data and our assumptions about future trends. They own the report. It is open to them to clarify, to come back and say, 'What do you mean by this? What do you mean by that?'

 Senator DASTYARI: Sure. I will ask them questions too. That is fine. I am trying to work out—

 Mr Pezzullo: I guess I am trying to say politely that we are not prepared to disclose the cut and thrust, if you like, of what would be a deliberative discussion. It is their document. If they want to talk about the nature of the engagement that they have had with any number of agencies—I am trying to respect their lead on this.

 Senator DASTYARI: Okay. Finally, just to conclude, because I am very conscious of Senator MacDonald's time and he has been very fair, are you saying then—I want to confirm this: yes or no—that a set of numbers was provided? Those numbers then resulted in a series of discussions with Treasury, but you are not prepared to go further into what was the deliberative process that took place?

 Mr Pezzullo: No, not at all. The report will say what it says when it comes out.

 Senator DASTYARI: The report says one figure as opposed to, say, the ABS when they do their future projections which provide scenarios. They only provides one figure; is that correct?
Mr Pezzullo: I do not know. I suspect you have read it more recently than I have. It is really the Treasury's prerogative as to how it lays out, whether it gives its scenarios or multiple futures. I just do not know what they do.

Senator DASTYARI: One question on notice, if you can get someone to answer today: Ms Wykes said there were two occasions when there was a meeting that involved the department. Are you able to find out on how many occasions there were meetings involving the department of immigration in the calculation of the migration figures that will be presented in a few weeks in the—

Mr Pezzullo: Internally or with the Treasury?

Senator DASTYARI: With the Treasury.

Mr Pezzullo: We will take that on notice.

Senator DASTYARI: Is that possibly something you can answer today?

Mr Pezzullo: I do not see why we cannot do that. Ms Wykes might have to consult. She is an assistant secretary; she might have to consult with other colleagues.

Senator DASTYARI: Thank you.

Senator REYNOLDS: Mr Pezzullo, in October last year you provided the committee with an update on centre closures. You said at the time that 10 centres had already closed as of October and that another four were in the process of being closed. Can you update us, please, now, on the total closures to date and your forward projections?

Mr Pezzullo: Whatever we said in October—

Senator REYNOLDS: It was 10.

Mr Pezzullo: I am pretty sure has been acquitted. I might ask Ms Briscoe to join me in answering that question. Ms Briscoe runs the detention estate network. She can speak to that issue—assisted by Mr Douglas, it looks like.

Mr Douglas: I can inform the committee that over the weekend the Prime Minister announced the closure of the Bladin Alternative Place of Detention. That closure will occur over the next month or so. As to the period of time between October and now, and whether there were additional ones, just bear with me as I check.

Ms Briscoe: Since October there was the closure of Curtin IDC on 30 November, 2014 and the Inverbrackie Alternative Place of Detention on 31 December, 2014.

Senator REYNOLDS: That is now 12 facilities closed; correct?

Mr Douglas: Plus one.

Senator REYNOLDS: With Bladin, that is now being foreshadowed. Can you update us? Over the last 18 months, how many detention centres were there? How many are you now still operating?

Mr Douglas: Currently we are operating 13, I believe: Villawood IDC, Sydney Immigration Residential Housing, Maribyrnong IDC, Melbourne Immigration Transit Accommodation, Brisbane Immigration Transit Accommodation, Wickham Point in the Northern Territory, Adelaide Immigration Transit Accommodation, Perth Immigration Detention Centre, Perth Immigration Residential Housing, Yongah Hill Immigration
Detention Centre and the three centres at Christmas Island—North West Point, Phosphate Hill and Construction Camp.

Senator REYNOLDS: Thank you. With 13 shortly to have been closed, last year in October you said that the forward estimate savings were, for the first 10, $410 million. Do you have any updated figures, with the additional closures, of what the savings to the forward estimates will be for the operation of these centres?

Mr Douglas: I would have to take that on notice, Senator.

Senator REYNOLDS: That would be good; thank you. I want to go back and see what progress has been made. Could you advise us, Secretary, of the cost of IMAs to the department budget in 2007? Do you have those figures available?

Mr Pezzullo: Off the top of my head, there were no IMAs in our custody. So unless there were any late and underlying expenses to do with reserve capacity, I am assuming the figure is pretty close to zero. But I would have to take that on notice.

Senator REYNOLDS: Are you or one of your staff able to advise us what the cost was at the time of PEFO in 2013? Do you have the figures?

Mr Pezzullo: The chief finance officer may have that readily to hand. I might ask him to join us.

Senator REYNOLDS: That would be great. Thank you.

Mr Groves: PEFO 2013—

Senator REYNOLDS: It depends on how you have got your figures available to you. Mr Pezzullo said that in 2007 the cost was zero to the taxpayer in terms of managing IMAs—

Mr Pezzullo: Sorry, Senator; I said that unless there were some ongoing expenses—

Senator REYNOLDS: It was likely to be around zero.

Mr Pezzullo: around latent capability. I do not know if they were maintaining latent capability. All things being equal, it should have been zero, because there were no IMAs.

Senator REYNOLDS: Thank you. So do you have figures going back from 2007? How do you have them arranged in your folder? Do you have them by each year?

Mr Groves: No. I only have information going back to 2011-12 which is around outcome 3, which is predominantly our expenditure in relation to IMAs. In total, both administered and departmental expenditure was $1.543 billion in 2011-12. In 2012-13, it was $2.427 billion. In 2013-14, it was 3.394 billion.

Senator REYNOLDS: Thank you. So for this current financial year what is the projected expenditure now on IMAs?

Mr Groves: Once again around outcome 3, just in operating expenditure, the budget as at the additional estimates is for $2.897 billion.

Senator Cash: Chair, in the 2014-15 budget, the government announced savings of $283.3 million over nearly four years. That will be achieved by consolidating the onshore immigration detention network by closing—at that time—nine detention facilities from February 2014 to December 2015. Then those were announced. As has been stated by the officer at the table, on Friday 20 February, 2015 the Prime Minister announced that the
detention centre at Bladin Point would close, effective April 2015. I am advised that this will result in a return to government of approximately $18 million per annum in lease costs.

Senator REYNOLDS: For that one centre?

Senator Cash: For that one centre.

Senator REYNOLDS: Mr Pezzullo or Mr Groves, do we have a total figure? With the closure of these centres and the very large reduction in illegal arrivals, do you have a revised figure now across the forward estimates in total of savings to the budget?

Mr Pezzullo: I will have to take some advice on this. Obviously, as the number of people being held in other forms of detention comes down, the figures in the $2 billion and $3 billion range that Mr Groves was referring to obviously steadily come down over time.

Senator REYNOLDS: I am thinking less.

Mr Pezzullo: But to ensure apples and apples, Senator: are you talking about the funding of the centres and as they close what the return to budget is from their closure?

Senator REYNOLDS: In total. So the reduction in the closure of the centres and all of the other associated costs—

Mr Pezzullo: So a global—

Senator REYNOLDS: A global figure—for over six months now we have not had any arrivals—in terms of all of the expenditure. So with the reduction in arrivals, and the numbers in detention, the cumulative global figure of savings to the budget.

Mr Pezzullo: Through you, Chair, if I may, and noting that we will be returning to this program later in the day—

Senator REYNOLDS: Come back to it in outcome 3?

Mr Pezzullo: Yes. We should be able to do a calculation, though, Senator, because you have foreshadowed the nature of your interest. I think your starting point question related to 2007?

Senator REYNOLDS: Yes, it did.

Mr Pezzullo: So to put it in financial years, we will start with 2007-08. I will get advice through the CFO and through Ms Briscoe as to whether there were any ongoing expenses. I do not want to say 'zero' completely. I said, all things being equal, if IMAs are not arriving it should be close to zero, but there might be some ongoing contracts.

Senator REYNOLDS: Maybe negligible.

Mr Pezzullo: Potentially. I do not want to foreshadow.

Senator REYNOLDS: I understand.

Mr Pezzullo: We will take a starting point of 2007-08 and we will construct a global budget, as it were, that goes to the running of the centres, the contracts, the security, the mental health support—all the other factors that go in—departmental expenses and administered. Rather than talking about the reduction, we will just give you the graph and you can draw your own conclusions. We will just give you objective facts.
Senator REYNOLDS: So to confirm—we have had the figures from Mr Groves—that will be the cumulative figures by year. So you have the $1.5 billion, the $2.4 billion—the increases in expenditure.

Mr Pezzullo: And as at AEs we will look forward as to what is budgeted in the forward estimates, departmental and administered.

Senator REYNOLDS: That will be perfect; thank you.

Mr Pezzullo: We will do a very simple graph and you can draw your own conclusions.

Senator REYNOLDS: Thank you Mr Pezzullo. With those reductions in expenditure on IMAs and detention centres are you able to advise the committee what you are using those additional savings on? What sorts of measures are the savings now going to?

Mr Pezzullo: The CFO will correct me where I get this wrong, but the administered budget is held centrally by government. It is not, as it were, cash that if you do not spend it on an IMA you get to spend it on something else. We are also funded on our funding model departmentally in the same way. In answer to Senator Macdonald's earlier question about the surge in our workforce, there is some surge, but most of the strain—if I can use that term—is taken on by contractors. So you enliven contracts. You bring people in to get centres up and running, to provide security, to cook meals and the like. And then, to use the term that we use internally, as the pipeline works its way through the system, people are then processed. We are now moving, of course, to the processing of detainees from the point of view of temporary protection, for instance. They will go out into the community, and those costs obviously go down. It is money for the government's budget at large—it is not, as it were, given to the department per se. I will just check that matter of accounting with Mr Groves.

Mr Groves: Certainly all of our IMA-based funding is subject to a demand-driven model, which is under constant review; normally three or four times a year with the Department of Finance. Usually, as reflected in the current additional estimates, variations are done to that based on volumes and throughput through the system.

Senator REYNOLDS: Thank you very much Mr Pezzullo. That is all I have.

CHAIR: Thank you Senator Reynolds for finishing a little earlier. Senator Muir.

Senator MUIR: Thank you—and thank you to the minister and the secretary for being here to answer our questions. My questions are relatively straightforward. Could the department provide an update on the number of people in the asylum legacy caseload who have been granted work rights to date?

Mr Pezzullo: I will ask Mr Vardos to come forward with his officers, particularly the head of our refugee and humanitarian processing division. They can start to answer that question.

CHAIR: Are your questions generally around this area, Senator Muir? I am conscious you have to go at—is it at 10.45 or 10.30?

Senator MUIR: I will just go at the morning tea break, if that suits. I will not be long. I have only got a small number of questions.

CHAIR: Carry on. We might finish with Mr Muir. If you have to go, Mr Pezzullo, go.

Mr Pezzullo: Thank you, Chair.

CHAIR: If there are questions in this area, Mr Vardos can deal with them.
Mr Vardos: I will pass to Ms Pope, who has the broad statistics.

Ms Pope: Senator, just to clarify the question, you were interested in the number of bridging visa holders who currently have work rights?

Senator MUIR: Yes, those who have been granted work rights.

Ms Pope: There are 10,007 at the moment.

Senator MUIR: Do you have a breakdown of those who were released from Christmas Island compared to those who are already in the community?

Ms Pope: I do not have them specific to Christmas Island. I can tell you the number that have been granted to people who were in held detention as opposed to those already in the community getting a further grant. I can give you that number but it will not tell you how many were on Christmas Island at any one point.

Senator MUIR: That number would be a good start.

Ms Pope: The number is 3,366 new grants. I should be clear; this is of the 15,335 who have been granted with the code of behaviour, in effect; 3,366 new grants; 11,969 further grants as at 31 January this year.

Senator MUIR: Thank you. It has been said lately that the minister needs to personally grant these work rights, especially for those who are already within the community. Is that true? Does the minister personally need to grant these work rights?

Ms Pope: The reason is that, once a bridging visa has been issued, the conditions pertaining to that visa cannot be changed. Once that visa expires, a new visa can be granted with the attendant work rights. The minister, under his personal non-delegable powers, makes the decisions in relation to bridging visa grants.

Senator MUIR: So essentially the minister has to personally intervene?

Ms Pope: Yes.

Senator MUIR: Thank you. Is there a more efficient way?

Ms Pope: It would require a legislative change, I believe, to move it to a different arrangement.

Mr Pezzullo: If I may, and it might be helpful, the minister has certain powers which are non-delegable. So we can assist him in the exercise of those powers. It has been my experience, my personal observed experience, that both the former minister and the current minister work through those cases expeditiously. They are obviously very busy, having to get through lots of other matters. But Ms Pope and her officers, along with other officers, will assist in the preparation of the paperwork and work through these as quickly as they can. When you say, 'Is there a more efficient process?', we obviously work within the laws that the parliament brings down. Until such time, if ever, as the provisions were to be varied by this parliament, we have to go through working with the minister. But as I said, I can give you an absolute assurance that my officers work as quickly as they can. In my observation, both Ministers Morrison and Dutton are extremely conscientious and expeditious in their handling of these files.
Senator MUIR: Being aware that we have to wait for certain visas to end, is there actually a rough time line of when we think every eligible person would have the opportunity to be granted work rights?

Mr Pezzullo: As the former minister said at the time of the debate around the legislation, when you look at the caseload in its entirety, noting how many valid applications were on foot at the time that the changes came in and then the subsequent caseload of something like 25,000 persons that are either eligible for the TPV arrangement or the associated safe haven arrangement, I think, Ms Pope, it is fair to say we have said it will take up to three years to work through that entire caseload.

Obviously in the case of TPVs, they, themselves, are for a three-year duration. Essentially we have established a division currently under Mr Vardos that will effectively manage this case load for the foreseeable future. Unless and until the laws of the land change, those are the procedures that we have to apply. It will take us three years to get through the entire caseload. Obviously wherever possible we will try to avoid a circumstance where people are in held detention, where particularly children, as we discussed earlier, are in held detention. But we work within the laws that we are given by this parliament.

Senator MUIR: No problems. That will do for the time being.

CHAIR: Thanks very much, Senator Muir. Good timing. We will now suspend.

Senator KIM CARR: Can I—

CHAIR: Just let me finish. Mr Pezzullo, the rumour seems to be you are going out, I think you mentioned, for an announcement with the Prime Minister on something.

Mr Pezzullo: I am going to an event.

CHAIR: If there is a media release you might bring it back so that we who cannot watch it on TV can find out what it is all about and generate some questions.

Mr Pezzullo: I think I can arrange for the statement to be provided.

Senator KIM CARR: Mr Pezzullo, can we have an indication of how long you are likely to be absent?

Mr Pezzullo: I believe it is off site. I will walk out of here and someone will bundle me into a car. I do not know where I am going.

Senator KIM CARR: It is top secret.

Mr Pezzullo: I do not know. I have not focused on my diary.

Senator KIM CARR: Except it is on the front page of The Australian.

Mr Pezzullo: I have not focused on my diary as diligently as perhaps I should have.

CHAIR: You have been focusing on this for weeks, obviously.

Mr Pezzullo: Hopefully by midday I will know.

Senator KIM CARR: By midday.

CHAIR: I mean this estimates, not the event.

Procedings suspended from 10:33 to 10:52
CHAIR: I call to order this meeting of the Legal and Constitutional Affairs Legislation Committee, dealing with the additional budget estimates for 2014-15. In the absence of the secretary and CEO we will move on to the Migration Review Tribunal and Refugee Review Tribunal, on the understanding that we will come back to cross-portfolio, corporate and general. Officers of the MRT and RRT are here. Would someone like to make an opening statement?

Ms Ransome: Yes. I will brief, and a copy can be made available for the committee.

CHAIR: Thank you.

Ms Ransome: We last appeared before the committee in October, so it is probably opportune to update you on some matters that have occurred since then. The tribunals have finalised around 14,000 cases so far this financial year, which puts us in a good position to realise a strong result for the full year of around 21,000 cases. This is slightly less than last year because we are focusing on the more complex part of our caseload.

Migration Review Tribunal decisions were highest in the student refusal, partner refusal and temporary work categories, while for the Refugee Review Tribunal decisions are highest for applicants from China, India and Sri Lanka. Two of the key strategy objectives of the tribunals are to reduce the number of active cases and to reduce the age of those cases. Active cases are those for which an application for review has been lodged with the tribunals and remains undecided. As a result of the strong performance our active caseload has reduced since the start of the year and is now around 15½ thousand cases. Processing times for MRT cases have improved, in some cases very significantly. These are both very good outcomes.

This means that we remain on track to meet our objective to reduce the active caseload over a three-year period to an ongoing level of about half of annual lodgements in most categories. Achieving and maintaining that level of cases on hand will result in a significant improvement in average processing times by 2017. What these numbers mean for our applicants is that they are receiving a consistently high level of service and speedier finalisation of their cases.

The dedicated staff and members of the tribunal have achieved these outcomes by adopting a range of new work practices, continuing to use a model of member specialisation and making changes to decision writing. We launched an online lodgement facility in 2014. That has led to some improvements. In fact it is now the most preferred mode of lodgements for new applications.

We continue to pursue innovation and efficiencies, with initiatives including extending different hearing models to parts of our caseload, much greater electronic communication with applicants and increasing the functionality of our online lodgement facility and case management system.

To enhance its operations the tribunals also support new powers that are proposed in the Migration Amendment (Protection and Other Measures) Bill. These powers would amend the Migration Act to include the dismissal of applications for review in circumstances where the applicant fails to appear and the ability to give oral statements of reasons without the need for written reasons, except where requested. These and other proposed changes will certainly
assist us in achieving our statutory objectives of providing fair, just, economical, informal and quick reviews.

I am sure senators will be aware of the proposed amalgamation of the MRT-RRT with the Administrative Appeals Tribunal and Social Security Appeals Tribunal. That was announced in the last budget and it is planned to take effect from 1 July this year. The Tribunals Amalgamation Bill was introduced in the Senate in December. If passed it will merge the three tribunals into a single amalgamated tribunal established under the Administrative Appeals Tribunal Act.

The MRT-RRT will become a division of the new tribunal and will be known as the migration and refugee division. Most of the procedures that currently apply in the MRT and RRT will apply to the new migration and refugee division. With some small exceptions, the Migration Act will remain as the legislation setting out the processes of that division, including the code of procedure.

Planning for the amalgamation is being coordinated by the Attorney-General's Department. I can report that it is progressing well and that the amalgamated tribunal is expected to be in a position to commence operations on 1 July. The focus of planning to this point has been on corporate activities of human resources, finance, property, information technology and, of course, on the drafting of the relevant legislation. Not everything will be or can be integrated by that date, but it is hoped that the bulk of corporate activities will be consolidated.

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

CHAIR: Thanks, Ms Ransome, and congratulations on the work you have done in reducing the caseload and the speeding-up activities that have been undertaken. Just before I pass to Senator Bilyk—

Senator Cash: Is it possible to get a copy of the opening statement, to circulate it amongst everybody?

Ms Ransome: Yes.

CHAIR: Just before I pass to Senator Bilyk, how much of the work of the MRT or the RRT broadly—I do not want this precisely—is related to illegal maritime arrivals? I might have asked you this last time, actually.

Ms Ransome: Yes. It is only the Refugee Review Tribunal that deals with maritime arrivals. Our on-hand caseload for that part of the caseload is presently 1,875 matters.

CHAIR: Out of?

Ms Ransome: The total on-hand caseload for the Refugee Review Tribunal is 4,510.

CHAIR: That is about a third?

Ms Ransome: Yes. Of the total MRT-RRT, though, when you include the MRT we have a total case load of 15½ thousand on hand. Of those, 1,875 are IMAs. That includes all the migration work as well as refugee cases.

CHAIR: The cessation of IMAs would, in the normal course of events, mean less work for the RRT?
Ms Ransome: Yes. With the passing of what is known as the legacy act at the end of last year there will come a point where there are no longer IMAs who go through the RRT. They instead will go to a new body called the Immigration Assessment Authority.

CHAIR: Who runs that?

Ms Ransome: The authority—

CHAIR: Do we know about that? Was that in the legacy case-load bill?

Ms Ransome: Yes.

CHAIR: Which we did look at.

Senator Cash: Mr Fleming is able to provide more information, should you require it, Chair.

Mr Fleming: The legacy case-load act established the role.

CHAIR: Under whose department does that sit? Is it a tribunal in the nature of an RRT and an MRT or is it a lesser body or a greater body, perhaps?

Mr Fleming: I will hand over to Ms Ransome in a moment. It will be housed within the Refugee Review Tribunal and the Migration Review Tribunal initially and transitioned into the merger with the Administrative Appeals Tribunal, as Ms Ransome outlined earlier.

CHAIR: So it will be part of the refugee division of the AAT? It will be a subset of that, will it?

Ms Ransome: Eventually, yes. The Immigration Assessment Authority, the IAA, is being established as a separate office within the Refugee Review Tribunal. Come amalgamation that will transition into the migration and refugee division within the Administrative Appeals Tribunal.

CHAIR: That clears it. We are getting a copy of that statement. Someone has gone to get that. Thank you for that. Senator Bilyk.

Senator BILYK: I am sorry if I ask you some questions that you just give us info on. It was a bit hard to hear you in the beginning.

Ms Ransome: I am sorry.

Senator BILYK: So just bear with me. Just in regard to the decisions that have been made, did you say 14,000 this financial year?

Ms Ransome: To date, yes.

Senator BILYK: To date; thank you. Were most of those protection visa reviews?

Ms Ransome: No. The vast majority of those decisions—within the Migration Review Tribunal, the general migration scheme, that is about just under 10,000 of those, with the remainder being Refugee Review Tribunal decisions.

Senator BILYK: Sorry, can you just repeat that for me?

Ms Ransome: I can give you precise figures as at 31 January.

Senator BILYK: Yes.

Ms Ransome: 9,362 were MRT; 3,238 were RRT. Since that time we have had some slight increases in decision making, but the vast bulk are within the migration stream.

Senator BILYK: That takes it, as of 31 January, to 12,600?
Ms Ransome: That is right.

Senator BILYK: Overall lodgements were down—is that right?—compared to the same period last year.

Ms Ransome: That is certainly right. Overall we are down about nine per cent in lodgements.

Senator BILYK: Are you able to break down the areas for me?

Ms Ransome: I can. If we are looking at the general migration stream for the Migration Review Tribunal it is probably a little patchy. Overall, the numbers there are down four per cent, but there have been some increases in some areas, such as partner visas, but decreases in others, such as temporary work visas.

Senator BILYK: Are you able to provide me a specific update on those figures?

Ms Ransome: Yes.

Senator BILYK: Can you do it now or do you need to take it on notice?

Ms Ransome: I can try and do it now.

Senator BILYK: If you could that, that would be good. Thank you.

Ms Ransome: In the partner stream the change over the last 12 months is that there has been an increase of 48 per cent. For student refusals there has been an increase of seven per cent. For temporary work visas—

Senator BILYK: Sorry, that was an increase?

Ms Ransome: Yes. For temporary work visas—that is, subclass 457 visas—there has in fact been a decrease of 15 per cent, leading to an overall decrease of four per cent.

Senator BILYK: What about with the RRT?

Ms Ransome: With the RRT we have seen a significant decline of 24 per cent. That is a result of a very large decline in the IMA case load.

Senator BILYK: What about processing times for applications from lodgement to decision?

Ms Ransome: We have seen an improvement in the MRT. The average time to decision is now 310 days compared to 364 days last year. For the RRT, the average time is 200 days to decision at the moment, down from 237 days last year. In some case loads that is, of course, quicker. For example, with matters involving bridging visas, they are generally dealt with within seven days.

Senator BILYK: Thank you. I just want to follow on from Senator Macdonald's questions in regard to the amalgamation of the tribunals. I think you said most procedures will apply after 1 July. Are you able to give me some more information on what will not actually apply?

Ms Ransome: You are probably testing my memory there a little bit, Senator. It is generally around powers of the president of the AAT to issue directions and constitute the tribunal for the purposes of reviews. They become powers within the AAT Act rather than they are specifically at the moment within the Migration Act. The procedures that currently apply under the Migration Act to the conduct of reviews will generally simply transfer straight over with, I think, minor changes.
Senator BILYK: It should not upset the general day-to-day workings though.

Ms Ransome: I think it is probably fair to say that on 1 July someone who is appearing in a case before the migration and refugee division will see very little difference and certainly minor differences, if any, in the way the hearing is conducted—the law that applies to the decision et cetera.

Senator Cash: If I can also, just as a point of clarification, say that one of the key features of the bill goes directly to the question you have posed. I am advised that the existing practices and procedures of the MRT-RRT will be continued in the migration and refugee division and social services and child support division and basically there should be no real changes, as Ms Ransome has said, from a user perspective, other than streamlining and potentially, obviously, a faster process.

Senator BILYK: Great. Are you also able to tell me: have the staffing levels had to change in regard to the amalgamation of the tribunals?

Ms Ransome: Not at this stage. That is clearly one of the issues that is being looked at across the three tribunals as to what impact amalgamation will have on our human and other resources.

Senator BILYK: So not at this stage; there is the potential though. Is that what you are telling me?

Ms Ransome: As I said in my opening, what is being looked at, of course, is rationalisation largely of corporate activities across the three tribunals. It is possible that there will, inevitably, be some small staff reduction there because of the duplication of function.

Senator BILYK: So redundancies?

Ms Ransome: I am not in a position to answer that. That will ultimately be a matter for the amalgamated tribunal. I think the Attorney-General's Department are appearing before the committee tomorrow and questions around savings and those sorts of things would probably be better directed to them.

Senator Cash: Can I also clarify there, as Ms Ransome has said, that most change is likely to occur in the tribunal's internal corporate operations. The questions are better placed, obviously, to the A-G's Department who are dealing with the actual amalgamation.

Senator BILYK: The idea of the amalgamation was presumably to streamline, to make things more efficient. In what way will that actually happen? Can someone clarify that for me? Besides the potential of—

Ms Ransome: I am not in a position to really answer those questions. As Minister Cash has said, it is the Attorney-General's Department that has—

Senator BILYK: Okay. I will have that one for A-G's.

Ms Ransome: operational responsibility for the amalgamation.

Senator BILYK: Okay. I will ask those questions again tomorrow. Thank you.

CHAIR: Senator Reynolds.

Senator REYNOLDS: Thank you very much, Ms Ransome, for your very comprehensive opening statement and also your comments on the improvements and things that are outlined in here. I have a few questions on some of the detail of what you are talking about. The first
one is: you said you reviewed 14,000 cases. So you are on track to do about 21,000 cases this year. I was interested in your comment about concentrating on the more complex case loads. Can you just give us a bit more information about the nature and type of these case loads and how you are approaching them?

Ms Ransome: I think you are aware that over several years the tribunals built up a large backlog of cases.

Senator REYNOLDS: Yes.

Ms Ransome: Over the previous two years till now we have concentrated on a strategy of dealing with old matters but also of dealing with case loads where it was possible, by lodging an application with the MRT, in particular, to buy time, if I may put it that way. So we concentrated on particular case loads where there was the potential for that to occur and have reduced those case loads so that matters are now dealt with pretty much as they are lodged.

We are now turning our attention, and have for this year, to two particular case loads—that is, the refugee case load and the partner and family visa case load, in particular the partner case load—where we have significant numbers and significant increases in numbers of lodgements. Those two particular case loads, by their very nature, are a little more time consuming in terms of the amount of evidence that an applicant puts forward and the conduct of hearings, which can be lengthier than whether or not someone has enrolled in a particular course as a student, for example.

Senator REYNOLDS: In relation to the partner cases, is it a longer term trend that they have been increasing? Are they increasing in complexity or is the nature changing? What is the situation there?

Ms Ransome: You may wish to ask that question of the department later in the day. Because we are downstream, as it were, from the department, our trends in terms of lodgements really flow from activity within the department. I do know that the department in recent times has been processing significant numbers of these cases, hence their flow-through to us. But I could not give you any projection on what is likely to happen in the future.

Senator REYNOLDS: Thank you. You have talked about some of the other changes a bit further on in your statement. Is there anything else in relation to the complex case loads? Have you changed or streamlined procedures or is it more your prioritisation? How have you made these improvements in terms of the complex cases and how you look at them?

Ms Ransome: One of the most time consuming parts of a tribunal member's time is in the writing of a decision and reasons for decision. We have introduced, I guess, some new and refined ways of writing those decisions in a more succinct and, certainly from the applicant's point of view, more understandable style that reduces the amount of time taken to write the decision.

Senator REYNOLDS: More plain English?

Ms Ransome: More plain English, yes. The reasons for the decision focus on what is the issue in dispute, and dealing with that—without necessarily regurgitating everything that was said along the way, I have mentioned to you—I appeared before the committee when the committee was considering the Migration Amendment (Protection and Other Measures) Bill—the facility to give oral reasons, and then written reasons on request. Those are the sorts of efficiencies, particularly with the partner caseload, that we are looking for.
CHAIR: When you give an oral decision, is it not simply a matter of turning on your tape recorder and recording it and then transcribing it?

Ms Ransome: That is certainly one way of approaching it. That is certainly the way the courts do it, for example, or even the Administrative Appeals Tribunal—which this will soon be a part of. That is what they do as well.

CHAIR: When you say it takes a long time to write a decision—

Ms Ransome: At the moment we do not have the ability to simply give oral reasons. Most of our reasons are in written form, and can be lengthy.

CHAIR: But did you not say you were going over to oral reasons under one of the acts we dealt with?

Ms Ransome: That act is still before the parliament.

Senator Cash: It is still before the parliament.

Senator REYNOLDS: You also say that the RRT decisions were highest for applicants from China, India and Sri Lanka. Have any particular trends or issues emerged for the reasons that they have focused on those three countries?

Ms Ransome: No, I do not think so. In terms of trends it is very difficult to say why caseloads from particular countries. The China caseload in the RRT is pretty well an onshore caseload; it is people who have arrived in Australia on another visa at some point and who later make a claim for protection. The Sri Lanka caseload was primarily comprised of UMAs who came by boat.

Senator REYNOLDS: And India?

Ms Ransome: India—again, it is primarily an onshore caseload; people who came, for example, on a student visa in the past.

Senator REYNOLDS: So year to year would those categories change? Obviously Sri Lanka has come about because of the UMAs. Have you seen any trends in terms of where the applicants are from?

Ms Ransome: I may have to take that on notice, Senator—

Senator REYNOLDS: Please.

Ms Ransome: to give you a full picture. There are some changes from year to year, but for many years China has certainly been the largest source country in the RRT.

Senator REYNOLDS: Via the onshore process?

Ms Ransome: Yes.

Senator REYNOLDS: You mentioned the number of active cases and the method you are taking to reduce those cases. Can you go through in more detail about how the processing times have come down? Have the processing times come down for all cases, or is it the more complex cases where the processing times have come down? Or have you seen trends across all the different types of cases in both agencies?

Ms Ransome: It has come down across all caseloads, some probably more dramatically than others. So for example, I spoke about the partner caseload. I do not have average time to decision for all of those caseloads. We have managed to reduce it for all caseloads but some more than others. I employed a deliberate strategy last financial year to focus on some parts of
the caseload to get them out of the system. We have now shifted focus to the partner and refugee caseload, to do the same thing with those caseloads.

Senator REYNOLDS: As part of your management strategy, do your tribunal members specialise in particular areas or are they all generalists?

Ms Ransome: No. Members will specialise in one or two particular caseloads so that they can gain a great deal of expert knowledge, and familiarity with dealing with all of the issues that are relevant to that particular caseload. So, for example, we have members who only deal with refugee cases, or we have members who deal with business and skill type visas so that they have a really thorough understanding of those cases and the issues that can arise.

Senator REYNOLDS: Through that specialisation they are then able to deal more expeditiously with them?

Ms Ransome: That is the plan, yes.

Senator REYNOLDS: Do the members work on their own? Do you provide them with research support or other administrative support, or are they like a one-stop shop to do the whole lot?

Ms Ransome: A member is appointed to the tribunal as an independent statutory office holder and will always be independent in their decision-making. However, at an organisational level we operate with teams of members dealing with a particular caseload. So, if we use refugees as an example, we have teams of members who deal with refugee cases. They are supported by our registry staff, who do the administrative tasks that are involved. We also have a team of staff who provide legal support to our members.

Senator REYNOLDS: As specialist legal advice on particular issues?

Ms Ransome: Yes.

Senator REYNOLDS: You also, from memory, have interpreters, do you not?

Ms Ransome: We have a contract with an interpreting agency. The tribunals provide interpreters for anybody who needs one, at our cost.

Senator REYNOLDS: Thank you. I want to pursue this. I am very interested in how you have done all these improvements so quickly. You had a talk about the initiatives you have already implemented in terms of lodgement facilities and other initiatives. Could you go through in a bit more detail some of the initiatives you have taken and why you think they have been successful?

Ms Ransome: I suppose one of the things that made the greatest difference in the MRT was dealing with our caseload and hearings in a different way. I came from a background in civil law and dealing with small commercial disputes. If you go to any magistrates court or any civil tribunal that is dealing with, for example, consumer claims, you will find that there are a number of matters that are listed to commence at 9 o'clock and they are gone through in a list very quickly. The MRT-RRT have not had a practice of that. It cannot in the RRT because of privacy concerns, but within the Migration Review Tribunal it was perfectly possible to list less complex cases in that way. That, I think, is probably the single thing that gave us the greatest gains in terms of decision-making. We were able to process extremely large numbers of the more straightforward cases in a much shorter space of time, and continue to do so.
Senator REYNOLDS: I know a lot of organisations do try to review their internal processes to find efficiencies in procedure. Did you do this internally with your staff or did you get an outside consultant to come in and work with you on how to streamline your procedures?

Ms Ransome: We did it internally soon after I commenced as principal member in 2012.

Senator REYNOLDS: Very good. You have mentioned that you are also looking at some new initiatives. What are the future initiatives you are looking into to do, on the basis of these ones?

Ms Ransome: It is not just in the hearing process that we hope to make efficiencies; it is through our registries—but also primarily to provide applicants with a better level of service. We have developed an online lodgement facility, where people can choose to lodge their applications online. We will be rolling out a second phase of that whereby people can upload their own documents into the system, which will mean that our staff do not have to handle great reams of paper.

Senator REYNOLDS: I imagine that will save a lot of time for your staff, not having to go through that manual process.

Ms Ransome: Absolutely. In line with other broader government initiatives we are also looking at converting most files—case files and policy files—to electronic records to have our members working off electronic records wherever possible to reduce the amount of paper, which, in a business such as ours, is somewhat daunting. We continue to look for ways to streamline our hearing processes and our interactions with applicants so that they are as efficient as possible but at the same time, obviously in accordance with our charter, they are fair.

CHAIR: Senator O'Sullivan, do you have any questions?

Senator O'SULLIVAN: I want to go back to the beginning, because I am taking a first-time, thorough interest in this area. Let us just talk about the Migration Review Tribunal. An individual makes an application to immigrate to Australia. That can be made at multiple—I expect, hundreds—of places around the world through our embassies.

Ms Ransome: Yes. The department deals with those initial applications, so it is probably better if they are able to answer that part of your question.

Senator O'SULLIVAN: Sure.

Mr Vardos: Senator, you are correct. Applications can come from any part of the world. They can come in electronically; they can come in by paper. Once we receive the application, it can then go to a number of locations, both on-shore and off-shore, for processing, depending on where we have our centres of excellence for dealing with particular cohorts. It is a global operation on shore and off shore.

Senator O'SULLIVAN: I am going to lead back to questions here eventually, but if you will just help me make the journey of this application. Do you have regional processing; for example, if I make an application in Europe? If it is not dealt with where I make the application, does it go to a larger centre?

Mr Vardos: I can give you an example. We have in Perth the focus of our temporary visa processing caseload. In Hobart we have working holiday makers, etcetera, etcetera. It depends.
where we have the workforce and the skills that we are able to obtain and where we have a critical mass of decision-makers. As I said, it can vary. The point you just made—the place where I made the application is not necessarily the place where it is processed—is absolutely correct.

**Senator O'SULLIVAN:** I imagine there is due process where the application is made to ensure that the application is compliant, for example?

**Mr Vardos:** Yes. We do not just do it within our departmental resources. We have contractors known as 'service delivery partners' who are private companies spread in many more locations than we could possibly be present where they act as the focal point for collecting applications. They do not make decisions but they are points where people can lodge their applications. The service delivery partner is responsible for making sure that all the documentation is complete, all requirements have been complied with, and then they hand the decision-ready applications over to the department. By using service delivery partners we are able to expand our global footprint without necessarily expanding the number of departmental officers or offices themselves opening up around the world. We do this in partnership with the British, for example, and others.

**Senator O'SULLIVAN:** Is there any—I will use the term 'due diligence' in the absence of another reference—due diligence done at the point where the application is made? When we come back to the tribunal I want to ask them some questions about when they rely upon material given to them, particularly by the department, what weight they can give that material as they make their decisions.

**Mr Vardos:** The obligation of departmental officers processing migration applications, whether they are permanent or temporary, is to ensure firstly that all criteria have been met, all documentation that is necessary to support the application has been submitted. Where there is doubt about the bona fides of documentation, for example in a student application, the paperwork that is submitted to say, 'I have the financial resources to survive three years or four years or whatever study in Australia'—if there is any doubt about the bona fides of the documentation, we actually do the checking behind that to verify the veracity of the claims being made by the applicant. The short answer to your question is yes.

**Senator O'SULLIVAN:** Let me just pick a country. Let us make it Italy. I imagine that one could lodge an application in multiple regional centres across Italy if one was applying to migrate to Australia?

**Mr Vardos:** I am not sure what happens in Italy. I suspect in Europe all applications are electronic.

**Mr Fleming:** Certainly I believe the vast majority will be lodged electronically.

**Senator O'SULLIVAN:** They will go online. They will make their application. They will scan documents and attach them to the application. Then they will remit that to Perth or Tasmania or—

**Mr Vardos:** It comes into the system and the system then allocates the application depending on category, whether it is family, student, whatever, depending on where the processing is undertaken.

**Senator O'SULLIVAN:** With respect to those accompanying documents, does there need to be something to trigger the interest of a processing agent before they will conduct a
probative investigation around the integrity of that document? Take a birth certificate for example; they have been supplied a birth certificate. If it looks okay, smells okay, reads okay, then it is okay?

Mr Vardos: No, not necessarily. There are clearly patterns that are developed around the world. We do have a risk analysis capability. Without going into a lot of detail and giving away our 'dark arts', we do have the ability to identify those documents that have a high probability of fraud. There are some caseloads where fraud is more prevalent than others. Our staff are trained to deal with those issues.

Senator O'SULLIVAN: Sorry to interrupt you.

Mr Vardos: Sorry, no, go ahead.

Senator O'SULLIVAN: Do you do general audits? Do you do spot audits? We will check on one in 100 of each birth certificate supplied?

Mr Vardos: I would need to call on one of my colleagues who works for me but actually runs the visa network. The detail of the question is likely to come up later in the day. I am sure if he is around—

Senator O'SULLIVAN: I am happy, if I am in an inappropriate space—

Mr Vardos: No, he is here. Mr Williams can give you more detail about the actual processes that take place.

Senator O'SULLIVAN: Thank you.

Mr Williams: Yes, we do spot checks. We will look at some cases at random occasionally, often at a post or a processing office level. We will also do more post-event audit processes, that kind of thing.

Senator O'SULLIVAN: Coming to you, Ms Ransome—and we are talking about the Migration Review Tribunal; I am going to ask a series of questions in relation to the Refugee Review Tribunal separately, similar but separate questions, separate thrust—do your people, when there is an appeal made, rely upon the integrity of the body of material provided to you by the department without further question?

Ms Ransome: We will obtain the departmental file. It is sent to us. We are only reviewing, obviously, decisions where the person has been refused the visa. In those circumstances there may well have been concerns at the departmental level as to the integrity of documentation, which will be flagged for us. There can be concerns around integrity of documentation that is provided to the tribunal during the review process. We, at the tribunal, have access to, for example, the document fraud unit within the department to refer those documents to them.

I might just clarify, in general if a person applies for a visa overseas and is refused, there is only a very small category of those persons who will have review rights in the Migration Review Tribunal.

Senator REYNOLDS: Just on that, maybe this is a question for the department—my question in relation to China and India and people who have come here under one class of visa and then seek asylum. I was just wondering whether perhaps the department have some further information on that in terms of destination. In this case we have heard that there have been high numbers that have been refused from China and India. I am just wondering if you
are able to talk a bit more about those trends. It is in relation to Senator O'Sullivan's points: if there is any issue with the documentation or the fact that they have applied for one category visa and then when they are here onshore they change?

Mr Vardos: That is a difficult question to answer, in that you can make an assessment on the bona fides of the applicant on the basis of the visa that they are applying for. What is hard to actually assess is the intent of that person. So their bona fides for a visitor visa or a student visa or whatever could be 100 per cent. But you cannot delve into their mind to work out that their plan is in 12 months time or eight months time or six months time to actually apply for protection to give them an avenue to remain onshore permanently. There would be trends that would emerge from certain visa cohorts from certain locations around the world, and they are risk factors that play into the decision-making process.

Senator REYNOLDS: Do you have any figures, either on hand or on notice, of how many people do come in on one class of visa, like a student visa or a tourist visa, and then onshore make application for another category of visa and then a percentage of those would end up with Ms Ransome in terms of how many flow through?

Mr Vardos: I am sure we do have that analysis but I think we might have to take it on notice because it is probably not something that we have with us. No.

Senator REYNOLDS: That is fine. Thank you.

Senator O'SULLIVAN: I accept your answer with respect to volume, Ms Ransome, but when you receive a dossier from the department you accept prima facie it is what it is?

Ms Ransome: What it will be will be that the material that the department relied upon when it was making its decision to refuse the visa will be the material that is passed to the MRT, which will include documents that are provided by the applicant in the primary process.

Senator O'SULLIVAN: I accept that. But if the department has relied upon a document as fraudulent, you do not further examine the question of whether it is a fraudulent document or not. You accept prime facie that the document is fraudulent and therefore when you make your appeal decision you make it on the basis that it is a fraudulent document.

Ms Ransome: The only time that that would not occur would be when the applicant can convince us that that document is in fact not fraudulent.

Senator O'SULLIVAN: Without convincing you or contesting the issue for example—

Ms Ransome: If there is—

Senator O'SULLIVAN: If they contest it, then you would possibly, depending on whom, have a more critical look at the question of the authenticity of the document.

Ms Ransome: The tribunal will always look at the authenticity of the document. The tribunal is required under the law to conduct its own inquiry and investigation into the merits of the application. But obviously the fact that the department, through its means, has identified that the document is fraudulent would be something that would be taken due account of.

Senator O'SULLIVAN: This is not the key issue for me on migration. It is more when we get to the refugees. In the event that an individual challenges the finding of the department that the document is fraudulent—remember, this could be about any elemental fact involved
in the review—what would you do? What are the resources that you have at your disposal to go ahead and validate the position adopted by the department?

Ms Ransome: As I mentioned, we do have access to the department's document fraud unit. We also can inquire through our posts overseas as to the bona fides of particular documents.

Senator O'SULLIVAN: Okay. Going to the Refugee Review Tribunal, I am interested in your comment that you are now getting down to the hard kernel of more difficult, complex cases. Again my thrust is to draw a parallel with what we currently of course have. We are down to the last children in detention where this government has been anxious. I think this government has done a great job of getting children out of detention. But we are now left with the more complex cases. After all of the couple of thousand cases that have been processed over the last 17 or 18 months, we are left now with cases where there are some complex difficulties, in evidence given, where ASIO for example have a concern about one or more of the parents on a security issue.

What I am interested to know is: as you get down to the more complex cases, could you give us an example of what that actually means? I can surmise all day long, but what does it actually mean and what impact is it having both on the quantity of resources you need to apply to it and the time that they may have to devote to resolving a more complex tribunal application?

Ms Ransome: I perhaps have misled you slightly, and I do apologise for that. When I said that we were getting down to the more complex cases, what I meant by that is that we are dealing with more refugee cases and partner visa cases which, by their nature, are more complex than, for example, the student visa that Mr Vardos referred to. So we have a number of those cases on hand. I am not necessarily saying that, of those on hand and that we have got, we are only left with the more complex of that particular category. It is just that they are, and in reality there is a lot more for the individual themselves riding on those particular cases, which is apparent from their nature.

Senator O'SULLIVAN: All right. I will be coming back to that.

CHAIR: Senator O'Sullivan, I will interrupt you to see if there is anyone else that has any questions. Senator Bilyk?

Senator BILYK: No, not until the next outcome.

CHAIR: Senator Reynolds?

Senator REYNOLDS: Thank you. Yes, I do. I have got a few more continuation questions, if I could, about the reforms that you are currently undertaking and you are proposing to undertake. I was interested to hear you talking about the Migration Amendment (Protection and Other Measures) Bill and some of the initiatives in there that you think are positive for the organisation. I was just wondering if you could go through in a little more detail what are some of the proposed changes in the bill specifically that will assist both organisations. You referred to those measures in the bill but also other measures. Maybe first if you just go through the measures in the bill—there has obviously been some concern expressed about the fairness of them—and then the procedural changes as opposed to fairness?
Ms Ransome: I suppose there are three measures in that particular bill that are of interest to the tribunals and in fact their genesis came from proposals from the tribunals. The first one is—and I do understand that it is contentious—the ability to dismiss an application if an applicant does not appear before the tribunal. At the moment the tribunal must continue to deal with the matter and write a decision which will be a negative decision if the person does not appear, which is, as you can see, time consuming.

Senator REYNOLDS: How many of those cases would you have every year where people who do not turn up do not have a good reason or do not provide any notice that they are sick or ill?

Ms Ransome: Our current figure is around 13 per cent in the MRT and slightly less than that in the RRT. While that does not sound like a lot, when you translate those numbers over 21,000 cases, clearly there is a resource and time saving there.

Senator REYNOLDS: And it is time you could be spending on another case?

Ms Ransome: That is right. The safeguard is that there is proposed a right to reinstatement of the application. For example, if someone on the way to the tribunal meets with misfortune—an accident or whatever—they can get the matter reinstated and dealt with appropriately. This power is available to pretty much all courts and tribunals that I know of. At the moment we are an exception in that regard.

Senator REYNOLDS: You are a bit of an anomaly. So it is bringing it in line with other tribunals and jurisdictions?

Ms Ransome: That is right. Certainly when the tribunals merge into the AAT, the AAT itself has that power, and always has had since 1975.

Senator REYNOLDS: That was the first significant change?

Ms Ransome: We have spoken about oral reasons. I do understand what Senator Macdonald said before—if you give them orally then you can get a transcript. At the moment it does not quite work in the same way, but in every matter, no matter whether we give the reasons orally or whether we just do them in writing from the get-go, we have to produce a written record.

In many matters what the applicant wants to hear is why. Particularly, from our perspective, if someone does not speak English or does not speak English well, if we can deliver oral reasons with an interpreter, so that they can hear them in their own language, that is probably going to be what they want and need, without then necessarily having to turn around and reduce that to writing. Even if we do transcribe them, there is still a cost and it is a time consuming process.

CHAIR: The applicant wants to know, firstly, whether or not they have been successful; and if not, why not. Can they currently appeal to the AAT?

Ms Ransome: To the federal circuit court.

CHAIR: On a matter of law or on a matter of fact as well?

Ms Ransome: A matter of law.

CHAIR: Only a matter of law.

Ms Ransome: What is called jurisdictional error. It is fairly narrow grounds.
CHAIR: The written decision would be important if the member has made an error of law in a jurisdictional way.

Ms Ransome: I would anticipate that if someone was contemplating appealing, they probably would seek written reasons. But in our matters the appeal rate is relatively low. In the MRT, for example, currently only eight per cent of all matters are appealed to the courts.

CHAIR: What about the RRT?

Ms Ransome: In the RRT it is higher because of the nature of that jurisdiction. At the moment just under 20 per cent of matters are appealed to the courts. So if we did not have to write reasons in 80 per cent of the matters, I think we would be very happy.

CHAIR: If an applicant gets the written reasons and says, 'Hey, that's not right, they've got the facts wrong; I thought I'd explained that I did this on this day,' whereas the judgement completely misunderstands that, is their remedy then only to go back to the department and say, 'Look, someone hasn't listened to me' or 'I've been refused on the wrong grounds factually'?

Ms Ransome: If the tribunal made such an error as to completely misinterpret what the applicant was saying, there would be grounds for a judicial review.

Senator REYNOLDS: Ms Ransome, you were telling me about the three benefits in the legislation.

Ms Ransome: The third one enables the principal member of both the MRT and the RRT to nominate a particular decision as a guidance decision. As you can appreciate, with large numbers of decisions being made, one of the issues that we focus on is consistency of decision making, so that like matters are treated in the same way with like outcomes. The ability to nominate a particular decision as a guidance decision is intended to enhance the consistency across the tribunal so that a decision can become more like a benchmark, I suppose. It is a system that is in use particularly in refugee decision making in the United Kingdom and Canada.

Senator REYNOLDS: So they can see where there are similar situations and seek guidance, or where there is a divergence?

Ms Ransome: Yes. Obviously there will always be cases that fall outside the particular parameters that are set up in the guidance decision that would require independent analysis.

Senator REYNOLDS: As you said your members specialise in one or two areas. This provides them with additional assistance to ensure their own consistency and perhaps to speed the process up a little bit as well, because they are not reinventing the wheel?

Ms Ransome: I think not reinventing the wheel is very important, Senator.

CHAIR: When the tribunal members give a decision, and perhaps allow an application that has been refused by the department, is there any feedback later on? If the circumstances show that in fact the department was right in refusing whatever the application was and the tribunal got it wrong in allowing it—for example, if someone was rejected on grounds of criminal violence, refused by the department, allowed by the tribunal and then the applicant goes out and physically criminally assaults someone—is there any review? Do the tribunal or the members have the advantage of reviews of their decisions afterwards where they are
wrong? This has become a little bit relevant with recent events that have been happening, not directly related to the tribunal, but these sorts of decisions made that then turn out—

Ms Ransome: In the particular example that you are giving, Senator, that would not be a matter that the MRT or the RRT would deal with. Where a person has been refused a visa basically on character grounds, those matters are reviewable in the Administrative Appeals Tribunal, not in the MRT or the RRT. The short answer to your question is probably no; it would only be in rare cases where there would be direct discussion of a case that the tribunal had dealt with and the department had dealt with.

That being said, what the tribunal is looking at is whether a person meets certain criteria for the visa. If a person is refused the visa on a particular criterion by the department, the issue that comes before the tribunal is only that criterion. When the matter goes back to the department the application may still fail on other criteria that the person just cannot meet—such as, for example, the character requirement.

CHAIR: There is no tracking kept of departmental decisions that are overturned by the tribunals. Is there no tracking after that to say who was right and who was wrong?

Ms Ransome: I might defer to the department on that one.

Mr Williams: Probably all I can add to what Ms Ransome has said is that there is the capacity for the portfolio to appeal to the courts on, again, a point of law, as we discussed earlier—a tribunal decision that the portfolio disagrees with. So that is one way that there can be that feedback loop. The only other way would be to look, over time, perhaps at cancellations on grounds that might have gone to whether facts or judgements were right at the time of the earlier decision making. But they are so case specific generally that they rarely give you a generic feedback loop.

CHAIR: In each case the tribunal member interprets the act on whether the person is eligible or not; is that correct?

Ms Ransome: It is usually the criteria that are set out in the regulations that are applied.

CHAIR: Many of the tribunal members are not trained lawyers, are they?

Ms Ransome: There is a mix of lawyers and non-lawyers on the tribunal but they are all familiar with dealing with legislation.

CHAIR: There being no further questions on this area, thank you very much again, Ms Ransome, for what you have done and for the great record of clearing up matters that you spoke about earlier. It is good to see.

Ms Ransome: Thank you.

Office of the Migration Registration Authority

[11:57]

CHAIR: We now call the Office of the Migration Agents Registration Authority. Senator Reynolds, do you have questions?

Senator REYNOLDS: Thank you. I want to go to some background questions first, if I could.

Ms Tin-Chan: Senator, I do have an opening address.

CHAIR: An opening statement? Very well; go ahead.
Ms Chin-Tan: The OMARA’s last appearance before the committee was in October 2014. I am pleased to provide my first update on the OMARA's performance. The number of registered migration agents as at 31 January 2015 was 5,493, up from 5,118 at the end of the previous financial year. These figures continue to be brought to the committee's attention because they represent consistent growth of just under six per cent a year in net numbers in the profession, even though about 400 agents left the profession at the end of the last financial year. Agents in their first year of practice represent about 18 per cent of the profession.

Registered migration agents are still most active in the lodgement of 457 temporary work visas and in employer sponsored business skills and protection visas.

As the committee is aware, the OMARA regulates the sector and is charged with protecting consumers and ensuring that only qualified agents are registered. We continue to meet that obligation. In this financial year, to date, nine applications for registration have been refused and 20 applications have been withdrawn. As at 31 January 2015 the OMARA had 308 complaints on hand and had finalised 339 in this financial year to date.

The registration of three migration agents was cancelled for the maximum period of five years. These agents have sought review in the Administrative Appeals Tribunal. Their sanctions involve serious breaches of the code of conduct for migration agents and include not performing immigration services as promised, misappropriating client moneys, providing false or misleading information and encouraging the lodgement of visa applications that were vexatious and unfounded. I would like to balance this by saying that the majority of agents have not come to the OMARA's notice and most agents who are the subject of complaints work constructively with the OMARA to resolve those matters without the need for sanction. The report on the independent review of the OMARA operations is still under consideration. I am happy to answer questions from the committee.

CHAIR: Thank you very much for that. I did say I would start with Senator Reynolds, but just before I pass to her—I think I might have asked you this last time: is there a written examination? How do you assess the ability of a person to become a professional agent?

Ms Chin-Tan: There are two pathways to becoming a registered migration agent. One is to undertake the graduate certificate in Australian migration law and practice. They do that through the four universities.

CHAIR: Which four are they?

Ms Chin-Tan: The four universities are ANU, Griffith University, Victoria University and—sorry, that slips my mind.

CHAIR: Sydney or Perth? It does not matter. It is not terribly important.

Ms Chin-Tan: We can take that on notice. The other pathway would be if you hold an Australian legal practising certificate.

CHAIR: You act like a sort of solicitors’ board. You are not a teaching agency; you are a registration agency.

Ms Chin-Tan: That is right. We are a regulatory body over migration agents, yes.

CHAIR: The diploma in migration agents' registration—is that consistent across the four universities you are talking about?
Ms Chin-Tan: There are core competency standards that they have to teach to and cover. The four universities run quite distinct courses and they would have their own differentiations, obviously, for marketing purposes. But there is a prescribed examination that covers some common assessment items that all the universities have to put into their examinations.

CHAIR: I am sorry, Senator Reynolds, I will pass back to you and then we are going to Senator Bilyk. I might just note that the secretary has returned. Perhaps if the secretariat could just let Senator Carr know that once we finish the Office of the Migration Agent Registration Authority, if that is before 12.45, we will go back to cross-portfolio, but make sure he gets the qualifications. Senator Reynolds.

Senator REYNOLDS: Thank you again for your opening statement, Ms Tin-Chan. It was a very nice, concise but informative opening statement, so thank you. I would just like to pursue a couple of the statistics and the numbers that you provided. First of all, you said you had received, I think, 308 complaints last year but you had finalised 339, which indicates you had perhaps a bit of a backlog of complaints. I am just wondering if you could put that in context for us—how many you received, what the backlog was, and do you still have a backlog of complaints to be finalised?

Ms Chin-Tan: Yes. Generally the numbers of complaints that we receive usually trend around 400 to 500. We usually finalise quite a lot of them in the early resolution framework. There are quite a lot of complaints that come in, for instance, where we would triage them. At that stage we would decide whether or not it gets referred, for instance, to the department, if it relates to unregistered practice, and the rest would be triaged either through the early resolution casework or the complex case framework.

Senator REYNOLDS: Are you happy with that process? It sounds like it is working.

Ms Chin-Tan: Yes, that is a process that is working.

Senator REYNOLDS: Of those 400 to 500 cases a year, do you have any statistics on how many would be what we might call repeat complaints about the same agent? Are they all related to different migration agents or do you have serial offenders or complaints about the same people?

Ms Chin-Tan: Especially in the complex caseloads it would usually be complaints that come in and usually it would not be just one complaint that relates to one agent. We might see, for instance, two or three complaints or even as many as eight complaints that might relate to the one agent. That would be considered in the finalisation of the complaints.

Senator REYNOLDS: If you have eight complaints in this case about the same agent, they would not all just be dealt with separately? You would take the weight of evidence across the different cases into consideration?

Ms Chin-Tan: Yes, that is true. Sometimes on the weight of just one complaint there might not be sufficient evidence, but across a few complaints you might see a pattern of behaviour that would then lead you to a sanction outcome that might be a little bit more serious in terms of its outcome.

Senator REYNOLDS: Thank you. You also said that you had three cancellations for the five-year period and some of them related to misappropriation of funds.
Ms Chin-Tan: Yes.

Senator REYNOLDS: In addition to cancelling the registration, have you referred any matters to the Federal Police?

Ms Chin-Tan: Where it is relevant we do refer matters to either the department for criminal prosecution or to the police for prosecution.

Senator REYNOLDS: Have there been any successful prosecutions of any agents in the last—

Ms Tin-Chan: That probably is a matter for the department because they take carriage of the criminal prosecutions. If there are then findings that come out of those investigations we will take that into account when we are delivering our sanction outcomes against that agent.

Senator REYNOLDS: So you will wait for your sanctions until the end of any criminal procedure; is that what you are saying?

Ms Chin-Tan: The action that we might take against the conduct of an agent really depends on a few factors. It could depend on, obviously, the individual circumstances of the case, the stage of the criminal investigation and obviously the available evidence that we have.

Senator REYNOLDS: Thank you. I was a bit surprised to see the continual growth in the number of registered agents. You said six per cent per annum, even though there are about 400-odd leaving the profession every year.

Ms Chin-Tan: That is right.

Senator REYNOLDS: Have you got any thoughts on why the numbers are increasing so significantly?

Ms Chin-Tan: From the feedback that we get from the profession it appears to be that agents perceive it as a viable profession. It appears to be market forces at work, as far as we can tell. Typically, some agents also see that perhaps as a way of contributing to their community; they see that as a way of assisting others in the community to achieve their visa outcomes.

Senator REYNOLDS: In terms of the agency's work, do you rely mostly on receiving complaints or do you have an assurance process for compliance in the industry? Do you have any other mechanisms for checking compliance?

Ms Chin-Tan: The OMARA also undertakes monitoring activities. But these monitoring activities at the moment are very educative in process and they are aimed at increasing the professional standards and increasing the rate of compliance with the code of conduct. Monitoring activities could include desk audits of documents that are submitted to us or a review of websites, or they could even be site visits.

Senator REYNOLDS: Thank you. You mentioned, in response to Senator Macdonald's question, what qualifications are required and the training and the courses. Can I just clarify: if someone has a practising legal certificate then are they deemed competent or do they still have to go through and do some of the specific courses?

Ms Chin-Tan: That is considered as sufficient to prove the knowledge requirement for entry into the profession.
Senator REYNOLDS: Has there been an increase or decrease in the number of lawyers registering as migration agents?

Ms Chin-Tan: What we have seen is probably a corresponding increase. I would say that over the past four years there has been an average increase year-on-year of nine per cent in that cohort. The highest increase was probably in 2013, when the jump was 15.5 per cent. Last year's figure, though, was only 0.9 per cent. In this financial year we are probably already at the 13.4 per cent mark and the financial year has not quite come to an end.

Senator REYNOLDS: Have you any thoughts on the reasons for that?

Ms Chin-Tan: Because the general number in the industry is increasing, we probably see that as quite commensurate—

Senator REYNOLDS: As part of the general trend increase.

Ms Chin-Tan: That is right.

Senator REYNOLDS: You talked about the five-year cancellation.

Ms Chin-Tan: Yes.

Senator REYNOLDS: I am wondering what range or suite of options you have. You have done an investigation and you have found that there has been some breach of the code of conduct or other activities. What range of actions can you take? Have you just got a one-size fits all?

Ms Chin-Tan: In terms of formal actions, the OMARA have the ability to issue a caution. That is a formal warning. We can also suspend an agent. That is when an agent's registration is suspended for a particular period of time. We can also do a cancellation where they are removed from the register. We also have the ability to bar an ex-agent from re-entering the profession.

Senator REYNOLDS: And, of course, then referring anything for criminal prosecution.

Ms Chin-Tan: Criminal prosecution to the department, yes.

Senator REYNOLDS: Thank you.

Ms Chin-Tan: Senator, coming back to the four universities that you requested, they are the ANU, Griffith University, Murdoch University and Victoria University.

CHAIR: Thank you very much.

Senator REYNOLDS: Sorry, just one more question as a follow-up. With having so many legal practitioners, which obviously come within your remit to review their professional conduct in this space, do you have any relationship with any other legal regulators?

Ms Chin-Tan: We do have quite strong collaborations with legal or regulatory bodies in the various states. We do that to enhance cooperation when it is relevant. We have signed MOUs with the legal services commissioners in Victoria, Western Australia, New South Wales and Queensland. We have found that when we do make referrals to them they are quite responsive and quite collaborative.

Senator REYNOLDS: Thank you.

CHAIR: Senator Bilyk.
Senator BILYK: I just want to ask some questions about numbers, which you mentioned in your opening speech. I was a bit confused because when I read your opening speech you were talking about 31 January and the end of the financial year all in one sentence. It confused me, so I just want to clarify: there is an increase of 349 between—

Ms Chin-Tan: Yes, 1 July—

Senator BILYK: 31 January 2014 and 31 January 2015; is that right?

Ms Chin-Tan: No, sorry. When I talked about the financial year I meant 30 June-1 July till to date.

Senator BILYK: You said there were 5,493 as at 31 January 2015.

Ms Chin-Tan: That is right.

Senator BILYK: As at 31 January 2014 there were 5,144. The difference is 349. That is correct, isn't it?

Ms Chin-Tan: No. What I meant was that at the end of the last financial year, which would be the figure at 30 June 2014, it was—

Senator BILYK: I am asking what the figure was at 31 January 2014.

Ms Chin-Tan: I would probably have to take that on notice.

Senator BILYK: I think you will find it was 5,144.

Ms Chin-Tan: Okay.

Senator BILYK: Which is a difference of 349 between 31 January and 31 January. All I am trying to ascertain is this: I think you said 400 had left the industry—

Ms Tin-Chan: That is right. This will be the increase. It is a net increase.

Senator BILYK: Of those 400 that were left, you said three were cancelled for the maximum of five years; is that correct?

Ms Tin-Chan: That would be included in that, yes.

Senator BILYK: But was it three for five years?

Ms Tin-Chan: Yes.

Senator BILYK: But in five years' time those people can apply again, even though they are outside the code of conduct issues. Is that correct?

Ms Tin-Chan: They would have to, obviously, qualify for registration as a migration agent afresh. At that time when they apply—

Senator BILYK: There is a possibility they could do that?

Ms Tin-Chan: There is a possibility. We do not consider that—

Senator BILYK: It is not a lifetime ban. That is what I am asking.

Ms Chin-Tan: No, it is not a lifetime ban.

Senator BILYK: That is a bit of a worry.
Ms Chin-Tan: However, one of the requirements would be that they would have to satisfy us that they are fit and proper and that they are persons of integrity. That would be when we would look at their past conduct.

Senator BILYK: If they have changed their ways, they have the chance of coming back in five years?

Ms Chin-Tan: If we have evidence of that, yes.

Senator BILYK: Am I correct in thinking you said nine registrations were refused?

Ms Chin-Tan: Yes, that is right.

Senator BILYK: Are you able to give us some reason why that might be?

Ms Chin-Tan: Four of the registrations were refused because they did not meet English language competency criteria. Three of them were found to be not fit and proper to provide immigration assistance. Two of those applicants failed to exercise sufficient control over employees resulting, obviously, in unregistered practice. One of them had an extensive criminal history; it included fraud. One applicant also did not provide evidence of having professional indemnity insurance. One applicant could not demonstrate knowledge requirements.

Senator BILYK: Knowledge requirements of the Migration Act?

Ms Chin-Tan: Yes, that means that they have not provided sufficient evidence of having completed the Graduate Certificate in Australian Migration Law and Practice.

Senator BILYK: Of the 20 withdrawn, is that part way through the process, or when someone has talked to them about what their obligations and requirements are?

Ms Chin-Tan: Typically that would happen when they have put in an application. We have a conversation with them about, perhaps, the fact that they are not meeting English language requirements or some other requirement. When we tell them that there is a chance that their application will be refused, that is when a decision can be made to withdraw the application.

Senator BILYK: Or at any time further through the process, I presume.

Ms Chin-Tan: Yes.

Senator BILYK: In the financial year 2014-15 so far three were cancelled for the maximum of five years—only three were cancelled. How many were barred?

Ms Chin-Tan: No, the barring would only apply to an agent who is no longer currently registered with us. We would cancel agents that are currently on the register.

Senator BILYK: But does not your listing have a 'barred' category?

Ms Chin-Tan: There is a barred category. It applies to an agent who, for instance, knows that there is an active complaint against them and they are quite sure, or they think there is a good possibility, that we might take an action against them. So they might do things like allow their registration to lapse. If they are no longer currently registered with us we would hand down a barring decision that stops them or prohibits them from re-entering the profession.

Senator BILYK: If there is a current complaint against them, does that not mean that they are actually in the profession?
Ms Chin-Tan: Yes, they are in the profession but in the time that we take to investigate that complaint and to possibly hand down a particular decision they might become lapsed or they could have no longer renewed their registration in the meantime.

Senator BILYK: How many were cautioned?

Ms Chin-Tan: In this financial year to date we have not handed down any caution decisions. We have handed down three cancellation decisions.

Senator BILYK: No-one suspended?

Ms Chin-Tan: No, none suspended.

Senator BILYK: So how many agents were lapsed?

Ms Chin-Tan: For the lapsed agents, that figure varies from month to month. I probably would need to take that on notice.

Senator BILYK: Yes, I would be interested in that.

Ms Chin-Tan: For which period were you interested in the number of lapsed agents?

Senator BILYK: From 31 January last year to date. Thanks. In your opening speech you also said that the independent review of OMARA's operation is still under consideration. Do you have any idea when the government might respond to that?

Senator Cash: That is a government review. We have received the report and we are still considering it.

Senator BILYK: You have had the report since last September.

Senator Cash: Yes.

Senator BILYK: Do you have any idea when you might respond to that?

Senator Cash: I would hope over the next few weeks. But certainly it is still under consideration.

Senator BILYK: Will the review and the government response be made public?

Senator Cash: At this point in time it is a report to the government. I would still consider whether or not it will be made public. We have not made any decision on that.

Senator BILYK: Except that it may be by next estimates, instead of like last estimates, where I got a 'We are considering it'—

Senator Cash: We are still considering it, absolutely. Some of the recommendations are cross-portfolio, which means, obviously, that you need other departments to comment on them.

Senator BILYK: But at least this time you are able to give me a bit of a timeline—'In the next few weeks'.

Senator Cash: I would hope so, yes.

Senator BILYK: That is it for me; thank you, Chair.

CHAIR: Thank you, Senator Bilyk. Minister, just before we go back to the department, I have a question which I should have asked the MRT or the RRT, but I didn't. Perhaps we could take it on notice. All government agencies are 'gender neutral', are they? You select your people on the basis of merit—

Senator Cash: Merit.
CHAIR: not on the basis of gender.

Mr Pezzullo: Absolutely. It is a legal requirement in the Public Service Act.

CHAIR: Sure. It is just that I note that, of the members of the MRT and RRT in Victoria, there are 23 of one gender and 10 of another gender. Perhaps on notice, is there some reason for that? Across the board—as best I could work out from Christian names, and they may not be exactly precise—the balance is 68 of one gender and 45 of another gender. I guess that is close enough to balance. But the Victorian ratio is 23:10 and the Western Australia ratio is 3:1. That is a small figure, but—

Senator Cash: We can take that on notice, Chair, and have a look at it.

CHAIR: Perhaps people of one gender were more meritorious. It just seems an odd figure.

[12:22]

CHAIR: We shall now return to cross-portfolio corporate and general. Mr Pezzullo, can you tell us what the big announcement was?

Mr Pezzullo: Chair, before I do that, with your indulgence if I may add to an answer I gave to Senator Hanson-Young. I will make sure that this is drawn to her attention. I undertook to check this as best I could in the time available. Can I just confirm for the senator and for the committee that the department is aware of the invoicing arrangements pertaining to the commercial matter that Senator Hanson-Young raised. I indicated to her that I had personally not sighted said invoices, but I have confirmed that my staff have, and they are looking at these invoices in the context of the ongoing investigation that I announced or that I briefed the committee on earlier.

On a second point of additional information, I said that when I came into the job as the incoming secretary I was briefed on an ongoing—for want of a better phrase—contractual dispute that had arisen between our subcontractor and their suppliers. That certainly was on foot all the way through the latter part of last year. Senator Hanson-Young asked when we first became aware of specific allegations around—I think she talked about—junkets, expensive liquor and so-called 'escorts'. Those allegations specifically, that arose from one of the parties to this dispute, were drawn to our attention in January. I am willing to take on notice a more detailed chronology if that is of interest to the senator and to the committee. I have spoken to the head of our investigative area and she assures me that the investigation specifically around the overseas travel, which has been on foot since January, will be included imminently. I am happy to take any further details on notice.

CHAIR: Thanks for that. Mr Pezzullo, Senator Hanson-Young's question to you was had you seen the invoice—not your staff. You said your staff were aware of it. I assume your answer is still correct, is it?

Mr Pezzullo: Yes, that is right.

CHAIR: I suggest to anyone giving evidence here that it does help if you answer the question and not broaden it. If the senators want further detail they will ask for it. The question was specifically had you seen it. And the answer was 'No'. If Senator Hanson-Young wanted to ask any further questions that is up to her. Whilst I appreciate that public servants do try to be helpful, at times these proceedings would be speedier if we stuck to the actual
question. It is a question of how helpful you are. I guess it depends on which side of the fence you sit, as well.

Mr Pezzullo: Chair, as ever, I am grateful for your guidance.

CHAIR: As I say your answer was 'No', and that was correct and it didn't need correction. However, I am sure Senator Hanson-Young will appreciate the additional information you have given. Now arising out of that comment, Senator O'Sullivan indicates he has some specific follow-up on that.

Senator O'SULLIVAN: Thank you, Chair. This is the point I was going to take up with the witness when we adjourned it before. I want to go to this question about the invoice because it has been left hanging that somehow you received invoices that two prostitutes at $100 an hour equals $200, and one bottle of scotch at $5,000. Without necessarily going into the actual content of these invoices—because I accept and respect the fact that you are investigating the matter—would it be fair to particularise these invoices as being traditional, run-of-the-mill, tickety tock invoices that are raised, by a contractor in this case, or as a result of a contractual arrangement, that would typically reflect travel expense, accommodation expense, entertainment expense; whatever met the specifications that were attached to a contractual arrangement?

Mr Pezzullo: Senator, particularly in light of the very gentle admonishment from the Chair, I will answer the question as precisely stated. I have not seen the said invoice but I have been briefed on the case, as I said earlier, in the context of the investigation. I have got no reason to believe—and Ms Dorrington will correct this evidence if she needs to—that this is anything other than a standard commercial invoice between a prime subcontractor, those that are delivering services for us, in this case in relation to the construction of facilities in regional processing centres, and one of their suppliers. I might just check with Ms Dorrington to see if there is anything in the nature of the relationship between the subcontractor and their supplier that would be anything other than the ordinary, other than the fact that they are in dispute.

Ms Dorrington: I can confirm that it is a very standard invoice that goes to airfares, accommodation, hotel transfers and meals, and nothing more than that.

Senator O'SULLIVAN: Ms Dorrington, would it be fair to say that for somebody who was in the finance area that was processing such an invoice, their due diligence or governance would simply be to hold it up against the specifications of a contract, determine whether it was an acceptable invoice being raised and then, through whatever process, approve the payment of it?

Ms Dorrington: That is correct. That is my understanding; that would be correct.

Senator O'SULLIVAN: If, as per a newspaper report—let us not take this specific case, let us just invent one—a contractor or indeed a subcontractor decided to spend $15,000 on entertainment, when under the terms and conditions of the contract for those specific arrangements they were only entitled to get $5,000, would it be the case that your financial section would not know that?

Ms Dorrington: I think I would have to defer to my colleagues who know more about contractual arrangements than I do.
Senator O'SULLIVAN: Let me put the question another way. If they were only entitled to $5,000, it is likely that your financial section would only see evidence that reflected that because they have raised an invoice under the contract?

Mr Pezzullo: Senator, if I can assist here. Ms Dorrington's team leads on our very sensitive internal investigations that relate to misconduct, or at least allegations of misconduct. In terms of how we oversee both the acquittal of expenditure by the Commonwealth directly in relation to our contractors or their subcontractors, I might just ask Mr Cahill and Mr Groves to join us at the table. So between the CFO and the head of our infrastructure services division and Ms Dorrington you have the full team. Ms Dorrington's area—we are going to be cautious here, and I am sure you will agree with the need for this, Senator—is specifically looking at the allegation, and it is no more than that, of misconduct on the part of a Commonwealth official.

Senator O'SULLIVAN: What I am trying to respond to is that the uninitiated who may have been watching these proceedings this morning could be forgiven, given the nature of the questions by Senator Hanson-Young, who opened this door—for thinking that somewhere along the way your department has evaluated an invoice that particularised expenditure on a $5,000 bottle of scotch and that somehow you have approved it and we have drawn against the revenues of the Commonwealth to pay for a $5,000 bottle of scotch. I am happy with a yes or no.

Mr Pezzullo: We would not knowingly do that, no.

Senator O'SULLIVAN: That is right.

Mr Pezzullo: In fact, without getting into the detail of the circumstances of this particular case, that is not the sort of thing reflected in the invoices. And to that point, I might ask Mr Cahill to open very briefly with the prime contracts that are involved here, how we oversee those, in terms of ensuring value for money for the contract, and how we see through those contracts to get to the invoices submitted essentially by their suppliers, because obviously, as a prime contractor, you rely on your subcontractors and suppliers. And then, in terms of financial audit, you talk about the scrutiny of invoices. Mr Groves might have something to add. But Mr Cahill, perhaps first.

Mr Cahill: The dispute that exists, as I think I said earlier, is a dispute between a contractor to the department and one of their subcontractors, so we do not actually have a contractual relationship with the subcontractor. There is also a project manager that helps us manage the project and the flow of funds to the primary contractor. So, on the presentation of invoices for the work done by the contractor to us, our project manager would look at that in detail and provide advice to us, under the terms of the contract that we have with them as the project manager, and having regard to the nature of the contract that we have with the primary contractor. As the secretary says, in terms of seeing any particular detailed invoice that identifies the kinds of things that are being alleged, that is not something that would be visible to us. We have contractual arrangements with the primary contractor that involve payments for services; it may involve pass-through costs for travel and accommodation and meals and those sorts of things, which would be identified. And, on the basis of the advice from the project manager, we would pay those invoices, under the terms of the contract that we have with the primary contractor; that is it in the broad.
Senator O'SULLIVAN: Thank you. If it would not be evident to you and, indeed, was not evident to you in these particular circumstances, then there is no way known to man that it could be evident to anyone in the Commonwealth who may have approved you drawing against a particular vote or allocation that has been made for a specific purpose.

Mr Cahill: That is correct.

Senator KIM CARR: So I take it that the payment has actually been made; is that what you are telling us?

Senator Cash: Yes.

Senator O'SULLIVAN: No. To use the Thomson example—

Senator KIM CARR: Has the payment been made?

Senator O'SULLIVAN: You pay the prostitute and then fill out the form that it is entertainment. This suggestion was a low blow here for us to make an attempt to say that somehow the Commonwealth or this department had approved inappropriate expenditure; this is crazy. Anyway, we have cleared it up.

Senator KIM CARR: Secretary, has the payment been made?

Senator O'SULLIVAN: We have cleared it up with the Thomson principle.

Senator KIM CARR: Has the payment been made, Mr Secretary?

Mr Cahill: If I may, secretary, under the terms of the contract, there would be regular payments made to the primary contractor for the services that they provide.

Senator KIM CARR: So this invoice has been settled.

Mr Cahill: Which invoice specifically are you talking about?

Senator KIM CARR: No. I am not asking you about that. Has the invoice been settled?

CHAIR: He said, 'Which invoice?'

Senator KIM CARR: The one you are referring to that the secretary said he understands that you have seen.

Senator O'SULLIVAN: We were using an example—

Senator KIM CARR: You might be.

Senator O'SULLIVAN: We specifically led that line of questioning. You may have come late.

Senator KIM CARR: No.

Senator O'SULLIVAN: We actually went away from the specifics of that case and said we were talking generically about what happens.

Senator KIM CARR: Mr Secretary, has the invoice that you referred to in your evidence been paid?

Mr Pezzullo: I will have to take that on notice, because I am not sure that any officer at the table is equipped to answer that, because I know that there is a contractual dispute on foot between the prime and the sub and whether they have withheld payment I do not know.

Senator KIM CARR: The problem that you have is that the officers have said that regular payments are made. Are the officers equipped to tell us the answer to that question?
Mr Cahill: As I have said, I am not sure what invoice you are talking about.

Senator KIM CARR: The one that the secretary has referred to.

Mr Cahill: There are regular payments made under the contract. Now whether that covers the matters that are being alleged or not I think is a matter for investigation.

Senator REYNOLDS: The secretary has taken the question on notice.

CHAIR: Senator O'Sullivan, have you finished?

Senator O'SULLIVAN: No. I want to be specific because I need a clarification about what has been taken on notice. As you sit there, have you got a particular invoice in mind that you can visualise that you are going to respond to on notice?

Mr Cahill: No.

Senator Cash: And that is why clearly it has been taken on notice so they can sort through the issue.

Senator KIM CARR: The secretary referred to a specific invoice. I want to know: has that been settled?

Senator REYNOLDS: And the secretary has taken the question on notice.

Mr Pezzullo: As a matter of fact, we will have to check that.

CHAIR: Mr Pezzullo, you came back and said, yes, you had not seen the invoice but the staff had. So I think it is that invoice that Senator Carr is talking about.

Mr Pezzullo: I understand perfectly well the invoice that is in question and, as we all know, in commercial practice, invoices can be submitted and whether or not they are paid is a subject of both commercial and legal decision making on a case-by-case basis. Mr Cahill said that we make regular payments; that is a fact. We have an invoice; I have no seen it, but I have been advised that we have it; that is a fact. Whether or not it has been paid, it is on notice.

Senator O'SULLIVAN: So, once you pay a contractor for a line item that is relevant to the contract, do you have any idea or any capacity to know what that contractor might spend that money on?

Mr Pezzullo: They have got to spend it in accordance with the purposes of the contract. There is audit. There are ways of doing checks. As Mr Cahill said, there is an engaged project manager who works as an intermediary—if you like, as an agent or as a friend, as it were, of the Commonwealth to scrutinise performance; this is of the prime—Mr Cahill, is that right?

Mr Cahill: That is right.

Mr Pezzullo: So there are a variety of means. And to the point raised earlier by Senator Hanson-Young, in some cases allegations come forward from other sources and, as I have clarified through the course of the morning, the ongoing commercial dispute was on foot certainly in the latter part of last year—it emerged quite early in the piece—where the supplier to the subcontractor felt that they had been engaged to produce a certain amount of units under this contract. They were subsequently advised, 'Well, no, we don't need that many,' so, within their legal rights, they said, 'Well, we think that we're going to be out of pocket because of what we've tooled up to do.' That is a matter between the subcontractor and their supplier. At a subsequent point I clarified it upon the resumption of cross-portfolio. Senator
Hanson-Young, you were not present; my apologies for clarifying this in your absence. I indicated that the specific allegation around, I guess, 'junketeering', to use a colloquial term, then arose subsequently in January and we launched an immediate investigation on the question of potential misconduct by our staff. So there is an ongoing dispute; they can get pretty willing. That is between two other parties.

To your point, do we then know exactly what our subcontractors are spending their money on? Through audit and checking and through the engagement of project managers, we try to ensure that the Commonwealth is not being defrauded to the extent we can and then, when specific matters come up about rorted travel, buying expensive liquor and engaging prostitutes, that is then the subject of a very specific investigation that I briefed this committee on earlier.

Senator O'SULLIVAN: Mr Secretary—and let us stay away from this matter for the moment—when a contractor—

Senator HANSON-YOUNG: Ha, ha.

Senator O'SULLIVAN: I will tell you what, Senator Hanson-Young, this is not a humorous matter for the people involved, so—

Senator HANSON-YOUNG: No, it is not.

Senator O'SULLIVAN: So you might keep your snide remarks to yourself.

Senator HANSON-YOUNG: It is $44,000 of taxpayer money paid for scotch and callgirls—a first class life. It is not a laughing matter at all.

Senator O'SULLIVAN: Secretary, when a contractor—

CHAIR: Senator O'Sullivan, you have had 15 minutes.

Senator O'SULLIVAN: For the moment.

CHAIR: I did say that I would call Senator Hanson-Young.

Senator O'SULLIVAN: I will come back to it, with your consent. With respect to a contractor who is travelling to an overseas destination, to keep it in line with the circumstances, is it not a set arrangement that, if it is an overnight accommodation, it would appear in the application to you? It would be an invoice the contractor raised for four nights' accommodation at some agreed rate that was reflected in the contract. It would not necessarily be a description of where that contractor stayed; is that fair comment?

Mr Cahill: Yes, that would be fair comment.

Senator O'SULLIVAN: So they could stay at the Pink Pussycat—

Senator KIM CARR: They probably did.

Senator O'SULLIVAN: No; they are not members of the Australian Labor Party, as I understand it. They could stay at the Pink Pussycat. But when you got the invoice, it would be one raised on their company for four nights' accommodation at $100 a night.

Mr Cahill: Potentially that would be correct.

Senator HANSON-YOUNG: But it was not; it was over $400 a night.

Senator O'SULLIVAN: It may have been; whatever the contractual arrangements were, it may well have been that. I will come back to it, Chair.
CHAIR: Okay. Senator Hanson-Young, your interjections do not help me get to you to ask your questions, but it is your turn now. I am sorry, Senator Carr; we are not going to be able to get to you before lunch.

Senator HANSON-YOUNG: Just to follow up, we know the investigation started at the end of January and we heard earlier in evidence that this investigation should only take three or four weeks; so it must be very close to completion.

Mr Pezzullo: Yes, and I have reassured myself on that point since we last spoke.

Senator HANSON-YOUNG: Surely whether we have paid the money or not is crucial as to whether we are going to have any cost recovery for something that clearly is an inappropriate use of taxpayer money.

Mr Pezzullo: There are two parts to that. I have undertaken to Senator Carr to come back on notice as to whether original payment was made. If there has been any suggestion, that is proven through an investigation, of defrauded activity or inappropriate use of ultimately taxpayer funds, we certainly will seek redress; I can give you that absolute assurance.

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

CHAIR: Thank you, Senator Hanson-Young. Senator Carr.

Senator KIM CARR: Thank you.

CHAIR: You have three minutes.

Senator KIM CARR: I am delighted to hear that. I want to come back to the matters that you have taken on notice. Another issue has come up and that is the question of dual citizenship. How many dual citizens have we in Australia?

Mr Pezzullo: I would have to take that on notice. Off the top of my head, I just do not know.

Senator KIM CARR: No, you might not, but is there someone who can help?

Mr Pezzullo: I will see if anyone can assist.

Senator KIM CARR: Thank you.

Mr Pezzullo: We certainly would have statistics on the number of citizens upon whom we have conferred Australian citizenship and whether we have as a subset of that any dual nationality I might ask Mr Fleming.

Mr Fleming: The secretary is right. We do not have hard data on—

Senator KIM CARR: Are you saying that you do not have hard data on the number of dual citizens that there are in Australia?

Mr Fleming: No, because we will not have definitive information either on new citizens and whether they keep a prime nationality or, conversely, Australian citizens who go overseas and whether they might have acquired another nationality; so it will not be comprehensive.

Senator KIM CARR: I take it from that that you cannot tell me how many Australian citizens—those people who have Australian citizenship—have dual citizenship, who the second country is or subsequent countries are; is that correct?

Mr Fleming: No, we could not give you that subset of the data.

Senator KIM CARR: Is that right?
Mr Fleming: That is correct.

Senator KIM CARR: And you cannot tell me how many people have renounced their former citizenship?

Mr Fleming: No, we would not have definitive data on that.

Senator KIM CARR: You do not know?

Mr Fleming: We would not necessarily know. There is no need for us to know that as part of the processing of citizenship.

Mr Pezzullo: I think it is important, in comprehending Mr Fleming's advice, that the requirement to renounce prior citizenship or alternative citizenship was amended out of the act a long time ago.

Senator KIM CARR: That is right.

Mr Pezzullo: I know that in the early seventies it was required because it occurred in relation to my parents. To the point about whether people have effective citizenship in other jurisdictions, that becomes enlivened, whether they seek it or not, that would be one category of information. Australian natural-born citizens who travel overseas and acquire it come back, in effect, with dual citizenship but without—

Senator KIM CARR: You will not know?

Mr Pezzullo: No.

Senator KIM CARR: Would you be able to tell me how many Australian citizens by birth become citizens of another country?

Mr Pezzullo: I do not think that we have those statistics. I am happy to take that on notice. But their free right to travel overseas or to otherwise acquire or enliven citizenship through some pre-existing right would not necessarily be known to my department.

Senator KIM CARR: I notice that the Prime Minister today has announced, 'The government will develop amendments to the Australian Citizenship Act so that we can revoke or suspend Australian citizenship in the case of dual nationals.' How will you know who is a dual national?

Mr Pezzullo: It is not a question of maintaining, as it were, a database on people at large. The Prime Minister's announcement goes to the situation where there is active consideration being given to revocation, so it would have to meet certain threshold criteria in the act. There already are some grounds—limited grounds, it has to be said—in the legislation, first introduced in 1949 and significantly amended in 2007, that provide for persons to lose their citizenship, a couple of examples being in cases where they take up arms against the armed forces of Australia. There are a number of other grounds that relate to the defrauded basis upon which they made their claims in the first place, where that subsequently comes to light, or where there are serious criminal offences or criminal matters that come to light that pre-exist the granting of citizenship. The Prime Minister's statement earlier today goes to the expansion of those grounds, subject to the development of the detail by agencies and obviously by the government's consideration through normal cabinet and other processes.

Senator KIM CARR: At this point you do not know how many dual citizens we have in Australia?
Mr Pezzullo: This department cannot advise you of that, no.

Senator KIM CARR: If this department cannot, which department of the Commonwealth of Australia could?

Mr Pezzullo: I am not sure that any department could. If someone has modelled it, if there are demographers who have made an estimation of who has effective citizenship that can become enlivened upon travel or upon application, if someone has modelled the number of Australian citizens by birth who have gone overseas or somehow have acquired citizenship, that might be a source of data. The statement made this morning in relation to both the Martin Place siege review that was released yesterday and the counterterrorism arrangements review that was released earlier today goes to looking at the provisions in the act as it currently is enacted and looking to expand the grounds upon which revocation can occur in matters pertaining to serious national security offences.

Senator KIM CARR: As part of this review will you be seeking to acquire the information about who actually is a dual citizen?

Mr Pezzullo: To the extent that it is pertinent. Whether there are 100,000 people, a quarter of a million people, half a million people, is to some extent, if I may say with very great respect, somewhat beside the point. The question is: would any acts that were committed in any future scenario meet the thresholds that the government of Australia agrees to and that the parliament agrees to in terms of any revised statutory construction? We have had 16 cases since 1949 of revocations. Whether that number, with an expanded range of grounds that pertain to serious national security threats and concerns, would increase in years to come, who would know? But whether the catchment is, as it were, half a million, a quarter of a million or whatever other number is pertinent, it really relates then to the essential wrongdoing that is captured by whatever new thresholds the government first of all decides and then the parliament decides to enact.

Senator KIM CARR: Would you be seeking to revoke citizenship retrospectively or prospectively?

CHAIR: They are probably matters—

Mr Pezzullo: You cannot revoke it prospectively because it has not been conferred. But in terms of revocation—

Senator KIM CARR: No; prospectively of any alleged offence.

Mr Pezzullo: That would be a matter perhaps for the minister to comment on. I cannot see—

Senator KIM CARR: Minister, is it the government's intention?

Senator Cash: At this stage the government is still developing the amendments; that is it. They are under consideration; that is it.

Senator KIM CARR: But you cannot tell us, Minister, how many people in this country have dual citizenship?

Senator Cash: No; and I think Mr Pezzullo, the secretary, has outlined the reasons as to why, and why in any event that is not necessarily the crux of the issue at hand. There are very good reasons why, under your government, under this government, that is the system within Australia.
Senator KIM CARR: We have already had that established. There have been 16 occasions where that has occurred. The issue here is that the Prime Minister has made a statement about developing amendments to the Australian Citizenship Act 'so that we can revoke or suspend Australian citizenship in the case of dual nationals'—and we do not even know how many dual nationals we have in this country.

Senator Cash: That is why the statement is 'the government will develop'. They are currently going to be developed.

Senator KIM CARR: In suspending some of the privileges of citizenship, what is intended there?

Mr Pezzullo: I can refer you to the Prime Minister's statement earlier today. He spoke of three particular categories that pertain to the suspension of certain privileges. Welfare was one area that he indicated; consular support; and the ability to leave Australia and return to it in relation to passports. He indicated those three areas in his statement.

Senator KIM CARR: He has also indicated organisations that incite religious or racial hatred. Would that involve the removal of privileges of citizenship as well?

Mr Pezzullo: Any issues around incitement to hatred of that character are really a matter for the Attorney-General and his department. We do not directly deal with those matters.

Senator KIM CARR: No, but you do deal with the Australian Citizenship Act.

Mr Pezzullo: That is right.

Senator KIM CARR: Does this matter go to the issue of organisations that incite religious or racial hatred?

Mr Pezzullo: When the government considers suspension in relation to the privileges of citizenship, it might be minded to look at any number of matters. The three matters that the Prime Minister indicated relate to welfare, travel—that is to say with passport—and consular.

Senator KIM CARR: But no other political matters?

Mr Pezzullo: Senator, on that, yes, you are right; we do administer the Citizenship Act. We do not administer things like the Racial Discrimination Act and other similar pieces of legislation. That is really a matter for the Attorney-General's portfolio.

CHAIR: We might leave it there. Mr Pezzullo, when someone with dual citizenship leaves the country and they hand over a passport that is not an Australian passport, is there a cross-check done to see whether that person has an Australian passport as well, or am I getting into secret information that I should not be asking about publicly?

Mr Pezzullo: If you have the entitlement to nationality, you are entitled to lawfully present the passports that you have legitimately got access to. We have an ability to cross-check certain things that I would rather not talk about in open session.

CHAIR: With that, we will adjourn for lunch.

Proceedings suspended from 12:53 to 13:55

CHAIR: I resume the Senate Legal and Constitutional Affairs Legislation Committee dealing with the 2014-15 estimates. We are still on cross-portfolio, corporate, general.

Senator KIM CARR: I just return to the Prime Minister's statement today. On page 5 of seven, the Prime Minister said:
We've introduced legislation to refuse a protection visa to people who destroy evidence of their identity. And the same applies if you present a bogus document. This Bill is currently stalled in the Senate.

What is the status of the bill, which I believe is the Migration Amendment (Protection and Other Measures) Bill 2014?

**Senator Cash:** I would need to check with the Manager of Government Business in the Senate to find out what the actual status is. I will be able to do that for you.

**Senator KIM CARR:** It has been put to me that the minister's office, as of last week, advised that amendments are being made to this bill following consideration of the Senate committee report and that no revised legislation has been presented at this point. When it was introduced it was actually made clear that the Labor Party was generally supportive of the bill, although it did have some amendments. Is it true that the bill is being redrafted in light of the Senate committee's report?

**Senator Cash:** I would need to take that on notice.

**Senator KIM CARR:** Is the Prime Minister now misleading?

**Senator Cash:** Absolutely not.

**Senator KIM CARR:** Is the Prime Minister now misleading by saying that you are—

**Senator Cash:** I will refer to the comments made today by your leader, Bill Shorten, in response to the Prime Minister's statement. If you choose to get political, that is your choice, but even your leader has today gone on record and said:

Labor believes that keeping Australia secure and our people safe is above politics. That is why Labor has consistently adopted a bipartisan approach on these matters. We believe that this partnership is in the interests of our nation.

Certainly, from what I have seen the Prime Minister say today, that is the basis upon which he is approaching any of the changes.

**Senator KIM CARR:** That is not what he said. He is abusing that bipartisanship. He is making an allegation which is profoundly untrue, demonstrably untrue. He has not even checked with his own Minister for Immigration about the status of the legislation which he says is stalled, when the government itself is redrafting the bill.

**Senator Cash:** I never said that. I said that I would take that on notice.

**Senator KIM CARR:** When is the government intending to reintroduce its bill?

**Senator Cash:** I would need to take that on notice. Again, I go to the bipartisan nature of these types of issues, and that is the basis upon which—

**Senator KIM CARR:** The Prime Minister should not be making ignorant statements about the status of legislation in this chamber.

**Senator Cash:** I do not believe the Prime Minister has made an ignorant statement, but I have to say I welcome Mr Shorten's comments, as the leader of the Australian Labor Party, in terms of the fact that Labor has consistently adopted a bipartisan approach on these matters.

**Senator KIM CARR:** We will wait to see the colour of the amendments that you are proposing, but I would have thought that we would start on the premise that the Prime Minister told the truth. That would be a nice place to start on matters of such seriousness.
CHAIR: Let us have some questions.

Senator KIM CARR: I will return to the questions I was asking concerning the Human Rights Commission. Mr Pezzullo, you were going to get me some information in regard to the cases of sexual assault.

Mr Pezzullo: Yes. We will be joined by the head of the group, Ms Briscoe, and she will be assisted by Mr Douglas, who runs operations, and Ms Dorrington, who runs our internal assurance function.

Mr Douglas: With the 44 cases which I referred to this morning I need to update the committee and advise that that covers a period between 1 January 2013 and 10 July 2014. That covers cases which we have identified from a vast array of some 1,800 or so incident reports covering that period that we provided to the Human Rights Commission at their request. They represent sexual assaults involving a minor or to a minor or in a detention facility in which a minor was accommodated. That was the scope defined by the Human Rights Commission.

Senator KIM CARR: I will be clear about this. There are 44 cases of sexual assault involving minors or children?

Mr Douglas: Or in a centre in which a minor was located.

Senator KIM CARR: I see. So, 44 individual cases, not necessarily 44 examples of minors being sexually assaulted?

Mr Douglas: That is correct.

Senator KIM CARR: How many cases are being looked at that involve the sexual assault of a minor?

Mr Douglas: I do not have that number to hand—I would have to take that on notice—but we are working our way through all of those cases identified to us by the Human Rights Commission.

Senator KIM CARR: These are cases reported from 1 January 2013 to 10 July 2014? It is over that period of time; is that correct?

Mr Douglas: That is right.

Senator KIM CARR: When were the actual incident reports generated? Do they involve incidents from that same period?

Mr Douglas: They are incident reports that have been lodged on our system between those dates. Some of them would relate to incidents that occurred on the day. In some cases there may be follow-up reports relating to the same incident.

Senator KIM CARR: But it is a reasonable approximate for describing events that occurred between January 2013 and July 2014?

Mr Douglas: That is right.

Senator KIM CARR: It would not be from 2012, for instance?

Mr Douglas: Given that the commencement was on 1 January 2013—

Senator KIM CARR: It might?

Mr Douglas: It could be, yes.
Senator KIM CARR: But it will not be a great deal of time prior to 1 January?

Mr Douglas: It is unlikely to be.

Senator KIM CARR: I want to be clear about this. You are saying that these are 44 incident reports relating to events that have occurred in detention centres on the mainland?

Mr Douglas: These are 44 incidents. We have weeded out the duplicates. They are 44 separate incidents which have occurred in the detention environment within what we would call Australia's onshore detention network. That would include—

Senator KIM CARR: Christmas?

Mr Douglas: Christmas Island but not include Nauru.

Senator KIM CARR: Are you able to tell me how many incidents relate to Nauru?

Mr Douglas: Between 1 January—just let me check that start date—through to 31 January 2015, notwithstanding the department is yet to see the final Moss review, in which a number of allegations have been raised with Mr Moss, the department is aware of five cases. We can confirm the start date. In the period between 1 July 2013 and 31 January 2015 it is aware of five reported incidents of alleged sexual assault against minors.

Senator KIM CARR: We are talking about 49 cases in total at detention centres either onshore or offshore—

Mr Douglas: That is correct.

Senator KIM CARR: that you are looking into? There may be more. There are 49 within your consideration at the moment?

Mr Douglas: It is a very difficult area, of course, because with a number of those allegations subsequently the allegation is withdrawn or there is an election on the part of some responsible adult not to proceed, but they are the ones that we have active in our system.

Senator KIM CARR: There has been an inquiry into allegations of sexual abuse on Nauru for some time, has there not?

Mr Douglas: That is the report I referred to, a review being undertaken by Mr Philip Moss.

Mr Pezzullo: I might speak to that, partly because I think Mr Douglas might have left you with the impression that the department at large does not have the review. Mr Philip Moss, the former Commissioner for Law Enforcement Integrity, has indeed concluded and submitted a review of these related matters, sexual assault being one element, but other matters to do with children and their protection on Nauru. That is currently with me and a small team that is assisting me to work through his findings and his recommendations. We are obviously carefully working through those. We are in discussions with the government of Nauru, who have been briefed on the essential features of the recommendations, because the response to those recommendations will involve action by the Nauruan jurisdiction, for instance, follow-up by the Nauruan police force. It was commissioned by my predecessor as a report to the secretary. I have received it. I need to make that abundantly clear. A small team in Ms Briscoe's group, assisted by colleagues in the Assurance Division, of which I spoke earlier which Ms Dorrington heads, have been working through matters, and I hope to be in a position to provide that report to the minister with an agreed or suggested at least action plan that has been agreed with our partners in Nauru in the very near future.
Senator KIM CARR: When did you receive the report?

Mr Pezzullo: It is dated 9 February, from memory.

Senator KIM CARR: You have not briefed the minister on it yet?

Mr Pezzullo: I have given the minister a synopsis of the findings.

Senator KIM CARR: I would expect that would be the standard practice.

Mr Pezzullo: I briefed the minister in broad terms on what I described as a synopsis, the key narrative, the chronology, a brief description or an overview of the incidents that Mr Douglas alluded to, the findings and my proposed course of action as the secretary to develop a response plan that deals with the recommendations. I will be briefing the minister on those very shortly.

Senator KIM CARR: Is it intended that the report be made public?

Mr Pezzullo: That will be something that I will discuss with the minister. In any event, it involves multiple stakeholders such as the government of Nauru. There would be a degree of consultation required around that, but that is something that I intend to discuss with the minister.

Senator KIM CARR: Can you take on notice the question whether the report will be made public?

Mr Pezzullo: Yes, indeed.

Senator KIM CARR: I notice that the commission, in the report on page 62, suggests that the commission has reviewed the files detailing incidents of reported sexual assault involving children and, given the seriousness of these incidents, the commission considers that some may come within the scope of the terms of reference of the Royal Commission into Institutional Responses to Child Sexual Abuse. The commission intends to communicate these concerns to the royal commission. Have you, your department or your officers communicated those matters to the royal commission?

Mr Pezzullo: I will seek advice and support from Ms Pope on this point. I know that there has been an expression of some interest in the sense that the royal commission has these matters in their observation, as it were, if I could use that term. I do not think that we have been served any kind of formal proceeding or any formal notice, but I might ask Ms Pope to clarify that point.

Ms Pope: The secretary is correct. We have been cooperating with the royal commission, but we have not been asked for, nor have we provided, any of the cases referred to the Human Rights Commission to date.

Senator KIM CARR: If the Human Rights Commission thinks it is appropriate to refer the matters to the royal commission why haven’t you, Mr Pezzullo?

Mr Pezzullo: I might just look at the precise reference that you are examining.

Senator KIM CARR: It is page 62. ‘Come within the scope of the terms of reference’ is the wording I was looking at.

Mr Pezzullo: Indeed. It says that the commission—that is to say, the Human Rights Commission—considers that some may come within the scope and the commission intends to communicate these concerns to the royal commission. I do not know if they have done that.
My position on the matter is as follows. Having read the report in considerable detail—in fact, I have read it cover to cover—

Senator KIM CARR: I am pleased to hear that.

Mr Pezzullo: It is a very important and serious matter that the commission has looked into. I have asked for an audit to be undertaken not just of the incidents that are reported within the period that Mr Douglas was explaining, which is the terms of reference period for the inquiry, but out of an abundance of caution I have sought information and assurance from my staff that all reportable incidents, on a broadly defined basis, of a sexualised nature or anything involving potential abuse of children is examined going back to 2008, when the first, in recent memory at least, children related to illegal maritime arrivals went into detention. Should that audit reveal any matters that have not been appropriately referred, are not the subject of appropriate treatment by the police or child protection authorities on the basis of our files—and they might well have action in hand that is not visible to me—I certainly intend to make that information available to any competent authority, including indeed the royal commission.

Senator KIM CARR: The question relates to the terms of reference of the royal commission. It is not just whether or not you have taken appropriate action, which I would trust that you do. It is not just who was in government at the time. These are hideous offences and it goes beyond—and you quote the minister—political considerations. If there are circumstances within the scope of the terms of reference of the royal commission why wouldn’t you refer them?

Mr Pezzullo: The matter of whether there are any incidents that relate to children in detention that come within or without the scope of the royal commission is something that I have not turned my mind to, other than knowing that the royal commission is interested. They have advised us, as Ms Pope indicated to you, that they are interested in the matter. They have not served any document upon us, but let me give you an absolute assurance that I do not need to wait for a document to be served upon us.

Senator KIM CARR: That is exactly right.

Mr Pezzullo: I have had that work undertaken that I have just described. It has been initiated. I would hope that it would be successfully concluded within a very short period. From an abundance of caution point of view, I will make it amply known to the royal commission that this information is to hand. How they deal with it is a matter for them, of course.

Senator KIM CARR: I want to be clear, though. I agree with you that an officer of your seniority does not require an invitation. If there is evidence within the scope of the royal commission, in fact, you are obliged, aren’t you?

Mr Pezzullo: Absolutely. Within the terms of the Royal Commissions Act, absolutely. I am reassured—and Ms Pope can assist me with this—that there has been dialogue and discussion with the royal commission. I know them to be interested, because I have been advised that they are. We will be keeping them very much apprised of what we are doing in terms of internal audits and they can have as much or as little of the information as they wish to have.
Senator KIM CARR: I also read in the report, on pages 160 to 163, reference to an incident on Christmas Island on 24 March last year where staff used ‘arm bars, wrist locks and head control techniques against children in transferring them from one compound to another’. The report states that the ‘decision to approve the use of force was made within 15 minutes of the children being asked to move’. Have you investigated that claim?

Mr Pezzullo: Have I personally investigated that claim?

Senator KIM CARR: Has the department investigated that claim?

Mr Pezzullo: When I arrived in the role that I am currently in the department were in the process of assisting the inquiry with factual checks of its early drafts. I know that this matter was given some treatment in both responses by my predecessor and indeed in some of the material that I provided to the inquiry. When you say we investigated it, we would have raised or seen an incident report. I think the service provider named is Serco, on the face of the public document. They would have provided a report to my officers in March 2014. I will just confirm this with Mr Douglas, but I presume that a copy of that incident report would be in our system and it has subsequently been made available to the inquiry staff, who have obviously reflected on it and come to their own conclusions in the material that you have just described on that page. I am sorry, but I missed the page number.

Senator KIM CARR: It was page 161.

CHAIR: Make this the last one. We can come back to you later.

Senator KIM CARR: I just need to take this a little further. There is an incident report referred to.

Mr Pezzullo: Yes.

Senator KIM CARR: There is video footage referred to. I take it that the department does not dispute the accuracy of the statements made on page 161 of this report?

Mr Pezzullo: I am not sure that I can answer that without checking, because the department, at least in two instances signed by the former secretary and myself on two occasions—we provided what I would consider to be quite significant responses, in some cases rebuttal material. Whether those responses, those factual clarifications and/or indeed in some cases rebuttals, cover the incident that occurred on 23 March 2014—I am happy to take on, if you like, short notice, with the chair’s agreement, that is to say, I am happy to look at it through the course of the afternoon and come back to you in these proceedings.

Senator KIM CARR: Yes, if you would not mind.

CHAIR: Just continuing along that line. I would be very interested to hear which elements of the Human Rights Commission report the department has offered evidence that is contrary to what has come out in the report. That may have to be taken on notice as well, but as I understood what you just said you indicated that the preliminary report was shown to you and you had offered some contradictory evidence, not necessarily on this incident but on some incidents. If it is easy to get, I would be interested to know on which aspects of the report you had a contradictory view and whether your view was taken into account in relation to the final commission report. As you are aware from media reports, I am somewhat suspicious of this whole Human Rights Commission inquiry and its motivation. I would be interested in what you are doing.
Mr Pezzullo: I think an efficient way to respond to the question, which might need to be taken on notice in terms of the particulars—and remembering we transitioned between two secretaries. Mr Boles provided some initial responses. The inquiry team assisting the commission took those on advisement. We separately had a team of internal officers who worked principally in Ms Pope's area who were providing factual responses, responding to notices that were served pursuant to the relevant legislation that the Human Rights Commission operates under.

By the time I occupied the chair on 13 October the report was—and I will have to check my notes and my memory—in a near to final state. There was engagement between myself and the president with correspondence in late October and, if memory serves me correctly, in the early part of November. I think that has actually been either tabled with the inquiry's report or is available on our website. I can get clarity around that through the course of the afternoon.

To summarise the matter so that I do not just give you a process answer, I would not necessarily describe all of our responses as, if you like, being of a contradictory nature. In some cases we sought to clarify the inquiry's understanding of certain facts. In some cases we did engage in rebuttal. I would describe it as rebuttal, all done with respect and in a collegial fashion.

CHAIR: 'Rebuttal' would mean a contradictory view.

Mr Pezzullo: Yes. For instance, what I and my predecessor consider to be a potentially misleading reference to the absence, for instance, of educational opportunities, of access to a mental health support both within centres or in the case of determined refugees ongoing publicly funded mental health support. We thought that the early versions of the documentation that we saw perhaps did not give full expression to the full range of the government's programs. Ms Pope will correct me through the course of this afternoon, but I am pretty sure that Mr Boles responded initially, as I recall it. We can check that. The commission then came back with further and better particulars, which frankly did address some of our concerns. Going off memory, by about 10 November, when I signed a final response to the president, I think we got to a point where we were not going to agree on certain matters of just straight fact, and she was good enough to append that response along with the detailed attachment that went with my letter to her report. I am just looking at the document that Senator Carr has been referring to. I can see my letter of 10 November attached to that along with the annexure. It does deal with matters sometimes of interpretation—'these children do not get educational support'. The final report did refine that to some extent and our further information of November gave fuller expression to the range of, for instance, educational outcomes that we seek to achieve for these children. That is just one example. Ongoing public support for mental health programs would be another example and so on and so forth.

To give you a particularisation of where we started, how far apart we were when we started and then as we got closer, obviously it is the report of the president and her commissioners. In the end they have to make a decision about what they report and what they take from us, either partially or wholly agreed. In the end we got to a point where there were still some matters that we felt were not quite accurately depicted, and hence my letter of 10 November.
CHAIR: Did your department facilitate visits by members of the commission?

Mr Pezzullo: We certainly did insofar as you cannot get to these centres without authorisation, and they did visit centres. I will ask Ms Briscoe, Mr Douglas or Ms Pope to provide further and better particulars.

Ms Pope: I am looking to see if I have a list of the centres and when they were visited. In effect, the commission visited more than once the centres that were accommodating children at the time. That would have included Christmas Island I think on at least two occasions, but I will check. They visited Bladin and Wickham Point in the Northern Territory, and I believe they would have also visited all of the centres on the eastern seaboard that also have children accommodated in them. I would like to get the list and come back to you later today on that.

CHAIR: It probably would suffice if you could advise whether the report accurately indicates visits that were made.

Ms Pope: It is a matter of fact, so I would be comfortable that it does. I just cannot turn my hand to it immediately.

CHAIR: Perhaps it would be easier for you just to give us a list of the visits and we can cross them off.

Ms Pope: Certainly.

CHAIR: Is your recollection correct in that it would not have been more than three visits to any one centre?

Ms Pope: I do not think so, no.

CHAIR: I do not want to put words into your mouth. If you wrong, if you think that there were perhaps three or four visits to Christmas Island—

Ms Pope: I do not. I think there were two visits, but I would like just to check.

CHAIR: Yes, and I accept that you will do that, but your recollection at this stage is that at no stage did the commission visit any detention centre more than twice?

Ms Pope: I do not think so.

CHAIR: You will clarify that if that is wrong?

Ms Pope: Yes.

CHAIR: Minister, you mentioned earlier that Senator Brandis had responded.

Senator Cash: To the Gillian Triggs report?

CHAIR: Yes.

Senator Cash: Yes.

CHAIR: Perhaps we should say the Human Rights Commission report.


CHAIR: Was that a detailed response?

Senator Cash: There is a statement that he tabled when the report was handed down. It was basically a tabling statement of approximately two pages.

CHAIR: It clearly is a report commissioned by the Attorney-General's Department?

Senator Cash: Yes. It is a statement by the Attorney-General of Australia.
CHAIR: It relates to facilities that were under the control of this department. If this department is not issuing a response, then would I be right in saying that in relation to matters of fact, as opposed to matters of opinion, the department accepts what is in the Human Rights Commission's report as a matter of—

Senator Cash: You would need to refer that, obviously, to the secretary, but I think the secretary has also made it quite clear that attached to the report are certain responses from the secretary in relation to certain parts of the report. I think you would need to put it to the secretary.

CHAIR: I suppose I would not need to ask these questions if I had bothered to read the report, which I confess that I have not, but I suspect some of my colleagues might have. Perhaps I will leave it there and if the department can get back to me.

Mr Pezzullo: If it is of any assistance, and again I thank the commission for providing the material that we sent them as our final, if you like, response. It is actually embedded in the report. Very quickly, I wrote a letter to the president—and I was right in my recollection that it was 10 November. Attached to that is a document that I authorised, obviously prepared by officers of my department, headed 'General concerns with methodology'. It is on the public record for everyone to read, but we are concerned about subjective observations, untested claims, lack of procedural fairness of a right of reply in some cases, and so on and so forth, and little or no weight provided in the commission's findings to the actual detailed procedures that the department employed and that were advised to the commission. In some cases rebuttals that we had provided on particular points to do with the treatment of independent mental health determinations, which we felt were not adequately covered in the final report—we have stated the alternative position as to what the true state of affairs is, and so on and so forth. I could continue to read it, but it is on the public record. Again, I thank the president and her officers for agreeing, I guess in the view of balance, to provide our response at the back of their report.

CHAIR: But it did not change their report?

Mr Pezzullo: I do not know to what extent—

CHAIR: I guess that is a matter for assessment.

Mr Pezzullo: That is best directed to the president.

CHAIR: My more efficient colleagues would no doubt be able to access that on the website immediately.

Senator KIM CARR: You do not have to rely on the old fashioned web to get it.

CHAIR: We could be really modern and go back to a paper copy. I was going to ask you to photocopy that and give it to me, but I will go to Senator Carr's modern hard copy.

Senator Cash: They have one for you.

CHAIR: I might come back to that in my next session. I did indicate to you earlier that I wanted to ask briefly about the Deputy Secretary's review.

Ms Pope: Excuse me, Senator Macdonald. I have the answer to the question that you were asking about the number of visits.

CHAIR: Good.
Ms Pope: If I may, just to tidy off that answer.

CHAIR: Yes, that would be useful.

Ms Pope: The AHRC visited the Christmas Island detention facilities twice and visited once to the Sydney Immigration Residential Housing, the Melbourne Immigration Transit Accommodation, the Inverbrackie Alternative Place of Detention and the Darwin immigration facilities that I mentioned, Bladin and Wickham Point.

CHAIR: So, that is one for each one except—

Ms Pope: Except for Christmas Island, which was two.

CHAIR: Is that the only contact the commission has had with the centres on the ground as far as you are aware?

Ms Pope: Under the auspices of this inquiry, yes.

CHAIR: If they had been otherwise you would have known about that; is that correct?

Ms Pope: Yes, they could have visited in the time outside of that or prior to. If you wanted to know how many times they have ever visited under the auspices of the Human Rights Commission—

CHAIR: Your figures are since the Human Rights—

Ms Pope: These are under the auspices of that inquiry.

CHAIR: It was January, I think.


CHAIR: January 26, 2014. Thank you for that. That is very interesting. In your opening, Secretary, you said you wanted to make it abundantly clear to the committee that you want to empower your staff to make better informed decisions on visa and citizenship applications; that you want to empower your officers to say 'no' more often, where circumstances warrant and within the law through better use of information in terms of data analytics as well as ensuring that they have training and support. Mr Pezzullo, that suggests to me that perhaps your department has been a bit too easy in the past. You clearly feel some concern yourself that there have been too many saying 'yes' when perhaps they should have been saying 'no'.

Mr Pezzullo: Chair, I would not necessarily characterise it as whether we have been going easy or not easy. The facts of the matter are these, and it is something that struck me very soon after taking over as Secretary. I come out of the defence and national security community. I am very well versed in how data matching and the exploitation of what is known as big data occurs, including using highly classified sources. The act on its face, to take one example, does not expeditiously or smoothly allow for the use of sensitive information in a way that still affords natural justice and procedural fairness but which still protects the sanctity of that classified information. It has to be said that you can go through very complex procedures to have that information shielded. There are other agencies that are able to rely upon adverse information in a way that is protected both from the point of view of the crown's right to protect that information but also for a person's ability to be afforded natural justice. That is something that I would like looked at.

I do not want to go into too much detail on the nature of our profiling capability in an open hearing such as this, because this relates to sensitive intelligence matters. The traditional
reliance that most immigration departments around the world place on the known explicit entity of the applicant—Michael, whatever middle name, Pezzullo—if not on a watch list or some sort of movement alert list, generally speaking they are given the benefit of the doubt, as it were. In this day and age with the ability to more easily get access to quite sophisticated identities and to get access to fraudulent identities we need to be able to look behind the entity's identity more easily. We are establishing in parallel with the review that I mentioned this morning a professional and full-time intelligence division that will have the sorts of linkages to very highly classified sources as well as the ability to manipulate open source information more expeditiously. I could go on with a range of other techniques that Mr Vardos will examine, the centrepiece of which is how do we give the decision-making officer on the front line, often a junior APS officer, who is very conversant in the act—all of our staff are highly trained in the regulatory procedures of the act—additional tools, by way of, say, prompts or what is sometimes shorthandedly in our business called pings into classified data sets that give them cause to be concerned, just on a probabilistic basis. We do not have perfect knowledge of a person's identity or intent when you simply first get a visa application. It is no different from when you are screening an airline coming in, a ship coming in or a container coming in. You are dealing with risk. How do we arm those officers with profiling and other capabilities that give them a more scientific basis to say, 'This is a risk. I am not sure about this person's identity and intention. Are they really travelling here to undertake business or tourism or are they really travelling here to undertake the other purposes stated on the face of the application.' As we give those officers more tools, the shorthand of which is big data analytics—and there are many paths we could explore as we go down that path—how do we then give them the assistance to or the ability to escalate adverse decisions to get a supervisor to look at a potential adverse decision? Obviously, we want to try to respect people’s liberty as much as possible.

CHAIR: I have got the idea of what you are saying. I have run out of my time.

Mr Pezzullo: If you wish, I could discuss this at more length.

CHAIR: I think I have got the idea of what you are doing. It is a great idea. I understand it reflects varying community attitudes, not the least of which was the Sydney siege, where people are blaming law enforcement or courts or others for doing things that, in retrospect, perhaps you would not have done. I am not suggesting that is the case in yours. Clearly, there is a changing community attitude towards those sorts of things.

Mr Pezzullo: If I may, very briefly, because I know that you are trying to manage time—I want to make it abundantly clear, and we have said as much to our staff, that this is not about seeking to staunch or restrict the flow of immigration into this country. We rely on both temporary and permanent migration for all sorts of reasons. It is about equipping our officers with better tools—next program year we are looking to get five million applications—to give them a better fighting chance to find those applications that they need to spend more time on and to allow the other applications to go through smoothly.

CHAIR: Thank you for clarifying that. Senator Hansen-Young.

Senator HANSON-YOUNG: I just wanted to continue on with the cases of reported sexual abuse inside the Manus Island detention centre. I just want to clarify this. It was said earlier that there were five cases reported between the dates of 1 July 2013 to 31 January 2015. Is that towards minors or is that overall?
Mr Pezzullo: I think you mentioned Manus. If you are referring to the—

Senator HANSON-YOUNG: Sorry, I meant Nauru.

Mr Pezzullo: The Moss review into Nauru relates to incidents irrespective of age. Noting that whilst I have briefed the minister with a broad synopsis, I have not given him a chapter and verse either on the findings or the response. There might be some limitations on how much we can assist you with, but I might see if Mr Douglas can further assist.

Senator HANSON-YOUNG: I was not aware that the five cases were specific to the Moss review.

Mr Pezzullo: That was the evidence that the officer gave previously. I clarified to Senator Carr, just to make it abundantly clear, that whilst the minister has been briefed in general terms, and has indicated to me a very strong interest in getting an action plan and response as soon as possible, we have not yet put this review before the government in any kind of detail. Nor have we put an action plan to deal with it.

Senator HANSON-YOUNG: For further clarification—and perhaps Mr Douglas can help me—how many cases of reported sexual abuse have there been in Nauru, irrespective of what has been referred to by the Moss inquiry?

Mr Douglas: So, is this for all people, not just one?

Senator HANSON-YOUNG: Yes.

Mr Douglas: Between 1 July 2013 and 31 January 2015 it was 19.

Senator HANSON-YOUNG: Do you have the breakdown of minors versus adults?

Mr Douglas: As I indicated earlier in my evidence before the committee, five involved minors, of which three involved adults against minors, and two were minors against minors.

Senator HANSON-YOUNG: What is the correlation between those 19 cases and the cases investigated by Philip Moss?

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

Senator HANSON-YOUNG: How many cases has the department referred to the Nauruan police for investigation?

Mr Douglas: All of those incidents were reported to the Nauruan police force. 

Senator HANSON-YOUNG: All 19?

Mr Douglas: That is the advice to me.

Senator HANSON-YOUNG: Do we have an understanding as to where those police investigations are up to?

Mr Pezzullo: In order to assist this committee, particularly with the comparisons that Senator Carr was after in terms of broad numbers, we are trying to be as forthcoming as we can be. As to where investigations sit, as to where a response to the Moss review sits and as guidance to my officers—and the minister will intervene if she sees fit—until we have fully analysed the Moss report, engaged with the Nauruan police as I indicated to Senator Carr that we were going to be doing, and they have been very forthcoming in their responses, and noting that they are another jurisdiction, I am reluctant to be providing advice to this committee. I absolutely recognise your entitlement to ask me the question about what another jurisdiction is doing or the state of progress in its investigation. It would be quite improper for
Mr Douglas to be breaching that confidentiality for two reasons. One is, as I have indicated before, the minister has been broadly briefed with a synopsis. The liability sits with me to get him fully briefed on the report in detail and a proposed response plan. We are engaging for that reason—

Senator HANSON-YOUNG: Can I just interrupt for a moment? I am listening to you. I understand what you are saying.

Mr Pezzullo: The bottom line is that we are not willing to give you any more detail unless there is something so uncontentious that we can. But this line of questioning, which you are entitled to pursue, is just going to—

Senator HANSON-YOUNG: I would like to pursue my questioning if I could. The point is that I have not been given—Mr Douglas has taken this on notice—how many cases out of the 19 are part of the Moss review. I am saying overall. Out of all of those 19 cases, have any, for example, been completed? Has there been an outcome of referring those cases to the Nauruan police? Have there been any convictions?

Mr Douglas: I will take that on notice.

Senator HANSON-YOUNG: Do you know whether there have been any convictions?

Mr Douglas: I will take that on notice.

Senator HANSON-YOUNG: But do you know?

Mr Douglas: I do not have complete advice at this point in time. I would like to take that on notice.

Senator HANSON-YOUNG: Do you have any evidence that guards may have been dismissed who work inside the centre because of any allegations of sexual assault?

Mr Douglas: That is quite a specific question. I do not have advice to that level of specificity and I would like to seek advice from the service provider as to whether that was the case.

Senator HANSON-YOUNG: What is your role again?

Mr Douglas: My role includes the oversight of operations of our officers in those two offshore centres and the onshore centres.

Senator HANSON-YOUNG: If somebody had to be fired because of being involved in sexual assault, I would imagine that you would be one of the first people in the department to be told that?

Mr Douglas: We are not the hirer and firer of those service provider personnel. We contract with the service provider for the provision of outcomes related to the services they are required to deliver.

Senator HANSON-YOUNG: But you would expect to be told, wouldn't you?

Mr Douglas: I would expect to be told if an officer had their services terminated. I would not necessarily expect to be told the reasons for that termination. That is a matter between the employer and the employee.

Senator HANSON-YOUNG: So, you will take on notice whether anybody has been dismissed as a result of sexual assault allegations?

Mr Douglas: I will take that on notice.
Senator HANSON-YOUNG: Do you know whether there is any evidence to suggest that women inside the centre have been forced to expose themselves in exchange for access to cigarettes or to longer showers?

Mr Douglas: I am aware of those allegations. I am also aware that they are matters that were investigated by Mr Moss. As the secretary has indicated, Mr Moss's report is shortly to be considered by the minister and he has indicated that he will take those questions on notice.

Senator HANSON-YOUNG: Are you aware of any evidence, Mr Douglas?

Mr Douglas: I am aware of allegations.

Senator HANSON-YOUNG: You have not seen the report, have you?

Mr Douglas: I have seen the report.

Senator HANSON-YOUNG: Are you aware of any evidence that Nauruan guards have exposed themselves to children as young as nine years old?

Mr Douglas: I am aware of the allegations that are all being investigated by Mr Moss.

Senator HANSON-YOUNG: Are you aware of any evidence?

Mr Douglas: I am aware of allegations.

CHAIR: I am sorry, isn't your answer, no?

Mr Douglas: I am aware of allegations. I am not aware of evidence.

CHAIR: Yes, but the question was: are you aware of any evidence?

Mr Douglas: The answer is, no.

Senator HANSON-YOUNG: Have you been given a briefing or perhaps a copy of a picture drawn by a child inside the Nauru detention centre that shows a Nauruan guard with his pants down and an erect penis?

Mr Douglas: No.

Senator HANSON-YOUNG: Have you been informed of that evidence?

Mr Douglas: I don't recall that, no.

Senator Cash: Could I just interrupt there in terms of Senator Hanson-Young's line of questioning. Senator Hanson-Young has raised a number of these allegations previously. At the last estimates hearing we discussed a number of them. The department has put forward its answer to a number of your questions. A review was conducted. A report is now with the secretary. The secretary is considering the report. In terms of your continued line of questioning to the department, I think you know that merely because you state it that might get you a headline, but the department's response is going to be the same each time.

Senator HANSON-YOUNG: With all due respect, this is not a press conference with the Prime Minister and questions will be allowed to be answered here.
Senator Cash: The department has clearly articulated its position in relation to the Moss review.

Senator HANSON-YOUNG: We have heard in evidence today that this committee is not even given a guarantee that we will ever see the report. So, I will continue with my questioning, thank you very much. How many staff who work inside the Nauru detention centre have working with children checks?

Mr Douglas: I do not have that information to hand.

Senator HANSON-YOUNG: Do all staff working inside the Nauru detention centre have working with children checks?

Senator O'SULLIVAN: He has already answered that question.

Senator HANSON-YOUNG: Is it a requirement for all staff working inside the Nauru detention centre to have working with children checks?

Mr Douglas: I will have to check with my colleague, but I believe so.

Mr Painting: It depends on the role that people are playing. In cases where people have regular involvement then, yes.

Senator HANSON-YOUNG: So, all staff working inside the perimeter of the family camp have working with children checks?

Mr Douglas: They are all supposed to. Whether they do or not we would need to seek assurance from our service provider.

Senator HANSON-YOUNG: Given the serious nature of the allegations that have been raised over recent months, has there been any review of staff and their relevant working with children checks?

Mr Painting: There are reviews regularly.

Senator HANSON-YOUNG: But you cannot tell me whether everybody there has them.

Mr Painting: It is something we would have to take on notice for sure. I think that is the case, but to give you an absolute guarantee right here—

Senator HANSON-YOUNG: When was the last time that you asked for a guarantee from your contractors that that was the case?

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

Senator HANSON-YOUNG: I know I am running short of time. I want to ask in relation to a young girl who jumped off the second floor of a building in one of the Darwin detention centres last week. Are you aware of that case, Mr Douglas?

Mr Douglas: I am sorry. Could you repeat the question, please?

Senator HANSON-YOUNG: Are you aware of the young girl who threw herself off the second floor of a building in one of the Darwin detention centres last week?

Mr Douglas: I am aware of the reporting of that incident. I am not aware of the detail underpinning it.

Senator HANSON-YOUNG: Who in your department would be? It is a pretty serious report.
Mr Douglas: Clearly, I would expect that the senior officers in Darwin, in the Northern Territory, with the responsibility for that centre would be fully aware of the circumstances.

Senator HANSON-YOUNG: Who here in immigration headquarters knows about the 16-year-old girl who threw herself off a building last week?

Mr Douglas: I would expect that a number of my staff would have knowledge about it, but there are many thousands of people in immigration detention. I am not too sure they know the circumstances of every one of those cases.

Senator HANSON-YOUNG: We just heard that there was a record low of children, and this is a child who threw herself off a building last week. I would like to know who in Canberra knows about this.

Mr Douglas: I am pretty sure my staff at my office in Canberra would be aware of those circumstances. I just do not have them to hand.

Senator HANSON-YOUNG: Could you please get the details or bring forward somebody who can actually answer those questions?

CHAIR: What do you want to know? Is it true?

Senator HANSON-YOUNG: Yes, I want to know whether the reports are true and what has happened to the poor woman.

Mr Pezzullo: When we come to the specific program in the time available—

CHAIR: Is it true and, if so, what is the state of that person now? Is she in hospital?

Mr Pezzullo: We will check the report through you to the Senator and maybe when we come back to onshore detention we can come back with further and better particulars, the nature of the incident and her current wellbeing.

Senator Cash: The relevant officials will be here in a later outcome.

Senator DASTYARI: That is fine. I am trying to get a point of clarification.

Senator HANSON-YOUNG: Is there nobody in the room right now who knows about this case?

CHAIR: Even if there is you are out of time. We set a program and we have detailed questions later in the day when all of the relevant officers are here and yet it seems like we are going to spend all day on cross-portfolio things. I am going home at 11 o’clock tonight, so I do not care how it is done, but it makes it difficult for the staff to have the right people at the right table at the right time when we are all over the shop. I think I was going back to Senator Dastyari.

Senator DASTYARI: I am going to bore you, because I am going to go back to facts and figures.

Mr Pezzullo: I might ask Ms Noble and her officers to try and—

Senator DASTYARI: Before you do, I just want to get my head around that question that Senator Hanson-Young raised. This is not my space, so I am not going to pretend. You guys have obviously been dealing with this more than I have. I am very new to all of this. Where someone is doing major self-harm, there must be some process or some incident report that comes to the secretary or the minister?
Mr Pezzullo: Indeed there is. Some of the sexual abuse and sexual incident reports that Mr Douglas was referring to earlier in response to Senator Carr are, if you like, the summary of all of those incident reports. There are classifications within that reporting system.

Senator DASTYARI: If there is something as serious as someone throwing themselves off a building, how do you not know about it, Mr Douglas?

Mr Douglas: I do know about the incident. I do not know about the detail underpinning it as to why.

Senator DASTYARI: So, you were given a report?

Mr Douglas: We have got a report that it occurred. Obviously, the most immediate action is to ensure the health of that person is well and truly catered for.

Senator DASTYARI: So, you know about the incident; you are saying you do not have the information following up what has happened?

Senator Cash: The relevant officer will be here in the appropriate outcome.

Senator DASTYARI: What is the basis or method of forecasting net overseas migration over the medium term? How do we calculate this? How do we make the calculation?

Ms Wykes: Official estimates of net overseas migration are compiled and published by the Australian Bureau of Statistics on a quarterly basis and in the Australian Demographic Statistics, and this data forms this basis for forecasts compiled by our department, which is published in the document that you had this morning on a quarterly basis. NOM is the net gain or loss of population through immigration or emigration, and it comes down to the components. NOM is characterised by the visa that is attached to the actual movement of the person that either NOMs in or NOMs out. You have to be in the country for 12 out of 16 months or out of the country for 12 out of 16 months for you to NOM in or NOM out. The forecasts are produced in three components of NOM. There is either temporary, permanent or other.

Senator DASTYARI: What I do not understand is this. When we are looking at figures that have consistently been over 200,000, the last intergenerational report had a figure of 180,000. I want to take the politics out of this. The last intergenerational report did have a figure of 180,000. I checked that. Let us go through how the last one worked. Were you there when they did the last one?

Ms Wykes: No, I was not.

Senator DASTYARI: We will go with this round. You are saying that you initially presented one set of numbers to Treasury, which was effectively your estimate of what you think is going to happen all things being equal? Is that how it works?

Ms Wykes: Yes, it goes through the—

Senator DASTYARI: When did you supply those numbers?

Ms Wykes: We supplied them on a quarterly basis. It goes to the ABS, who come up with—

Senator DASTYARI: But not for the intergenerational report. With the ones that you give for the intergenerational report, as we discussed earlier, there was a request—because the ones you do on a quarterly basis are over four or five years, kind of forward projections. The
intergenerational report is a whole different process. It has a much longer timeframe. When did you supply your first set of numbers for the intergenerational report?

**Ms Wykes:** It was 3 March.

**Senator DASTYARI:** This year or last year?

**Ms Wykes:** Last year.

**Senator DASTYARI:** I understand this is a long process. So, on 3 March last year you sent the first set of numbers over to Treasury and then there were meetings between yourselves and Treasury where they kind of put other projections to you? They are making assumptions saying that, if this happens, that happens and then you participate by helping them calculate the number for what that would do to the figures? Is that correct?

**Ms Wykes:** Yes, we provide some figures and some background information and NOM history and forecasts.

**Senator DASTYARI:** We know of two occasions. Were there more than two occasions?

**Ms Wykes:** There were two occasions where we met, 3 March and 23 July, and then there were discussions by email and telephone basically giving some more background information, clarifying historical net overseas migration and clarifying the NOM forecasts over the forward estimates.

**Senator DASTYARI:** So, 3 March was the initial data dump, effectively, and then when was the second meeting?

**Ms Wykes:** That was on 23 July.

**Senator DASTYARI:** You are saying that since 23 July up until let us say a few weeks ago when this thing got finalised there was regular contact but no formal meetings?

**Ms Wykes:** That is right.

**Senator DASTYARI:** Who contacts who? How does it work? Is there a unit within Treasury that does IGR? It is a matter for Treasury, I suppose, but who is it that you are interacting with via email and telephone?

**Ms Wykes:** The Treasury department.

**Senator DASTYARI:** Do they have a unit in there that does the IGR or is it just the general people that you would be dealing with otherwise?

**Ms Wykes:** That would be for the Treasury department to answer.

**Senator DASTYARI:** Who are you dealing with in Treasury?

**Ms Wykes:** I do not know the name of the person off the top of my head.

**Senator DASTYARI:** That is fair enough. Are you effectively saying that there was a formal process of seeking information and an informal process of communication where you were involved in discussions to get to the final figure?

**Ms Wykes:** That is right.

**Senator DASTYARI:** I am not asking you what the figure is. I am asking you whether you are aware of the forecast assumptions that are being used in the IGR?

**Ms Wykes:** No, I am not, because I have not been party to the finalisation of the IGR.

**Senator DASTYARI:** So, you have not seen the final IGR?
Ms Wykes: No, I have not.

Senator DASTYARI: Was the final IGR immigration component of that discussed with you as the final figure?

Mr Pezzullo: When I became secretary I had myself briefed on what we contributed. In the 19 weeks that I have been in the job I have seen lots of documents. I do not think I have seen a draft IGR and nor have I seen a synopsis of where the Treasury has landed in regard to the data projection that your questions go to.

Senator DASTYARI: Minister, have you seen the final IGR?

Senator Cash: No, I have not.

Senator DASTYARI: Do you know if the minister has seen it?

Senator Cash: I would need to take that on notice.

Senator DASTYARI: Has it gone to cabinet?

Senator Cash: I would need to take that on notice. I am not part of cabinet.

Mr Pezzullo: It is a matter for the Treasury.

Senator DASTYARI: That is fair enough.

Mr Pezzullo: Perhaps a question better directed to the Treasury.

Senator DASTYARI: The bit that gets hard with all of this is that we are dealing with something where a small change in projection based on an assumption has a very large impact on Australia's net population figures in the future. Is that a fair assessment?

Ms Wykes: Out to 2040. Yes, it would.

Senator DASTYARI: Just to put it into perspective—and I know I have the document and you do not; not that this is any secret—in both the first IGR and IGR 2007 annual population projections were projected to fall steadily to rates considerably below those in recent history. In IGR 2010 population still falls over time, but its annual rate is only a little below one per cent at the end of the projection period. That is what allowed us to get to the fact that in the last IGR 2010 the population projection was 34.9 million, which was considerably up from 28.5 million in the IGR before that. I just think this is interesting. Is that the view of the Department of Immigration that immigration figures seem to be consistently increasing over time? Is that a matter of fact?

Mr Pezzullo: Historically? That is just a matter of fact. I think the evidence that was given when you earlier asked this today was that the trend has been for growth in the permanent migration outcomes. There have been some periods, in the 1970s, for instance, if I recall the graph I have been shown on NOM over time there has been a flattening in the seventies perhaps out of the period of stagflation. The government of the day might have turned the dial down. I think generally speaking there has been an upwards linear trend.

Ms Wykes: There has been an upwards linear trend. There was a peak and it has come down from the peak, as Mr Fleming said earlier. There is an upward trend in NOM.

Senator DASTYARI: If there is a disagreement on projection figures between the department's assessment and Treasury's assessment, the IGR is written by Treasury and Treasury gets the final say; is that correct?
**Mr Pezzullo:** I just want to clarify, if I may. When you say disagreement about the projection, this is a parameter that is so policy sensitive because the government, of whichever persuasion resets its immediate program year by year, might have a projection in the forward estimates that is built in for the purposes of making assumptions about review or social welfare entitlements and the like. But every year, I think as you all know, ultimately the cabinet considers the annual migration.

**Senator DASTYARI:** It has been fairly consistent.

**Mr Pezzullo:** I think it has, but when you say a disagreement about projections—I guess in other areas of macro settings, if you are debating or discussing the future of inflation or the future of commodity prices there is a degree of, if you like, examining external forces. I think it is fair to say this is ultimately trying to make a judgment about what future policy settings are going to be. I do not know that agencies would have a disagreement per se. It is really about assumptions made, in a sense, about future public policy outcomes.

**Senator DASTYARI:** But a change in assumptions would have a huge impact on future populations.

**Mr Pezzullo:** As the evidence that was given before indicated, out to 2040, certainly with the sensitivities involved in this, if you tweak a percentage point here or there or certainly even to a decimal point and then other assumptions about the natural birth rate—

**Senator DASTYARI:** The birth rate thing does not really change. The assumptions there do not change.

**Mr Pezzullo:** You have to make assumptions. Australia tends to be at the upper end, as I recall it.

**Senator DASTYARI:** I mean, in terms of future population—

**Mr Pezzullo:** The key variable is, as you say, net overseas migration, migration of a permanent character. When you net off immigration, that is the key variable in the sense that the birth rate tends to be fairly static.

**Senator DASTYARI:** You were very frank talking about the deliberations during the Triggs process where you said there were things, in your words, that were potentially misleading in the documentation and the process.

**Mr Pezzullo:** In that case we disagreed with statements of fact that we thought could be differently presented in a more accurate fashion.

**Senator DASTYARI:** I am saying, if there is a disagreement—I am using that word, and you have made the point that is a stronger word, because we are talking about an actuarial basis. But you have a unit and a team who are responsible for projections, so you have your own expertise in this area. If there are figures that are determined in the IGR for future migration flows that are different from the projections that you had presented to Treasury, that is a matter for Treasury; Treasury gets a say on that in the end. You are saying you do not get a say in the final figures?

**Mr Pezzullo:** It is Treasury's report. They will make of contributions what they will. Treasury, being a very conscientious and diligent agency, will come to its own judgements and will no doubt be able to evidence the basis for those judgments.
Senator DASTYARI: Without going to the contents of advice to government, which is not the place I am going, you are saying there was a series of emails, telephone calls and toing and froing. What is that toing and froing over?

Ms Wykes: It was to clarify historical NOM. It was to clarify some NOM forecasts and it was to clarify other background information and talk about visa policy settings and things like that that may impact.

Senator DASTYARI: So, is how it works that they come to you with a policy setting and then ask you to calculate what that policy setting is?

Mr Pezzullo: I suspect it is a bit more elemental than that. The history of this is probably better known to you than it is to me, just based on the fact that you are able to refer to the document. If the last IGR was produced in 2010 under the previous government, it might well simply be a case that the officers diligently and conscientiously preparing this IGR maybe did not work on the last one and are not overly familiar with the calculation method around that. I am just imputing an answer here. And then they ring our department saying, 'You guys deal with this stuff all the time. How do I interpret this number? What does this classification mean? In the glossary of terminology what does this mean?'

Senator DASTYARI: That is fair enough. I am sure that could have been part of it. But is how it works, too, that they come to you and say, 'If we change X, Y and Z assumption'—because they are making assumptions based on policy, and at the end of the day Treasurer owns it—and the Treasurer will say, 'These are our future settings. This is what we want to do.' Do they do that, come back to you and then you present new numbers based on, 'If we did X, Y and Z what would the numbers be?'

Ms Wykes: We calculate the NOM based on a lot of what we work on with the Australian Bureau of Statistics. We talk about the visa settings that we have in place that will impact on—

Senator DASTYARI: That is fair enough. I am sure that could have been part of it. But is how it works, too, that they come to you and say, 'If we change X, Y and Z assumption'—because they are making assumptions based on policy, and at the end of the day Treasurer owns it—and the Treasurer will say, 'These are our future settings. This is what we want to do.' Do they do that, come back to you and then you present new numbers based on, 'If we did X, Y and Z what would the numbers be?'

Ms Wykes: We provide input on those sorts of questions as well as our own assumptions that we have on visa policy settings.

Senator DASTYARI: As a hypothetical, are these the kinds of scenarios, not specific scenarios—I don’t like doing hypotheticals; I am trying to protect you by asking a hypothetical—that Treasury comes to you with in emails and phones calls saying, 'If we change X, Y and Z these are the policy assumptions we are going to make?' The policy assumptions are going to be published in the end. 'These are the policy assumptions we make. What would the figures be if we did X, Y and Z?' Is that how it works? Do you do the calculations for them on that?

Ms Wykes: We calculate the NOM based on a lot of what we work on with the Australian Bureau of Statistics. We talk about the visa settings that we have in place that will impact on—

Senator DASTYARI: If I am looking at making a different assumption on visa policy settings that would obviously have an impact when you are looking at 2040; small things now will have a big impact then. They come to you as part of that process and say, 'If we did X, what would the number be? If we did Y, what would the number be?' While they are making their calculations?

Ms Wykes: It is more our predictions of what NOM would be and how that might impact. Then they put it into their mix and come up with their number. That is one of the numbers that underpins population.
Senator DASTYARI: But from what the secretary was saying, Treasury is responsible for the policy settings. The government is obviously responsible but Treasury, on behalf of the government, does the policy settings. My question is: when they change policy settings, do they come to you to get the new calculation? Do you participate in creating a new calculation based on new policy settings?

Ms Wykes: It is a to and fro. Yes, they come to us if they change economic outcomes.

Senator DASTYARI: One last question: did that happen?

Ms Wykes: Sorry?

Senator DASTYARI: Did they come to you with new policy settings and as part of the process has that resulted in you presenting new figures?

Ms Wykes: They came to us to ask for clarification around a number of different issues, yes.

Senator DASTYARI: Is that a yes, a no or a but? That sounded like a yes to me. That is fair enough; as part of the process they came to you with different scenarios and you provided numbers based on those scenarios?

Ms Wykes: That is right.

Senator O’SULLIVAN: Mr Secretary, probably the most efficient way to do this is for me to draw on some of the statements that you made in the context of the forgotten children report in your correspondence to the president of the commission. We could be here for a week on the observations, but we will just deal with a dozen or so. You made assertions that as a stakeholder the department was provided with an inadequate period of time for your responses, and this is despite commitments from the commission that adequate time would be provided for that to occur; that offers were made to the commission to present any evidence they had to you regarding breaches or conduct that needed to be brought to your attention. However, that did not occur—in other words, preventing your department from being able to respond to the specifics of any allegations.

You made the observation that in some cases it was irresponsible to advance certain claims and with an additional qualifying comment that this happened regularly through the report. There is an observation that there was an undue reliance on anonymous and de-identified quotations, notwithstanding a choice to publish those quotations. And additionally a propensity to rely or to accept these unsubstantiated or de-identified quotations to support findings that were published in the report. That the report, in its publication, provided insufficient information, detail or context to allow the department to be able to respond. In fact, 'There were false allegations or completely unreliable allegations', the case and sample being where there was a quotation relied upon suggesting that there had been threats to use police dogs where there are no police dogs. There were observations that many of the claims are not supported by any evidence. An observation that where claims were made people were not afforded procedural fairness with the right to reply.

The report presented scant legitimate evidence in the draft—and I imagine that may well have been corrected between then and when the final publication was made. And in relation to observations concerning the health circumstances of many of the people in detention the observation was made that the commission gave disproportionate weight to their own health experts, and that experts made findings on the basis of cursory observations; that the experts
did not conduct individual clinical assessments in their due process and did not engage in health patient relationships and did not undertake more rigorous testing of those observations required prior to tying them to breaches of the law; that they did not afford similar weight to evidence provided by the health services provider, being those who are charged with the responsibility to provide health services to these detainees; and that there was an overreliance on the commission's own experts.

I am only a third of the way through the observations that you have shared with the commissioner. Now, I do acknowledge that you were very polite before and I will try and not take you anywhere that you need to be impolite, but I cannot help making the observation that that is a damning litany of observations to make about a report that we are generally to rely upon as being an accurate reflection of the matters therein. That is my observation and not yours.

To bring that to a point, much of the weight of this report was directed such that we, the Commonwealth, your department, have breached international law and treaties which the Human Rights Commission suggests we are bound by. But is it too strong to suggest that you—and I speak to you as secretary of the department—strongly disagree with the ability to draw that inference based on the quantity and quality of the evidence presented in this report?

Mr Pezzullo: I will resist any temptation to be impolite. I would rather be polite. I think it is evident from my final response of 10 November, the material that you have read from, another letter which has just been drawn to my attention through no doubt a production error of 27 October that somehow failed to make its way into the annexure at the back, but I will just quickly refresh myself. I think it is fair to say that the department would take the view that notwithstanding the very best efforts and the very best intentions of the commission in some cases at least some sections of the report lack rigour. In the face of the information provided, either by way of clarification or in some cases, as I said to Senator Macdonald earlier, by way of rebuttal has either been inadequately dealt with in the final report or indeed not dealt with at all, as demonstrated by the document from which you are reading, for which again I commend the commission for their inclusion. They did not have to do that, but the fact that they have provided our detailed critique of November as part and parcel of their report I think was very fair minded of the president and her officers.

I think I would prefer to describe in my own words that regrettably an opportunity to look at this issue with great objectivity and rigour was not necessarily fully accomplished. But that said, for all of that, as I said to Senator Carr earlier, we are concerned to the point of zero tolerance in terms of any concerns about risks to children. Irrespective of what the commission has commended to us as a view, we are undertaking our own assurance checks and our own audit work, which I described to this committee earlier.

Senator O'SULLIVAN: Given that I do not necessarily have to be as kind as you, what interests me is that if left standing, this publication left unchallenged could easily have people draw the inference—it is a damning indictment on our nation. It is a damning indictment on our nation suggesting that we have not only failed to provide cursory and humane care to children in detention or their parents or the community in detention but that we have breached these international laws. I put to you, in an invidious position, do you believe, based on any evidence presented in this report, that we have committed any breaches of international law?
Mr Pezzullo: On the question of breaches of law, I would not venture to suggest illegal advice to this committee other than to draw attention to the Attorney's tabling statement, where he made very clear the fact the government has a different view, quite apart from the fact that international law has to be read into specific domestic requirements. I would refer you to the Attorney's statement and on any questions of policy around the application of international covenants I refer to my good friend and colleague the secretary of the Attorney-General's Department.

On the so-called damning indictment of the nation, if I may say so very politely you are provoking me into expressing a personal view but I will put it to you in these terms to try to be helpful. When a judicial or quasi-judicial body looks at a matter with objectivity they bring down judgements and findings. I guess I am more used to—and I really want to be as moderated as I can be—it being put down without affectation and subjective paraphernalia. I look at the cover of the report. My officers dealing with the peak of this problem in the latter part of the second half of 2013—and I observed it from the Customs Service, of which I was the head by that stage—speaking on their behalf, I would suggest very strongly to this committee that they did not forget any children. There were no forgotten children in that sense. All of us, whether we are parents or not parents, understand the sanctity of protecting children. I think all of us would understand the clear imperative to do so. The very best way to avoid some of these risks, which are in whatever way, impressionistically, subjectively or whatever other descriptor you wish to put on it, described here—there is something about some of the stories, as it were, that have been spoken to the commission and their representatives. Clearly there are people who are drawing the sorts of pictures that are included here. I presume they have not been fraudulently generated. The best antidote to that is to not have children in detention. The numbers have come down. Certainly speaking on behalf of my officers now—I have been secretary since October—but when this problem was at its peak, because I saw it from the Customs side, there were very diligent, conscientious and very passionate and committed Australians who were doing their very best to indeed not forget children.

Senator Cash: I will just read in respect of the international obligations directly from the Attorney-General's tabling statement so it is reflected on the Hansard record what the government's response actually is to the Human Rights Commission's allegations. The Attorney-General, in his tabling response, stated as follows:

With respect to the report's findings asserting that the Commonwealth is in breach of its international obligations under convention on the rights of the child, this has been a longstanding point of difference between the government and the Commission—

being the Human Rights Commission—

and the government does not accept the Commission's findings. The Commission is an independent statutory agency and will reach its own views as to the content of Australia's human rights obligations. However, its views are contestable and not supported by the government.

All people in immigration detention, including families and children, are provided with appropriate care, treated with dignity and respect and have their claims addressed as soon as it is reasonably practicable and consistent with government policy.

The government considers that the best interests of the child are appropriately considered, consistent with international law, and it continues to work towards the release of all children from held detention arrangements, as it has committed to do since it was elected in late 2013.
Obviously, as an addendum to that, I think the figures quoted today, with 126 children left in immigration detention that were IMAs, is factual proof of that.

**Senator HANSON-YOUNG:** Exception the ones in Nauru, who are always forgotten.

**Senator O'SULLIVAN:** There is evidence here in these responses that evidence provided to the commission that contradicted some of their findings was not taken into account in the final report—empirical evidence.

**Mr Pezzullo:** That is certainly the nature of the response that we provided to the final draft that we were shown in November.

**Senator O'SULLIVAN:** If the observations made by your department, the major stakeholder in this report on behalf of the nation, are even half correct, are you able to direct me to any part of this report that I can rely upon?

**Mr Pezzullo:** We have stated our view.

**CHAIR:** That is a fair question.

**Mr Pezzullo:** The best I can say is that we have stated our view. The commission has very kindly, as part of the annex that embeds our response, caused that to be published. I think it is for the reading community at large to draw their own assumptions.

**Senator O'SULLIVAN:** One of your officers earlier indicated that there had been three visits during the course of the inquiry. Is that officer still here?

**Mr Pezzullo:** That was Ms Pope. Senator Macdonald subsequently clarified her evidence. I think in each case the most we could find was two visitations.

**CHAIR:** Two visits to Christmas Island and one to each other since the inquiry started.

**Senator O'SULLIVAN:** I will refer to page 43, where they say a total of 13 visits to detention centres occurred. It states that a 'total of 13 visits to detention centres were made over the course of the inquiry'. That is different from four.

**Mr Pezzullo:** I will have to check. It might be when you total up individual visits—there are two to Christmas Island plus a variety of onshore centres. It might well constitute 13, but that is something we could check against our records.

**CHAIR:** We will have to leave it there, Senator O'Sullivan. I will come back to you if you need to. Minister, I have not read the report, as I mentioned before. I have sent the Twittersphere going. That is exciting. But because of the partisan nature of the inquiry, in my view—I would not bother reading it—but you might be able to help me. Does this relate just to matters since January 2014 or perhaps it is looking back into the administration prior to September 2013?

**Senator Cash:** I am instructed the commission began its review in 2014, ironically when the number of children in detention was down to 1,006 and obviously when the coalition government was working assiduously to ensure the release of those children from detention and into the community. In terms of the actual ambit of the report itself, I understand that it does take into account a very small period of the former Labor government, but in the main clearly it is in relation to conduct under this government. Again, you only need to go to the statistics—1,006 when the review commenced down to 126 today and then you look at the peak under the former government.
CHAIR: I was trying to find some merit in the report. Perhaps it was referring to the time under the previous government with all these allegations, but you have corrected that for me.

Senator KIM CARR: Minister, you did say you had read the report?

Senator Cash: I have read the report, yes.

Senator KIM CARR: So, would you agree with the summary of the evidence provided about the use of force against children referred to on 161 and subsequent pages?

Senator Cash: What I would say in relation to the report is that, to a large extent, the report is redundant as many of the circumstances that it refers to are now confined to historic reference. If you are challenging this government's commitment to releasing children from detention I would say, on the mere basis of the facts that have been put towards the committee today, you are completely, totally and utterly incorrect. If you are questioning your own government's record in relation to placing children in detention then I think, again, the facts alone would support that when you were sitting at this table you had questions to answer. You failed to answer those questions and now that I am sitting here this government has a very positive story to tell in relation to, in particular, the human dividend that we are able to now give back not only to the community but to the children that are in detention because of the implementation of our policies.

Senator KIM CARR: I will ask you a specific question. Was the evidence presented in the report in regard to the use of force correct?

Senator Cash: I would refer you to the response I have just given.

Senator KIM CARR: You gave me a long lecture, a political rant. I would have thought any minister at the table, when presented with allegations of human rights abuses under the care of the Commonwealth of Australia, would take that matter very seriously rather than seek to make some political statement.

Senator Cash: I said to you that many of the recommendations in the report are now redundant because of the nature of this government's policies—

Senator KIM CARR: Did those events occur?

Senator Cash: and the fact that we have actively sought to release children from detention.

Senator KIM CARR: Irrespective of who was the minister, did those events occur? Did those events occur?

Senator Cash: I have nothing further to add to my answer.

Senator KIM CARR: Mr Pezzullo, can you inform the committee as to whether or not the matters referred to on page 161 regarding the use of force against children actually occurred?

Mr Pezzullo: As I said in my evidence earlier, we will need to take on notice the specifics of the incident report. I do not know; it was in March 2014. So, as to whether the factual description is as per our reporting, that is something I have undertaken to come back to you on.

Senator KIM CARR: Yes, you have. I have read your letter and I cannot see any reference in your letter disputing those facts. Is that correct?
Mr Pezzullo: That is understood, but I did also say that my letter was, if you like, the final statement of our concerns. Mr Boles had also been engaged. Our officers had been engaged in clarifying and rebutting matters. In the depth of that material have we, if you like, rebutted, clarified or sought to modify the commission's understanding of the events of 23 March? That is what I took on notice. I am presuming that an incident occurred.

Senator KIM CARR: 24 March.

Mr Pezzullo: I am sorry.

Senator KIM CARR: Just in case there has been another incident I am not aware of.

Mr Pezzullo: I am sorry. You are absolutely right. On page 162 it does say 24 March. What I have undertaken to do is to take on notice whether Mr Boles raised it in his correspondence or whether one of our officers sought to go back. I think I said to you that we would like to come back to that in terms of our—

Senator KIM CARR: The report also contains photographs of the said incident so I presume they have not been fabricated.

Mr Pezzullo: And, indeed, the covering narrative at page 163 contains a description of the handheld camera imagery that was used to take those photographs. That is explained there. I do not think there is any suggestion that any incident was fabricated.

Senator KIM CARR: No.

Mr Pezzullo: As to the facts of what occurred, I have said to you we will come back and advise you as to whether we sought to amplify the commission's understanding. As to whether the department accepted—and I can answer this conclusively, we did not—that we in some way, shape or form violated article 37C of the Convention on the Rights of the Child, that goes to the larger point that the minister was speaking to about—

Senator KIM CARR: I am talking about this specific item.

Mr Pezzullo: So am I. I am referring you to page 162. As to whether at the level of legal opinion or legal adjudication we have agreed with the commission's characterisation of that incident, however described—and I will come back to you as to whether we have got a different view of that incident—as to whether we accept that the covenant protecting the rights of children has been in any way breached, without any reference to domestic legislation, that is covered by the minister's previous answer where she referred to the Attorney-General's opinion about our view of the status and standing of those conventions in these particular instances.

Senator KIM CARR: So, you are pleading not guilty to the charge; is that the claim?

Mr Pezzullo: I am saying that there is nothing before me, in all the material that I have read, that suggests that we or officers engaged through contracts that we engage them through have breached any Australian domestic law.

Senator KIM CARR: The report actually says there was a violation of article 37C of the Convention on the Rights of the Child.

Mr Pezzullo: Which pertains to the treatment of, if I further paraphrase—and that section relates to treating children with humanity and respect and in a manner which takes into account their vulnerability and age. That might well be the president's view, that we have breached that section of the convention. I accept that, because she stated that.
Senator Cash: But the Attorney-General responded in his tabling statement to the parliament, which is what I read out previously.

Senator KIM CARR: Was it the department that provided the authorisation for the use of force on 24 March for the removal of the children?

Mr Pezzullo: That is one of the matters that I want to reassure myself about before I come back to you, as to how that escalation was handled. That refers to an escalation, force, as is described in the report. The Serco officers have very limited ability to restrain people. It is pursuant to powers that are embedded under the Migration Act in the contractual arrangement. I have asked my officers, presumably now and probably up until the dinner break, to look at the incident report to see our interpretation of the event and then I will speak to you about the report that is in my department's files.

Senator KIM CARR: I am specifically interested in the assertion that is made here that there was a 15-minute period before that escalation occurred.

Mr Pezzullo: I understand that, because you asked that before. If I can come back to you before dinner or at the appropriate point when this is handled I will respond.

Senator KIM CARR: I will ask you some more general questions about the department's views of its responsibilities for human rights. Has the department made any changes to the guidelines for the approval of the use of force since this incident referred to?

Mr Pezzullo: Since March 2014?

Senator KIM CARR: Yes.

Mr Pezzullo: I will need to ask Ms Briscoe, Mr Douglas and potentially other officers to attend, and potentially Mr Painting. It might be that part and parcel of my comeback is how we might best deal with that matter, but we will see how we go.

Mr Douglas: Obviously the use of force is a very significant issue that concerns us each time it is approved. I would have to take on notice whether there was a specific amendment made as a result of that particular incident, but I would be very confident that the guidelines are continually being reviewed and upgraded.

Senator KIM CARR: Now, whether or not the guidelines were changed as a result of this incident, can you confirm that the guidelines in regard to the use of force have changed since 24 March?

Mr Pezzullo: By all means, the more questions you ask us the more we will be able to come back to you with precision. Chair, through you, when we get to the program or if we can do it before dinner we will. I have given the senator that undertaking. We will review our records of the said incident of 24 March to see what variance there is with the characterisation here. We will come back to you on the 15-minute question, why there was, according to our reporting, that short escalation period as described by the Human Rights Commission. We will examine the question of whether operating procedures applicable that day have been subsequently modified as a result, I think you said, of that incident and any other questions that you are about to ask. We will try to wrap up with one omnibus response.

CHAIR: I would prefer to do that at the spot in the program where we are to deal with those.

Mr Pezzullo: That would be program 3.
Senator KIM CARR: This is an appropriate issue for the cross-portfolio.

CHAIR: The questions might be, but the answers will come at the appropriate time in the proceedings.

Senator KIM CARR: As a senior officer of the Commonwealth of Australia, what is your view of the role of the Human Rights Commission?

CHAIR: That is a question of opinion, which you do not need to answer.

Senator KIM CARR: No, it is not a question of opinion. It is a question of what the officer's view is.

CHAIR: That is a personal opinion, which you do not have to answer, Mr Pezzullo.

Mr Pezzullo: I can assist the committee, irrespective of my personal views about the role of the commission and what its role should be in terms of overseeing these sorts of matters. Its statutory role is clear. It is established under statute. It conducts inquiries as it sees fit. It has a number of commissioners. A number of those commissioners, including Madam President, were involved in this review. As with any other oversight body established by legislation, be it the Ombudsman, the Privacy Commissioner or the Information Commissioner, we take our engagement with such oversight bodies very seriously.

I have alluded already to the fact that we had a liaison team, established in Ms Pope's area, assisting the commission with their inquiries and, finally, regretfully, I have had to inform the committee that there was a significant difference of view over both facts and interpretation of facts which we presented to the commission. I do not know whether that fully answers your question.

Senator KIM CARR: It does not, but it gets to the point about your responsibilities. We may well complain about the cover of the report and you may well not like the literary contribution the commission has made to Public Service reporting.

Mr Pezzullo: I have an obligation to engage with the work of the commission.

Senator KIM CARR: You do not have any wriggle room here to engage with—

Mr Pezzullo: It is a statutory body.

Senator KIM CARR: It is a statutory body that has made recommendations and has provided observations about the agency for which you are the senior officer.

Mr Pezzullo: Indeed. I have an obligation to engage, and I would contend that Mr Boles and I have engaged as we should have. As to the response under the legislation, if I am recalling this correctly, it is as I am about to state and I will correct it otherwise. It is a report to the Attorney-General. It is not a report to the secretary of the department. The Attorney-General, as I am advised, receives all of the Human Rights Commission reports and gives it due consideration.

Senator KIM CARR: And dismissed it.

Mr Pezzullo: I would not want to characterise what he has done. He has provided a tabling statement where he has outlined the government's view in response.

Senator KIM CARR: Do you agree with the contention made on page 25 of this report that the Department of Immigration and Border Protection recognises that it has a duty of care to all people in immigration detention facilities?
Mr Pezzullo: Absolutely.

CHAIR: As he has already said.

Senator KIM CARR: Do you agree with the proposition that the commission therefore puts forward that the duty of care should be set at a high level and extends to a positive duty to take action to prevent harm occurring?

Mr Pezzullo: Absolutely, and especially in the case of children; I think I made that point earlier in these proceedings.

Senator KIM CARR: Given what we have discussed in regard to sexual abuse and the question of violence, have you been able to satisfy yourself that the department is actually fulfilling its responsibilities here?

Mr Pezzullo: I will leave aside the commission's report, because as I said from the point of view of methodology, rigour and objectivity, frankly I do have concerns. They are a matter of public record and I have drawn attention to those. Independently of that—and indeed in my letter of 10 November to President Triggs, which again she has very kindly incorporated in her report—I advised her on 10 November, which is three weeks after I took up my current role in a division that is separate from the line management of all detention operations, and this is just from the point of view of good practice and nothing else, I decided as secretary to establish, first of all, an integrity, security and assurance division across all of the department's operations. Within that function—this is a function headed up by Ms Dorrington, who does not appear to be here—and within her division, on 10 November, we formally stood up the Detention Assurance Team, or the DAT. One of their key roles, in partnership with Ms Briscoe and her management team who operate the contracts, operate the centres and provide the direct day-to-day management function, as with all good enterprise risk management there is a separate team that ultimately has a reporting line to me if they so wish to employ that, and they provide assurance around these matters. I am particularly concerned about violence. I am particularly concerned about vulnerable people in detention, especially children. I was not in receipt of this report, because I advised President Triggs that I was setting that up independently, in fact as in my letter to her before she concluded.

I am concerned about these matters. They particularly present when systems are under stress, when there are a lot of people in the system, and whether you are running a hospital system, whether you are running a mental health capability or whether you are running community services I just think it is good practice to have an internal management oversight that is separate from the business area. When you ask me am I assured, yes, I am very assured by the diligence of my officers, but as President Reagan once said, 'Trust but verify.' So, we have separate procedures for assuring and verifying.

Senator KIM CARR: I am pleased to hear that, particularly given what you have emphasised. Given the extensive coercive powers that your officers have, it is absolutely critical that there is an oversight in regard to human rights; would you agree?

Mr Pezzullo: In respect of all of the dimensions of duty of care, from the point of view of legality, human rights, internal corruption, contract management, procurement management and so on and so forth. That is why, for reasons that I determined—I make no reflection on the previous state of running the enterprise—my preference, something that I carried over
from my previous CEO role, is to have a separate body that provides me with assurance in relation to all matters pertaining to integrity, security, audit, risk and assurance.

CHAIR: Do you have coercive powers in your department?

Mr Pezzullo: Coercive not in the sense of compelling witnesses.

CHAIR: Like the Crime Commission, no.

Mr Pezzullo: Coercive in the sense of restraining persons, detaining persons and the like.

CHAIR: I was thinking you must have Crime Commission powers that I had not caught up with yet.

Mr Pezzullo: No. I can assure you that we do not have such powers.

Senator HANSON-YOUNG: Since the release of *The forgotten children* report on 11 February, how many children have been transferred to Nauru from the Australian mainland?

Mr Pezzullo: Since 11 February. The statistics that I read into Hansard earlier go up to the 20th, so that is a nine-day period. There would have been potentially a handful of those returned to Nauru. We have not transferred, for a long time, anyone to Nauru initially, because no boats have arrived. But in terms of the agreement we have with Nauru that I described earlier of the repatriation for medical treatment and then return, in that nine-day window I just do not know, whereas Ms Pope might.

Ms Pope: I would have to take it on notice, but the secretary is exactly right. There are not any fresh transfers of children.

Senator HANSON-YOUNG: I appreciate that. You do not have to reiterate that. I understand. They are called transferees for a reason; because they are transferred between Australia and Nauru based on medical reasons. So, you cannot tell me right now how many have been transferred or returned to Nauru since 11 February; is that right?

Ms Pope: No. It is a small number, but I do not have the exact figure.

Senator HANSON-YOUNG: So, there have been some?

Ms Pope: Yes.

Senator HANSON-YOUNG: And keeping in mind that you have already given evidence today saying that 86 others will eventually have to be sent—

Ms Pope: It is 68.

Senator HANSON-YOUNG: Some 68 will have to be sent.

Ms Pope: That number can vary, because there may be other families brought to Australia for medical treatment. That number can be different from day to day, basically.

Senator HANSON-YOUNG: Can you get the figures for how many have been transferred, throughout the course of the rest of day?

Ms Pope: Yes. What timeframe are you looking at?

Senator HANSON-YOUNG: Preferably before dinner.

Ms Pope: No, sorry, the timeframe of the numbers?

Senator HANSON-YOUNG: Since the report was released.

Mr Pezzullo: Can I also clarify: do you want the net numbers? Some children will have come to Australia and others would have been returned.
CHAIR: You can give us both.

Senator HANSON-YOUNG: Yes, that would be good. How many have been transferred either way would be helpful. I want to chase up a question in relation to contract variations. I did ask, when we were talking about the China junket, whether it was an invoice, standalone, that had to be paid extra. I asked whether it was considered to be a contract variation and I was told, no. I would like clarification as to whether that is correct.

Mr Pezzullo: I will ask Mr Cahill, who is the substantive division head, assisted by Mr Painting.

Senator HANSON-YOUNG: We do not have to rehash the issue. I just want clarification about this particular point.

Mr Cahill: No, it is not a contract variation.

Senator HANSON-YOUNG: What would normally come under a contract variation?

Mr Cahill: It is a statement of the obvious. They varied the contract.

Senator HANSON-YOUNG: So, you are saying that an extra business trip like the China junket was already built into the contract?

Mr Cahill: That is what I explained in my earlier evidence, yes. Can I add that in relation to issues around invoicing, just to remind the committee that I talked about the primary contractor and the subcontractor and the nature of the commercial dispute between those two parties. With the invoice—and I have not seen an invoice—it could be an invoice from the subcontractor to the primary contractor and not necessarily something that would come to the department.

Senator HANSON-YOUNG: Except that the evidence is that it has.

Mr Cahill: I do not know that that is the case.

Senator HANSON-YOUNG: That was the evidence we just received.

Mr Pezzullo: I can confirm that. Mr Cahill would not necessarily be cognisant of the evidence that I have just given to Senator Carr. There is a division now within the department that looks at disciplinary issues, and they have a capacity to call all sorts of information in. I still have not sighted the said invoice, but I am assured by the head of our internal investigations unit that there is a document that you would describe as an invoice.

Senator HANSON-YOUNG: I will just move on. Has there been any incident which has resulted in the discovery of asbestos on Manus Island? Mr Douglas, you would perhaps be across that more than anyone.

Mr Douglas: Certainly going back to the original centre there was some evidence of asbestos, but my recollection at the time was that the asbestos was not loose nor presented any particular risk.

Senator HANSON-YOUNG: When you say going back to the beginning—

Mr Douglas: Going back to, for example, during what was known as the Pacific solution days. Some of those buildings that were around at that time which formed part of the early days of the centre that operates now have some asbestos, but that asbestos is not loose. As long as it is not interfered with, it is safe.
Senator HANSON-YOUNG: So, there has been no discovery in recent months or in the last year or so of asbestos at the detention centre on Manus Island that is currently in use?

Mr Pezzullo: It is preferable that we take the detail on notice. The officer clearly has a recollection going back, I think he said, to the early days of the Pacific solution. I think you mean by that, Mr Douglas, not after 2013.

Mr Douglas: No. I think some of the buildings originally made available at that time and which remain in the centre now do have some form of asbestos, but that is not loose asbestos. As long as that material is not interfered with, not cut into and not severely damaged it is safe.

Senator HANSON-YOUNG: Perhaps, Mr Secretary, if you just wanted to check throughout the dinner break whether there has been any asbestos removed from the detention centre in the recent months that would be helpful.

Mr Pezzullo: We will come back at the appropriate program juncture.

Senator HANSON-YOUNG: I would like to know how many unaccompanied minors are currently in the system.

Mr Pezzullo: When you say the system, do you mean in regional processing centres?

Senator HANSON-YOUNG: I mean onshore, in the community, Nauru and in the Nauru community.

Mr Pezzullo: I might ask Ms Briscoe and her officers to answer your question as best they can.

Ms Pope: There are two unaccompanied minors remaining in held detention in Australia. There are 185 in community detention and there are 13 in the community on Nauru.

Senator HANSON-YOUNG: So, none in the Nauruan detention centre?

Ms Pope: No. They are two minors who do not yet have a hand-down decision, but they are residing in the community with the other unaccompanied minors.

Senator HANSON-YOUNG: With the two that remain in detention on the Australian mainland, does that include individuals who have been transferred back to the mainland from Nauru?

Ms Pope: I am not sure.

Senator HANSON-YOUNG: What I am trying to ask is: are there any transferees who are UMAs who are held in immigration detention in Australia?

Ms Pope: I do not believe so, but I would have to take that on notice to confirm that. I think the two in detention in Australia had been in community detention and were revoked for behavioural reasons, but I would need to confirm that. Those two are onshore. I am just not sure whether they are transferees from Nauru or not, but I am pretty positive that they are Australian cases, not Nauru cases.

Senator HANSON-YOUNG: Would you be able to take on notice the breakdown of their ages and gender across the various different divisions? I do not need it now.

Ms Pope: Yes. I can give it to you now if you want it.

Senator HANSON-YOUNG: No, that is fine. Mr Secretary, I know we are about to run short of time. I have some questions about general overall costs of running the detention
system. Would you prefer me to come back to that after the break or are there people who can
give some quick answers?

Mr Pezzullo: There are. Senator Reynolds, earlier in the day, asked for an aggregated cost
impost, I think was the phrase she used, across a number of financial years. I know our CFO
is working on those pursuant to her request. That may or may not also satisfy your interest. I
just do not know. Perhaps if you could give us an indication of your line of interest and then if
I need to add to the CFO's task I will.

Senator HANSON-YOUNG: I would like to know the cost of running the Nauru
detention centre and the Manus Island detention centre, what the current costs of Christmas
Island are given the reduction in people there, and of course the mainland. I also want to
know whether there have been any contract variations for any of the primary contractors for
each of those three facilities.

CHAIR: We have been very lenient in this cross-portfolio corporate general, but we really
do have a whole session on compliance, detention and status resolution. Perhaps if you can
bring that back when you have the relevant officers here, we can hopefully finish with the
cross-portfolio and corporate general and get on to Australian Border Force, and then move
shortly back to those sorts of things.

Senator HANSON-YOUNG: Mr Pezzullo, it would be good if you could make sure
people have them on notice. I wanted to ask in relation to the Prime Minister's announcement
today and the direct link to the Protection and Other Measures Bill that has been through a
Senate inquiry but has not been brought on for a debate in the Senate as yet. I find it difficult
to argue that it has been blocked when we actually have not debated it. There is, of course,detail in that about the lack of ID documents, the destroying of documents and bogus
documents. Is there anyone in your department who is an expert when it comes to the reasons
why perhaps somebody does not have documentation saying who exactly they are if they are
fleeing their country?

Mr Pezzullo: It might be best to start with the policy area that has developed that
legislation, which represented, in some cases at least, a response to coalition pre-election
commitments. They did work on the legislation and it might be that in their development of
the legislation, particularly the arguments that I recall being advanced in the explanatory
memorandum, that some of the expertise that you are referring to resides there.

Senator HANSON-YOUNG: I am more interested in the expertise as to why someone
who is seeking refugee protection may not have the right documents. That is the expertise that
I am after.

Mr Pezzullo: I might start with Mr Fleming and we will see how we go.

Mr Fleming: We acknowledge that the lack of documentation might, in some
circumstances, be a symptom of the refugee or other protection status of the individual
concerned, but that is not necessarily the case. We do have access to contacts with UNHCR,
other countries and so on about circumstances in which a person might or might not have
obtained travel documents. And certainly even from accounts of individuals themselves that
might include flights from one point to another it will usually indicate the presence of identity
documents at some point, which may or may not be theirs or genuine. There is a range of
indicators.
Senator HANSON-YOUNG: You accept that if you are fleeing from your current regime you cannot say, 'Sorry, I know your government is looking for me. I'm just going to check out here at Customs and let you know I'm off. I'm going to fly out of the country.'

Mr Pezzullo: I can address that, because this is also relevant to my previous responsibilities for border protection. It is the case that whether persons arrive here as illegal maritime arrivals by boat or in some cases in the instance referred to by the Prime Minister as an undocumented air arrival it is very rarely the case that persons arrive here having departed from the place purported—and I just need to say that because until the claim is tested we do not know—persecution. That is simply a function of how far we are away from most places. One case in point that I can recall to mind, a person saying that they were fleeing persecution got to a South-East Asian airport and exchanged documents and that is the way in which they were able to board a flight. So, the point at which, if you like, they are at that point in South-East Asia free of persecution is the point at which certain bogus documents are required. There is a market for these things. That is an example in the air stream.

In the case of the maritime stream, you talk about whether there is any expertise. Certainly when officers of my former service, the Customs Service, the marine unit in particular, did pocket and bag searches it often was the case that documentation was not found. But to have travelled to the point in South-East Asia, often Indonesia but not always, where they launch from they had to have passed through airports and other hubs.

Senator HANSON-YOUNG: I understand that. My question is about the expertise in knowing why somebody flees as a refugee and how somebody flees as a refugee out of the country that they are purporting that they need protection from. Surely there are people in your department who are well versed in understanding the various journeys of a refugee?

Mr Pezzullo: There are. They write intelligence reports, which I read. I am sufficiently seized of those reports. Generally speaking—and there might be some variances to this—people are smuggled out. They either get themselves smuggled, they pay someone or they arrange to be—

Senator HANSON-YOUNG: That is what people have been doing for thousands of years.

Mr Pezzullo: Indeed, and they do it for all sorts of motives. It is sometimes to flee persecution, sometimes to seek out a better life, and any range of matters in between. That is what people smuggling and human trafficking is all about. There are all sorts of motivations for it.

Senator HANSON-YOUNG: Does the department have any analysis and statistics in relation to those who are found to be in genuine need of protection and the type of documentation they had or did not have at the point of leaving their home country?

Mr Pezzullo: In each case file we certainly would have an understanding of how that person came to be in our jurisdiction, whether they arrived by boat or whether they arrived by air. Of course, some people arrive at an airport and make certain claims. Some people arrive by boat. We would know that. Whether we have aggregated this, Senator, I just do not know. I will check during the break and give you further and better particulars if I am able to. Whether we have aggregated that data going back to our signing to the convention or whatever to correlate person afforded protection, mode of arrival, documents with which they
have arrived, I just do not know. If an officer of my department can illuminate me on that during the break, I will let you know.

Senator HANSON-YOUNG: Thank you.

CHAIR: We will take a short break.

Proceedings suspended from 16:03 to 16:23

CHAIR: I call back to order the meeting of the Senate Legal and Constitutional Affairs Legislation Committee dealing with the 2014-15 estimates. We are still on cross-portfolio, corporate, general.

Senator KIM CARR: There is a series of questions on contracts which I will put on notice that I trust we will be able to get responses to. I want to return to this issue of the special integrity advisor. Will this position be directly involved in the investigation process of any concerns that might be expressed about the misconduct or the human rights abuses or the like? Is the officer that you are proposing to fill this position responsible for the investigation or are they engaged as purely in an advisory role?

Mr Pezzullo: No, the special integrity advisor is a position that has been established within the Integrity Security and Assurance division, or ISA as I referred to earlier. The SIA, to use the acronym, exclusively focuses on matters of internal corruption, internal serious misconduct. An example of the matters is the one that Senator Hanson-Young, for instance, mentioned earlier that pertained on the one hand to a contract dispute which has a claim on unpaid monies and the like. When it becomes apparent that a departmental officer is a subject of serious allegations, Ms Dorrington's team get involved in that point in particular. That is where the SIA would play a role.

With regards to the duty of care arrangements that we were talking about before the break and more generally, not pertaining to corruption or internal malfeasance, the detention assurance team, who also work under Ms Dorrington's authority in the ISA division, have a particular role to play. I am distinguishing here between the special integrity advisor, which is, in effect, a more contemporary term for internal affairs—that is one role under Ms Dorrington—and then detention assurance is another role. Could there ever be overlap between those two functions? Well, of course, if there is a question of corruption or misconduct.

Senator KIM CARR: So, the advisor has specific investigative powers?

Mr Pezzullo: In relation to officers internally.

Senator KIM CARR: Yes. What assurances do officers have that the process of investigations is going to be fair?

Mr Pezzullo: The SIA has no greater powers than are able to be afforded to any officer of the department by a secretary to undertake code of conduct inquiries, which are conducted pursuant to guidance and guidelines which evolve both through case law but also through guidance from the Public Service Commission. There is always a requirement to observe procedural fairness; that is the right thing to do in any event, but it is mandated and required obviously to afford officer's natural justice. There is a relationship between the SIA, the integrity and professional standards branch within our department, where the SIA is administratively housed, and the ACLEI, or Australian Commission for Law Enforcement
Integrity. If a matter is being pursued pursuant to the ACLEI commissioner's jurisdiction, more coercive powers are available to that officer, who has the powers effectively of a standing royal commissioner. They can compel attendance; they can compel evidence and the like. But I can give an absolute assurance to you and to the committee more generally that our officers can do, by law, nothing more than support ACLEI in those investigations and the exercise of those more coercive powers is done exclusively at the direction of the ACLEI commissioner.

Senator KIM CARR: I see.

Mr Pezzullo: For the sake of clarity, Customs is within our portfolio and they are the only agency that currently come under ACLEI's remit. Pursuant to a PJC inquiry it is recommended that the entire department come in under ACLEI. That is the government's intention. That is reflected in legislation that will shortly be introduced into the parliament pertaining to—

Senator KIM CARR: So, it will be a legislative requirement on that—

Mr Pezzullo: Indeed.

Senator KIM CARR: I think you have given us a detailed answer in regard to Commonwealth officers. What about employees that are contractors—for instance, guards at detention centres.

Mr Pezzullo: In your instance of guards at detention centres I will ask Ms Briscoe and Mr Painting and others to join Ms Dorrington at the table. In the first instance, matters concerning their employment, their performance and their conduct would ordinarily be referred to the service provider. There is an employment relationship that they have in the first instance with all of their employees and, indeed, their contractors.

I will go to the legislation that I have just foreshadowed and referred to. It is not exactly relevant but I will just give you the example anyway to show you where the boundary is. In certain special cases, it is open under law for the CEO of Customs to require all persons on a Customs premises, which includes guards and service providers, to comply with lawful directions of the CEO in relation, for instance, to zero tolerance on drugs and not working under alcoholic impairment. Pursuant to the bill that I have just referred to should the parliament pass that legislation, those powers will also be available to the secretary in our integrated department that I spoke of earlier today. In relation to guards in detention centres, I might ask Mr Painting to add to my answer.

Mr Painting: In relation to service provider contracts, code of conduct issues are required in the contract and are specified in the contract, and code of conduct issues are a measure in the regular monthly performance reporting. Any breaches of code of conduct that are reported are taken into account in the performance management regime of the contract.

Mr Pezzullo: Just to be clear, the pursuit of those code matters is, in the first instance, a matter for the company.

Mr Painting: Indeed, sorry.

Senator KIM CARR: So the company is in the first instance responsible for breaches of their contract. They are obliged under their contract, presumably, not to break the law.
Mr Pezzullo: No, Mr Painting's evidence goes further than that and he can describe the so-called code of conduct provision that he referred to. Not only are they compelled not to break the law but they are to ensure that all of their employees observe the conduct standards that we require of all employees as enshrined in the contract. I do not know if Mr Painting wishes to add to that; he may.

Mr Painting: It is exactly that. It is much more than just the law.

Senator KIM CARR: Will your integrity advisor have the responsibility for ensuring human rights observed by contractors.

Mr Pezzullo: I can respond to that in the first instance. As I said earlier, the special integrity advisor, or SIA, is exclusively focused on internal affairs, effectively full-time employees. There is a slight difference in the role insofar as that it applies to Customs officers with a particular resolve because of Customs coverage under ACLEI. Should the parliament pass the legislation that I mentioned earlier, all officers of the department, including current serving Customs officers, but also immigration officers, will also be under ACLEI's jurisdiction. The SIA themselves are focused solely on full-time employees. In the course of their work, if they do come across contractors behaving inappropriately or engaged in misconduct such as that which would trigger the provisions that Mr Painting just described, then there will be internal referral processes for that.

Senator KIM CARR: Who does take responsibility for the contractor?

Mr Painting: The initial responsibility for service provider staff is obviously the service provider. Where individual staff are deemed to have breached a code of conduct it is reported to us and then, in terms of managing the contract, it is our responsibility to manage the performance framework in the contract.

Senator KIM CARR: All of this refers to onshore facilities. Who looks after offshore facilities where contractors are working for the Australian government, for instance, in Nauru or on Manus?

Mr Painting: The situation is not much different in offshore, in terms of the performance requirements. The contracts have the same code of conduct type parameters in the contract. The initial responsibility is for the service providers to manage the performance of their staff. If staff are found to have either breached that or, indeed as you have pointed out, even the law then there are performance sanctions in place for that. If it is illegal of course, we expect that they would be referred to the appropriate authorities.

Senator KIM CARR: Which is who? Is it foreign governments?

Mr Painting: It depends on what the situation is. In the case of the law of Nauru, then it would be the Nauru police.

Senator KIM CARR: There is one other matter. I asked before about the Prime Minister's statement about legislation being blocked or stalled in the Senate. I indicated to you that there had been a conversation regarding that matter and the government with the minister. I am actually told that it is your office that has been given responsibility for that legislation. Is that correct?

Senator Cash: Minister Dutton is the relevant minister.

Senator KIM CARR: Are you actually dealing with the legislation?
Senator Cash: Clearly, as the responsible assistant minister in the Senate I will have responsibility for the legislation, but Minister Dutton is the relevant minister.

Senator KIM CARR: But you have the responsibility for drafting of new amendments?

Senator Cash: No, I do not.

Senator KIM CARR: Perhaps we can go on.

CHAIR: Are you finished?

Senator KIM CARR: I am not finished but I will put material on notice.

CHAIR: Senator Hanson-Young, do you have anything more?

Senator HANSON-Young: Yes.

CHAIR: Don't feel obligated. During evidence provided to the Human Rights Commission's inquiry, there was evidence given that departmental officials directed IHMS to stop reporting on the mental health screening results in their quarterly reports. I would like to know whether this is, in fact, true. I appreciate you were not the secretary at the time, but the then secretary, Mr Bowles, did take it upon himself to say that there would be an investigation into this. I would like to know where that investigation is up to and what has happened as a result of it.

Mr Pezzullo: I will need to be assisted. I do recall Mr Bowles and his officers actually appearing before the commission. I think an allegation to that effect was put to Mr Bowles. I think at the time he said that, as I recall his evidence to the commission, the statement that medical practitioners had been forced to do certain things was on its face something that he rejected, but I think he did undertake to look into the matter. Perhaps Mr Cahill and Mr Painting have some further and better particulars.

Mr Cahill: I think the matter you are referring to is in relation to the use of HoNOSCA, Health of the Nation Outcome Scales for Children and Adolescents.

Senator HANSON-Young: Precisely.

Mr Cahill: As I recall, there was evidence given by the then director of mental health for IHMS to the commission to the effect that the department had asked for that data to be removed from its regular reporting.

Senator HANSON-Young: 'Withheld' was the word, I think.

Mr Cahill: That was subsequently reported in the media as a cover-up. That is the situation as I recall. The previous secretary did undertake to have that matter investigated, and it was referred to the department's independent health advisor who also engaged other experts to have a look at the veracity of the HoNOSCA data as a proper measuring tool. I should add here that the department has never resisted the intent to provide the most comprehensive information and data sets necessary to evaluate the mental health of children and adults in detention. The question was more about the appropriateness of that particular tool as the single piece of data and evidence to measure mental health for children and adolescents. That is essentially what the debate was. The expertise that was engaged by the independent health advisor to the department had a close look at that with some colleagues and—

Senator HANSON-Young: Who was that at the time? Could you just clarify who that was?
**Mr Cahill:** Dr Paul Alexander is the independent health advisor and he engaged an eminent expert to have a look at the particulars around HoNOSCA and provide a report to the secretary in relation to that matter.

**Senator HANSON-YOUNG:** So, the email that is referred to in evidence of the forgotten children report, dated 28 July, and I am reading an extract from page 61 of the report basically asking that, 'The data could be withheld from both the quarterly data sets pending further consideration by the department in discussions with IHMS.' That was the evidence that was given. Firstly, do you accept that the email was sent?

**Mr Cahill:** Yes, I do.

**Senator HANSON-YOUNG:** Who sent it?

**Mr Cahill:** I do not recall the particular officer, but it certainly came out of my division.

**Senator HANSON-YOUNG:** Did it go to the head of IHMS? Who did it go to?

**Mr Cahill:** Again, I do not recall that. It was certainly to senior people in IHMS, yes.

**Senator HANSON-YOUNG:** You are saying that that was more about whether the type of data was relevant.

**Mr Cahill:** The contract requires both sides to agree on the appropriate reporting mechanisms under the contract. There had been a discussion going on for some time about what the most appropriate tools were for measuring the mental health of children and adolescents and, indeed, adults. So, that debate was continuing. IHMS had started to include HoNOSCA data in its reporting without our agreement, so as far as we were concerned the debate was continuing as to the most appropriate tool to report. That was incomplete at the time of that email.

**Senator HANSON-YOUNG:** What tool is used now to assess and be able to give evidence about particularly the mental health of children in detention?

**Mr Cahill:** There is a variety of reporting that is undertaken. Subsequent to the commitment to investigate the matter, part of the review that was being undertaken by eminent experts, people much more qualified than I am in this area, was in fact to provide advice on that very issue: what are the most appropriate tools that might be used. I do not think it goes to any single tool.

**Senator HANSON-YOUNG:** I understand that. This was an email that was sent on 28 July. It has been used as evidence in this Human Rights Commission report, under the auspice that the data itself was damning. Surely there would have been a bit of a nudge to your departmental colleagues that you had better get this sorted because people want to know what the state of mental health within detention centres really is.

**Mr Cahill:** There has been reporting going on before that email and subsequent to that. There is regular reporting that is undertaken. The question is: is HoNOSCA a better tool to do that or some other—

**Senator HANSON-YOUNG:** What is the tool you are using now?

**Mr Cahill:** We have not adopted one at this point because we are taking advice on what the most appropriate tool will be.
Senator HANSON-YOUNG: How long do you think it is going to take before that advice is finalised, seeing as this email was sent on 28 July last year?

Mr Cahill: As I understand it, the department's chief medical officer met in the last few days with the independent health advisor and the eminent expert I mentioned to have that very discussion. We will take advice from experts on that.

Senator HANSON-YOUNG: Is there no tool used at the moment by the department to assess the mental health of children in detention?

Mr Cahill: No, that is not what I am saying.

Senator HANSON-YOUNG: What tool is currently used?

Mr Cahill: There is a range of reporting that is undertaken, and HoNOSCA is not one of those.

Senator HANSON-YOUNG: What tool is used?

Mr Cahill: I do not think there is a single tool that is used. The advice that is being provided to us is that there is no single tool that can be adopted for this purpose. It is a complex area of measurement.

Senator HANSON-YOUNG: If this committee was to ask for the data set of the mental health statistics of children currently detained in Nauru, could you give it to us?

Mr Cahill: I would have to take that notice.

Senator HANSON-YOUNG: Do you have the capacity to give us that information?

Mr Cahill: We have information available, and I am happy to take that on notice and provide it to you.

Senator HANSON-YOUNG: Will you release the full data set of mental health statistics of children in detention?

Mr Cahill: Are you talking about the HoNOSCA data?

Senator HANSON-YOUNG: Yes. You have it, it is in your system.

Mr Cahill: The advice is that is not the most appropriate measurement tool to use.

Senator HANSON-YOUNG: But you do have it. What makes it not the most appropriate tool? Is it that it is so damning?

Mr Cahill: No.

Senator HANSON-YOUNG: What makes it not appropriate? You have not been able to give me an alternative that you have used since July last year.

Mr Cahill: We are taking advice from the experts on what the most appropriate tool is, as I have said.

Senator HANSON-YOUNG: How long does it take to get that advice? I just do not understand what you have been doing for the last eight months.

Mr Cahill: As I am advised, it is a complex area of measurement. There is no single tool. We are taking proper advice to come up with the most appropriate tools to inform us of these matters.

Senator HANSON-YOUNG: When was the last time the department reported on mental health statistics of children in detention?
Mr Painting: We would have to take that on notice. We obviously record statistics but in terms of reporting it officially, we would not know off the top of our head.

Senator HANSON-YOUNG: It used to be included in the quarterly reports. So there have been eight months that have gone by and nothing has been reported.

Mr Painting: We would not say that absolutely nothing has been reported. There would be data captured, but what Mr Cahill was explaining was that the expert advice and the report that has only just come in before Christmas concluded that, whilst HoNOSCA has some value in terms of monitoring individual responses to treatment, it is not the most appropriate tool for initial and general screening purposes and not valid for comparing the detention cohort to external populations. Very soon we expect to be providing formal policy advice on what is the most appropriate mental health screening instrument going forward.

Senator HANSON-YOUNG: Does the Human Rights Commission have copies of these datasets?

Mr Cahill: I believe they do, yes.

Senator HANSON-YOUNG: So, their report is based on the statistics that do exist?

Mr Cahill: Their report is based on a view that they have of the value of the HoNOSCA data.

Senator HANSON-YOUNG: Do they have the statistics as being inputted by IHMS staff?

Mr Cahill: I think the issue is about the conclusions that you draw from the data. The advice that we have is that HoNOSCA, of itself, is not the most appropriate tool to measure the mental health of children and adolescents.

Senator HANSON-YOUNG: Was the investigation that was undertaken given to the minister? Was there a report written on that investigation?

Mr Cahill: My recollection is that the former secretary asked for expert advice to be provided through the independent health advisor, as I have indicated. That advice is being provided to the department and currently under consideration by the chief medical officer and others.

Senator HANSON-YOUNG: Could I ask for a copy of that advice to please be tabled?

Mr Cahill: I will take that on notice.

Senator HANSON-YOUNG: You take on notice that you will get it to us or will you take it on notice as to whether you can? I want clarification about that.

Mr Cahill: I will take your request on notice.

Senator HANSON-YOUNG: Is there any reason you cannot get it to us tonight? Surely it exists.

Mr Pezzullo: For one thing, I have not seen it yet. Whilst my officers have been diligently reviewing material and Mr Painting's evidence was to that effect, given Mr Bowles's commitment both to this committee and I recall in his public appearance before the Human Rights Commission back in July, I would like to close that loop and satisfy myself. Not that I would be able to interpret the matters at issue with any kind of expertise, but I am the accountable officer at the table, so I will assure myself as to what the independent health
advisor is advising me, as the secretary, and then I will make a determination after I have spoken with the minister about how we proceed. It sounds like we have some advice to hand. I have not seen it. The officers at the table have suggested that there have been meetings as recently as the recent past.

Mr Cahill: The last few days.

Mr Pezzullo: I think they understand the imperative and the urgency of it and I am sure that they will get on with it.

Senator HANSON-YOUNG: I find it difficult to take the criticisms that both the department and the minister have waged against the Human Rights Commission for the facts and the statistics in their report when you have not in eight months been able to come up with another way of releasing that data. How can you expect anyone to believe your side of the story when you are not prepared to put forward the evidence?

CHAIR: You do not have to answer that. That is not a valid question.

Senator HANSON-YOUNG: Has it not been an issue of urgency in the department to work out how this data can be understood, released and reported upon?

Mr Cahill: It has been an issue of importance to get expert advice from people most appropriately qualified to give that advice on the value of HoNOSCA as a reporting tool.

Senator HANSON-YOUNG: Who is on the mental health advisory group within the department? You are saying that there is a group that you are going to, that you are seeking advice from; who is on that?

Mr Cahill: The secretary has, as I have indicated, an independent health advisor, Dr Paul Alexander, and he is able to engage experts through a panel that he manages of eminent medical and clinical professionals to provide advice on the particular issues that are needed at a particular moment in time. He has got great flexibility about who he can engage, for example on mental health issues, on the appropriate reporting tools and data sets and what they might tell you. He has got great flexibility in who he can engage for that purpose.

Senator HANSON-YOUNG: Could you take on notice who has been consulted in relation to this data collection and reporting? Which individuals have been consulted? Why is the head of IHMS, Peter Young, who has put forward this proposition to the Human Rights Commission, not an expert in how this data should be reported?

Mr Cahill: He had a view about the value of HoNOSCA as a tool in reporting on the mental health of children and adolescents. There are other experts who do not agree with him. There has been a number of people involved, but a primary contributor is Professor Brett McDermott who is a consultant child and adolescent psychiatrist and professional fellow at Mater Medical Research Institute and a director of beyondblue. He is an eminent person in this field. He has been providing advice through the independent health advisor, in conjunction with some other experts on this matter.

Senator HANSON-YOUNG: But do we not have the report that says whether this data set should be used or should not?

Mr Cahill: The secretary has dealt with that issue.

Senator HANSON-YOUNG: So, do we still not have a conclusion?
CHAIR: You have exhausted your time. We can come back if needs be. Just before I pass to Senator Carr for one final question in this area, excuse my ignorance, what is HoNOSCA?

Mr Cahill: It is an acronym that stands for Health of the Nation Outcome Scales for Children and Adolescents. It is shortened to HoNOSCA. It is a collection of data that provides an indication against a benchmark of the health of a particular cohort of people. There is a similar data set for adults called HoNOS.

CHAIR: Is there some dispute or some difference of opinion on whether HoNOSCA is of any value?

Mr Cahill: Is of any value, particularly in isolation from other measurement tools.

CHAIR: As far as you are aware, was this told to the Human Rights Commission?

Mr Cahill: Yes.

CHAIR: I was going to say what is the independent health advisor, but you have told us it is Dr Paul Alexander. What is his qualification?

Mr Cahill: He is a medical partitioner. He is a former Surgeon General of the Defence Force. He is the chairman of the board of one of the Brisbane hospitals. He runs a practice. He is an eminent person.

CHAIR: He coordinates a group of other medical professionals, one of whom you mentioned was Professor McDermott.

Mr Cahill: That is right. On this particular issue, as I say, he can engage a range of people for particular matters, but on this issue he engaged with Professor McDermott, yes.

CHAIR: What was Professor McDermott's view on HoNOSCA? Are you able to do that or do we not want to—

Mr Cahill: Taking from the secretary's lead from earlier and not being impolite, he was not an enthusiast.

CHAIR: For the HoNOSCA?

Mr Cahill: Yes.

CHAIR: What are his qualifications?

Mr Cahill: He is a consultant child and adolescent psychiatrist and a professorial fellow at the Mater Medical Research Institute and a director of beyondblue. He has other qualifications and experience, of course, as well.

CHAIR: Does your reading of the Human Rights Commission report acknowledge that Professor McDermott was not really fussed on HoNOSCA?

Mr Cahill: No, that review occurred subsequently.

CHAIR: You say this is being done by the chief medical officer of the department?

Mr Cahill: It is being done in consultation with the chief medical officer of the department.

CHAIR: What is the chief medical officer of the department's qualifications?

Mr Cahill: Dr Paul Douglas. I would probably have to take that on notice. There might be somebody here who could tell you that but—

CHAIR: Is he an employee of the department?
Mr Cahill: He is an employee of the department.

CHAIR: He has some sort of medical qualification?

Mr Cahill: Absolutely, yes.

CHAIR: Is he an academic?

Mr Cahill: No, he is a qualified medical practitioner.

CHAIR: Is he qualified to give a view and does he have a view or should we not verbal him, either?

Mr Cahill: No, I do not think that is appropriate.

Mr Pezzullo: I think we had better wait for the report to be finalised and presented. The independent health advisor formally works to me, so I would not mind getting this report and reviewing it myself.

CHAIR: Okay, that is fine. This was mentioned in the Human Rights Commission report, but is it right that subsequently Professor McDermott, amongst others, has expressed some doubt about it?

Mr Cahill: The disagreement with the view of Dr Young, who gave evidence to the Human Rights Commission, and the Human Rights Commission's view about HoNOSCA, was certainly made clear by us to the commission, including in writing. Subsequent to the consideration of that issue as part of the inquiry, the then secretary of the department commissioned this review to get independent expert advice on what HoNOSCA was, what its value was, how useful was it, et cetera.

CHAIR: Who or what is Dr Young?

Mr Cahill: Dr Peter Young was the then mental health director of the service provider IHMS that provides the medical services to the department under the contract.

CHAIR: What is his specialty and where does he practise?

Mr Cahill: He is a mental health practitioner, so he did occupy that position of director of mental health with IHMS, but he does not occupy that anymore.

CHAIR: Where does he hail from? Is he in private practice or does he work for government?

Mr Cahill: He was working directly for IHMS at the time. He was working for the contractor at the time.

CHAIR: Do you know what his qualifications are?

Mr Cahill: No, I do not.

CHAIR: Thanks for that.

Senator KIM CARR: My question goes to Customs. It could be handled here if you want, but it is relating to asbestos.

Mr Pezzullo: I am sure that the chief executive officer and his officers are just champing at the bit.

Senator KIM CARR: I am delighted to hear that.

Mr Pezzullo: I say that only in the context of their attendance here through the day.
Senator KIM CARR: Yes, they have been keen to get on. Have you seen the report in *The Australian* this morning concerning claims that Chinese imports of asbestos have increased, that there is mounting evidence of its use in automotive, mining and building materials and that it is going undetected by the Customs service?

Mr Quaedvlieg: Yes, I have seen that report.

Senator KIM CARR: Can you give us an indication of your response to that report?

Mr Quaedvlieg: I can. Asbestos is controlled by the Customs (Prohibited Imports) Regulations. We take the importation of asbestos very seriously. I will give you an illustration of the penalties that are associated with that offence. Individuals importing asbestos can incur fines of up to $170,000 per individual. Companies can be fined up to $850,000 or thrice the value of the goods, depending on which is higher. We in Customs have what we call a multilayered approach to prohibiting asbestos importation. It is not all about prosecutions.

We start with very broad education campaigns. We engage with industry in an attempt to have industry accept some of the responsibility of detecting asbestos at the border. In fact, there is an onus upon industry to actually declare imports as being asbestos free. Certainly we will conduct investigations and prosecutions where warranted. I have to say though that the very large majority of asbestos imports into this country are inadvertent. It is not to say that we have not undertaken prosecutions; in fact, we have had two prosecutions in the last seven years for the importation of asbestos.

By and large, in Customs we have a detection capability. That detection capability is geared towards those countries and those importations of the highest risk. As you have rightly pointed out, there are particular industries that are more prone to importing products with asbestos and those industries are the marine industry, the locomotive industry and prefabricated buildings. We certainly target countries and industries of high risk. We detect numerous asbestos importations, but as I indicated earlier, in the vast majority of cases we are satisfied at least that those importations are inadvertent and we are working very closely and intimately with industry to prevent that.

Senator KIM CARR: Do you have any sense of how widespread this issue is?

Mr Quaedvlieg: I would have to take that on notice in terms of statistical figures for interceptions. What I can say to you in a generic sense is that it is not increasing. It is relatively stable. Notwithstanding that, we are constantly vigilant. We take this matter very seriously. As I indicated, we have good leads in terms of the countries and the industries of highest risk, and that is where we dedicate our resources.

Senator KIM CARR: The claims made in the newspaper *The Australian* today suggest that we do not know how big the problem is. It is not quoting a Customs official, it is quoting an observer. Do you disagree with that proposition?

Mr Quaedvlieg: I think I will take on notice the question of a statistical size of the problem, but can I say this: I think the notion that we would be able to physically inspect each and every one of two million sea containers that come through the border per annum is a nonsense. That is not going to occur. We have though, in the sea cargo container environment, a very mature and very extensive intelligence profiling capability. That capability, as I have indicated, is directed at countries and industries of highest risk. The same
methodology applies to the interception of drugs and/or firearms. I am confident, having looked at the problem now for some time, that it is not a phenomenon that is growing.

Senator KIM CARR: Do you have any plans for additional screenings in the automotive, mining or construction industry, given the nature of this report?

Mr Quaedvlieg: I do not think it is necessary. It was not the catalyst of this report which made me—

Senator KIM CARR: No, I am not suggesting that this report is the cause for you to act but, given the nature of this report, the content of this report, do you feel there is any need for additional screening?

Mr Quaedvlieg: My gut sense is no. We will always take information that comes, whether it is through the media or otherwise, in cognisance of our intelligence profiling. We will certainly have another look at it, but my general sense is that I think we have got the settings about right. We have a whole spectrum of priorities, as you are well aware, and at this point in time there is no intent to increase resourcing towards asbestos importation.

Senator KIM CARR: What is the level of risk you ascribe or apportion to the automotive, mining and construction industry products imported from China in regard to asbestos?

Mr Quaedvlieg: I could not give you that.

Senator KIM CARR: Can you take that on notice please?

Mr Quaedvlieg: Yes.

Senator KIM CARR: In regard to the automotive industry, I take it there are only certain parts of a motor car that asbestos would be used for, or has traditionally been used for. You should be able to identify that quite precisely, shouldn't you?

Mr Quaedvlieg: In the main brake linings and gaskets.

Senator KIM CARR: That is right. So, you should be able to identify those particular products.

Mr Quaedvlieg: Yes, and we do.

Senator KIM CARR: You do?

Mr Quaedvlieg: Yes, we do.

Senator KIM CARR: I am just surprised that you cannot identify component manufacturers because I take it would impossibly be in a new vehicle, would it, an imported vehicle?

Mr Quaedvlieg: It may be. Some Chinese automotive industries still use asbestos in certain vehicles.

Senator KIM CARR: But you would know that, surely.

Mr Quaedvlieg: Yes, we do. As I have indicated, that is part of our intelligence profile.

Senator KIM CARR: So you could identify those particular vehicles, such as a brand or a particular model?

Mr Quaedvlieg: Yes, that is right.

Senator KIM CARR: So, you could say, 'We are not having those'?
Mr Quaedvlieg: No, we would put the onus on the importer to declare to us that there was no asbestos contained on those vehicles or their parts. We would also conduct compliance and audit activity in relation to those imports.

Senator KIM CARR: So, how many prosecutions have there been for the importation of vehicles or automotive components from China using asbestos in the last few years?

Mr Quaedvlieg: I suspect none, but I would take that on notice just to be 100 per cent sure.

Senator KIM CARR: I would have thought I would have heard, that is all. I am surprised, given that your level of intelligence is so acute, how any vehicles or any components could get into the country using asbestos. That is clearly what you are saying to me, isn't it?

Mr Quaedvlieg: What is the question?

Senator KIM CARR: The question is: why can you not stop asbestos being imported into Australia in automotive parts or vehicles?

Mr Quaedvlieg: In fact, we do.

Senator KIM CARR: You stop it completely. Can you give us an assurance—

Mr Quaedvlieg: No, I did not say that.

Senator KIM CARR: That is my point. Why can't you?

Mr Quaedvlieg: Again, I think I refer to my previous answer. Unless we have every single sea cargo container inspected then I cannot give you that 100 per cent guarantee. It is the same for any other prohibited import, whether it is drugs or firearms or illegal tobacco.

Senator KIM CARR: I appreciate the point you make. You cannot inspect two million containers, but you know that there are specific uses for a product. You know who is importing the material, you know who is exporting the material from China.

Mr Quaedvlieg: Yes.

Senator KIM CARR: Why can you not give us an assurance that those suppliers would be prevented from importing asbestos to Australia?

Mr Quaedvlieg: It is highly unlikely that we do. I just do not want to give you that guarantee here without the actual statistics.

Senator KIM CARR: Can you take that on notice because I look forward to your assurance that that can be done. I am surprised you will not be able to do that after you have checked the records.

Mr Quaedvlieg: Yes, we will take that on notice.

CHAIR: Senator Muir has one cross-portfolio question. I am not restricting you.

Senator MUIR: The latest statistics published in the department's website show that although the number of people in detention has significantly decreased since September 2013, the average length of time spent in detention has significantly increased. Why has the average length of time quadrupled since September 2013?

Mr Pezzullo: I will ask Ms Briscoe and her officers to attend the table to give you the more detailed explanation. At a headline rate, if I can put it in these terms, it is basically
mathematical. That is to say, whilst there was a large number of people coming into detention being processed in a relatively quick fashion and being released into the community, either with determined claims or otherwise, then the numbers are going to be high but the average per person stay potentially is low obviously if you have got people flowing through the centres.

With the advent of a different policy regime in September 2013, particularly with the emphasis on there not being a pathway to permanent protection as a result of the policies around temporary protection, of necessity whilst the parliament of the nation deliberated on the matter of the temporary protection scheme, what became the associated Safe Haven Enterprise Visa scheme and all the rest of it, the numbers of persons in detention, in terms of the stock of numbers—if I can use a fairly corporate term to describe human beings, and I try to avoid that wherever I can—was not increasing because the boats were not arriving, except for the one instance that was the subject of High Court action, but in any event the IMAs in that case went to Nauru.

Over time that stock—again, I try to not use that dehumanising term as much as I can—had to then be dealt with within the policy directed by the government. The laws had to be changed because temporary protection was not a feature available under the Migration Act settings of September 2013. Of course, as you well know yourself, having been involved in the various discussions around that legislation, it was in the latter part of 2014 when that legislation came before the parliament in a fully resolved and agreed fashion. It has since received Royal Assent.

As we discussed this morning, the flow has now, as it were, been reinstituted both with lodged protection claims that were on foot prior to the Asylum Legacy Caseload Bill and now of course the minister has powers under the amended legislation to make determinations as to the lifting of the bar and to the processing of applications.

That is not a very precise or elegant answer, but effectively what will happen now as the flow resumes, the per person length of stay mathematically, by definition, has to come down over time. Even though the stock has stabilised, it has not been increasing, the amount of time that each individual spent in detention over time is prolonged as the government's policy was implemented ultimately through legislation. I might just see if Ms Briscoe or one of her officers has got a more comprehensive or better expressed way of addressing your question.

Mr Douglas: I think the secretary has explained it very well. I do not think there is anything more I could add.

Mr Pezzullo: I am not sure that it was elegant, but it was an explanation of sorts.

Senator MUIR: Has the Immigration Assessment Authority commenced processing the legacy caseload as of yet?

Mr Pezzullo: If Mr Douglas cannot address that directly, I will ask Mr Vardos and other officers to join us, but the legislation is certainly now in existence and the processing is being done pursuant to the legislation having received Royal Assent. I might just ask the relevant officers. Perhaps the other officers might stay at the table, Ms Briscoe, just in case we have to go between programs.

CHAIR: We are coming on to Customs very shortly.

Mr Vardos: Sorry, could you repeat the question?
Mr Pezzullo: If it assists the committee, Mr Vardos and his colleagues deal with processing; Ms Briscoe and her colleagues deal with the detention and status resolution side. I think if your questions go to processing you are better off going here.

Senator MUIR: The original question was: has the IAA commenced processing the legacy caseload as of yet?

Mr Vardos: I will start and then Mr Kukoc may wish to give you detail. The legacy caseload, as it is called, has three cohorts. One cohort of just under 5,000 have an active application on foot and are being processed. There are elements of their applications that have to be reconsidered in terms of revalidating police checks, health checks, et cetera, because they have effectively passed the use-by date. There is another smaller cohort that does not immediately come to mind as to where they fit. We are gearing up to commence processing the more substantial cohort of some 24,000, and that should happen in the next few weeks.

Mr Kukoc: The Immigration Assessment Authority will not be processing applicants for temporary protection visas, it will be the department. The Immigration Assessment Authority is part of the fast-track process. The Immigration Review Authority will be sitting generally with the RRT, and I think that was covered this morning when RRT was questioned on that. The department has commenced processing for that caseload, around 5,900 people, IMAs, who have previously lodged the application for permanent protection visas. They will now be automatically considered against the criteria for TPVs. Many of these applications will then progress. We expect the first grants to happen within weeks, however there are still outstanding checks that are independent of the department, like police checks—some of them have expired police checks. There is a requirement to undertake health checks and, on some occasions, security referrals. Once these checks are done, many of these cases that previously lodged the application for permanent protection visas in that cohort of 5,900 people are well progressed. There is also another caseload that Mr Vardos mentioned of around 24,500 where the processing is still yet to commence. We are still preparing some options and advice to the minister in terms of the commencement of the processing for that caseload.

Senator MUIR: Fantastic.

CHAIR: I think we are going to now go on to the Australian Border Force. I think by agreement of the committee, if it suits the department, we might have the relevant officers for the next session, which is Customs and Border Protection Service at the same time. Would that be agreeable?

Australian Customs and Border Protection Service

[17:18]

Senator KIM CARR: What I was thinking, if no-one has any questions for Customs, is why do we not just go straight onto Operation Sovereign Borders?

CHAIR: We have got Australian Border Force.

Senator KIM CARR: Are there any questions on that? Unless the government wants to take up some time.

CHAIR: No, but I have listed for the Australian Customs and Border Service, opposition: Senator Carr, Senator Hanson-Young, Senator Leyonhjelm, Senator Whish-Wilson and Senator Xenophon.
Senator KIM CARR: I think you will find that events have moved on by personal inquiry. I am getting nods around the room. If the government wants to ask questions, go for your life, you are doing a great job today. Always delighted to hear the government on these matters.

CHAIR: Australian Border Force was Senator Carr and Senator Hanson-Young. Now I am getting the indication that neither of you want the Australian Border Force.

Senator KIM CARR: That is right.

CHAIR: I am sorry for Australian Border Force.

Senator KIM CARR: We have been asking questions all day.

CHAIR: You may leave; sorry for keeping you here. Now, for Customs and Border Protection Service, we do have Senator Reynolds. I also have Senator—

Senator KIM CARR: The time has been taken up by government questions.

Senator Cash: Could I just confirm, we have now moved on from the Australian Border Force; is that outcome complete as no-one had questions?

CHAIR: That is correct.

Senator Cash: So, those officers are cleared to leave?

CHAIR: Yes, I have said that.

Senator KIM CARR: And the government wants to—

CHAIR: I am told that Senator Carr, Senator Hanson-Young, Senator Leyonhjelm, Senator Whish-Wilson, Senator Xenophon and Senator Reynolds have questions on Customs and Border Protection Service.

Senator KIM CARR: You have just been told we do not have questions.

CHAIR: I have been told that you and Senator Hanson-Young do not, but you do not speak for Senator Leyonhjelm, Senator Whish-Wilson or Senator Xenophon, as far as I am aware.

Senator KIM CARR: That is fine.

CHAIR: And you do not speak for Senator Reynolds.

Senator KIM CARR: We are clear the government is now bringing on the questions to these officers. I am delighted to hear it.

CHAIR: I would like to say that Senator Leyonhjelm and Senator Xenophon are the government, but unfortunately they vote against us more than they vote for us. Perhaps the secretariat could just let them know. Senator Reynolds.

Senator REYNOLDS: Can I just confirm again—

Mr Pezzullo: Is this the Customs and Border Protection?

Senator REYNOLDS: Yes, are we all on 1.1, Border Enforcement?

CHAIR: Customs and Border Protection Service.

Senator REYNOLDS: Yes, thank you.

CHAIR: Which is different, apparently, to Australian Border Force.
Senator REYNOLDS: Correct. So, I have got 1.1: Border Enforcement, counter terrorism and national security announcements? Is that correct?

Mr Pezzullo: The Australian Border Force, just to illuminate that, does not yet exist. It is subject to the legislation that I described earlier. Subject to that legislation passing, the agency of which Mr Quaedvlieg is the head will be disestablished on 30 June and the ABF will be stood up on 1 July. Technically, those officers do not exist yet, so none of them had to be sent home because they were never here.

CHAIR: Okay.

Senator KIM CARR: That does not change the fact that government is very keen to interrogate you.

CHAIR: Senator Carr keeps delaying our interrogation with interjections that make it difficult to finish on time.

Senator KIM CARR: It is what you call Senate obstruction.

Senator REYNOLDS: So, your questions are fine, Senator Carr, but are ours not?

Senator KIM CARR: That is fine.

CHAIR: Senator Reynolds.

Senator KIM CARR: It is a matter for the government if it wishes to inquire into itself.

CHAIR: How many times do I have to tell you: estimates is about senators asking questions of the minister and the public servants. Because in the Labor Party you are all perhaps robots—

Senator Cash: Zombies, I think.

CHAIR: robotic zombies or something, people in the Senate coalition do actually have an independent view and they mind.

Senator KIM CARR: Keep beavering away looking for questions for their own government.

Senator REYNOLDS: So, Senator Carr when in government has never asked a question?

CHAIR: I am going home at 11 o'clock, so we can argue as much as we like before then. I do not care what you do. Senator Reynolds, you were asking whether the witness is the right witness.

Senator REYNOLDS: I just want to make sure now. Have we got an opening statement first?

CHAIR: Yes.

Senator REYNOLDS: Yes, okay.

CHAIR: But you wanted to know if this is the right—

Senator REYNOLDS: So, are we on outcome 1 now.

CHAIR: You are clear. Mr Quaedvlieg.

Mr Quaedvlieg: Thank you for the opportunity to make an opening statement. It is short but I would like to update the committee on our operational priorities on integrity matters and some operational outcomes. The committee will be aware of the government's announcement of $154 million in additional funding to boost our counter-terrorism capacity. The measures
will assist us to identify and stop Australians who seek to travel overseas to participate in terrorist activities and assist authorities to manage those seeking to return to Australia from foreign conflicts.

The Immigration and Border Protection portfolio plays a key role in counter-terrorism and is committed to the security of our nation. New and strengthened measures are being employed to assist frontline officers undertake critical work to protect our border. We continue to work closely with domestic and overseas intelligence and law enforcement agencies to identify possible travellers of interest prior to leaving the border. On 22 August 2014, the Australian Customs and Border Protection Service started deploying counter-terrorism unit teams at international airports to combat the threat of home-grown terrorism. These teams are now operational at the eight major airports.

Once fully implemented, we will have 80 border force officers and secure infrastructure and communications equipment at those airports. Already, our CTU teams, as they are known, have successfully intercepted a number of people of national security concern. The CTU teams have found evidence of movements or attempted movements of large sums of cash and images and materiel of an extremist nature. Some cases have resulted in the imposition of infringement notices, while others are the subject of ongoing investigations. Since August, the CTU teams have undertaken over 64,000 assessments of travellers, resulting in hundreds of enforcement actions and referrals to security and enforcement agencies. Late last year our CTU officers became exempt under the Aviation Transport Security Act 2004 from airport security screening and permitted to carry personal defensive equipment, including firearms, at the airports. This will enable us to continue meeting border protection objectives with a workforce that is trained and equipped to deal with a range of new and emerging threats.

The CTU in Melbourne was the first to deploy armed officers, on 31 December. This armed capability expands the number of Customs officers who are armed and have been armed for some years, such as our marine unit, our investigators, our surveillance operatives and enforcement operations officers. All officers issued with personal defensive equipment, including restraints, have been certified in appropriate use-of-force training, which is aligned with the Australian Federal Police curriculum and can be used only for defence from physical attack or to manage people who are physically non-compliant.

We have appointed Australian Federal Police Assistant Commissioner Steven Lancaster to lead the new investigations division within the border operations group. The investigations division will provide the portfolio with a specialist investigation and enforcement capability that is deployed against individuals, organisations or networks that seek to harm the Australian community or economy through threats, crime and abuse of border law systems. The division comprises four branches: a National Security Branch, an Organised Crime Branch, Immigrations and Customs Enforcement Branch and a Specialist Support Branch. I am happy to provide the committee more detail on the work of those branches if it so desires.

A major priority for me working with Secretary Pezzullo is the integration of border protection services within the Department of Immigration and Border Protection and the establishment of the Australian Border Force, as announced by the government in May 2014. We are already seeing the more integrated, effective and efficient border protection operations...
as we move away from the traditional divide between immigration and Customs roles and functions.

I have an update on integrity matters. When I last appeared before the committee I advised in relation to prosecution action against corrupt Customs and border protection officers that eight former officers had been arrested or charged. At that time, three former officers had been convicted. Now, a total of six of the eight former officers have been convicted. Of the three more recent convictions, one former officer was sentenced to 21 months in prison with a non-parole period of 12 months; one was sentenced to 14 months in prison with a non-parole period of six months; and one was sentenced to a term of imprisonment for nine years and a non-parole period of six years. Another officer remains suspended without pay pending his prosecution, which is listed for trial in March of this year.

As the secretary has advised you, we are working with our staff to develop a comprehensive, professional integrity framework for our new department that will help protect both the organisation and our staff from corruption and infiltration by organised crime. There will be no let-up in our approach to ensuring we have the systems, processes and policies in place to deter, detect and respond to corruption and serious misconduct. We continue in the firm belief that the majority of our officers across the portfolio are passionate about the work they do to protect Australia through managing the movement of people and goods across our border and that they are honest and hardworking in undertaking their duties.

I would like to update the committee on some operational matters in relation to drug detections undertaken by our officers. A Customs and border protection investigation that began in 2013 has resulted in the sentencing of a Sydney man to over five years jail for recruiting students and children to act as drug couriers. He had imported a number of precursor chemicals used in the manufacture of methamphetamines such as ice into Australia from both Hong Kong and China between 2012 and 2013. On 29 November last year six men, all Australian residents, were charged by the joint organised crime group for their involvement in the attempted importation of almost three tonnes of MDMA and crystal methamphetamine into Sydney which was detected in a sea cargo container from Germany by our Customs officers. This seizure was estimated to have a street value of up to $1.5 billion and is the second largest seizure of illicit drugs in Australian history.

Finally, this financial year to 31 December, Customs officers have made over 8,000 individual detections of major drugs for a combined weight of 5.2 tonnes. These half-year results are already surpassing the total annual numbers of any of the last five years of our drug detection performance. Thank you for this opportunity.

CHAIR: Thank you, Senator Reynolds.

Senator REYNOLDS: Is it possible to get a copy of that opening statement?

Mr Quaedvlieg: Yes, we will table that.

Senator REYNOLDS: Before I go into some other issues I would like to discuss with you one matter you raised. You mentioned specialist enforcement branches and some of their activities. You said you would be able to provide more information on those. Could you do that, please?

Mr Quaedvlieg: Yes. We have established an Organised Crime Branch, and that is in recognition of the fact that transnational crime has become poly-criminal and polymorphous.
In that, I mean by example that organised crime syndicates of a transnational nature, whether they are a resident here or offshore, are engaged in syndicated, sophisticated organised crime which transcends the entirety of the portfolio's spectrum of activities. For example, they may be involved in importation of narcotics, the details of which I have provided you just now. They may be involved in syndicated slavery. They may be involved in human trafficking for the purposes of sexual slavery. They may be involved in the organised importation of illicit tobacco. These are organised crime syndicates that are not just resilient but agile, nimble, flexible and working together with significant assets across the entirety of our areas of operation. Therefore, we felt it very important that we have an Organised Crime Branch that can work in conjunction primarily with our strategic partner in the Australian Federal Police, but also our state and territory police jurisdictional partners in the area of organised crime.

We also have a National Security Branch in recognition of the fact that we are not only involved at the front line of national security operations through the effect of our counter-terrorism unit teams at the airports, we are involved extensively with our intelligence, security and enforcement partners across a range of other counter-proliferation and counter-intelligence operations. We have also established a Customs and Immigration Investigation Branch in recognition of the fact that there will be crimes that fall below the threshold of those that are instigated by serious and organised crime. That bread and butter work still needs to go on.

Finally, in support with—

Senator REYNOLDS: Just on that, you said 'below the threshold'. What threshold are you referring to?

Mr Quaedvlieg: The threshold is one that used to be based on particular quantities or a particular type of drug. Traditionally, for example, if a detection was made at the border of what was notionally known as a hard drug—a heroine or a cocaine—there was an assumption, which is very much flawed in today's modus operandi of transnational syndicates, that that would be an importation that was organised by serious and organised crime. I think the traditional measure of precursor chemicals was around 20 kilos and, again, there was a fallacious assumption that 20 kilos of precursor chemicals to make crystal methamphetamine or some other amphetamine type substance must have come from an organised crime group. The reality of that, as I mentioned earlier, is no longer.

Serious and organised crime groups can be involved in the importation of just about any quantity or particular commodity. So, the intent of our strategic partnership now with the AFP is to look at the underlying intelligence that sits behind any detection. Whether that is a handful of MDMA tablets or whether it is half a dozen firearms or, indeed, whether it is 500 kilos of a particular drug, we will pool our intelligence, we will make a determination as to whether there is an involvement of serious and organised crime, and if there is we will triage that and come to a joint determination about how that ought to be investigated.

If there is no initial indication of serious and organised crime, we will still investigate that within the department because it is still an offence; it is still a breach of our Commonwealth statutes. If during the course of that investigation it comes to our attention that there is, in fact, serious and organised crime involved, we will re-triage it with the Australian Federal Police and we might take a different course of investigative activity.
Senator REYNOLDS: So, if it is not a serious and organised crime link that you can find, you would send off any evidence you gathered, perhaps to the DPP, and deal with it that way?

Mr Quaedvlieg: That is correct, or we may liaise and engage with our state and territory police jurisdictional partners and determine a different pathway.

I just wanted to finalise my answer to you; the last branch is a Specialist Support Group. In any modern investigative capability there is a requirement to have surveillance operatives; there is a requirement to have forensic investigations; there is a requirement for digital investigation and we certainly have a small but very capable specialist group that will support the investigative division.

Senator REYNOLDS: In relation to illicit tobacco, what trends are you seeing in that? Is it mostly chop-chop or is it counterfeit cigarettes, and is the problem increasing or decreasing?

Mr Quaedvlieg: My contention on that is that the problem is not increasing quantitatively, either with loose-leaf tobacco or cigarette sticks, but it is becoming a phenomenon which is much more than in the past as an involvement of serious and organised crime. Serious and organised crime will use the same infrastructural spine upon which it imports prohibited drugs to import tobacco. Let me give you some examples. Tobacco is one of our six primary operational priorities that I set in the middle of last year. In the six months of this financial year to date we have 51 active cases of illegal tobacco under investigation. We have made 46 detections of tobacco for some 80 tonnes of loose-leaf tobacco and 20-odd million loose cigarettes. That has a revenue concomitant estimation of around $52 million. We are seeing an increase in organised crime entities involved in this. I put it down partially to the fact that the excise in duty payable on tobacco is increasing. We are halfway through a four-year incremental increase to a tune of 12.5 per cent. Certainly the penalties associated with illicit tobacco importation have increased significantly and, therefore, the risks increases significantly.

Senator REYNOLDS: It is more attractive.

Mr Quaedvlieg: It is more attractive in terms of revenue but it is also a commodity that now requires the wit and wherewithal of serious and organised crime.

Senator REYNOLDS: Are there any other trends in relation to other importation of any other illegal goods that you have seen over the past 12 months?

CHAIR: Just before we get off tobacco; I think I raised this with you last estimates.

Mr Quaedvlieg: You did.

CHAIR: As I recall, you were about to meet with the tobacco companies which had indicated that they were very keen to talk to you, for obvious reasons, about stemming the illegal supply. Did that meeting happen and what can you tell us about that?

Mr Quaedvlieg: Your memory serves you well. That meeting did, in fact, happen on 20 November. I met collectively with the most senior representatives of Philip Morris, British American Tobacco and Imperial here in my office in Canberra. We had a very positive discussion about a range of things including the methodology that sits under their annual KPMG illicit tobacco report. We discussed how we could better collaborate and share information and intelligence within the illicit tobacco industry and, in fact, a follow-up from
that particular meeting was the assignment of a dedicated intelligence conduit for industry to come to Customs to provide information. As you can well appreciate, there are commercial imperatives and commercial conflicts that drive these three entities. We have provided commitments and assurances that we will safeguard the commerciality of information provided; however, that we would use any and all information that was provided by any of those three entities in the construct of our strategic assessments, our targeting packages and in fact our enforcement actions.

CHAIR: That is good to hear. Clearly, they have a commercial interest in all of this but, as they pointed out to me, the loss of revenue to the government is enormous, so there is an interest of the taxpayers in joining with the tobacco companies in stopping the illegal trade at the same time. I am pleased to hear what you say and perhaps at next estimates you might indicate in your statement how that is going and whether there have been any achievable results.

Mr Quaedvlieg: I am very happy to do that. I will just finalise my answer to Senator Reynolds. I think that I would reflect on the importation of illicit drugs. Having a look at the half-yearly trend what I can indicate is that to 31 December 2014 our officers have intercepted 8,200 individual detections of drugs for a combined weight of 5.2 tonnes and that goes across the major drug types.

Senator REYNOLDS: Is that just in the last six months?

Mr Quaedvlieg: That is just in the last six months. I will do a comparison for you in a moment in terms of how that stacks up in the last couple of years. I emphasise that they are the major drugs. They are heroin, cocaine, methamphetamine, MDMA and amphetamine-type substances.

Those half yearly results have already surpassed the results of the last full financial year and, in fact, have surpassed the detection results of any of the last five financial years in terms of detections. My sense of the current trend is a move away from precursor chemicals, a move away from cocaine, although over the last couple of months that has started to have a little bit of a spike, but the headline here is amphetamine type substances; so, ATS, ice crystal methamphetamine and MDMA. Even if you took out the outlier of the three tonnes of MDMA and methamphetamine that we detected last November, the half-yearly results are already surpassing where we were last year. So, the headline is: finished product, amphetamine type substances, and predominantly from China and Hong Kong.

Senator REYNOLDS: That is the ATS increases from China and Hong Kong?

Mr Quaedvlieg: In the main, yes.

Senator REYNOLDS: What is happening with heroin? You said cocaine had decreased and it was coming up slightly, but what about heroin?

Mr Quaedvlieg: Heroin is relatively stable; however, it is only ever a single import away from being an anomaly. It is relatively low. If, for example, in the next month or two we happen to intercept 100 or 200 kilos of heroin, suddenly it would be a statistical spike upward, an anomaly, but it is relatively stable.

Senator REYNOLDS: So with this extraordinary exponential increase in detections, both in terms of number and quantity, are you able to make an assessment whether it is increased
detection activities on behalf of your agency or is it just that there is an exponential increase in the total amount that is coming across the border?

Mr Quaedvlieg: My suspicion is both. I can give you a more definitive answer on our detection efforts. In early 2014 the government provided some funding under the new tackling crime policy proposal. That policy was, for us in this financial year, to increase our detection on the following streams. In the sea cargo stream domain we would increase our inspections and examinations of sea cargo containers by 1,500, so from 100,000 to 101,500.

Senator REYNOLDS: Can you just repeat those numbers?

Mr Quaedvlieg: I will put it simply. X-ray will increase from 100,000 to 101,500, so 1,500 extra sea cargo containers. We would also physically examine an additional 1,500 sea cargo containers, so from 14,000 to 15,500. I am now going to give you some stats that will make your eyes water. We also had a commitment to increase our air cargo parcel inspections from 1.5 million to 2 million and our international mail inspections from 40 million to 50 million. I am pleased to say that not only are we on track half year to hit those figures but we are actually exceeding our commitments to increase those detections; for example, in the international mail we are 10 per cent over that target of increasing the 50 million for this year to date. So, I think partially the answer is an increased volume and better intelligence and better targeting, but I also suspect that there is probably also an increase particularly in amphetamine type substances industry.

Senator REYNOLDS: Have you noticed any change in methodology, because we have heard a lot more about people sending more frequent small parcels in the mail, for example? Are you seeing a change in methodology from the large quantities in shipping containers to more small amounts, or is that not the organised criminals doing that but individuals?

Mr Quaedvlieg: What we are seeing is a maintenance of importations through the sea cargo stream but a very appreciable increase in the air stream, in the air parcels, the fast parcels, and the international mail. We know that criminal syndicates offshore, particularly in North Asia, are undertaking what we call scattergun imports so they disaggregate a large quantity of whatever the commodity is offshore and they will try to get it past Customs and Border Protection in smaller consignments. There is then a re-aggregation of those consignments at post border, at this end. I will not go into how we know that other than to say that we have conducted some very concerted and dedicated intelligence and forensic investigation over that air stream. I can assure you that there is definitely an organised transnational collection of serious and organised crime syndicates involved in scattergun importations as well as maintaining the traditional sea cargo importation stream.

Senator REYNOLDS: On that scattergun importation, this committee has also had an inquiry, as you would be aware, on illegal firearms. I am wondering if you would be able to provide some evidence on whether you have seen an increase in the attempted importation of firearms, long and short, and whether there has been some scattergunning of pieces in the same sort of methodology that you talked about for some of the drugs?

Mr Quaedvlieg: Yes. Very similarly to the statistics I quoted in relation to illicit drugs, we are seeing an increase in detections of illicit firearms and firearms parts. Again, I will take half-yearly results for firearms. For example, in the financial year 2013-14 we detected 21 undeclared rifles for the entire financial year. For half-year results 2014-15 we are already up
to 37, so we have eclipsed that particular result. Undeclared shotguns, again in the 2013-14 year, we detected 10. For the half year of 2014-15 we are up to nine already. This is getting to the nub of your question. In firearms parts in 2013-14 we detected 525 firearms parts for the full financial year. For the 2014-15 half year we are already up to 370 firearms parts. For magazines, again in the year 2013-14, we detected 1,132 magazines; for the half year of 2014-15 we are already up to 1,001. It is just an indication I think of an increase in detection efforts, which is leading to increased detections; an increase in the methodology of importing parts through the air stream, and of course, the traditional maintenance of sea cargo importations on firearms as well.

**Senator REYNOLDS:** Would it be true to say that a lot of the syndicates that you have been looking at and investigating in importing drugs and tobacco would also be doing firearms as well, or is it separate with more individuals than organised crime?

**Mr Quaedvlieg:** I would not be so generic as to say that the individuals that are involved in the importation of firearms range from firearms enthusiasts right through to persons who have connections to serious and organised crime. We are seeing the full spectrum. The most significant embarkation point for firearms and parts is still very much and by far the United States, but certainly in the context of who is importing firearms and parts, I would have to say it goes across the spectrum.

**Senator REYNOLDS:** So, for most of the interceptions that you have done for illegal firearms, either in part or whole, coming from the United States, of those you intercepted have they been coming in multiples or really just coming in as ones and twos?

**Mr Quaedvlieg:** They have been coming in largely in parts and in singles.

**Senator REYNOLDS:** I would like to move on.

**CHAIR:** Senator Reynolds, I have let you go over a bit because I interrupted you.

**Senator REYNOLDS:** I will come back to that.

**Senator XENOPHON:** Further to the line of questioning from Senator Carr about asbestos from China and Russia in particular, you have taken some questions on notice in respect to asbestos in cars. In terms of asbestos in plasterboard, cheap plasterboard coming in from China, given that in the building industry you break it up and the fibres are loosened, what assurances can you give that that plasterboard containing asbestos will not be allowed into this country, given the risks it poses to those working in the building trade and, indeed, to anyone who does any DIY renovations?

**Mr Quaedvlieg:** I will respond in two parts. I will take a question on notice in relation to some statistics around plasterboard importations in particular, because I do not have those figures to hand. Secondly, I will respond verbally by indicating and paraphrasing the same response I gave to Senator Carr in that we certainly apply an intelligence-led model to interceptions and working with industry in terms of high-risk countries and industries. In the context of plasterboard from China I have hit both of those particular risk indicators. So, my sense, without having the statistics before me, is that we were doing significant work around the plasterboard importations from China but I would have to take the stats of that on notice.

**Senator XENOPHON:** I should disclose that I have been a patron for a number of years of the Asbestos Victims Association of South Australia and I have been to too many funerals of people who have died from mesothelioma.
The statement from Customs said that your efforts were, 'proportionate to the level of risk'. I understand that Senator Carr has asked about that, but just further to that, given that there is no safe level of asbestos exposure and given that one exposure to asbestos can lead to death from mesothelioma many years down the track or asbestos related diseases, to what extent do you take into account the very deadly nature of asbestos in the context of assessing risk, because there is no safe minimum level of exposure?

Mr Quaedvlieg: You are absolutely right. It is a vicious disease and it is a disease that can be caused through asbestos exposure, as you well know. We certainly take the consequences of asbestos importation into consideration in terms of setting our priorities and our resourcing distribution. Having said that, we have a number of other priorities which are also lethal in consequence—drugs and firearms—and the level of resource allocation is commensurate with risk across the board, both in terms of the product and who uses them.

Senator XENOPHON: But the penalty for bringing in asbestos is a monetary penalty that does not carry any jail time; that is correct, isn't it?

Mr Quaedvlieg: That is correct.

Senator XENOPHON: I will not ask you to comment on policy. That is something I can perhaps put to the government down the track but finally in respect to this, on notice can you tell us the likely quantity of material that is coming in, both in terms of cars and auto products and in terms of building products, and what measures or resources are being used to ensure that this stuff does not get into the country at all?

Mr Quaedvlieg: That is a very broad-ranging question. I will do my utmost to provide you with a full and detailed answer to that question.

Senator XENOPHON: Including spot checks, for instance. Do you have spot checks?

Mr Quaedvlieg: We do. We have an audit and compliance program that does that sort of checking. We will make every endeavour to give you a full and comprehensive answer to that.

Senator XENOPHON: Presumably it has a market because it is cheaper than ordinary plasterboard that does not contain asbestos, so would that be an indicator that it could be inferior and, indeed, may contain asbestos?

Mr Quaedvlieg: Potentially, but I do not know.

CHAIR: Senator O'Sullivan.

Senator O'SULLIVAN: In deference to Senator Carr, I will not ask any questions.

Senator KIM CARR: Another great victory for common sense. It is hard with the National Party but occasionally it happens.

CHAIR: Do not be bullied by Senator Carr or anyone else. Senator Reynolds.

Senator REYNOLDS: I can assure you that I am not remotely intimidated by Senator Carr's lack of interest in Customs and Border Protection. I would like to move on to the National Security Branch and the issue of foreign fighters, which is obviously a very real and live issue. I wonder if you could tell us a bit more about your involvement in dealing with the other agencies in relation to foreign fighters. I think we have had some announcements today, obviously from the Prime Minister, so what is your agency's role in dealing with foreign fighters but also in the changes announced today?
Mr Quaedvlieg: Let me start in the broad and I will try not to take up too much time. We have a role in defending our national security, primarily through combatting threat of terrorism. We do that through a number of ways. I mentioned earlier we undertake joint investigations and we support investigations by our intelligence and enforcement partners. Our most prominent contribution since August last year has been the role of the counter-terrorism unit teams at our eight major international airports. I indicated to you that those teams, since the inception of that model, have undertaken 64,000 assessments. That is real-time assessments of travellers, both ingressing and egressing the border. They do that through a couple of different ways. We respond to security alerts that are placed on our system by our intelligence and our enforcement partners, and our counter-terrorism teams will respond to those alerts when they are triggered on the ingress or egress of a traveller. We will acquit the actions that we are asked to do by our partners and in most cases we will refer the traveller to one of our intelligence or enforcement partners.

In addition to that—and I think this is the dividend of the counter-terrorism unit teams in protecting our national security—they will undertake real-time assessments of passengers queued in departure halls. They will undertake assessments of passenger data that is provided to us by airlines in advance of passengers arriving from offshore who may pose a risk and they will proactively speak to, interview and, if required, search travellers to and from Australia.

What we have discovered in that cohort of 64,000 is several thousand people who have been of some interest, either from an enforcement or a national security perspective. We have, in that cohort of several thousand, provided in the order of hundreds of referrals to our national security and our enforcement partners. What we are finding in that cohort is persons travelling to or from who may be carrying excessive amounts of cash and who may be carrying extremist and graphic video or stills on their phones or their digital devices. We are finding individuals who may be carrying both camping and/or medical equipment in their luggage, checked in or carry-on, all of which to us are indicia of persons who may be going offshore to fight in foreign conflict arenas. We are engaging with both the Australian Federal Police and our security intelligence agencies in terms of those detections. In a number of cases those individuals are being provided with infringement notices for the breach of Commonwealth offences and/or they are interviewed by the police or the enforcement agencies. That is the work of our counter-terrorism unit teams.

Also, from the counter-terrorism policy proposal from last year, we have responsibility for the establishment of 62 automated e-Gate departure gates from this country. They will start rolling out in installation from around the middle of this year. The intent is for those departure gates to be distributed in that number across our eight major international airports. Their purpose is to assure us of the identity of travellers who are exiting this country. Those e-portals will identify the biometric facial image of a traveller that is contained and stored within the digital chip in their passport. It will conduct a digital comparison and analysis to the traveller that is presenting and, within a set of very detailed tolerances, will assure us that that person departing the country is, in fact, the person who is presented in the passport.

In that package we are also establishing an additional nine airline liaison officers. They are officers that are stationed offshore in international airports of what we determine as the highest risk. Those additional nine ALOs, as we call them, will be stationed in and around
predominantly North Asia and the Pacific and they will assist airlines, airport operators and foreign partners in terms of determining the entitlement of persons travelling to Australia under visa.

**Senator REYNOLDS:** I would like to ask a question of clarification. With those 62 new e-Gates for people departing Australia—currently they are optional so people can either go through the traditional lanes or they can go through the e-Gate lanes—will it be the same arrangement exiting?

**Mr Quaedvlieg:** Yes. Our aspiration is in three or four years time that we are automating 90 per cent of our departures from Australia. The purpose of that is not just in the context of using digital biometrics to assure us of the comparability of the person travelling as well as the passport that they are presenting but it also then liberates our frontline officers from the transactional to actually making judgments about the risks of other travellers.

**Senator REYNOLDS:** So, you are freeing them up to do a second layer of compliance over that initial one at the gate?

**Mr Quaedvlieg:** We are freeing them up to actually make judgments that computers cannot make.

**Mr Pezzullo:** Just to round that out, you asked about the relevance of the Prime Minister's statement earlier today. Principally the matters that the CEO has discussed fall under the Customs Act. Just to round out the answer a little more completely on the immigration side, the Prime Minister's announcement went to both citizenship matters that were the subject of questions earlier today from Senator Carr but I can also confirm, in terms of the work of the National Security Branch that the CEO has just discussed, which up until 1 July will be a joint branch that we jointly oversee under our two separate pieces of legislation—post 1 July it will be an integrated activity—I can confirm that pursuant to page 29 of the Martin Place siege review that was released by the Prime Minister yesterday and referred to in his statement today, that the immigration department will add to those layers of defences that the CEO has just outlined by improving its internal connectivity and various other information sharing protocols and processes to improve our ability to verify the initial supporting information provided by visa applicants wishing to travel to Australia. That has got more general application than just national security and counter-terrorism cases but, obviously it is relevant and important.

Based on that information we are required to come back with proposals for how we will better assess possible risks posed by individuals at pre-visa, post-visa and pre-citizenship application stages and, finally, as part of the package that will ultimately come back in response to the detailed recommendations of this siege review, my department will propose and the government will consider policy and legislative changes that will be necessary to support decisions, both to initially grant a visa, to revoke an initial grant of a visa and any subsequent visas, and to grant citizenship. Once those measures are considered by government that will add a further set of tools to the armoury that this branch and its counterpart division in the department proper will have to deal with counter-terrorism.

**Senator REYNOLDS:** You referred to internal connectivity improvements. Are those things that you have already got underway or are those things that will come out after further review and reporting?
Mr Pezzullo: Both. The CEO and I are looking at what measures we can introduce more immediately using our current systems. The cargo and other risk assessment systems that the CEO has spoken about have got some applicability in this area—the ability to mine data and to analyse data, to use the phrase to join the dots, based on analytics. We certainly are, in response to both Martin Place and government direction more generally, looking at what tools we can adapt using our current resources and, as the Prime Minister said, should further requirements for resources need to be considered by government, that would be conducted in the normal manner pursuant to government budget processes.

Senator REYNOLDS: So, do you see the advent of the Australian Border Force, as that is rolled out, will assist in that area as well in terms of greater connectivity and joining the dots?

Mr Pezzullo: Most certainly. For the reasons that the CEO has indicated, by bringing together staff capability and powers that might, on their face, deal with different types of transnational criminal and national security concern, you can blend those capabilities and you can leverage capabilities. Staff become more familiar with things like analytics, use of intelligence and the like and, frankly, the whole capability increases, whether it is for serious and organised crime or national security or, indeed, other issues around community protection.

Senator REYNOLDS: Just in terms of what you said, Mr Quaedvlieg, in terms of any stovepipes, are you taking smaller potential organised crime and putting it together to see if there is a bigger picture there, and will it help you to do it across any links between transnational crime, national security and potential terrorism aspects as well, just to bring that together?

Mr Pezzullo: I would not necessarily use the term 'stovepipes', but certainly the narrower the access to information, the greater the likelihood that dots are not joined, to coin a phrase. The experience that the CEO and I certainly have from policing, military work, defence planning and intelligence is that if you have a wider dissemination of information you have got a risk on the one hand of an insider leaking that information—and we have seen instances of that in recent years that have been dealt with in other fora which I will not go into—but the greater prevalence of shared information amongst trusted officers, and hence the need the harden up both your IT as well as your integrity, means that you can flow that information to more officers. They have higher levels of clearance. They have higher levels of integrity checks placed upon them, the sorts of checks that officers and others agencies are used to and, frankly, in sharing that data you find patterns that otherwise would not have been evident to you.

Mr Quaedvlieg: For completeness, in terms of my response to you, we also have, which will take effect mid this year, advanced passenger processing information for departing passengers. For quite some time now we have had the luxury of having airlines mandated to provide us with passenger manifests for arriving passengers. That has enabled us to do a whole range of assessments and profiling of risk. We have not had that in the departure space up until now and quite often our assessments of departing passengers have been done in a very small sliver of time, on occasions when a person first presents at the primary line. From 1 July this year airlines will be mandated to provide us with passenger manifests for departing
passengers and that will significantly enhance our ability to analyse and identify risks to national security from the departing cohort.

Senator REYNOLDS: That makes sense because in the past we have been worried about external threats coming across our borders and we have not been focused on who is leaving.

Mr Quaedvlieg: That is correct.

CHAIR: In passing to Senator Leyonhjelm, Mr Quaedvlieg, could you tell me why my passport never seems to work on those automatic ones? Is it a dodgy passport, in which case I should get money back from the issuer, or is it a poor operator perhaps?

Mr Quaedvlieg: I can assure you that you are not Robinson Crusoe. I have that same experience myself from time to time.

Senator LEYONHJELM: I would like to follow up on some earlier questions by Senator Reynolds regarding illicit tobacco. I was not here, and correct me if I am wrong, but I understand you confirmed that you had met with the tobacco companies and that they had communicated some information to you. I am assuming that was the KPMG study on illicit tobacco. Would that be right?

Mr Quaedvlieg: Partially. It was a broad-ranging conversation with all three representatives of BAT, Imperial and Philip Morris. We discussed the illicit tobacco industry in the whole. An element of the discussion did involve the KPMG report that it commissions on an annual basis. It went to the methodology of that report and the results of that report.

Senator LEYONHJELM: Do you have any problems with the KPMG reports, with the results that it presents?

Mr Quaedvlieg: I have a question around the methodology that is adopted. I have shared those concerns with the representatives of the three entities. It is a methodology that has been historically adopted by KPMG on behalf of the tobacco industry in the UK. It has applied that same template in the Australian context. The tobacco industry invited Customs and Border Protection to be part of the steering committee that sits over that report. I declined that invitation. I did not think it was appropriate or proper for my organisation to be involved in validating the methodology of that report. I acknowledge that the most recent iteration of the report has indicated the size of the illicit tobacco market in Australia as 14.3 per cent. I do not accept that figure. I think that is too high. Having said that, I cannot give you a definitive figure as Customs and Border Protection has not undertaken any independent analysis or study. In short, in answer to your question, yes, I do have a concern around the methodology that is applied in the sampling survey of KPMG in the Australian context.

Senator LEYONHJELM: I understand from the tobacco companies that they intend to repeat that study, or get KPMG to repeat that study, on an annual basis. If the study comes back next year and the percentage of illicit tobacco in the Australian market is assessed by that measure to be higher next year and then they repeat it the following year and it is higher again, how would you interpret that?

Mr Quaedvlieg: That is slightly hypothetical but if all parameters remain the same then one inference that could be drawn is that the size of the illicit tobacco was growing but, until I actually see subsequent iterations of the report that can determine whether the methodology has been changed, I am probably not in a position to make an accurate assessment of what might hypothetically be found by KPMG.

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Senator LEYONHJELM: The thing, of course, is that if the KPMG study was to show that the illicit tobacco market is growing and there is no better methodology available or no alternative methodology to show something different, then it would reflect on the capacity of your department to interdict illegal tobacco, would it not?

Mr Quaedvlieg: Not exclusively, no. I mentioned in evidence while you were out that illicit tobacco is increasingly becoming the playground of serious and organised crime. Serious and organised crime will make and turn a profit where it can. Illicit tobacco is an area where a good profit can be made. Recognising that, I have directed that one of my service's six operational priorities is illegal tobacco. We are concerned to ensure, both from a perspective of the involvement of serious and organised crime, that we are doing that but also from the perspective of protecting the revenue of the Commonwealth, which is one of our primary responsibilities. We are directing significant intelligence and enforcement efforts and I think that is being illustrated by the results that we are seeing. We are, more than we have ever been, now engaged with industry to try to leverage off the information holdings that it has. It obviously conducts its own investigative and enforcement resources towards illicit tobacco. I think we can exploit that data. So, I would not necessarily accept that a single report, whose methodology I am a little bit dubious of, is necessarily an indication of the capacity of my service to deal with the problem.

Senator LEYONHJELM: If there was an annual measure using the same methodology and it showed an upward trend in the proportion of illicit tobacco in the Australian market, that would tend to suggest there is a problem, would it not?

Mr Quaedvlieg: Potentially. That is certainly something that I am very focused on and I will take any measure that will give me a sense of the industry.

Senator LEYONHJELM: I am not quarrelling with the fact that it is a priority.

Mr Quaedvlieg: And I am not quarrelling with you that it is an indicator, but it is not the sole indicator. I would be circumspect in basing too firm a foundation of views of the illicit tobacco industry on the basis of an industry commissioned report.

Senator LEYONHJELM: If the issue is who pays for it, that would tend to suggest you do not have much faith in KPMG's independence.

Mr Quaedvlieg: Are you asking me whether I do or do not?

Senator LEYONHJELM: Yes.

Mr Quaedvlieg: My concerns that I have expressed—

CHAIR: You can answer that how you will, Mr Quaedvlieg, but I think you are getting a bit outside your—

Senator LEYONHJELM: The thing is if somebody else was paying for it would you have more faith in it?

Mr Quaedvlieg: I do not make a judgement based on who is paying for it; I make a judgment based on the methodology of the actual.

Senator LEYONHJELM: That is the point I was trying to get to.

Senator Ronaldson: That is well outside his area of expertise.
Senator LEYONHJELM: In that case, I will change the subject. A Herald Sun article on 14 January 2015 by David Hurley refers to a huge database that records and monitors imports called the Integrated Cargo System. In the article you were quoted as saying you want to extend this system as far as possible into the legitimate trading community. Why do you see a need to record and monitor legitimate trade in a huge database?

Mr Quaedvlieg: Just a correction, the Integrated Cargo System is actually proliferated throughout the legitimate industry and, in fact, is a tool which legitimate industry uses in the context of facilitating their trade. Does it provide us information in terms of both individual and collective trade statistics and importation consignments? Absolutely, but I need to stress very strongly that the ICS is actually a tool which industry uses in the main to facilitate its imports.

Senator LEYONHJELM: Some people have given me the impression that under your leadership Customs has more of a focus on cracking down on border crime compared to a focus on trade facilitation. Are there any factors that you could suggest that might contribute to that impression?

Mr Quaedvlieg: I suspect that perhaps my law enforcement background may be the genesis of those views.

Senator Ronaldson: With the greatest respect, I think you are asking this officer to judge himself. Others may well judge him but I do not think you have given him the source of this, for starters. There are other ways of putting the same question without seeking the officer to make an assessment of his own ability.

Senator LEYONHJELM: The officer is entitled to say that he cannot think of any factors that contribute to it. It was an open question.

Senator Ronaldson: Senator—

Senator LEYONHJELM: He was about to answer it and say that he could think of some reasons.

CHAIR: It is not a terribly fair question.

Senator Ronaldson: No. If you have got a source for that then perhaps if you can provide it to the officer and the committee. But if it is an unsourced comments then I do not think that is, in all fairness, reasonable for this officer. I do want to stymie your debate at all.

Senator LEYONHJELM: Are you saying that if someone says something to me that it is not a legitimate question unless I can nominate that someone?

CHAIR: Order! Senator Leyonhjelm, you can get on with the question but it does seem to me to be a rather unfair question. I know Mr Quaedvlieg is well able to look after himself.

Senator LEYONHJELM: That is right. He is a big boy.

CHAIR: It was unfair, in my view. I think Mr Quaedvlieg answered the theme of your questioning.

Senator LEYONHJELM: He did not answer it. He was cut off by the minister. My question is really leading to the possibility that things like the Integrated Cargo System or other things that you were about to tell us about might give the impression, or the impression being created, that your department is more interested in border crime than trade facilitation
might cause some potential traders to not bother to bring their legitimate products to Australia. How would you respond to that?

Mr Quaedvlieg: I would be very disappointed. I think the age-old dichotomy between enforcement and facilitation is a fallacious piece of nonsense, to be frank. This service is the second highest collector of revenue behind the tax office. Last financial year we collected $14 billion in revenue and the service's contribution to the economic prosperity of this country is unparalleled. We are also of a view that within that large mass of material goods that cross the border there is occasionally a threat to the community and it is our job to create a symbiotic system where we, to the fullest extent possible, facilitate trade and we forensically root out where the threats to our community are. That is my focus.

Senator LEYONHJELM: I am changing the subject again. Is the number of licensed customs brokers going up or down?

Mr Quaedvlieg: They are running relatively steady. I had a look at the statistics this morning, so year to date is as reliable as they can be and to the seven months is relatively static.

Senator LEYONHJELM: What about over the last decade; has it increased or decreased?

Mr Quaedvlieg: I will have to take that on notice, unless one of my colleagues in the room can answer that question.

Senator LEYONHJELM: You can take that on notice. The question arises that while our Customs procedures remain relatively complicated and our economy grows, would you agree that we need a growing number of customs brokers?

Mr Quaedvlieg: I think anything that can assist the phenomenon that I mentioned before of increasing legitimate trade can only be a good thing for this country.

Senator LEYONHJELM: How many customs brokers did you licence in the last year?

Mr Quaedvlieg: I do not have that statistic.

Senator LEYONHJELM: Can you take that one on notice?

Mr Quaedvlieg: Yes.

Senator LEYONHJELM: Do you believe you are licensing enough customs brokers to ensure that trade is well facilitated?

Mr Quaedvlieg: I was going to come at that response from a broader perspective. We, for the first time in this country, are establishing a trusted trader program. That program is well in design. It will commence a trial mid this year. Our intent is to have a fully mature and functional trusted trader program some time in the next 24 months. What that, in essence, does—and I hope this is not 101 for you—is create a differentiation for traders whom we trust, authorised economic operators if you will. Firms and companies that can provide us in the Customs service with an assurance that they can guarantee the legitimacy of their supply chains going right back to the genesis of the goods that they import, if they can step through an accredited template which assures us that they have trust and assurance in their supply chains, they will receive preferential treatment. That will enable us as a service, as I mentioned before, to allow the large majority and the large volume of legitimate trade to flow freely while focusing on the operators that are at the more rogue end of operations.
That is a trusted trader scheme that I am absolutely committed to. I am meeting with industry stakeholders, both domestic and international. I am in discussions with our partner jurisdictions offshore who already run AEO programs. Our intent is to strike and negotiate mutual recognition agreements to those programs and my aspiration is to have a fully functional trusted trader scheme running in Australia in the next couple of years.

**Senator REYNOLDS:** I have a quick question as a follow-up from Senator MacDonald's question about SmartGate. Given that it has now been in operation for 10-plus years, I am just wondering whether you have seen any change in trends of usage of SmartGate and if there are any trends or any changing use of it inwards?

**Mr Quaedvlieg:** I will answer that in the general and I will ask if my colleagues have a more specific response to that. What we are seeing is increases in uptake of the use of the SmartGates. I distinguish between any future iteration of what might be an e-Gate or some other permutation of a SmartGate, but what we are finding is as we are bringing on line different nationalities that the uptake is accelerating. It is certainly very encouraging to us in terms of automating the processing of passengers in a way that I described before that starts liberating some of our frontline officers to do more value-added work. I will ask my colleagues if they have got any further specifics on SmartGate take-ups.

**Senator REYNOLDS:** Just before you do, you said there has been an uptake. Is that an uptake in Australians that just happens to coincide with people from other countries as you roll it out to other countries or is the uptake mainly from foreign nationals?

**Mr Quaedvlieg:** No. The uptake is both. It is an increase in Australian citizens using SmartGate and as we are bringing new nationalities online—the UK and the US—we are finding an immediate uptake on the SmartGate of those systems.

**Senator REYNOLDS:** How many people use it or how many entries are there via SmartGate every year?

**Mr Quaedvlieg:** I will just check with my colleagues to see if those stats are available, otherwise we might have to take it on notice. There are heads shaking all round so I will take that on notice.

**Senator LEYONHJELM:** Following on from your previous answer in relation to the trusted trader system, will this affect the need for licensing customs brokers? Will there be a reduced demand for them or any change in demand for them?

**Mr Quaedvlieg:** I would have to take that on notice as that is not something I have turned my mind to, unless my colleague Ms Nyakuengama can answer that question.

**Ms Nyakuengama:** The only people that can lodge an import declaration under the terms of the Customs Act are the importer themselves, their employees or a licensed customs broker. At the moment there is no intention to change that. Major companies who are likely to be eligible for the trusted trader program already, in many cases, employ their own licensed customs brokers to do that work for them and we do not see any change in that.

**Senator LEYONHJELM:** At the risk of being told by the minister that I have to nominate my source again, I am under the impression that quite a lot of customs brokers are nearing retirement age and that there could well be a significant decline in licensed customs brokers in the next few years. Do you support that view or have a different view?
Ms Nyakuengama: I do not have statistics or evidence of that. I know that position has been put to me by the customs brokers and the council.

Senator LEYONHJELM: You have heard that. Once again these are unnamed sources. Customs brokers have complained to me about Customs reinterpreting longstanding practices regarding the application of tariffs to certain products, including the application of tariff concessions of, say, where a tariff is removed if it is demonstrated that there is no local supplier. Could you outline where and why practices surrounding tariff concessions have changed?

Ms Nyakuengama: The rules around the issuing of tariff concession orders or the revocation have not changed for a number of years. I do not understand the specific circumstance that is being described.

Senator LEYONHJELM: I understand that when the AAT rules that a tariff should apply to a product Customs then backdates the tariff over a number of years when the tariff was not imposed. Has that occurred?

Ms Nyakuengama: I would have to take that on notice.

Senator LEYONHJELM: If you are taking that on notice and if you are finding samples, for what products?

Ms Nyakuengama: Yes.

Senator LEYONHJELM: What share of your staffing and funding is devoted to assessing and applying tariffs?

Ms Nyakuengama: Broadly, in our Melbourne national services centre that does tariff advising, we have 30 FTE.

Senator LEYONHJELM: 30 people?

Ms Nyakuengama: Approximately 30, yes.

Senator LEYONHJELM: So, that is assessing and applying tariffs. Is there a different number of staffing and funding devoted to work on tariff concessions?

Ms Nyakuengama: There is a team in Canberra that receives and assesses applications for tariff concession orders and there is a legislated time frame within which those decisions are made. At the beginning of that process there is also a tariff classification consideration and it is referred to the Melbourne team. That is not a binding ruling in the way that other applications for tariff classification advice; however, it informs the making of the tariff concession order.

Senator LEYONHJELM: What is the size of the Canberra team?

Ms Nyakuengama: It is around eight to 10 FTE.

Senator LEYONHJELM: Eight to ten?

Ms Nyakuengama: Yes.

Senator LEYONHJELM: Can I ask you about the passenger movement charge, or do I have the wrong people?

Ms Nyakuengama: That is me.
Senator LEYONHJELM: Are there any countries, and can you nominate them, that impose a higher passenger movement charge than Australia?

Ms Nyakuengama: I would have to take that on notice.

CHAIR: I think the answer is no.

Senator LEYONHJELM: I think it is no, but I am interested to know.

CHAIR: It is a decision of the former government, I might say, that regrettably we have not changed.

Senator LEYONHJELM: Has any review been undertaken by the department into border processing fees and charges, such as the passenger movement charge and, if so, did any review endorse any changes?

Mr Pezzullo: I can assist. Pursuant to decisions made in the 2014-15 budget at a portfolio level the government gave authority for a review to be conducted of all border related fees, charges, taxes and, indeed, visa processing fees, so as a subset of that maybe some of the fees that you have in contemplation in your question are captured by that.

There is a public consultation period currently on foot and I know that we have had significant stakeholder engagement from many and diverse industry sectors. If you wish to drill down, I think there are officers available who can assist with that public consultation process. Suffice it to say that whatever public consultation is undertaken will, of course, need to then be summarised as proposals back to government and obviously any decisions in this area will be a matter for government. Perhaps I can assist with your question by asking the relevant officer who is managing the consultation process to come forward.

Senator LEYONHJELM: That may not be necessary because my questions are fairly broad.

Mr Pezzullo: Please keep asking them and I will see if I can assist, but if I need further assistance I will call on it.

Senator LEYONHJELM: Have there been any discussions within the department relating to reclassifying the passenger movement charge as a tax and, if so, what would be the purpose of that?

Mr Pezzullo: We are not the authority within the bureaucracy for the determination of those matters. The policy around revenue, taxation or otherwise, is held in another portfolio. We apply and administer the PMC, passenger movement charge, and we would not have a determinative view about whether it is a tax or otherwise.

Senator LEYONHJELM: You may give me the same answer to this question. In 2012 a study by the Department of Resources, Energy and Tourism found improvements to entry and exit procedures for New Zealand visitors are likely to increase demand by up to 200,000 additional visits. Has any action been taken in the department to capitalise on this information?

Mr Pezzullo: When you say to capitalise on the information, the policy settings around the PMC are held in another department. We administer the charge. I do not know whether the Treasury or any other agency had cognisance or took into account that report, but the setting of the level is a matter for government. Senator MacDonald just made references to some changes in the regime of fees in the recent past which certainly did occur in the time of
the previous government and it is our job to then administer the charge as set by government policy.

**Senator LEYONHJELM:** I understand. This is not a question about policy but I need to get to the end. The study put forward joint visitor visas for tourists to Australia and New Zealand as a way to increase tourism for both countries and, given we have a special relationship with New Zealand on many regulatory issues—and I am asking you to speak from the perspective of your department—are there any significant barriers to implementing a scheme like that?

**Mr Pezzullo:** Just as a matter of fact, as has been publicly announced in the context of the cricket World Cup that is currently underway, which obviously straddles the Tasman, indeed both governments agreed to the introduction for a time limited period of I would not call it a joint visa arrangement and there are officers in my department—Chair, we are straying back from Customs into Immigration so I am happy to keep answering the question until someone stops me. It is technically in the department, but nonetheless. We have a limited application of a visa entry arrangement where if you get into Australia you can go to New Zealand and watch a game and come back, but as to the ongoing discussion that has been the subject that this relates to, which relates to trans-Tasman travel, the essential problem is something that I and my predecessors have spoken about before.

We have a universal visa system where New Zealand citizens have got a right of entry under a particular visa class but absent the ability to ensure that third parties, that is to say non-New Zealanders, who travel through New Zealand to then come on to Australia unless we can get further and better particulars of their travel and indeed in relation to criminal data that might be relevant to decisions about whether to agree to entry by persons who have come through New Zealand—and that could include New Zealand citizens—it is very difficult to see how a joint visa arrangement could be established.

**Senator LEYONHJELM:** Understood, all right. One last question. I apologise, again, if I have missed the ideal opportunity for this but I am sure you are the right person. Can you advise of the outcome of the international airport trial undertaken at the Sunshine Coast? Is there a report on the trial and can you provide it to the committee?

**Mr Quaedvlieg:** I am not exactly sure of the trial that you speak of. What I can indicate is that border agencies have been providing Customs, Immigration and Quarantine clearance services for flights flying in and out of the Sunshine Coast airport for some time. I understand that there is currently a process in place with an application to the Department of Infrastructure and Transport but I do not think I can answer your specific question around the trial.

**Senator Ronaldson:** If I may, just before Senator Leyonhjelm departs, I can assure him that earlier on I was not seeking his sources; I was merely asking if he was quoting from a newspaper article or something similar that he might provide the officer with the opportunity to look at. I most certainly was not asking the senator who his sources were in relation to the questions he was asking. I hope I have clarified that.

[18:34]

**CHAIR:** We now move on to Operation Sovereign Borders for the next 10 minutes. Lieutenant General Campbell, do you have an opening statement?

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**LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE**
Lt Gen. Campbell: No.

Senator KIM CARR: At a press conference on 28 January the minister indicated that there had been 15 asylum seeker boats that had been returned in various forms since 19 December 2013. I am wondering if you could assist the committee with advice on what the definition of a turn-back is these days?

Lt Gen. Campbell: If I might just clarify that they were my comments.

Senator KIM CARR: My apologies.

Lt Gen. Campbell: A turn-back is where a vessel is removed from Australian waters and returned to just outside the territorial seas of the location from which it departed.

Senator KIM CARR: Is there a difference between a take-back and a turn-back?

Lt Gen. Campbell: Take-back typically involves the at-sea transfer from a vessel or the control of a people-smuggling vessel at sea transferring from one sovereign authority to another.

Senator KIM CARR: So that is where another government takes charge?

Lt Gen. Campbell: That is correct.

Senator KIM CARR: So how many of the 15 boats that have been returned in various forms were turn-backs?

Lt Gen. Campbell: There were 12 that were turned back.

Senator KIM CARR: Would it be fair to say that the other three were take-backs?

Lt Gen. Campbell: No. One was assistance to a vessel that was in a circumstance of no longer being able to safely function at sea and the other two were take-backs. Your time frame of discussion, just so that you see the full picture here, does not incorporate one additional take-back that was advised through I believe a ministerial media release of an event that occurred on 19 February.

Senator KIM CARR: At the press conference I think you indicated that some of the 15 boats had been returned to Sri Lanka?

Lt Gen. Campbell: That is correct.

Senator KIM CARR: What was the exact number of boats returned to Sri Lanka?

Lt Gen. Campbell: Three have been returned to Sri Lanka.

Senator KIM CARR: Were the three vessels returned with the cooperation of the Sri Lankan authorities?

Lt Gen. Campbell: They were three take-backs.

Senator KIM CARR: Do we have the dates on which these events occurred?

Lt Gen. Campbell: They have all been advised via monthly updates; I do not have those dates with me.

Senator KIM CARR: Could I get you to take that on notice?

Lt Gen. Campbell: Yes.

Senator KIM CARR: Now, on 19 February the minister confirmed that on 9 February four Sri Lankan nationals were returned at sea to Sri Lankan authorities. I take it that is one of these take-backs?
Lt Gen. Campbell: That is correct. That is the additional event that I was mentioning earlier.

Senator KIM CARR: What time was that boat intercepted? Are you able to tell me that?

Lt Gen. Campbell: The day of interception?

Senator KIM CARR: It was a day reception, was it?

Lt Gen. Campbell: Are you asking what day?

Senator KIM CARR: Yes. What time of the day was that interception?

Lt Gen. Campbell: I will have to take that on notice.

Senator KIM CARR: Are you able to tell me how many Border Protection Command officials conducted interviews of the Sri Lankans?

Lt Gen. Campbell: In terms of enhanced screening, that activity is undertaken by officers from the Department of Immigration and Border Protection.

Senator KIM CARR: What is the nature of the enhanced screening?

Lt Gen. Campbell: It is the process that was instituted under the former government.

Senator KIM CARR: What is actually involved?

Lt Gen. Campbell: I would turn to my immigration colleagues for a more detailed statement on that.

Mr Pezzullo: I am happy to have officers from Ms Briscoe's group join us to describe to you how enhanced screening at sea is undertaken. They work on secondment, as it were, for these operational purposes to the General, but their practices and procedures fall under the Migration Act, so I will ask the officers to explain.

Mr Kukoc: The purpose of the enhanced screening process is to determine whereby a person potentially engages Australia's non-foulement obligations, so when a person makes an implausible or lacking in substance claim, a manifestly unfounded claim, they are removed from Australia as soon as is reasonably practicable because it is considered that that does not engage our non-refoulement obligations. The enhanced screening process has been in place for a couple of years now.

Senator KIM CARR: And on the occasion on 9 February where this enhanced screening process was engaged for the four Sri Lankan nationals, can you tell me how many translators were available for that event?

Mr Kukoc: There were two translators.

Senator KIM CARR: How long were the interviews for the Sri Lankan nationals?

Mr Kukoc: I do not have that information with me—I can take that on notice—but the interview is conducted in accordance with the guidelines that make sure we do not breach our non-refoulement obligations. Quite a few questions are involved and it may take some time.

Senator KIM CARR: Did Border Protection Command officials communicate with any other Australian officials or departments in their assessments?

Mr Pezzullo: Just to be clear, BPC officials make no assessments at all; they provide the maritime capability for the interception.
Senator KIM CARR: So, if immigration officials undertook these assessments did they consult with anyone else before they made their assessments?

Mr Kukoc: We do have a process in place where our case officers interview asylum claimants. Then there is a team leader that at the same time provides some quality control of the transcript and the decision and then that decision goes back to a senior executive officer back in the department for final decision and that senior executive officer also consults our legal team.

Senator KIM CARR: So, the consultation was with the legal team?

Mr Kukoc: Yes. For some claimants where the situation is very clear cut—manifestly unfounded claims, lacking readiness and no protection claims raised at all—that is a straightforward process. For some claims that could potentially raise our non-refoulement obligations, further consultation occurs at the senior executive level and with the legal branch.

Mr Pezzullo: I think it is fair to say that the officer is describing the general practice that has been employed. I know your question specifically goes to the four persons who were the subject of the most recent take-back, but the officer is describing a general practice.

Senator KIM CARR: So, can I get an answer to my question?

Mr Kukoc: I will need to take this question on notice to be absolutely certain in terms of the information that I provide to you.

Senator KIM CARR: Can you advise the committee how the initial contact was made with the Sri Lankan authorities regarding the transfer?

Mr Pezzullo: I will interject, if I may. The actual operational arrangements, the liaison with Sri Lankan authorities, falls to General Campbell proper and he and his operational staff arrange the rendezvous and such matters, so the General may wish to take over. The immigration staff, as has been described, provide a particular service, which is the screening service, but the actual conduct of the operation overall falls under the General.

Lt Gen. Campbell: There are two levels of engagement. One is at the diplomatic level and the other at the operational agency level.

Senator KIM CARR: And both of those occurred with this particular incident?

Lt Gen. Campbell: That is correct.

Senator KIM CARR: Who made the decision to transfer the Sri Lankan nationals at sea?

Lt Gen. Campbell: Are you saying as opposed to another format?

Senator KIM CARR: Was it made by the immigration officials or was it made by your officers?

Lt Gen. Campbell: It was made in consultation and in cooperative agreement with the government of Sri Lanka and the operational agencies that were effecting that transfer and the Border Protection Command capability or vessel that was undertaking the transfer.

CHAIR: That is a very fascinating area, but we will now suspend proceedings.

Proceedings suspended from 18:46 to 19:46

CHAIR: I call to order the Senate Legal and Constitutional Affairs Legislation Committee investigation into budget estimates for 2014-15. Welcome back, General Campbell, Mr Pezzullo and the minister. Senator Carr, you were in full flight.
Senator KIM CARR: Answer to question SE14/134 indicates that between May 2014 and October 2014 additional boats had been purchased for OSB. General, how many additional boats were purchased?

Lt Gen Campbell: I am not familiar with that question or its answer.

Senator KIM CARR: Is there someone here who is?

Mr Pezzullo: It is perhaps best is if the CEO of Customs or one of his officers comes to the table because the programming question is one administered by the Customs and Border Protection Service.

Senator KIM CARR: Right.

Mr Pezzullo: And they then produce capability which General Campbell is then able to employ.

Mr Quaedvlieg: Your question was in relation to a number of boats.

Senator KIM CARR: How many additional boats? Do you have the answer to the question there? It is SE14/134.

Mr Quaedvlieg: No, I do not have that before me.

Senator KIM CARR: Can you tell me how many additional boats were purchased between May 2014 and October 2014? I presume you are referring here to the orange life rafts.

Mr Quaedvlieg: Yes, I am assuming that is the case, but I will need to take that question on notice.

Senator KIM CARR: Perhaps while you are there you can tell me what the cost was.

Mr Quaedvlieg: I will have to take that question on notice as well.

Senator KIM CARR: How much have you spent on those boats to date?

Mr Quaedvlieg: I can take that question on notice. I just do not have those details before me. Just standby and I will see whether the chief finance officer is available to respond to that question. No, that was a shake of the head. I will take that on notice.

Senator KIM CARR: Can you tell me on how many occasions the boats have been deployed and not recovered?

Mr Quaedvlieg: On four occasions.

Senator KIM CARR: Are you able to tell me what the unit price is of the boats?

Mr Quaedvlieg: I think we have previously not answered that question on the basis of operational methodology. I think we indicated a broad budget figure, but I do not think we have itemised the number of boats we have actually purchased.

Senator KIM CARR: That might be the case, but you can tell me how much they cost each.

Mr Quaedvlieg: The next logical step then is to calculate—

Senator KIM CARR: Extraordinary! So how much do they cost?

Mr Quaedvlieg: I think, as per previous practice, that is a question that we will not take and respond to.

Senator KIM CARR: Sorry?
Mr Quaedvlieg: We will not answer that question on the—

Senator KIM CARR: You will not answer the question?

Mr Quaedvlieg: No. That is correct.

Senator KIM CARR: On what authority will you not answer a question before an estimates committee?

Mr Pezzullo: If I may—because I recall this line of questioning in the early days of the establishment of Operation Sovereign Borders—the CEO has indicated that he will take on notice the program cost, which we have explained previously to the committee, because those funds are of course appropriated.

The number of boats purchased, less the four that the general indicated had been used, their unit price, the composition of the fleet and whether indeed they are all orange lifeboats has previously been under the public interest immunity claim made by the previous minister and reasserted by the minister at the table in the Senate. It has been considered to be information that would be sensitive from an operational point of view—in other words, how many vessels or assets does General Campbell have to undertake certain activities? You ask about the authority, and it relates to the public interest immunity at large, which has been claimed.

Senator KIM CARR: The Senate committee has reported on that matter.

Mr Pezzullo: I am aware of that. I regret to have to inform you, as officers of the executive, that I can refer your difficulty with our position to the minister. She might seek to illuminate the CEO and I as to a different approach. But, as far as I am concerned, the public interest immunity is wrapped around Operation Sovereign Borders, except insofar as the government has, in the year plus of the operation having been underway, provided an indication of certain facts. But beyond those facts, we are not in a position to further advise this committee.

Senator KIM CARR: Minister, can you tell me: why is the cost of each boat a matter of state secrecy?

CHAIR: Can I just intervene before the minister does. We have been through this at any number of estimates committees before.

Senator Cash: Exactly.

CHAIR: The ruling is quite clear and, as I understood, unchallenged.

Senator KIM CARR: You are wrong. You are wrong on both counts; it is not clear and it is not unchallenged.

CHAIR: Well then let me be clear, and you can challenge it if you like: clearly these are operational matters. This was always part of the arrangements that effectively have stopped the boats. It is something I have ruled on before and I do not intend to change my ruling.

Senator KIM CARR: That is very good.

Senator Cash: That is right. The position remains the same in relation to public interest immunity.

Senator KIM CARR: What is the reason for not revealing the cost of an individual boat?

CHAIR: That has already been explained here by Mr Pezzullo.
Senator KIM CARR: No, it has not. What is the operational reason? I may well take the line of argument that you cannot say how many, although the general has just indicated to us that four have been used, and that is obviously not a matter of state secrecy any longer.

Mr Pezzullo: It has been disclosed.

Senator KIM CARR: What is the reason you cannot provide advice to this Senate committee as to the cost of an individual boat?

Mr Pezzullo: I would just rely on the contention previously advised to this committee, including back in early 2014 when the appropriation was made, that to give away an indication of the size of the fleet would give—

Senator KIM CARR: We are already past that.

Mr Pezzullo: critical information. Once you go to the per-unit price, as you have recognised with your exclamation back in response to the CEO's commentary before, you only need two numbers: the program value and the unit price. Once you have got those two factors, you know how many vessels General Campbell has at his disposal. As far as we are concerned, that remains classified information embraced by the immunity claim.

Senator KIM CARR: Yes. Have you responded to the Senate committee report on this matter, Minister? Has the government responded?

Senator Cash: I would need to take that on notice, but can I just say in relation to the public interest immunity claim that it goes to the basic philosophy of this government, in particular, and its policies. We do not want to give any advantage to the people smugglers. We know the chaos, devastation and tragedy that occurred for five long years. General Campbell has, over a number of estimates now, has explained to you the communications protocol in relation to Operation Sovereign Borders. Apart from the small change that has occurred in relation to matters that are no longer operationally sensitive, the claim in relation to public interest immunity remains.

CHAIR: Senator Carr, you have had more than your 15 minutes. Senator Madigan.

Senator MADIGAN: On 28 January, Minister Dutton said:

Up until today 15 ventures with 429 potential illegal immigrants aboard have been intercepted and returned.

Some have been returned to other countries, while others have been dropped at sea on orange lifeboats. Over the last five years, about 90 per cent of boat arrivals in Australia have been found to be refugees genuinely in need of protection. It is inconceivable that not a single person on any of these 15 boats was a refugee, yet every single one of them was returned. In terms of rescue operations, does the government have a policy of responding differently to distress calls from vessels carrying asylum seekers as opposed to other vessels? If so, how?

Mr Pezzullo: Senator, were you directing that question to me or to the minister?

Senator MADIGAN: Whoever would like to take it.

Mr Pezzullo: I actually think, by its construct, you were directing it to the minister.

Senator Cash: Could I get you to repeat the question then?

Senator MADIGAN: On 28 January, Minister Dutton said:
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Some have been returned to other countries, while others have been dropped at sea on orange lifeboats. Over the last five years, about 90 per cent of boat arrivals in Australia have been found to be refugees genuinely in need of protection. It is inconceivable that not a single person on any of these 15 boats was a refugee, yet every single one of them was returned. In terms of rescue operations, does the government have a policy of responding differently to distress calls from vessels carrying asylum seekers as opposed to other vessels? If so, how?

**Senator Cash:** I do not believe so, no.

**Senator MADIGAN:** How does the government monitor the safety of asylum seekers intercepted at sea and returned or transferred onto lifeboats?

**Mr Pezzullo:** We are very confident that, in all those operations, those persons have safely arrived at land and the operation has been conducted effectively and safely—very safely.

**Senator MADIGAN:** Thank you, Chair.

**Senator HANSON-YOUNG:** Mr Secretary, there was a delegation earlier this year of Australian and Nauruan officials who went to Nauru in order to progress the Cambodia arrangement. That is where I would like to start. Can you tell me who represented Australia on the visit?

**Mr Pezzullo:** I will need to refer to the General and potentially the Ambassador for People Smuggling Issues, who joins us from the Foreign Affairs and Trade portfolio, and who is at the table. There might also be officers of my own department who can assist. But perhaps General Campbell first.

**Lt Gen. Campbell:** Concurrent to the visit of a delegation from the Kingdom of Cambodia to the Republic of Nauru earlier this year, there was also a delegation making a routine visit from Australia. That was led by Deputy Secretary Cormack and myself.

**Senator HANSON-YOUNG:** Sorry, are you saying that it was just a coincidence that you were both there at the same time?

**Lt Gen. Campbell:** No. We arranged what I would describe as a very mutually beneficial opportunity to be there at the same time.

**Senator HANSON-YOUNG:** Who else was in the Australian delegation?

**Lt Gen. Campbell:** Myself and Deputy Secretary Cormack, formerly of the Department of Immigration and Border Protection, and I would have to take on notice the other members.

**Senator HANSON-YOUNG:** If you could. If anyone behind you could get those names before we finish questioning, that would be appreciated. What was the purpose of the visit, both of the Cambodian officials and then, of course, the delegation of which you were a part, Lieutenant General?

**Lt Gen. Campbell:** In terms of a precise and formal statement of the intent of the visit by the Cambodian delegation, that would appropriately be addressed to the Cambodian embassy. But, in a colloquial or a rough sense, they were coming to Nauru to gain an understanding of the circumstances of refugee processing, to meet and engage with the government of Nauru senior officials and ministers and to understand the basis from which they might further
develop their own policies and practices in meeting aspects of the arrangement that have been established for Cambodia.

Senator HANSON-YOUNG: Did members of the Cambodian delegation meet with asylum seekers at the centre?

Lt Gen. Campbell: I would have to take that on notice.

Senator HANSON-YOUNG: Were you there, Lieutenant General?

Lt Gen. Campbell: With our programs, we met at different times and we were apart at other times.

Senator HANSON-YOUNG: When you were with that delegation, they were not speaking to asylum seekers?

Lt Gen. Campbell: That is correct, yes.

Senator HANSON-YOUNG: Is there anybody else in the department who might be able to answer that question?

Mr Pezzullo: Yes, we are joined at the table by Ms Pope again, and she can add further.

Ms Pope: I was on the visit as well, and Greg Kelly, who is our representative in Phnom Penh, accompanied the delegation from Cambodia to Australia and then to Nauru. The delegation did not meet with detainees while they were on Nauru.

Senator HANSON-YOUNG: Did they meet with any of the asylum seekers that were now living in their community after having their status determination?

Ms Pope: No, they did not.

Senator HANSON-YOUNG: Do you recall any of the other members of the delegation that were there?

Ms Pope: As I said, myself and Mr Kelly accompanied the Cambodian delegation on their visit to the island, occasionally interacting with the other delegation, led by Mr Cormack and General Campbell. Maryanne Loughry from MCASD, the Minister's Council on Asylum Seekers and Detention, was also a member of the visit, and the General's chief of staff was also present.

Senator HANSON-YOUNG: Thank you.

Lt Gen. Campbell: I believe that is the complete Australian component.

Senator HANSON-YOUNG: That is everybody?

Lt Gen. Campbell: Yes.

Senator HANSON-YOUNG: Okay, thank you. What was the role of the individual from the minister's advisory council in the delegation?

Ms Pope: Ms Loughry was representing the minister's advisory council, but also the joint advisory council on Nauru, which is part of the oversight body in relation to processing and settlement on Nauru.

Senator HANSON-YOUNG: Do you know, Ms Pope, whether she spoke to asylum seekers at all while you were there?

Ms Pope: Not while I was with her.
Senator HANSON-YOUNG: How many people are on the minister's advisory council these days?

Ms Pope: That is not really a question for me, Senator, but belongs in a different area of the department.

Mr Pezzullo: If you wish, we can see if there is anyone with us. This is Operation Sovereign Borders, but it might be that officers of the department who—

Senator HANSON-YOUNG: I am happy to come back to that one.

Mr Pezzullo: Thank you.

Senator HANSON-YOUNG: What conversations or discussions has the Australian government had, through your delegate officers in the Nauru detention centre or on these visits, with individual asylum seekers in Nauru about the possibility of going to Cambodia?

Ms Pope: Are you asking me personally, Senator? I have not had any discussions with either asylum seekers or refugees on Nauru about Cambodia.

Senator HANSON-YOUNG: Ms Pope, do you know whether there has been any official communication to asylum seekers in Nauru about going to Cambodia?

Ms Pope: The one point that has been clearly made is that it is voluntary, so the asylum seekers and refugees would be aware that it is a choice on their part. The rest of the advice has really been that, when we have more information in relation to how arrangements will proceed in Cambodia, we will provide that advice.

Senator HANSON-YOUNG: How has that message been conveyed?

Ms Pope: I would have to take it on notice.

Senator HANSON-YOUNG: Is there a briefing document that is given to officers at the detention centre?

Ms Pope: I would have to take it on notice.

Senator HANSON-YOUNG: Okay. Lieutenant Campbell, are you able to shine any light on that?

Lt Gen. Campbell: In terms of the specific mechanism of passing that information?

Senator HANSON-YOUNG: Yes, just the basic communication to people about the Cambodia deal.

Lt Gen. Campbell: We will have to take it on notice. I do know that there is a great deal of effort to ensure that the various language groups are clearly communicated on issues of importance, and I would confirm Ms Pope's comment that, while aware of the arrangement and aware that further detail will follow when that is developed by the government of Cambodia, and aware that it is voluntary, I do not think anything in much more detail has been passed at this stage.

Senator HANSON-YOUNG: So you are not aware of any official communication?

Lt Gen. Campbell: No, what I am saying is that we will have to take on notice what the form of communication is, because I am sure that the transferees and refugees on Nauru are aware of those three points: there is an arrangement; more detail will follow; it is voluntary.
Senator HANSON-YOUNG: But is that because we have given them that information or is that a brief that you have given your officers at the detention centre? Do you see the point I am trying make? Often when there is information that comes from the department to a group in detention, there is either a decision made as to, 'This is the piece of paper that explains the situation for the individual,' or officers are given an understanding of the brief of information that is to be conveyed.

Lt Gen. Campbell: I understand what you mean. We will have to take it on notice.

Senator HANSON-YOUNG: Okay, thank you. Has anybody given any indication that they might like to go to Cambodia?

Lt Gen. Campbell: I have not inquired of that question and feel it premature to do so. I am not sure that anyone has particularly inquired of that question at this stage, for the reason I just outlined.

Senator HANSON-YOUNG: So, we have paid $40 million to the Cambodian government and we do not know if anyone is going to go?

Lt Gen. Campbell: As I say, it is highly premature to go to that step at this stage.

Senator HANSON-YOUNG: Mr Secretary, you look like you have got something you want to add there.

Mr Pezzullo: I was just seeking clarification, which has confirmed my principal understanding that the primary jurisdiction here—in fact the sole jurisdiction—sits with the government of Nauru. We assist the government of Nauru by way of MOU with the provision of services translation; you heard reference earlier to the different language groups being looked at. We also assist the Kingdom of Cambodia in its preparatory work to, in effect, set up a resettlement program. It is something that they are not on their own account fully conversant with, so we are assisting them. The other party that has made public comment on this is the International Organization for Migration, or IOM, which has got a role to play.

There is the question of which of those parties—the Nauruan authorities, the Cambodian managers of what will be a resettlement program, IOM as an intermediary agency—has, if you like, the brief that says, 'Here is what the resettlement proposition is.' I am sure that everyone on the island is aware of the general detail: it is no secret that it is voluntary, that the details are being fully formed and implemented as we speak. Beyond that, as to who will set up—I do not want to diminish this—some sort of a booth or some kind of inquiry process to say: 'Okay, we are now ready to engage with you about your interest,' we will facilitate that, we will assist all the parties, but we are not the agency or indeed the jurisdiction that is managing the resettlement.

Senator HANSON-YOUNG: Sure, but we are paying the bills.

Mr Pezzullo: Pursuant to the agreement that we have with Nauru, in the same way that we are paying the bills for service provisions, security, laundry and catering, we have committed to the government of Nauru, who are conducting the regional resettlement—as I think we have canvassed on many occasions—that, yes, as is the case with Manus, which we talked about earlier today, we pay the bill for the provision of services. That does not give us, if you like, jurisdictional rights.

Senator HANSON-YOUNG: Sorry, Mr Pezzullo, perhaps I am not being clear. We are paying the bills to Cambodia.
Mr Pezzullo: We are providing support and we intend to provide support to the Kingdom of Cambodia so that they can establish a properly functioning resettlement program which might have an application to other refugee and asylum seeker related issues. So when you say we are paying the bills, we have provided a commitment to the Cambodians, which we will of course fully acquit, to provide them with support in monetary and other kind. It is their program; it is their jurisdiction.

Senator HANSON-YOUNG: I accept that the $40 million that has already been paid to the Cambodian government has come out of the DFAT budget. Is that correct?

Mr Pezzullo: I might ask the Ambassador to assist here, but certainly as I recall the agreement that was struck late last year there was certainly a development component. I might be wrong on that. There is certainly a commitment on our part to assist them in the establishment of resettlement arrangements.

Senator HANSON-YOUNG: That is an extra cost, I think.

Ambassador Goledzinowski: You are correct in saying that that $40 million will come out of the ODA. It has not yet, of course, because it is pledged over a period of four years.

Senator HANSON-YOUNG: So it has started. It was made very clear to me in previous estimates sessions, and also on my trip to Cambodia, that the $40 million in ODA was exactly that. The cost of resettling and looking after any refugees that be transferred to Cambodia would be an extra cost. Have we got any figures for what that is projected to be in this financial year and the forward estimates?

Mr Pezzullo: If Ms Pope cannot answer that question I will seek assistance from someone who can. I just do not know that we have a concrete estimate of what those costs are likely to be. Perhaps Ms Pope can address that in the first instance.

Ms Pope: The secretary is correct. We do not have figures determined yet. We are working on it but we do not have definitive figures at this stage.

Mr Pezzullo: I assume—I am speculating here; perhaps I should not—that it will be somewhat dependent on the number of persons who take up the opportunity. If that number is greater, then obviously relocation and other costs will be greater. I assume that Ms Pope and her staff, being diligent officers as they are, have a sense of what the per unit cost might be. It really would depend on the number of people who take up the opportunity.

Senator HANSON-YOUNG: I understand it. I guess I am looking for a bit more detail, because in the October session I asked the question and I was told that it would be in the MYEFO. I could not see it in MYEFO. While you may not know the confines, because you do not know the number of people, what can you tell us? If it is per unit—I would perhaps prefer to say 'per person'—what is it going to cost in terms of people being transferred?

Ms Pope: There are still a lot of arrangements to work through to get to the point of clear cost that could then be attributed on a per person basis. We are working through the arrangements and assisting the government of Cambodia but those arrangements are in their hands. There are contractual matters that they are looking to pursue. At this stage we do not have costings associated with all the elements that need to be taken into account to put together a settlement package.
Senator HANSON-YOUNG: So we still do not have a rough estimate of what we are looking at per person.

Mr Pezzullo: In the interests of being completely accurate I might just check with the CFO to see if any funds have been provisioned—either at each year or through AEs. That might be an item that is identifiable in the budget papers, but I would not wish to mislead you by pretending that is not there.

Senator HANSON-YOUNG: Thank you.

Mr Pezzullo: But that would be a provisioning allocation. I might just check with the CFO, who might assist. Whilst he is making his way up here, regarding Ms Pope's last point, it will ultimately depend on the discussions that we have both with the Kingdom of Cambodia and with the IOM about, for instance: post-settlement support, as I think we discussed in October; the level of housing and other support; educational support and so on and so forth. We really need to work through each of those details, and I do recognise, Senator, you are absolutely right in saying that some of these obvious factors were mentioned by you in the October hearings. We are really cognisant of trying to establish with as much precision as we can what the Kingdom of Cambodia would like to do in this respect. They might say, at the most basic level: 'Please arrange the initial relocation, and we will handle the rest through other arrangements.' They might say: 'Please provide additional ongoing support'. That is all the subject of discussion and negotiation. But I will just see if Mr Groves can illuminate what the budget papers might indicate in this regard.

Mr Groves: In regard to Cambodia, there has not been any funding allocated at this point in time.

Mr Pezzullo: I am glad I checked. The CFO has indicated there is no provision in the budget.

Senator HANSON-YOUNG: Is it not going to happen any time soon then?

Mr Pezzullo: I would not suggest that at all. These are difficult and complex matters, particularly for countries that have not previously engaged in resettlement action. They need to, in a sense, build the infrastructure from the ground up. The visits—

Senator HANSON-YOUNG: I do not disagree with that.

Mr Pezzullo: But everyone has to start a resettlement process somewhere. They do not pop out fully formed. They have to be formed through partnerships with other countries that do this kind of work. The IOM does a fantastic job in terms of providing intermediary services. We have obviously got a considerable amount of experience. The Cambodians might well be reaching out to others. I just do not know.

Senator HANSON-YOUNG: Who will be paying the IOM for their services, as recently negotiated and announced?

Mr Pezzullo: I will check with Ms Pope and Mr Groves. We sometimes do provide support to the IOM for targeted programs. I just do not know what arrangement we have come to yet in this circumstance.

Ms Pope: If the government of Cambodia contracts with IOM to deliver these services, then the Australian government will pay the costs of that contract.
Senator HANSON-YOUNG: So it will be a contract between the Cambodian government and IOM. Australia will not be third party to that?

Ms Pope: If that is the path that those two entities choose to go down, then yes.

Senator HANSON-YOUNG: So we will not be a party to the contract but we will be paying the bill?

Ms Pope: In simple terms, yes.

Senator HANSON-YOUNG: IOM announced today that they will participate in this resettlement, if indeed anyone puts up their hand. Previously, they had outlined a number of conditions which would have to be met. Ms Pope, are you aware of what those are?

Ms Pope: They reiterated those in the announcement they made today as well. The first one is that it is voluntary, and I think we have established the views on that. I am recalling, from what I read in an email this morning, there is reference to the refugee cohorts that are present in Cambodia at the moment—not the ones we are involved with but the asylum seekers that are in Cambodia at the moment. I think there is a reference to the duration of the services to be provided to the resettled refugees. But what I should say is that that is all subject to negotiation between IOM and the Kingdom of Cambodia. And, through that process, they will work out how they are going to meet those requirements.

Senator HANSON-YOUNG: How much due diligence is the Australian government, and perhaps yourself or other officers of the department, going to do to make sure that these are things that actually can be met by the Cambodian government before we start paying the bills?

Ms Pope: I think this is partly why we are not at the point of costs and details, because there is still a lot of work to be done and a lot of negotiation to take place. We will be assisting both parties in that process.

Senator HANSON-YOUNG: I understood that one of the conditions was that asylum seekers must be able to work anywhere in the country and not restricted to just having to work in Phnom Penh for the first 12 months or having to move out to the rural and regional areas, which is what had previously been mooted by the Cambodian government. Has your department done any work as to the job prospects and workforce participation rate in Cambodia recently?

Ms Pope: Do you mean labour market analysis?

Senator HANSON-YOUNG: Yes. Is it really realistic that any of those people might get jobs?

Ms Pope: I would have to take that on notice.

Mr Pezullo: We will take a look at it. It is possibly the case that some discussions have been held in that regard, but in the end this is a matter between the country that is conducting the refugee processing, which is the government of Nauru, and the receiving resettlement country, the kingdom of Cambodia. The intermediary agency is likely to be, based on today's announcement, the IOM. Our job is, under government direction, to facilitate those arrangements. It is possibly the case that we have looked at the question of job prospects and labour market issues both within Phnom Penh and in broader regions, but I would be a little bit surprised if we were doing our own independent modelling. I am not sure that we would
have a lot of expertise in that area, but, if we have done any work in that area, we will certainly come back on notice.

**Senator HANSON-YOUNG:** The reason I am asking—and I think it is a pretty reasonable one for the public to try and understand—is we pay the bills. Another government is going to set down the conditions of a contract, and enter into it with an independent service provider like IOM, and yet the Australian government just signs the cheque. We had a discussion earlier today about due diligence, in terms of signing off—

**Mr Pezullo:** In a slightly different context.

**Senator HANSON-YOUNG:** Yes, but, at the same time, no. We need to make sure there is proper due diligence.

**Mr Pezullo:** I understand the point of principle, Senator. All public funds have to be expended in accordance with their purpose. If the governments of Nauru and Cambodia come to an agreement that is also to the satisfaction of the IOM, which sets its own conditions—we have, ourselves, as government officials—you are absolutely right, Senator—to be confident that public funds are being expended in accordance with the appropriation for which we received them. We would always ensure that that was the case. We would ensure that there is value for money, for instance, and that IOM is conducting itself in a way that is consistent with the sort of standards you would expect to see from a service provider.

One of the issues that you are intimating—and I think I understand you to be saying—is: what about if the refugees, if they are so determined and they take up these voluntary offers, are better placed in Phnom Penh as opposed to elsewhere? In the end—going to the point about the diligence involved in checking that the expenditure of funds has been properly acquitted—so long as that is a matter of consent between all the parties—remembering that it is a voluntary agreement as to the refugee in the first place, a voluntary agreement between the two governments, and a voluntary and consensual agreement as to the involvement of the IOM—if IOM, which is not a private company, is standing in the shoes of a service provider and providing services as a multilateral governmental organisation of a pretty unique kind, our officers would be looking at, in this case—and Ms Pope will correct me here, if I am wrong—whether the money has been expended for the purpose that IOM has described.

Whether that flows through—and I understand the point of principle that you are going to—to our officers then exercising a judgement about whether this refugee should perhaps have been placed in this province rather than that province, I am not sure that we would have reach over that question. We certainly would have reach over the question of whether the money was expended properly and lawfully in accordance with the stated purpose—and I think that is what due diligence, in that circumstance, would mean to any reasonable person.

**Senator Cash:** Chair, I know it is late, but I cannot help myself. Senator Hanson-Young, your newfound principles in relation to finances are quite astounding. For five years you did not ask one question—

**Senator HANSON-YOUNG:** That is not true—do not mislead the committee.

**Senator Cash:** about the $11.6 billion budget blow-out under the former government's policies.
Senator HANSON-YOUNG: Do not mislead the committee. I have for decades been saying: do not waste money on offshore detention; it is a black hole and a waste of taxpayer money.

CHAIR: On that happy point, we might have to go to Senator Reynolds for a few questions.

Senator REYNOLDS: At the last estimates, General, you provided an update of the IMAs per year. The last figures we had were to October 2014. Do you have an updated figure or final figure for 2014? It was taken on notice. The figures we had were through until October 2014 for SIEVs, crews and IMAs.

Lt Gen. Campbell: One SIEV arrived in the course of 2014. We do not make a differentiation with regard to crew in that case because that SIEV was from Sri Lanka and they were all seeking some form of consideration under asylum provisions or other forms of circumstance. There were 157 persons aboard that vessel. With a couple of other persons who were transferees at sea or persons who arrived irregularly via cruise ships and so forth, the total number of IMAs in 2014 is 168.

Senator REYNOLDS: So four more since October?

Lt Gen. Campbell: The difference being small numbers of individuals.

Senator REYNOLDS: You mentioned Sri Lanka. How many failed ventures from Sri Lanka have there been since December 2013?

Lt Gen. Campbell: There have been three.

Senator REYNOLDS: Now that you have been the head of OSB for well over 12 months, I wonder if you have any general observations or assessments on the performance of OSB in that time.

Lt Gen. Campbell: I would leave others to comment as to assessment on performance. Regarding the officials from many agencies who are involved in this activity, I greatly appreciate their teamwork and the willingness to align and innovate and bring their full energies to bear on this activity.

Senator REYNOLDS: Do you think there are lessons and observations for any future activities or any other interagency operations where things here have worked or you have improved as you have gone through? Given that today, particularly, it is an issue of interagency cooperation and intelligence sharing, are there any lessons learnt?

Lt Gen. Campbell: I think three key points I would offer are: clarity of purpose, a very cooperative approach and the resources to get the job done.

Senator REYNOLDS: What sorts of resources are you talking about—just financial or a broader suite of resources?

Lt Gen. Campbell: A combination of getting the right people, the right materiel and financial resources, and to see issues that are complex as complex systems that need to be responded to in a systemic fashion.

Senator REYNOLDS: Thank you. Mr Pezzullo, do you have anything additional from your perspective?
Mr Pezzullo: I was almost going to interject—through you, Chair—to say that the general's self-effacing modesty would prevent him from giving you a full explanation in response to your question, so there was always going to be the risk of potentially misleading the Senate, which, of course, the general would always want to avoid doing!

Senator KIM CARR: You are not covered by that level of immodesty, are you?

Mr Pezzullo: I could not possibly comment on that. It is better for others to reflect on that. But the general talked about clarity of purpose and, indeed, unity of purpose and the marshalling of relevant resources. Can I take this opportunity to pay personal and particular tribute to General Campbell's own leadership. I do not say that lightly at all. These things, frankly, with all of the clarity of government policy—clear laws; clear resourcing—can still come to a point of ineffectual delivery, because, in the end, it does come down to leadership. The fact that a three-star general of the Australian Army and someone of General Campbell's calibre was able to be allocated to this duty to bring those issues to bear meant that we agency heads who run departments and agencies were able to allocate designated resources to the general and empower those resources as required. He did not have to become personally an officer of Customs or an officer of Immigration under the directions that we gave, but he was able to give directions that were able to be carried out by people under our authority as if they were instructions coming from us. The fact that he was able to focus on these matters 24/7, and with a direct reporting line to a minister of the Crown, meant that a lot of the quick impact decision making that had to be done, particularly when we got into the turn-back phase that, as is known to this committee now, commenced in about the December period 2013, was a really important factor.

The response that General Campbell gave to you would have been potentially slightly incomplete had it not reflected on his own personal leadership. Indeed, a senior officer from the ADF who comes to these sorts of activities trained can break down a problem, apply critical thinking to that problem, develop a plan that is not, if you like, in lieu of the policy but about how to apply the policy, and then—

Senator REYNOLDS: Actually get something done?

Mr Pezzullo: And, once mission direction has been achieved, with the government saying, 'Yes, that is a plan that is suitable in relation to our policy intent,' having an officer who is empowered to then get on with it was, I think, a critical factor of success. It is still ongoing. We remain vigilant. I would not leave the committee with any sense that there are no ventures in prospect. To use a colloquial expression, people will occasionally have a go, as was evidenced by the small venture from Sri Lanka some days ago that was referred to earlier. To give you a fully rounded response to your question, I felt it important to add to those additional elements.

Senator REYNOLDS: I thought as much. In fact, having worked for General Campbell myself, I know exactly how talented he is and how modest he is, so thank you very much for those clarifying comments. Fleshing that out a little further, regarding that unity of the ability to command and having very few, if any, jurisdictional issues with other agencies and just having that clarity of purpose, as you said, are there ways—you may well have already done it—to capture some of those lessons to be used elsewhere now in law enforcement and in broader activities?
Mr Pezzullo: The easiest way to answer your question is indeed to refer you to the Prime Minister's statement of earlier today. He made explicit reference and it is something that the National Security Committee has reflected on. I do not want to say too much about classified discussions other than refer to the fact that the PM himself has said today that, in relation to the issue of counterterrorism, he wishes for the counterterrorism coordination arrangements to be put in place such as would bring—I think I am quoting him almost perfectly, but, if I am not, I am closely paraphrasing—an OSB type focus and approach, which he said had worked so well in Operation Sovereign Borders. He also instanced Operation Bring Them Home, in relation to the shoot-down of the MH flight.

So, from the Prime Minister down, there is a very clear message to all agencies, departmental secretaries and agency heads that, when a joint agency task force approach is adopted, you throw everything into, first of all, the resourcing of that JATF, or joint agency task force. You ensure that jurisdictional lines, particularly as they might relate to, say, legislation, are solved with a bias towards, 'How do you get this thing done?' rather than, 'What are the reasons within legislation to not do certain things?' You have unity of purpose and so on and so forth—all the factors that the general and I have spoken about. Certainly, it is the government's intention that that approach be brought to bear on the issue of terrorism.

Senator REYNOLDS: Clearly, from the statistics we have on arrivals and the record since OSB has been stood up, General Campbell, as you just said, we have to remain vigilant. I just wonder if either you or Mr Pezzullo would like to talk about the operational lessons learnt or relearnt from a decade ago in the sense, now you have slowed it down and stopped it, of what we need to do to make sure that it does not re-occur.

Mr Pezzullo: I might ask the general to reflect on operational matters. I do not think it would be appropriate or fair for him to speak to matters of policy—or indeed potentially even legislation.

Senator REYNOLDS: Absolutely. Operationally, what are the things that have worked? As you said, we do need to remain vigilant. Based on your operational experience, what would that vigilance look like?

Lt Gen. Campbell: Operationally, what has worked is the fact that we have combined a range of measures. We have very active strategic communication into source and transit countries. We have a range of cooperative arrangements or established cooperative lines of activity with many countries in our region, all of which work to support this activity. We have both the on-water activities and the regional processing centres. We have initiatives that continue under the Bali Process and regional framework bilateral initiatives. We are trying to see an alignment across all of those in a way that recognises that people smugglers continue to seek opportunities and will manipulate events and messages to try to promote boat flow. Vigilance across that system is necessary in order to hold the line against people smugglers.

Senator REYNOLDS: Do you have any information you would be able to share publicly—any assessments of whether there are still people smugglers who are active and of whether there are people still in the pipeline going back through Indonesia and up?

Lt Gen. Campbell: There are people smugglers who remain active—not only in our region but in many parts of the world. We see efforts to give it a go every once in a while. It could be once in a month or once every couple of months.
They just keep testing.

Just tests. Sometimes it is testing. Sometimes it is an opportunity because a particular cohort of prospective travellers is unaware, has been kept isolated or has been manipulated to become open to travel. You have to see the smugglers as organised criminal networks that will take an opportunity, where they feel that they can, to make money through people smuggling. They will turn the networks' efforts towards other forms of illicit activity—and, occasionally, legal activity—where they feel that smuggling is no longer viable, or they will move the smuggling pipeline elsewhere. What we see with those persons who are considering travel is a propensity to wait—to stay where they are and to not see Australia as a viable option—but not necessarily to completely give up that aspiration. It is a response to their understanding of arrangements that have been established.

You mentioned profitability for people smugglers committing this crime. Do you have any information on how that profitability has shifted in the last 18 months—what they may have been charging per person versus what they may be offering for trips now?

Prices have substantially fallen because the client base has become quite reluctant to take up the opportunities that people smugglers are promoting. There were circumstances where, variously, syndicates were charging some thousands of US dollars and—

Per person?

Per person. Now, on occasions, we see much reduced dollar numbers—in the low thousands or high hundreds. It varies depending on circumstance, smuggler networks, size of venture and the like, but the real message is that the smuggling syndicate profitability has collapsed.

That is good news, thank you.

Could I ask about communications expenses. I understand that in MYEFO there is a reference to the Australian Customs and Border Protection Service provision of $8.1 million to expand an anti-people smuggling strategic communications campaign. Can you tell us anything about that?

Sure. If I might immediately answer an earlier question, then we will get straight back into this. You asked about the date that venturers were transferred at sea to the authority of the Sri Lankan government.

Yes.

There are three of those. The three dates are 6 July 2014, 27 November 2014 and 17 February 2015.

In terms of that funding, we are talking about the strategic messaging that goes, as I was noting earlier, throughout our own region where we see smuggler pipelines active, and up into source countries and source regions such as the Middle East and Central Asia. Depending on the country and the nature of the target community, those moneys might be spent in the form of posters, billboards, simple magazines, or community engagement activities—anything that can get the message out with regard to the Australian government's policy settings for Operation Sovereign Borders.
Senator KIM CARR: So it is all spent externally?
Lt Gen. Campbell: I will have to clarify that. There is some onshore expenditure, but I will have to take on notice how it is broken down.

Senator KIM CARR: Would you mind giving me a breakdown on what the $8.1 million is used for—how much is spent offshore and how much is spent onshore? When did the campaign commence?
Lt Gen. Campbell: We have been doing offshore strategic communication messaging for some time. It is not a matter of any particular start but, rather there are periodic adjustments in the campaign—whether you are focusing on particular locations, or you are updating the message to refresh and recapture people's attention.

Senator KIM CARR: How long do you think it will run for?
Lt Gen. Campbell: I think that there is value in an ongoing strategic communications effort while there are persons who are susceptible to the manipulation of people smugglers.

Senator KIM CARR: Yes, but presumably the expenditure is to be made in 2014-15, isn't it? Is that what the budget papers tell us?
Lt Gen. Campbell: I believe that is correct.

Senator KIM CARR: So, all you can say is that $8.1 million will be spent in that period?
Lt Gen. Campbell: That is right.

Senator KIM CARR: Will there be an evaluation of the campaign?
Lt Gen. Campbell: Yes, there will be an ongoing evaluation looking at the perceptions of target audiences.

Senator KIM CARR: Who will undertake that evaluation?
Lt Gen. Campbell: We have some contractors who undertake that work for us, but I might take that question on notice.

Senator KIM CARR: Would you take that on notice. Will there be any evaluation undertaken domestically?
Lt Gen. Campbell: Again, I will take that question on notice—to indicate that mechanism.

Senator KIM CARR: Thank you. Will there be any focus groups?
Lt Gen. Campbell: I will have to take that question on notice.

Senator KIM CARR: Will there be any other polling?
Lt Gen. Campbell: I am not sure if you are implying something but I will just take it on notice.

Senator KIM CARR: I just asked a question.
Lt Gen. Campbell: I will take on notice the question of the mechanism of communication campaign validation or confirmation.

Senator KIM CARR: Thank you. I understand that government will provide $92 million for the repurpose and transitional ownership of the Australian Defence Vessel Ocean Shield. Is that part of your work?
Lt Gen. Campbell: It certainly comes under a transition to Operation Sovereign Borders of that vessel. But in terms of the detail of it, I will either ask Commander Border Protection Command to assist me or I will have to direct you to the Department of Defence.

Senator KIM CARR: This says, 'Maintaining the response capability for Illegal Maritime Arrivals.' Mr Pezzullo, is that a capability within your purview?

Mr Pezzullo: Yes, if it is a vessel of the Customs and Border Protection Service I believe it is. The CEO may be able to assist.

Mr Quaedvlieg: Thank you, that is correct. We received the ADV Ocean Shield from Defence this financial year. We spent the last few months modifying that vessel for our operations and it will be our flagship in the fleet going forward.

Senator KIM CARR: Was that $31 million spent in 2014-15? Is that correct?

Mr Quaedvlieg: I would have to take the question on notice to be 100 per cent accurate, but it sounds correct.

Senator KIM CARR: Then there is an additional $11 million for 2014-15. What would that be for?

Mr Quaedvlieg: I suspect for the modifications, but to be entirely accurate—unless the chief finance officer has a response to that—I might take it on notice. Let me just check.

Mr Groves: The $11.8 million that you mentioned is for the capital works for fitting out the vessel. That was capital funding. The $31.7 million was for the operating costs. That also included some funding for the first year, in 2014-15. The $31.7 million was for the extension of lease of the Australian Customs Vessel Triton for an additional six months. It was also a part that $31 million.

Senator KIM CARR: Where will the works be undertaken, the modifications, for the vessel?

Mr Quaedvlieg: The majority of the works have already been undertaken in Singapore, but there are some additional modifications that we need to make to the vessel in order to make it entirely operable for the Southern Ocean. I understand that work will take place in Hobart.

Senator KIM CARR: Was there a tender issued for the modifications?

Mr Quaedvlieg: We will take that on notice.

Senator KIM CARR: I would appreciate it if you could provide the details of that tendering arrangement.

Mr Quaedvlieg: Yes, we will do. I suspect it might be access to existing contractors for our marine fleet. But I will come back and confirm that for you.

Senator KIM CARR: I would like to know the method of procurement. I am placing a number of questions on notice. I think that will conclude my questions in general for Operation Sovereign Borders.

Lt Gen. Campbell: You asked earlier about the $8.1 million. It is all offshore, but I will get you that breakdown in the answers to the questions on notice.

Senator KIM CARR: Thank you very much.
CHAIR: Thank you, Senator Carr. You say Ocean Shield has been fitted out for the Southern Ocean, so clearly that is not really related to Operation Sovereign Borders. It is replacing the previous ice-strengthened ship that Customs had, whose name I forget.

Mr Quaedvlieg: Yes, to a degree. The Ocean Shield is a multipurpose vessel. It has been used for a commissioning patrol, if you like, for Operation Sovereign Borders. However, it is currently scheduled to attend Hobart for modifications in relation to medical facilities. Those medical facilities are required for it to be operable for the Southern Ocean.

CHAIR: What did it replace?

Mr Quaedvlieg: ACV Ocean Protector was decommissioned in mid-2014.

CHAIR: Was that an ice-strengthened—

Mr Quaedvlieg: It was, yes.

CHAIR: But it spent most of its time up in the tropics trying to address the 50,000 illegal maritime arrivals?

Mr Quaedvlieg: It has spent a significant period of time over the last couple of years in the north-west. That is correct.

CHAIR: So the Ocean Shield was a Navy vessel?

Mr Quaedvlieg: It was owned by Defence and maintained by the Navy, by agreement. It has been transferred to the Customs and Border Protection Service.

CHAIR: Was it used by the Navy as part of the border protection to try to stop the 50,000 illegal maritime arrivals?

Mr Quaedvlieg: I am not sure. You will have to direct that question to Defence. For completeness of my answer, can I also reply that there is a certain commitment we have made that should that vessel be required for humanitarian aid and disaster relief, then we will provide that vessel for that purpose.

CHAIR: That is the Ocean Shield?

Mr Quaedvlieg: Yes, that is correct.

CHAIR: What is the Triton you mentioned?

Mr Quaedvlieg: The Triton is another large vessel that we have, which was due to be decommissioned, that we have extended for another six months to mid this year.

CHAIR: What sort of a vessel is it, and what was its role?

Mr Quaedvlieg: It is one of our larger vessels in the fleet. It has been up in the north-west and it is currently there on operations.

CHAIR: On Operation Sovereign Borders?

Mr Quaedvlieg: That is correct.

CHAIR: This is slightly off the subject—but I can do that because I am chairman, but does Ocean Shield have a commitment for a number of patrols in the Southern Ocean in relation to toothfish pirates?

Mr Quaedvlieg: Around September last year, I gave evidence to the parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade, where I indicated we were planning to conduct two 40-day patrols of the Southern Ocean using Ocean Shield, subject to
operational priorities. That intent has not changed. However, in terms of providing any detail around exact scheduling, I would be loath to do that in an open forum in relation to matters of operational security. But to answer your question of our intent for a patrol of the Southern Ocean of the Ocean Shield, this financial year it is still there.

CHAIR: Can I ask you—and that is the first question: can I ask you?

Mr Quaedvlieg: Certainly, Chair, you may ask me what you want.

CHAIR: I do not want you to give away any sensitive information, but has the vessel done any work in the Southern Ocean since you gave evidence to that committee hearing in Hobart?

Mr Quaedvlieg: No. The vessel was being commissioned in Singapore. We took acceptance of it from our contractors in November. It has taken a commission and operational trial and evaluation in the north-west, and, as I indicated earlier, it is headed to Hobart for modifications and from there we will make a decision as to whether it deploys into the Southern Ocean, depending on other operational priorities.

CHAIR: It is ice strengthened, isn't it?

Mr Quaedvlieg: It is ice operable. That is correct.

CHAIR: Slightly off this subject, but are your officers still involved with the French patrols in the Cook Islands?

Mr Quaedvlieg: They certainly are. Since January last year, we have had officers embark on four French patrols in the Southern Ocean.

CHAIR: And the arrangement originally was to reciprocate that with French officers on Australian ships, but I doubt that they would be doing much up in the tropics.

Mr Quaedvlieg: I do not think it was so exact.

CHAIR: Yes, it was. It was so exact.

Mr Quaedvlieg: We certainly have a cooperative arrangement with the French in the Southern Ocean. We have done 52 cooperative patrols with the French over the last 12 years or so. And, yes, as I said to the parliamentary committee in September, over the last couple of years we have not held up our end of the bargain. However, having said that, we still have very cooperative relationships with the French. We have embarked four officers on four patrols with the French. We share satellite coverage and the French have been very sympathetic to our operational priorities and they are looking forward to the time when we are back in the Southern Ocean with a surface asset.

CHAIR: So when the Ocean Shield does in fact recommence Southern Ocean patrols there will, in all likelihood, be French officers on board?

Mr Quaedvlieg: When we schedule a patrol, we will certainly be extending that invitation.

CHAIR: In the meantime, we continue to operate on the French patrols?

Mr Quaedvlieg: Yes, and, as I indicated, we certainly have a shared satellite coverage with the French and we are in regular cooperation with our convention partners on the CCAMLR—the Convention on the Conservation of Antarctic Marine Living Resources. We work very cooperatively with our partners in that realm.
CHAIR: You would have heard recent calls for the use of Ocean Shield or other vessels to assist with allegedly illegal whaling, allegedly in Australian waters. Did you get any calls? How can I ask this? Has Customs marine been involved in any action against alleged illegal whaling vessels in the Southern Ocean?

Mr Quaedvlieg: Not in this season, no.

CHAIR: Have there been requests?

Mr Quaedvlieg: Not at this stage, no. We are certainly in conversation with our partners in relation to monitoring the Japanese whaling fleet, but at this stage it has not been necessary to invoke calls for our assistance on that.

CHAIR: There being no further questions on Operation Sovereign Borders, thank you very much, General Campbell. You and your crew may leave us. Before you go, Mr—I cannot see your nameplate. You are the ambassador—

Mr Goledzinowski: It is still hard to read.

CHAIR: I am glad I could not see it! I have trouble with names. I heard the secretary mention you. Could you briefly for the committee's benefit explain who and what you are? I think this is your first appearance before this committee. If we can get two or three minutes on who and what you are, we will know for the future.

Mr Goledzinowski: I am the Ambassador for People Smuggling Issues. You are quite right—it is my first appearance at these hearings. I am the latest iteration in a long and distinguished line of ambassadors for people smuggling issues. The role we play in the context of the current effort is, as the general outlined, a multiagency, joined up effort which takes advantage of all the aspects of government strength in the offshore people-smuggling space.

The sort of work that I particularly do, that this position has particularly done, has been in relation to the regional frameworks. There is the Bali process, of which Australia is a joint chair with Indonesia. So I personally am joint chair of the Bali process with my counterpart in Kemlu in Jakarta. There are a whole series of Bali process senior officials meetings and workshops which cooperate in a broad range of not just people-smuggling but also people-trafficking issues.

As an example, I was in Bangkok three days ago attending a technical workshop on the exchange of biometric data amongst a number of participating countries. It is the sort of practical work which we do not hear about very often, but it plays an important role not just in the effect that it has in combating trafficking and smuggling but also in building the habits of cooperation amongst friendly countries on these issues.

CHAIR: We were talking before about Vietnam, Cambodia and Nauru. That is not your area?

Mr Goledzinowski: Because Foreign Affairs has the lead on Australia's foreign policy engagement, we do play a role. Last week I was also in Cambodia, mainly familiarising myself with the work that is being done there. So, even on aspects where there is a lead by another agency, particularly by the Department of Immigration and Border Protection, DFAT often has a role to play because we are not just dealing with counterpart ministries of internal
affairs or immigration. There is also a foreign ministry to deal with and there are broader contexts around bilateral relations that have to be managed.

CHAIR: Do you have the same status as other ambassadors—country ambassadors or high commissioners?

Mr Goledzinowski: Yes. It is an Executive Council appointment.

CHAIR: In the same vein as the Ambassador for the Environment, I guess.

Mr Goledzinowski: Exactly the same—not as distinguished as Ambassador Woolcott, though.

Senator KIM CARR: Come on—not with this crowd! Do not insult the officer!

CHAIR: And you are, as you clearly said, an officer of the Department of Foreign Affairs and Trade. Welcome to our committee. And thank you Minister, Mr Pezzullo and General Campbell for bringing along the ambassador. He has escaped—well, I think he has escaped—unharmed from this hearing. I will invite any of my colleagues if they do want to follow any of that up, but it was more just to find out who you are and what you do.

Mr Goledzinowski: Thank you very much.

CHAIR: Nothing else from anybody? Okay, thank you, gentlemen, again.

Lt Gen. Campbell: Thank you, Chair.

Department of Immigration and Border Protection

[21:00]  
CHAIR: We now move to Department of Immigration and Border Protection—outcome 3, support for Australia's border protection through managing stay and departure of non-citizens; compliance, detention and status resolution; and illegal maritime arrivals. We did indicate earlier that a lot of the questions which you took on notice and hoped to answer later could be dealt with here, so if you want to do that now or later on—

Senator HANSON-YOUNG: Sorry, what was that, Chair?

CHAIR: In the cross-portfolio area there were a lot of questions taken on notice and the officials were asked to get back to us later today. I suggested at the time that, rather than doing it in cross-portfolio, they should give them back now as they were all related to this.

Senator HANSON-YOUNG: Perfect. I was going to ask for mine anyway so that is good timing.

Senator O'Sullivan interjecting—

Senator HANSON-YOUNG: What did you say?

CHAIR: You are out of order, Senator O'Sullivan.

Senator HANSON-YOUNG: Get back in your box!

CHAIR: It will, of course, depend on whether the department has been able to extract those answers. Where did we go to? Should we start perhaps with you, Senator Carr?

Senator KIM CARR: Have we got the answer?

Senator HANSON-YOUNG: Have we got any answers coming back?

CHAIR: Do we want to do answers first?
Senator HANSON-YOUNG: Yes, please.

Senator KIM CARR: I do not mind, but it would be good if we did have information.

Mr Pezzullo: I am assured that the answers to questions that have been able to be ascertained in the five, six, seven hours that have elapsed are ready to go.

CHAIR: We are breaking at 9:15.

Mr Pezzullo: Perhaps we could go through them ad seriatim, or perhaps we can go by individual senator. We are really in the hands of the committee, Chair.

CHAIR: We will go ad seriatim then.

Mr Pezzullo: All right. We should have all the aircraft on the taxiway then. I am advised that we are best placed to go to the issue of children, so Ms Briscoe and her officers will acquit all the questions that we took earlier regarding children, which came from a number of senators.

CHAIR: What we might do is get you to give all of the answers you have got and then when you are finished I will invite any relevant senators, or any senators, to further question. It might be easier if we get all of your answers first.

Mr Pezzullo: Chair, I might exercise the secretary's prerogative to go first. I was asked a question, particularly by Senator Carr, about our dealings with the royal commission regarding institutional responses to child abuse. I indicated that we had not been called, nor had notice been served for us to appear before that royal commission. But I said that we had been in touch with the commission and we knew that they had a watching brief or that they were observing the proceedings that had arisen pursuant to the inquiry conducted by the Human Rights Commission. I have since been advised and apprised myself of the fact that a number of documents have been prepared and sent to the royal commission. In the time available I have not established them—this is the element that remains on notice—and I would prefer to answer it formally on notice as to whether the documents were volunteered to the commission by my officers or whether they were asked in a manner short of a full notice to appear. But a number of documents have been provided and we continue to engage in ongoing cooperation with the secretariat to the royal commission. As to the status of those documents and whether they were, as it were, compelled, that is the element that I will retain on formal notice and provide a written response to the committee. But, yes, we have had dealings with the royal commission and have provided them with certain information that, subject to the privilege of that commission—I am just not quite sure what the rules are there—we will take formally on notice.

CHAIR: Okay, thank you. That is a very complete answer, but if anyone has any follow-up questions? No? Good. Who is next?

Mr Pezzullo: Ms Briscoe.

Ms Briscoe: Ms Pope is going to answer.

Ms Pope: Regarding the question asked by Senator Hanson-Young in relation to medical transfers of children between Australia and Nauru, and the reverse, between 11 February and 20 February. Three children were returned to Nauru in that period and six children were transferred to Australia in the same period.
Mr Painting: Senator Hanson-Young asked a specific question earlier on about asbestos, particularly on Manus. First, it is very important to note that any asbestos identified is dealt with following the protocols under Australian standards for handling asbestos. In relation to the specifics, on 5 October 2014 bonded asbestos was identified at a construction site in Manus—a staff accommodation site. It was immediately isolated and an Australian-certified asbestos remover was engaged. A clearance process was taken. The material was dealt with. A clearance certificate was provided on 7 October. As for the material itself, it is appropriately stored and labelled in a container in PNG pending transfer to Australia for disposal.

I would also like to follow up the question from Senator Hanson-Young regarding working with children checks. Working with children checks in Australia is state-based legislation. All Australian-based staff of service providers are required to have a working with children check to work in Nauru, in accordance with their relevant jurisdiction—so wherever they live, such as in New South Wales or Victoria, that is what applies. Australian legislation does not apply in Nauru, but in lieu of working with children checks Nauru-based staff are subject to a police check by Nauru police before commencing. As an additional measure, we have implemented a child safeguarding protocol of one of our service providers, Save the Children, who obviously have some expertise in this regard. They have helped us draft a protocol that all workers on Nauru abide by. The training and qualifications, including these, are reviewed monthly on a sample basis through the service contracts.

Senator HANSON-YOUNG: Could I ask you to table a copy of that protocol.

Mr Painting: We will take that on notice, but yes.

CHAIR: When was the protocol completed?

Mr Painting: I could not be specific. It was in the life of this contract, so in the last year or thereabouts. But we will certainly get it.

CHAIR: Could you on notice indicate to me whether that was part of the original arrangement made by the then Prime Minister with the government of PNG and Nauru when this arrangement was first entered into?

Mr Painting: I see. I am quite confident that was not the case, but we will find it exactly.

Senator O'SULLIVAN: Could you take on notice what protocols were in place at the time, if any, with respect to this same issue?

Mr Painting: Certainly.

CHAIR: Children.

Senator O'SULLIVAN: Yes. What measures were taken under the previous administration to pre-qualify individuals who might be going to work with them. 

Senator HANSON-YOUNG: Is that the only check or training program that exists for them, as opposed to Australian staff? Has anybody been found to be in breach of that protocol?

Mr Painting: I would have to take that on notice to be certain.

Senator HANSON-YOUNG: Is it that Australian staff were to abide by that protocol as well, or is that just for Nauruan staff?
Mr Painting: Both, but Australian staff have to have a working with children check. So they have that as well as complying with the protocol.

CHAIR: I take it the protocol will be much the same as the checks for the state-based green cards or work cards.

Senator HANSON-YOUNG: I think the protocol is about how they engage with children in the centre. Is that correct?

Mr Painting: The protocol obviously is in a legislative instrument—

CHAIR: I would assume it would have the same parameters—

Senator HANSON-YOUNG: They are different things I think.

CHAIR: Perhaps my questions should be: will the protocol require those dealing with children in those places to have the same checks as are applied by state legislation to people working with children?

Mr Painting: The fact that it is not a legislative instrument means it cannot have that same enforcement. It is a different type of instrument. It is a working protocol, in the absence of a legislative basis, because Nauru does not have the same legislative requirement.

CHAIR: It will then be an agreement, I assume. But will the requirements for people dealing with children in Nauru end up being the same as or similar to the requirements for those dealing with children under Australian state legislation?

Mr Painting: The protocol is a working operating document. A working with children check is a mandatory assessment that is taken before anyone can commence doing that job. The difference of course is that a protocol is a practical operating document on how to engage and work, as opposed to a legislative instrument.

CHAIR: Will there have to be assessments made before they are engaged?

Mr Painting: They do have to have a police check.

CHAIR: I am wondering how that is different to the state legislation. Quite frankly, I do not know what the state legislative requirements are, but it would seem to me that they would be similar. You might take that on notice.

Senator HANSON-YOUNG: What is the recourse if the protocol is broken?

Mr Painting: I will have to take that on notice.

Senator HANSON-YOUNG: Is it something that is overseen by the department, or is it overseen by Transfield Services. Who manages whether people abide by the protocol.

Mr Painting: We would rely on notification first, mostly from Save the Children, but any service provider. That would come to the department. Also, depending on the situation, in consultation with Nauru management.

Senator HANSON-YOUNG: You were going to take on notice whether anyone had been disciplined for a breach of the protocol. In addition to that I would like to know how many reports of breaches of the protocol there have been. That would obviously be the first step before working out whether somebody was guilty of a breach, I imagine.

Mr Painting: Yes. I had one more question to follow up. It was also from Senator Hanson-Young and is in relation to contract variations. This information is in relation to
current contracts for services in regional processing centres. If you are interested, I have the onshore service contracts as well.

Senator HANSON-YOUNG: Good.

Mr Painting: Looking at the onshore ones first, the new contracts with service providers. You would recall major procurement process that was undertaken last year. That resulted in IHMS and Serco being the successful tenderers. Those new contracts commenced on 11 December 2014. There actually has been one minor amendment to the Serco contract that was administrative in nature, but no changes to scope, services, value or kind.

Senator HANSON-YOUNG: No changes to value?

Mr Painting: No.

Senator HANSON-YOUNG: And the offshore ones?

Mr Painting: For services in regional processing centres, there are three current contracts. This answer relates to the current contracts that are in place. It does not go all the way back to commencement of offshore processing many years ago. The three are contracts with service providers that are in place now. First, Transfield Services, which was executed on 24 March 2014, and is the current contract. Save the Children, which was executed on 1 September 2014. Neither of those have been subject to variation in that time. Third, IHMS, for health and medical services. The current version was executed on 29 January 2014. That was varied in April 2014 to expand services, mainly in Manus, and included provision of dental, psychiatry and some other support services.

Senator HANSON-YOUNG: So who are the contracts for the building of the expansion of the facilities at Manus Island with then?

Mr Painting: The ones I mentioned were service contracts. You are referring to the capital construction contracts and I do not have that information with me.

Senator HANSON-YOUNG: Could you take that on notice?

Mr Painting: Certainly.

CHAIR: Mr Douglas?

Mr Douglas: Thank you, Chair. I have a clarification and two responses. I am aware of media reports today which have incorrectly characterised evidence I gave this morning in relation to numbers of allegations of sexual assaults in the onshore detention network. For clarity, the department is aware of 44 incidents reported by service providers received between 1 January 2013 and 10 July 2014 in the onshore detention network, including Christmas Island, involving allegations of sexual assault either against a minor or which occurred in a detention centre in which minors were accommodated. It is not possible to determine at this point in time whether or not all reports relate to incidents involving minors.

Between 1 July 2013 and 31 January 2015 the department was made aware of 19 cases of reported sexual assault in detention on Nauru. Of those 19, five allegations relate to minors. Of these five, three allegations relate to reports of adult assaults on children, while two relate to minor against minor assault. All 19 cases have been referred to Nauruan police. No minors are accommodated on Manus.

CHAIR: Just for clarity, you say you have been reported in the media as saying what?
Mr Douglas: I am clarifying my evidence this morning in the statement I have just read to the committee.

CHAIR: I have not seen the media that you are referring to. I was just wondering what they said you said. Anyhow, that is not relevant. We are politicians. We know some of the reporting that sometimes comes.

Mr Douglas: The incident in March 2014 which led to an unplanned use of force on unaccompanied minors in Christmas Island occurred during a cyclone warning in force at the time. All persons in detention at Phosphate Hill immigration detention centre were being moved to accommodation at North West Point for their safety. Thirty-five unaccompanied minors refused the request to move to this safer accommodation. The detention service provider sought appropriate approval from the department's Christmas Island regional manager to use force to relocate the unaccompanied minors. Approval was given and Serco emergency response team officers applied the preapproved use of force to 12 unaccompanied minors who were continuing their refusal to move. The remaining unaccompanied minors then agreed to join their colleagues and move. Following complaints that the force was excessive, the department and the detention service provider undertook internal reviews and the department asked Serco for a further independent review, which was undertaken by Verifact. Verifact supported conclusions in the Serco review that trained officers appropriately applied correct use of force techniques to quickly deal with a situation that was deteriorating.

In summary, Verifact found that force was applied correctly and in accordance with policy and procedures. As such, the policy was not changed. However, in light of the incident, the approval delegation for planned use of force was changed to require a more senior departmental officer, and the detention services provider agreed to provide better quality video images in future to ensure effective postincident assurance.

CHAIR: This was a question from this morning which arose out of the Human Rights Commission report which said that there were headlocks. Is that the incident?

Mr Douglas: That is right, Chair. That is the incident.

CHAIR: Was the information that you have just given us available to the Human Rights Commission—that there was a cyclone coming and that the kids had to be moved for their own safety but refused to do so? Are you aware whether that was all made available to the Human Rights Commission?

Mr Douglas: I was not involved in the reporting to the Human Rights Commission at the time, so I would need to take advice, probably on notice—unless Ms Pope may know.

Senator KIM CARR: I have a follow-up question on that. The Human Rights Commission says:

The independent reviewer of the incident, engaged by Serco, was not asked to advise about the circumstances leading to the approval for the use of force. It appears that the Serco decision to seek approval from the Department was made quickly—within 15 minutes of the children being formally asked to move.

Is that a statement of fact or not?

Mr Douglas: As I am advised, what occurred was that the Serco officers went to engage with the minors to assist their movement. The minors refused. Then the situation deteriorated.
As a consequence of that, the Serco officers then sought approval, as appropriate, for planned
use of force rather than letting it deteriorate.

**Senator KIM CARR:** The Human Rights Commission’s report specifically refers to the
cyclone, does it not?

**Mr Douglas:** I do not know off the top of my head.

**Senator KIM CARR:** I put it to you that it does.

**CHAIR:** Well, read out the paragraph.

**Senator KIM CARR:** It says:

The Inquiry acknowledges the logistical challenges caused by the tropical cyclone on 23 March 2014
and the need to remove families from North West Point. Real questions remain, however, about the
degree of urgency to the move, the speed with which a decision to use force was made, and whether the
decision to approve the use of force was taken only as a measure of last resort, particularly in light of
available alternatives.

Does the department dispute that statement?

**Mr Douglas:** The department conducted its internal review. It asked for the provider to
undertake an internal review and a further independent review, and that was the conclusion
that the department reached at the time.

**Senator KIM CARR:** Sure. I am asking another question: do you dispute the statement
that the Human Rights Commission has made on page 161 regarding the cyclone and the use
of force?

**Mr Douglas:** I do not know that I would be in a position to either confirm or dispute it
without taking further advice.

**Senator KIM CARR:** So you would like to take that on notice, would you?

**Mr Douglas:** I will.

**Senator KIM CARR:** Is the fact that the department has now agreed to ensure that a more
senior officer authorises the use of force an acknowledgement that there may well have been a
problem with this incident?

**Mr Douglas:** Not at all.

**Senator KIM CARR:** Why not?

**Mr Douglas:** Because the appropriate officer who provided the approval at that time is the
same appropriate level of officer that would have been making a decision under the revised
procedure.

**Senator KIM CARR:** So you have not changed the procedures at all, then.

**Mr Douglas:** We have changed it. The former procedure, I am advised, enabled the
decision to be taken by an individual centre manager. That delegation has been changed to
make it a regional manager or a senior executive officer from Canberra.

**Senator KIM CARR:** So someone off site.

**Mr Douglas:** Not necessarily off site. The Christmas Island regional manager is based in
Christmas Island.

**Senator KIM CARR:** I see.
CHAIR: I have lived through cyclones, and as people up my way are well understanding now—people around Rockhampton and Yeppoon—they are pretty frightening things when they are coming. If you are on Christmas Island, which is out in the middle of the ocean and away from anywhere, it is even more frightening. I say that having spent some time in Christmas Island—not during a cyclone. Instant decisions have to be made to get everybody—the children plus the officers and everyone else—to safety. Were the officers involved given an opportunity to respond to the Human Rights Commission report? Certainly what you have told us today puts a whole new complexion—a whole new understanding—on what in the Human Rights Commission seemed to be a quite—

Senator KIM CARR: Chair, you said you have not read the report. The report explicitly refers to the cyclone.

CHAIR: I will ignore that and continue. You have happily and usefully read it out for me, Senator Carr.

Senator KIM CARR: It is hardly a new set of circumstances.

CHAIR: My question is: did the officers involved actually have an opportunity to respond to the section that Senator Carr has read out and whatever else was said in the Human Rights Commission report about that incident? Because it certainly puts a new complexion on that particular incident, which I, listening to the questions earlier on today, and not having read the report, thought sounded a bit bad. But I understand it was done as a cyclone approaches Christmas Island—I will not go there, but certainly it required urgent and immediate action. I am just wondering if the officers were given an opportunity to respond to the Human Rights Commission report?

Mr Douglas: I am not aware of that. I would need to take that on notice. One last short response, if I may?

CHAIR: Yes, please.

Mr Douglas: I can confirm that a 16-year-old girl was reported to have jumped off a first-floor balcony at the Blaydin Alternative Place of Detention. Serco was alerted to this incident at 3 am on 20 February 2015. The girl was taken by ambulance to Royal Darwin Hospital, accompanied by her mother, where she remains admitted. For privacy reasons, it would not be appropriate for me to go into details about her injuries and treatment, except to say that at present her condition is reported as stable.

CHAIR: As stable?

Senator HANSON-YOUNG: I would like to know whether this young girl is a child who has been in detention and is remaining on the mainland or whether this child has been transferred from Nauru?

Mr Douglas: The child accompanied her family. Her family met from Nauru. A family member is undergoing medical treatment.

Senator HANSON-YOUNG: So this young girl will be transferred back to Nauru at some stage, obviously?

Mr Douglas: She is liable for return to Nauru.

Senator HANSON-YOUNG: Is liable for transfer. How long had she been in detention in Darwin?
Mr Douglas: The advice to me is that the family arrived on about 25 January.

Senator HANSON-YOUNG: Do you know how long she had been in detention in Nauru?

Mr Douglas: I do not have that information to hand. I will take that on notice.

Senator HANSON-YOUNG: It has been put to me that this young girl had raised issues of sexual assault in Nauru. Are you aware of that?

Mr Douglas: I have seen a late report this afternoon to that effect, but I think the department is, properly, going to undertake further investigations into those claims.

CHAIR: Where did you see the report late this afternoon?

Mr Douglas: It was an advice to me from one of my officers.

Senator HANSON-YOUNG: A department report?

Mr Douglas: Advice to me from one of my senior officers.

Senator HANSON-YOUNG: Are you aware as to whether that allegation is one of the 19 allegations of sexual assault that was referred to earlier or is that perhaps an additional allegation?

Mr Douglas: I do not know. I would need to take that on notice.

Senator HANSON-YOUNG: Just to clarify: my understanding is that this girl is 16. That is your understanding as well?

Mr Douglas: That is my understanding.

Senator HANSON-YOUNG: She is in a stable condition?

Mr Douglas: That is the report I have received tonight.

Senator HANSON-YOUNG: I obviously understand why you do not want to go into the details of her condition and I accept that. I must say, given last week's debate about the impact of immigration detention on children, you could not sit here in this room tonight and think that there is something okay with the fact that a child throws themselves off a building.

CHAIR: Is there a question? This is not an opportunity for an exposition of your views. Is there a question?

Senator HANSON-YOUNG: I am sorry, Chair. I think this is a pretty serious indictment of—

CHAIR: Is there a question?

Senator HANSON-YOUNG: I want to know what type of assistance and mental health support this young woman was being given before she threw herself off a building?

Mr Douglas: I do not know that. I will need to take that on notice.

Senator HANSON-YOUNG: Was she considered to be at high risk prior to throwing herself off the building, Mr Douglas?

Mr Douglas: I do not know the answer to that. I will take that on notice.

Senator HANSON-YOUNG: Will there be an investigation in relation to what led this young woman into what is clearly a situation of such distress?
CHAIR: Mr Douglas has already said there is an investigation going on. Is that correct—by your department?

Mr Douglas: We are continuing to follow up the issues surrounding the action. As I said, one of my senior officers tonight reported to me that—the claim the senator referred to—we will continue to take what action we think is necessary in order to, if that claim is to be sustained, to find out more about it and to pass on all the relevant information to the appropriate authorities.

Senator HANSON-YOUNG: That is in relation to the sexual assault. In relation to the fact that a child who has been in immigration detention is now in a stable condition after throwing herself off a building, does that provoke an investigation into how she has been cared for? Is it something that happens automatically, or does that need to be ordered by your secretary?

Mr Douglas: We will, in light of the event, undertake an incident review, as we do with many incidents that occur in detention.

Senator HANSON-YOUNG: Mr Secretary, is this something that you foresee a proper investigation into or will this be marked up as an incident report?

Senator O'SULLIVAN: I do not know how many times they have to tell you this.

Senator HANSON-YOUNG: I do not know how heartless and careless you want to sound, Mr O'Sullivan, but it is becoming—

Senator O'SULLIVAN: You need to sit down here. You are not hearing the answers. The man has told you twice.

Senator HANSON-YOUNG: A young woman has thrown herself off a building. I suggest you show a little more respect and care.

Senator O'SULLIVAN: Don't you lecture me. Twelve hundred people died in the ocean.

Senator REYNOLDS: If you showed a lot more care for the 1,200 people who died, Senator Hanson-Young, we might take you seriously.

CHAIR: Order! Mr Douglas, I would be curious as to how this information has come to you now and not before. A lot of information that comes forward comes from politicians. I would be interested to know when this information came. I assume that the investigation would have happened immediately it became the knowledge of your department. I am interested in knowing when it became the knowledge of your department and how that knowledge came to you. Very often, these things get media publicity and then certain things happen. I am curious as to what the—

Senator HANSON-YOUNG: I do not think this one has been in the media.

Mr Douglas: As I indicated in my statement to the committee, the incident occurred at about 3 am on the morning of 20 February. It is still a relatively recent incident. As I indicated to the committee, I received advice late today of the claims being made about the cause of the incident. That is one observation. I would like to have more confidence about much of that information before I am in a position to give more information to the committee.

CHAIR: I appreciate that. That is very wise. But while you are doing that could you let me or the committee know how that information came to you tonight and how long your officers had known about it and where they got the information from and at what time?
Mr Douglas: We will provide that in the answer we give on notice.

CHAIR: Thank you. Is that all you had, Mr Douglas?

Mr Douglas: That is all I had.

Senator HANSON-YOUNG: I have a question for the secretary. I had asked the question and he was not able to answer because of the interruptions.

CHAIR: Ms Briscoe, do you have many answers?

Ms Briscoe: I have none.

CHAIR: Ask the secretary then, Senator Hanson-Young.

Senator HANSON-YOUNG: Mr Pezzullo, do you need me to repeat the question?

Mr Pezzullo: No, I do not. In the circumstances of this incident it would be classified as an attempt at self-harm, clearly, on its face. We have well-established protocols to look into all incidents of self-harm. They are not merely reportable incidents but the detention operations staff who work for Mr Douglas, along with other staff in Ms Briscoe's group, engage with our health-care providers and others. In this case, IHMS, our general provider, also has mental-health experts.

I as secretary can give you an absolute assurance we will be particularly interested in the follow-up action once the girl's medical condition stabilises. It sounds like it is stable. Specialists will speak to her about her motivations and her feelings. It is a pretty serious step to throw yourself from a height and land—I have not seen the detailed incident report myself, I must admit, but it sounds like she has fallen in such a way as to not create life-threatening or serious injuries.

I certainly will take a close personal interest in the follow-up action, in terms of dealing with her, her parents or whoever the accompanying adult is, to ascertain what it was that was causing her a degree of concern. You would need to be pretty concerned to throw yourself off a roof or any high structure, I accept that. As with all self-harm attempts—be they falls of this nature or the sewing of lips and the rest of it—the health-services provider that we have across the entire network provides the front-line services. They then, depending on the clinical conclusions that are drawn from their follow-up, proceed accordingly.

The additional complication in this case, Senator, as you have reflected on in your own observations, is if this young girl is a transferee from Nauru. I gather from Mr Douglas she was accompanying a parent—or an adult, at least—who was in medical care. We will need to sensitively and delicately look at the situation of what is going to happen with her return. There is a question of the medical treatment that was being applied to the adult. That has to resolve itself. I do not know what the medical illness is. But you can be assured we will not be sending anyone on a long journey, such as to Nauru, if they are suffering any kind of consequences of falling from a great height. I certainly as secretary will be taking a close interest in the follow-up to this matter.

Senator HANSON-YOUNG: I accept that you are not across all the detail, Mr Secretary. It has been put to me that this young woman's injuries are quite serious. While they might not be life threatening, she may not be able to walk.

Mr Pezzullo: I do not know. It might well be the case. The advice that will go to Mr Douglas will get to me, no doubt, particularly given the emphasis that has been placed on this
matter in today's proceedings. The care of the girl—her health, whether she can walk, whether she has enduring injuries or whether they are of a more superficial character—is something we will take clinical advice on. Sensitive decisions will be made, in due course, about her placement in the future.

**Proceedings suspended from 21:37 to 21:55**

Mr Pezzullo: We are in the process of acquitting a number of questions taken on notice through the day. Senator Reynolds asked about the long-run costs of dealing with illegal maritime arrivals, going back to the year 2007-08. We are in a position, with the CFO having done the number crunching, to provide that advice. Alternatively you may wish to ask other questions. We are in your hands.

CHAIR: Let us deal with the follow-up question from Senator Reynolds first.

Senator REYNOLDS: Mr Pezzullo, two of my colleagues discussed with you the suggestion of excessive use of force for the transference to Bravo Compound during the cyclone. It reminded me of what you said in your letter of 10 November last year responding to the commission's draft report. You raised a number of issues then about what you saw as unsubstantiated allegations. I just wanted to go through a couple of those with you again in light of some of these suggestions of inappropriate or excessive use of force. On page 78 of the report is the anonymous allegation that it was said, 'If you don't calm down, we will get the police dogs on to you.' I understand that you had provided information that in fact you did not have dogs at the compound. Is that right? It is at attachment A, example 1.

Mr Pezzullo: Yes. Attachment A, just to be clear, pertains to a draft report that was being commented upon by my officers at the time. I do not know if it is still page 78 therefore in later drafts. But the inquiry presented a draft report that included the following anonymous allegation that certain persons had been spoken to in these terms:

If you do not calm down, we will get the police dogs on to you.

There was material provided in rebuttal saying that (a) there was no direct evidence to support the claim—when it occurred or the veracity of it—and (b) there were no police dogs available in the detention centre to carry out such a threat. That is contained in the response we provided to the commission.

Senator REYNOLDS: You have used that as an example of 'claims not affording procedural fairness or right of reply'. You said 'claims'—plural. So there are other circumstances, incidents or allegations in the report about which you think you were not afforded procedural fairness or the right of reply. Rather than take up time now, is it possible to take on notice the provision of other examples in relation to that particular point?

Mr Pezzullo: I will take it on notice, because later on in the analysis prepared by my officers—remembering that I have provided in evidence earlier information that we had a liaison team working with the inquiry, obviously trying to provide it with as much information responding to its notices et cetera—I note in the same paragraph that you have just read from: 'There are many similar claims made regarding the misconduct of individuals where it was also the case that insufficient detail or context was provided in order to allow proper investigation.' That is under a general subheading of claims being made but not afforded the procedural fairness right of reply. Whether we can particularise those claims by going back to looking at the—
Senator REYNOLDS: I am happy for you to take that on notice.

Mr Pezzullo: I think I will have to.

Senator REYNOLDS: I just find it interesting, particularly given this is a Human Rights Commission report. Issues of lack of procedural fairness, right of reply, untested claims and subjective observations are not acceptable in any report, but I would have thought—sorry; this is me editorialising—it is not really appropriate for the Human Rights Commission.

Senator O’SULLIVAN: Just so as we do not fall into the trap of failing to get procedural fairness, is there any prospect that we could have any of that resource—that is in a form that we would be able to interpret—overnight? We have the author of this report here tomorrow, and it would be useful for us to be able to provide the author with the opportunity to respond to some of this.

Mr Pezzullo: Given the lateness of the hour—I have had officers working very diligently both since the Attorney tabled the report and the government’s response some days ago and in preparation for estimates. Some of them worked through the weekend. It is now 10 pm. I am slightly reluctant, with all due respect, to further commission work from those officers unless they have got sort of an instant recall.

Senator O’SULLIVAN: I was probably referring to whether they had even a developed partial—where some of these examples may have been developed up.

Mr Pezzullo: I will need to reflect on that myself overnight. I have before me—the high-level summary of the department’s concerns, which includes the material that Senator Reynolds just went to. It does indicate that there were other claims made in the drafts that were available to the officers at the time that they wrote this assessment. The dogs one is the one that is particularised. I do not know what other claims were made, because this all predated my arrival on 13 October.

I note, in this attachment that I did send to the commission, that, as early as March 2014, which is, from memory, within eight weeks or so of the commencement of the Human Rights Commission’s inquiry, the commission had been formally requested—I do not know in what form; I will take that on notice—to put substantive evidence of misconduct directly to the secretary. I do recall Mr Bowles at times making comments to that effect in evidence in various proceedings. At least at the time that I sent this information, obviously based on a good faith summary of what my officers had provided to me—this attachment is dated November—the department notes that no such evidence had been advanced during the course of the inquiry. We did add the point, given the role and standing of the commission, that it was in fact irresponsible to advance such claims without first having sought to have their veracity investigated. They are pretty direct words for one statutory officer to provide to another. I do concede that. But, given the lateness of the hour, whether other instances of unfounded allegations without any adequate ability for us to reply to them exist in a document that I would be willing to make available—I think you are saying that you want to then put it to the president?

Senator O’SULLIVAN: Yes. I did not mean for you to put resources to this overnight. It was just if there was a shell of work that was in a form that we might be able to interpret and make a presentation to the president to allow her the chance to respond, that would be—
Mr Pezullo: In fairness to the president, I do not know that she would be seized of examples that we have provided other than in the documents that have been provided. We are getting a bit circular here and I apologise: it is late in the evening. We have summarised our concerns. They were provided to the president initially by Mr Bowles—there might be some material in his documentation that is pertinent here. I further summarised those in my final communication to the president. The dogs example that Senator Reynolds went to was the one that was particularised. If there is anything I can provide before nine o'clock tomorrow morning that is in a ready-made form, I think paraphrase you, Senator O'Sullivan, I will see what can be made available. In fairness to the president, as a fellow statutory officer, through these proceedings—and perhaps my staff will do it directly—I would like to ensure that she sees to the fact that that material might be made available. I just do not know that she would have seen it; that is all.

Senator REYNOLDS: Thank you very much, Mr Pezullo. In deference to time, if you could take on notice on that point—the other things that I am interested in are the untested claims and subjective observations where it was said that there are armed guards at immigration facilities in Australia, which clearly you have refuted. But also—

Mr Pezullo: If I remember, Mr Bowles did it when he appeared before the president and her officers. I think it is actually quoted in the report. I recall him giving evidence to that effect in July or August of last year directly refuting the claim. How it has ended up or how the imputation continues to be in the debate about this issue, I just do not know. Mr Bowles dealt with that at the time.

Senator REYNOLDS: Thank you. There was that one—if you could take on notice for any other examples like that—but the ones that I was particularly concerned about were in relation to physical health and welfare. You cite one example here: we witness many children with respiratory infection and that they were always sick and it was particularly prevalent. Your evidence is almost completely opposite to that which you have provided here: in fact, there wasn't a high respiratory rate and a number of other issues. If you could take that on notice as well and any other health and welfare issues that you have disputed.

Mr Pezullo: I think, Senator Reynolds, just so that my office is clear is what you are asking—and I think I am hearing you to say—is not by nine o'clock tomorrow morning but in the regular notice period.

Senator REYNOLDS: Certainly for my request, because I realise that it is a lot of information, so under normal circumstances.

Mr Pezullo: Sorry, Senator: I do not wish to paraphrase you at all; I just want to understand the request. Other than the examples such as the police dogs that are used, in each of those headings, there are statements made by my officers—which I endorse because I sign the responses that say, 'The commission made claims such as ...' That implies that they made other claims that we would have wished to or in fact did refute. We will catalogue those as comprehensively as possible on notice under each of the headings that appear in the attachment. Am I understanding your question?

Senator REYNOLDS: Mr Pezullo, you have nailed it: that is exactly what I am looking for. I am certainly not looking for that body of work overnight, so in the normal course of process. Thank you.
**Senator O'SULLIVAN:** Mine was slightly different: if a body of work exists.

**CHAIR:** You said you had some answers to previous questions are there many of them.

**Mr Pezullo:** It was a single line of questioning from Senator Reynolds, which also might relate to some matters that Senator Hanson-Young raised, about the funding or expenditure profile pertaining to illegal maritime arrivals going back to 2007-08. We do have relevant material. It might even be about to be put in your hands. The CFO has prepared a graph that seeks to explain.

**CHAIR:** Can you just briefly explain this, because I want to move on.

**Mr Pezullo:** Thank you, Chair, I might ask Mr Groves to quickly speak to the graph that I believe is now in front of you.

**Mr Groves:** Over that period of time that we have been talking about that Senator Reynolds requested to 2007-08, obviously there has been some structural changes in our costs. My officers pulled this together quickly. It is looking at a profile of expenditure over the period 2007-08 to 2013-14, which is actual expenditure that excludes capital and depreciation. From the period 2014-15 to 2017-18, it reflects the same picture, excluding capital and depreciation but are, obviously, estimates over that period. This information is based on our current structure outcome 3 expenditure, so it is all encompassing and includes both onshore and offshore detention costs.

**CHAIR:** Before we go to Senator Madigan, the final question from me on that Human Rights Commission report: I heard about the children being wrestled to the ground. I see that the videos taken were taken by staff of the centre. I saw that image.

**Mr Pezzullo:** Yes.

**CHAIR:** How old was the child in question, because he looks to me to be a pretty big child physically?

**Mr Pezzullo:** I would have to check that. I think they were at the older end of the child spectrum, so under 16 but at the larger end, just looking at those still images. I would have to take it on notice. Just to be precise, the use of force involves a restraint. The description 'wrestle to the ground' is probably colloquially right. They were being restrained in accordance with approved holds. We will take on notice their age.

**CHAIR:** I would have thought, from listening to the reports, that it was a youngish child. They do not suggest an almost fully-grown man. That is a 16-year-old, some of whom play football for Australia at that age.

**Mr Pezzullo:** I am looking at the images now. I will not venture a guess, other than to say they are certainly not infants, put it that way.

**CHAIR:** Senator Madigan and then Senator Bilyk.

**Senator MADIGAN:** Thank you, Chair. My questions relate to maternal and infant health on Nauru. Has the government changed the policy so that pregnant asylum seeker and refugee women are no longer transferred from Nauru to Australia for the delivery of their baby?

**Mr Pezzullo:** I know that those incidents do occur. I will just ask Ms Pope to return to the table. I know that pregnancy is one of the grounds for transference, but I just want to make absolutely sure. Your question, I think, went to a change of policy?
Senator MADIGAN: Yes.

Mr Pezzullo: I will make sure that I have got my facts right, but I believe that we do transfer pregnant women to Australia for childbirth, I suppose if there are complications, but I will ask Ms Pope to give you a full answer.

Ms Pope: I think a distinction needs to be made in your question in relation to transferees—so people who are still being held in detention on Nauru as opposed to people who have been found to be refugees, because there is a different policy relating to the two. Could I clarify which it is that you are inquiring about?

Senator MADIGAN: My question related to: has the government changed the policy so that pregnant asylum seeker and refugee women are no longer transferred from Nauru to Australia for the delivery of their baby?

Ms Pope: The answer is broadly no, there has not been any change to the policy, but there are different arrangements for the two categories that you are talking about.

Senator MADIGAN: I have been led to believe there is an 8½-month pregnant refugee on Nauru who has not been transferred to Australia. Is that correct or incorrect?

Mr Pezzullo: With the specific case that you refer to, because the advanced state of pregnancy is such that in a relatively small group of asylum seekers and refugees it would be fairly easy for everyone to identify this woman, my preference would be to discuss it at the level of policy and not relate it to her circumstances—if such a person exists. Perhaps Ms Pope can explain what happens in the case of both asylum seekers, who have not yet been determined, and refugees, who have been determined.

Ms Pope: In relation to asylum seekers, where it is determined that appropriate health care cannot be provided for a person who is a transferee on Nauru then that person can be transferred to Australia for medical treatment. That would depend on the availability of specialists on the island at the time as to whether there were appropriate medical facilities for a woman to give birth as a transferee on the island, including the support provided by IHMS, the medical services provider.

In relation to people who have been found to be refugees, they are subject to the same arrangements that apply to Nauruan citizens; that is, if arrangements can be made for the baby to be born on Nauru then it will be. Where there are medical issues that require outside help, Nauru has a system of arrangements called OMR—I think it is 'overseas medical referral system' and they have arrangements with third countries where their nationals are sent for further treatment and the refugees are part of that arrangement. They might go to Fiji, India or other countries that they have arrangements with.

Senator MADIGAN: What financial and resource support has been provided to the Nauru hospital and IHMS since the release of the Nauru family health risks report to ensure adequate maternal and infant safety and care for asylum seekers and refugee women?

Ms Pope: I would have to call on one of my colleagues to assist with that question.

Mr Pezzullo: We will call our colleagues up who deal with the contractual arrangements, particularly those pertaining to health services on Nauru.
CHAIR: While they are coming I will follow up on the previous question. What you are saying is: people in detention in Nauru are treated, medically, in the same way as local inhabitants.

Ms Pope: No. People who have been found to be refugees and have been settled in the community on Nauru have access to broadly the same medical services as Nauruan citizens. That includes their offshore medical arrangements.

CHAIR: Okay. But what about people who have not been found to be refugees?

Ms Pope: They are provided with services through IHMS in the centres and are transferred to Australia for any medical treatment that cannot be provided on the island.

CHAIR: So some would say they get better treatment.

Ms Pope: I would not comment, Senator.

Mr Pezzullo: Perhaps the better way to put it is: under the agreement that we have made with Nauru for asylum seekers—those whose claims are still being determined or who have not been found to be refugees and are therefore living in the community at large—we will, wherever possible, deliver medical services as close to where the rest of the family is, Nauru. And—we have talked about this on and off through the course of the day—where that service cannot be provided, such as when the visiting specialists are not available, then Australia has agreed, as part of our overall agreement with Nauru, to repatriate those persons to Australia; that is, whole families, given the evidence that you heard earlier today, but they have no prospects of settlement here—

CHAIR: So they are repatriated to Australia for medical purposes and sent back. But those living in the community would be repatriated perhaps to Fiji, the same as a Nauruan local.

Mr Pezzullo: They have the same rights as Nauruan citizens, and Nauru has a series of agreements with other countries.

Mr Painting: Could I clarify Senator Madigan's question. I have some general information but if it was specifically about what has happened at a point in time, it might change it.

Senator MADIGAN: The question was: what support—financial and resources—has been provided to the Nauru hospital and IHMS since the release of the Nauru family health risks report to ensure adequate maternal and infant safety and care for asylum seekers and refugee women?

Mr Painting: I am not specifically aware of the report you mention but over the period that we have been working on Nauru, IHMS have provided a range of visiting specialists, including child and adolescent psychiatrists, paediatricians, obstetricians and sonographers, to attend Nauru on a visiting basis, and these services are supplemented by telehealth services as well. The department is working to establish a medical centre and a surgical and in-patient unit at the Nauru hospital. These projects have been delayed due to some problems getting infrastructure in because of some issues at the harbour at Nauru. We are working with the government of Nauru to address this but do not have a time frame for resolution of that yet.

In terms of the birthing capability specifically on Nauru, services for pregnant women to deliver on Nauru are in place with the exception that the Nauru hospital obstetric and
paediatric services are not yet there. We have not had any births in Nauru as yet. IHMS have recommended that pregnant transferees not give birth on Nauru until we have that ongoing obstetrician and pediatrician available. The hospital itself is currently seeking to recruit an obstetrician. So there are some of the planks that, I guess, are still waiting to be in place before we get to that stage. A this stage, as the secretary and Ms Pope have explained, generally asylum seekers are brought back to Australia at about 28 weeks.

Mr Pezzullo: Essentially, if I can just add a postscript, we are always trying to manage a very, very delicate balance to be, on the one hand, empathetic and compassionate—you heard the reference earlier to the young girl who had harmed herself. On the other hand, you want to avoid a situation where behavioural incentives, if you like, are provided for people to either harm themselves or to otherwise seek to get to Australia for whatever reason. In the propaganda which is sometimes available, it is often put to the transferees that if you just hold tight Australian policy will be adjusted; you just have to get yourself to Australia. We are always trying to manage that very delicate balance. In the end, self-reliance on Nauru is the best antidote to this. Notwithstanding those difficult infrastructure issues that Mr Painting has spoken of, it is certainly the desire of both the Nauru government and ourselves—and we are supporting them—to build that capacity. That will then provide an ongoing and enduring asset that can be used for all sorts of purposes. Nauru does not have a large population, so if you build this infrastructure on a sustainable and durable basis it provides that asset.

So I just want to make very clear, including through the evidence that I and my officers are giving here tonight, that we will be absolutely concerned about the welfare of children, pregnant women and the rest of it, but wherever possible we are trying to work with the Nauruan authorities, who have the jurisdiction here, to hold transferees on island wherever possible. Where that creates unreasonable medical risks, of course we will not put people in harm's way. That is why we are steadily building that capacity, so we do not create those behavioural incentives.

The government's policy on this, if I could just take this opportunity, is absolutely resolute, even though smugglers say things like—they put it on blogs and the internet and all the rest of it—'One minister has moved, another minister comes in, there will be a softening of policy,' and so on and so forth. The government's policy is clear: if you have been transferred to either of the offshore regional processing networks, you will not get settlement in Australia. I just want to take the opportunity to make very clear to the Senate that the overall policy settings are in no way modified or in any way derogated through these measures and mechanisms at all.

Senator MADIGAN: How many of the recommendations from the Nauru family health risk report that I mentioned earlier have been implemented, if any? Could you take it on notice, and would it be possible to get a full account of the actions taken against the recommendations at a later date?

Mr Pezzullo: I will just check with Mr Painting. I might have missed Mr Painting's evidence earlier. Are we familiar with this report and its provenance?

Mr Painting: Certainly, I have not personally seen it. So we would have to take that on notice anyway.

Senator MADIGAN: Thank you. I would appreciate that.
Mr Painting: I am not sure who it was commissioned for, or who the report was to.

Senator MADIGAN: Lastly, what is the current average time of detention for babies and children on Nauru?

Mr Painting: I do not have an average, I am sorry.

Mr Pezzullo: I suspect we will have to take that on notice.

Senator MADIGAN: I would appreciate that.

Senator BILYK: Just a bit of a change of tack: I want to talk about the conditions for processing centre staff on Nauru. There have been some media reports that the number of incidents involving Serco staff and detainees has increased. Are you able to tell me how many incidents have occurred over the past 18 months?

Mr Pezzullo: On Nauru? This goes to the matter that I raised with Senator Carr earlier today. You talk about incidents, and I might seek some clarification about whether you mean occupational health and safety incidents or interactions with the transferees. If it is the latter, those matters are comprehended within the review that I described earlier that has been commissioned, and indeed has been concluded, by Mr Moss. My previous evidence stands. Until I have fully digested that report and we have developed advice for the minister on how best to respond to Mr Moss's findings, I do not propose to go into any detail that pertains to his report.

Senator BILYK: I will just ask you a few other questions, and then we can determine—

Mr Pezzullo: I might be doing you a disservice, because I am not sure what incidents you are referring to.

Senator BILYK: I had a few different questions in regard to it.

Mr Painting: Excuse me, Secretary. If I could just clarify: the Senator mentioned Serco. Obviously Serco are not on Nauru. That is just for clarification of the provider.

Senator BILYK: You are correct. What is the group on Nauru?

Mr Painting: On the Nauru it could be Transfield Services.

Senator BILYK: That is it.

Mr Pezzullo: Thank you, Mr Painting. It has been a very long day.

Senator BILYK: It has.

Mr Pezzullo: My apologies for not picking that up myself.

Senator BILYK: I do not think you will be able to answer this, judging by your answer to the last question. My question was going to be: is it up or down on previous periods? There is also the incidence of detainee self-harm.

Mr Pezzullo: It might be that we take it on notice, because that will give us a degree of elapsed time so that I can fulfil my duty to brief my minister with a report that I have received. I owe him some advice. I think it would be possible for us to come back on notice with data about self-harm.

Senator BILYK: I think the rest probably need to go on notice, too: what is the incidence of mental and physical illness amongst detainees; how many events involving the physical restraint of detainees?
Mr Pezzullo: Is this all Nauru?

Senator BILYK: Yes.

Mr Pezzullo: Given the self-evident interaction that I have drawn attention to throughout the day with the so-called Moss review, I would prefer to take your questions on notice. Within the notice response period, we will see what we might be able to provide to the committee.

Senator BILYK: Sure. In that case, can I ask about the partner visa application fees?

Mr Pezzullo: Yes, certainly. Just to be clear for the chair's benefit: we are going off offshore detention? If so, I will need different officers to assist me.

CHAIR: We are doing all of outcome 3 together.

Mr Pezzullo: Outcome 3 is matters pertaining to compliance and offshore and onshore detention management.

Senator BILYK: What is your call, Chair?

CHAIR: Is it relating to detention management?

Senator BILYK: It is about partner visa application fees.

Mr Pezzullo: Visas would come under program 1.2.

CHAIR: Yes, that is later.

Senator BILYK: Which we are not going to get to. We will put that on notice. And 457 is obviously not now. That will have to go on notice.

Mr Pezzullo: They are visas.

Senator BILYK: All the rest of mine need to go on notice, unless somehow, miraculously, I get 15 minutes between now and 11 o'clock on the next outcome.

CHAIR: We will try.

Senator BILYK: Thanks, Chair.

CHAIR: We are still on outcome 3.

Senator O'SULLIVAN: Secretary, have you found in your experience and perhaps in some of your officers' experience with these detention facilities offshore or onshore that there is trending with respect to behaviour? You made a reference to it before. I think you called it 'behavioural incentives'—that is at that end of it. What I am talking about here is: do you note trends? For example, there is no self-harm for 18 months and then self-harm starts and then, within a fortnight, we have got 10 or 15 incidents of it?

Mr Pezzullo: We certainly track trends through what are known as 'atmospheric reports'—for want of a better phrase; and I will have other officers to join me in a moment to better describe these reports—which basically track mood: how people in these centres are responding to either government policy announcements, changes and so and so forth. Yes, we do have reports that come in from the centres that broadly fit the description of your question.

Senator O'SULLIVAN: From own independent knowledge, do you have an example?

Mr Pezzullo: I might ask someone in Ms Briscoe's group to come forward. It does not seem as though there are many takers at the moment; perhaps it is the lateness of the hour. But I am certainly briefed periodically on what are known as atmospheres reports. I read
those pretty carefully. They are reports that arrive that are aggregated from the observations
made by centre staff as to how people are dealing with external information. It is certainly the
case that, at times, Senator, your question related to both offshore and onshore, depending
on—this is my phrase—the sort of smuggler propaganda, material that is on the internet,
perceptions of government policy and so on and so forth. There will be moods that will adjust
over time, but perhaps Mr Douglas might provide further and better particulars.

Mr Douglas: The secretary is spot on, Senator. The mood varies from time to time for a
whole host of different factors. We do receive daily reports from our service providers which
measure, or attempt to measure, the state of the centre, the mood of the centre, and the risk of
many particular incidents. But this probably is changeable almost as the tides.

Senator O'SULLIVAN: That probably was not—and I accept all of that. What I am
trying to do is make sense of some of the data that has been presented in the report. In another
three hours, I could do a survey in this room and ask everybody are they tired or not tired, and
99 per cent of the room—

Mr Pezzullo: It will not take you three hours.

Senator O'SULLIVAN: And they are going to indicate they are tired.

Senator HANSON-YOUNG: Are you saying that the IHMS staff do not know how to do
their job properly?

Senator O'SULLIVAN: Sorry? Are you asking me am I saying whether the Human
Rights Commission—

Senator HANSON-YOUNG: No, IHMS. That is who—those are their statistics. So you
are saying that the government's own contractor cannot do their job properly?

Senator O'SULLIVAN: So, I want to particularly talk about the self-harm. Has the
incidence of self-harm, to your knowledge, been tickety toc across all of the centres, all of the
time over the last—let's take the last five years.

Mr Pezzullo: For that sort of time series, I would have to take that on notice to give you a
scientific answer. I think, like Mr Douglas's evidence, it probably does wax and wane to same
extent. I am not sure, Senator, how that compares with tickety toc. I am not quite sure if that
is a reference to a—

Senator O'SULLIVAN: Ever-present. Has it been ever-present in each of the facilities
that are isolated from each other over a long period of time; is it a recent trend; or did it spring
up on Christmas Island for the six months in the last half of 2013 that was not present
elsewhere?

Mr Pezzullo: I think, Senator, it is such a sensitive area. There are all sorts of reasons that
go into people's decision to self-harm—motivations. I think I would prefer to take it on notice
and, if there is anything that we can sensibly describe by way of that answering that trends—

Senator O'SULLIVAN: While you are doing that, as you look at the data, can I just give
you just to—and I am not eulogising here, but I was involved with the black deaths in custody
where it just was not possible to argue that every two or three weeks another young man in
another institution somewhere was so depressed that they hung themselves in a prison cell. It
started—this trend occurred. That is what I am looking for here. If you have had a period for a
year where nothing has changed on Christmas Island and then you go into a period of six
months where 10 individuals self-harm six weeks apart, it allows me to draw an inference on something, so that is what I am looking for.

Mr Pezzullo: Senator, I think that is absolutely right, and I will see if there is anything to hand that we can use as a basis for an answer on notice. It is clearly the case that, in any kind of statistical cluster that you find something out of the ordinary, you do draw some inferences about causality potentially, causation or coincidence. If there is anything that we can sensibly provide by way of an answer on notice, we certainly will provide a very full answer.

Senator O'SULLIVAN: And one final question, whether it is within your scope: I imagine that you have staff in and about during these events—I am not suggesting supervising the Human Rights Commission people but facilitating it. Do you have any sense of how these drawings occurred: whether they were products that were developed during their visits, specific to their investigation?

Mr Pezzullo: I would have to ask one of my officers. I have no direct knowledge of how those drawings either came to be made or came to be in the possession of the commission. I certainly know from my officers that we did not seek to fetter any of the meetings; it was more of a facilitative role. We had a liaison team that existed for pretty much the duration of the report's preparation. But, as to how those drawings came to be in the report, I just do not know.

Senator O'SULLIVAN: Sure, and you have no—one—

Mr Pezzullo: I will see whether Ms Pope is available again—she might know—otherwise we will have to take it on notice. In any event, potentially it will have to be a question better directed to the commission as to how they sourced those pictures.

Ms Pope: Senator, that is exactly what I was just going to say. We are aware that, while the commission staff were interviewing the children, sometimes the children were doing drawings, and they may have collected some of those drawings. But, as the secretary just said, it would be a much better question directed at the Human Rights Commission themselves.

Senator O'SULLIVAN: Thank you.

Senator HANSON-YOUNG: Mr Secretary, I just wanted to get clarification. I did ask earlier today about the numbers of UMAs in detention facilities, and I also asked for the numbers in the community, but I do not think we got a figure on that. There are those affected by the caseload legacy bill, those on bridging visas—whether they are officially in community detention or in some other form of posting in the community.

Mr Pezzullo: My apologies, Senator. I thought Mr Vardos's evidence started to go to that point.

Senator HANSON-YOUNG: I think we got distracted in detention and did not get back to community—that is my recollection.

Mr Pezzullo: Between Mr Vardos and potentially Ms Pope, we might be able to get an answer. I think some evidence was given earlier about the number of applications that were on foot, the so-called bulge in the caseload of 24,000. I think Mr Vardos started to outline the procedures that were going to be applied now to transition people out of held detention.

Senator HANSON-YOUNG: To be very specific, I am interested in how many unaccompanied minors are under the guardianship of the minister currently.
Mr Pezzullo: That is a very specific question. Thank you for making it precise. Ms Pope?

Senator HANSON-YOUNG: That way it should capture everybody.

Mr Pezzullo: Ms Pope is our expert on guardianship arrangements in support of the minister’s role.

Ms Pope: And I have had many an exchange on the subject with the secretary. I am sorry—there was confusion about whether you meant UMAs or UAMs, so that is why they were jostling backwards and forwards.

Senator HANSON-YOUNG: Sorry, it may have been me, I am not sure.

Ms Pope: That is fine, Senator. The question was: how many unaccompanied minors are there in the community? I gave the figures earlier this morning. I think there are 185 unaccompanied minors in community detention, there are two remaining in held detention and then there are the UHMs, who are those who have been found to be refugees, residing in the community. Is that what you asking?

Senator HANSON-YOUNG: How many are living in the community on the mainland?

Ms Pope: 185, who have not yet been found to be refugees.

Senator HANSON-YOUNG: How many children in total are under the guardianship of the minister?

Ms Pope: It is a proportion of those 185. I would have to take that on notice, because some of those unaccompanied minors are wards of the minister and some of them are not. It depends on the adult company in which they entered the country and so on. The relationship might not be close enough to cover them and have them not come under the purview of the I(GoC) Act. Others do. There is an assessment that is made around the status of each of the unaccompanied minors. That bit I would need to take on notice.

Senator HANSON-YOUNG: Could you take that on notice. I am not too fussed about where they are located. I just want to know, in total, those that are part of the caseload legacy, anyone on a bridging visa, anyone in community detention and anyone in detention. I want to know how many children are under the guardianship of the minister.

Ms Pope: Certainly. I can get that for you.

Senator HANSON-YOUNG: Thank you. I want to go to some questions in relation to the screening for mental health issues when people first arrive or are intercepted at sea during the enhanced screening process. Who would that—

Mr Pezzullo: Regrettably, that matter would be covered under Operation Sovereign Borders. I just do not know that we can assist with that.

Senator HANSON-YOUNG: That is okay. I will give you the question and you can take it on notice.

Mr Pezzullo: I think that would be better, yes.

Senator HANSON-YOUNG: I want to know why the department has directed IHMS to stop asking about torture and trauma issues in the initial mental health screening. My understanding is that happens at the initial stage. Of the 157 who arrived last year—that is the boatload of people who were transferred to Curtin and then to Nauru—how many of those
people were referred to torture and trauma counselling once they were sent to Nauru? Take that on notice, please.

Mr Pezzullo: We will.

Senator HANSON-YOUNG: Can we get a response on the number of guards in Nauru who have been disciplined in relation to inappropriate behaviour?

Mr Pezzullo: You did not get a response to that because when that question was asked I intervened to draw attention to the fact that some of these matters are comprehended in Mr Moss's review. That review is still with me. As I work through that review and develop an appropriate response for discussion initially with the minister and other stakeholders, it is at that point that something might be able to be said publicly.

Senator HANSON-YOUNG: But I am not just talking about people who might be caught up in the Moss review. Generally speaking, you would have statistics on the number of people who have received disciplinary action because of inappropriate behaviour working inside the centre, yes?

Mr Pezzullo: The terms of reference to Mr Moss comprehended those incidents. They are covered by Mr Moss's review.

Senator HANSON-YOUNG: All of those incidents?

Mr Pezzullo: Certainly those within the time period he covered, which was up until 31 January. So it is up until a month or so ago.

Senator HANSON-YOUNG: Could I then go to the issue of where the SHEVs are up to. These are the safe haven enterprise visas that were established as part of the legislation that passed at the end of last year.

Mr Pezzullo: Certainly. I will ask Ms Noble and her officers to answer. The short answer is that the legislation sets out a particular scheme. It requires consultation with quite a number of stakeholders, including states and territories. Those discussions are currently on foot. But Ms Noble might be able to give further and better particulars.

Ms Noble: Can I just clarify whether your question is about whether any SHEVs have been issued or not.

Senator HANSON-YOUNG: I know none have been issued because we have not seen any regulations for them. I am trying to work out where the process is up to. I was told last year that they would be in effect as of April. I want to know whether that time frame is still in place and where things are up to with them.

Mr Fleming: The commencement of the SHEV will be dependent on a proclamation being made under the act. Without wanting to presuppose the date that the Governor-General might do something, we are notionally still working towards April and we are working with states and territories on which regions they might like to see nominated for the purposes of the SHEV.

Senator HANSON-YOUNG: Have we got the list of conditions? When should we expect details of the framework and the substance of the SHEV, because we still have not seen those?

Mr Fleming: So the full regulations will be done, and as I said, we are targeting April. The basics will be similar to a TPV but with the longer period of validity of five years and
with the option of opening pathways towards permanent residence—for example, on partner
grounds or whatever—if you spend the requisite period studying or working in a listed
regional area.

**CHAIR:** Could I just interrupt there. Senator Hanson-Young, you are now onto outcome
1, and I have stopped other senators questioning on outcome 1, because we are still on
outcome 3. I actually sent Senator Madigan away, because I told him that we would not get to
outcome 1, but you are now doing that. I really need to stop you there and just ask if anyone
else has any further questions on outcome 3. I think the answer is no. I then should go to
outcome 2.

**Senator HANSON-YOUNG:** Sorry, if I had been told that was not in the right place, I
would have stopped it. I still have one more question for outcome 3.

**CHAIR:** You have two minutes left of your 15 minutes.

**Senator HANSON-YOUNG:** Thank you. I will put the questions in relation to SHEVs on
notice, Mr Secretary. Since the statement was made earlier in relation to the 16-year-old girl
who threw herself off the second floor of the building at Blaydin Point in Darwin, it has been
put to me that it took an hour for the ambulance to arrive after the accident. I hope that that is
not the case, and I am hoping that somebody could squash that if that is not true?

**Mr Pezzullo:** If that can be either squashed or indeed quashed with an immediate answer,
we will try to get that done. I do not know what the circumstances are. Mr Douglas has
already given evidence to the effect that the incident will be reviewed, but if he has anything
further to add he will.

**Mr Douglas:** The report issued indicates that the ambulance arrived at 3.45 am.

**Senator HANSON-YOUNG:** So 45 minutes later?

**Mr Douglas:** There were 45 minutes between the initial report and the arrival of the
ambulance, yes.

**Senator HANSON-YOUNG:** Thank you.

**CHAIR:** I go to outcome 2, which is refugee and humanitarian assistance and regional
cooperation, programs 2.1, 2.2, 2.3 and 2.4.

**[22:47]**

**Senator BILYK:** I want to talk about the number of visas granted to Syrians and Iraqis.
Are you able to provide an update on the number?

**Mr Vardos:** Is that protection visas that you are inquiring about?

**Senator BILYK:** Just overall visas, I should presume—

**Mr Pezzullo:** Without presuming, I think your—

**Senator BILYK:** Sorry, under the humanitarian program.

**Mr Pezzullo:** Yes, they would be protection.

**Senator BILYK:** Yes.

**Mr Kukoc:** As you probably know, the government has set 4,400 places within the 2014-
15 offshore programs for Syrians and Iraqis, with 2,200 places for Syrians and 2,200 places
for Iraqis. As at 31 January 2015, 1,109 visas have been granted to Syrians and 1,096 had been granted to Iraqis.

**Senator BILYK:** How many of the Syrian nationals resettled through this arrangement came from refugee camps in neighbouring countries?

**Mr Kukoc:** I will take that on notice to provide exact numbers, but most of them would have come from refugee camps in neighbouring countries, be they Jordan, Turkey or Egypt.

**Senator BILYK:** How many visas, so far, have been allocated through the Special Humanitarian Program and how many were UNHCR referred?

**Mr Kukoc:** I do not have that exact number. I will take this on notice. I know it is approximately half and half but I will confirm that. Yes, I do have that number now. For Syrians, it is 711 visas through SHP and 398 through primarily refugee allocation, which is UNHCR referred; and, for Iraqis, 720 through SHP and 376 UNHCR referred.

**Senator BILYK:** 376 for UNHCR?

**Mr Kukoc:** That is right.

**Senator BILYK:** Thank you for that. I have one question in regard to refugees with adverse ASIO assessments. Who should I ask that to?

**Mr Pezzullo:** You might start with me and we will see how we go.

**Senator BILYK:** How many recognised refugees have received an adverse ASIO security assessment in the past 12 to 24 months?

**Mr Pezzullo:** Those are matters, really, within the purview of ASIO. They certainly have to advise us, because it has consequences under the Migration Act. If Mr Vardos can provide any kind of assistance, he will. But I think my starting point is that that is really a matter directed to the director-general of ASIO.

**Mr Vardos:** Sorry, Senator, I do not have stats on that.

**Mr Kukoc:** The only stats I have are that, as of 31 January 2015, a total of 32 illegal maritime arrivals, IMAs, are in detention due to an adverse security assessment. They include 30 IMAs and two detainees from the *Oceanic Viking*.

**Senator BILYK:** Okay. But it is better to ask ASIO. Are you able to take that on notice and let me know?

**Mr Pezzullo:** We potentially can. This committee has jurisdiction over ASIO. The question—

**Senator BILYK:** Is ASIO still being called tomorrow?

**CHAIR:** Tomorrow.

**Mr Pezzullo:** It is Legal and Con., Senator.

**Senator BILYK:** Yes, but there are some groups that, if they are not required, do not get called. The chair has just told me they are still coming tomorrow.

**Mr Pezzullo:** I am sure Mr Lewis would be delighted to attend. Mr Kukoc was referring to persons that we hold in our custody, pursuant to adverse security assessments that are on foot. Your question was: how many such assessments have been issued, I think you said, within the last 24 months?
Senator BILYK: Yes.

Mr Pezzullo: That is a matter for ASIO.

Senator BILYK: Okay. That is fine. In regard to 'enhancing passenger processing systems in regional countries'—

Mr Pezzullo: Under 'regional cooperation', Senator?

Senator BILYK: Yes.

Mr Pezzullo: Okay.

Senator BILYK: So it is all right to ask you?

Mr Pezzullo: Yes, please.

Senator BILYK: Are you able to outline the specifics covered by this measure? It was $15.7 million, I think, over two years.

Mr Hoitink: Could you please repeat the question?

Senator BILYK: Yes. In regard to 'enhancing passenger processing systems in regional countries', are you able to quickly outline the specifics covered by the measure?

Mr Hoitink: Yes, certainly. We are currently working with countries in the region—for instance, with our colleagues in Indonesia and in Malaysia—to assist in the further development of advance passenger processing arrangements. Measures were announced some time ago to provide specific funds to develop programs in each of these countries, and we are working with those countries at this time to develop those arrangements. Nothing has actually been implemented specifically with those countries yet, but we are in negotiations with them.

Senator BILYK: I am just having a look at a page—it is a photocopy, so it is a little bit difficult to read—which must have come out of the budget papers, that talks about a capability to prevent travel. How does that meet the definition of 'enhancing passenger processing systems'?

Mr Hoitink: Certainly under program 1.1 with border management, under the enhanced border management arrangements, there was some $18 million available for these measures. Effectively, what Australia would seek to do is to work with countries in the region to develop and to enhance the security of all of the borders in the region—our own and, in fact, theirs. One of the ways to achieve that is to develop systems such as the APP. That is one example. There are a range of others. For instance, we work with a range of countries to develop through capacity building a range of their capabilities, both in terms of their systems and in terms of training and development for their officers to assist them to develop the skills and capabilities to manage their borders and position them to do that into the future.

Senator BILYK: This is in regard to Indonesia and Malaysia, isn't it?

Mr Hoitink: It is but, of course, we work with many countries through the region in terms of capacity building with our partners on those arrangements. We do that bilaterally and there are also a range of multilateral fora through which we work. Earlier, the Ambassador for People Smuggling Issues was talking about the Bali process, which is a multilateral mechanism focused on addressing people smuggling, trafficking in persons, and broader...
transnational criminal issues. There are some 48 countries involved in that process. One of the best examples of the work that is happening is under the regional support office. Australia has provided funding to the regional support office to help operationalise a range of the concepts that are developed out of that multilateral mechanism. They will include developing new border arrangements and hardening border arrangements in the region.

**Senator BILYK:** What was the cost of enhancing the passenger processing systems?

**Mr Hoitink:** I might need to take on notice the specific amounts. As I mentioned, we are still working with both Malaysia and Indonesia around the arrangements for these. What is identified in the document is some $18.8 million. It is from within that budget arrangement that we are negotiating the arrangements for the APP establishment in those countries. Of course, what the funding might be is yet to be specifically identified.

**Senator BILYK:** Perhaps you could take that on notice.

**Senator REYNOLDS:** In relation to the humanitarian program and specifically the Special Humanitarian Program, I understand that the program has been increased this financial year. Could you give us—and I am happy for you to take this on notice—what the changes have been and what the various categories are and how it compares to the last seven or eight years.

**Mr Pezzullo:** Seeing as we are in, I think, the last over of the innings, I might ask Ms Noble to address that.

**Ms Noble:** The places in the humanitarian program have been increased by 7,500 over the next four years.

**Senator REYNOLDS:** What sorts of categories are these visas for?

**Ms Noble:** I do not have that detail on hand, I am afraid, so we will take that on notice.

**Senator REYNOLDS:** Yes, take that on notice. One in particular that I am personally very interested in is the category of women at risk. I understand that has been increased. You may you have some information on that, perhaps the numbers and what classifies as women at risk.

**Ms Noble:** In the 2014-15 humanitarian program, which provides 13,750 places, there are 1,000 places for women at risk.

**Senator BILYK:** Could I have a point of clarification very quickly? Is the total number 13,750?

**Ms Noble:** Yes.

**Senator BILYK:** Didn't it used to be 20,000?

**Mr Fleming:** There was a period where it had been increased to 20,000.

**Senator BILYK:** So there has been an overall drop from 20,000?

**Mr Fleming:** I would have to—

**Senator REYNOLDS:** That was about a decade ago, though.

**Senator BILYK:** I do not think so.

**Mr Fleming:** That is my understanding. We obviously have on notice the numbers—
CHAIR: It was announced two weeks before the election, or something, and never implemented.

Mr Fleming: We have on notice the numbers delivered for the last seven years—I think that is what you said, Senator Reynolds—

Senator REYNOLDS: Yes.

Mr Fleming: We will get to those details for the last seven years.

Senator REYNOLDS: On the women-at-risk visas, did you say there are 1,000 annually or is that across the four years?


Senator REYNOLDS: What categories of risk do you assess for those positions?

Mr Fleming: The women-at-risk category comes out of the refugee component—usually UNHCR referred—offshore. That will be women who are unaccompanied by an adult male partner. They may have with them dependents, but are unaccompanied in a single-woman sense. The commitment for some years has been at least 10 per cent of the refugee component to comprise women at risk, but, as Ms Noble pointed out, that is currently at running higher than 10 per cent, with 1,000 out of the 6,000 places.

CHAIR: Thanks very much, everyone. Unfortunately, we did not get to outcome 1. I apologise to the officers who have particularly stayed behind for that. Thanks to Hansard, the secretariat staff and all of the witnesses today. Thank you for your assistance.

Committee adjourned at 23:02