

Senate and Legal Constitutional Affairs Committee – Crimes Amendment (Fairness for Minors) Bill 2011

Question on Notice: Was your Minister briefed in relation to the period of detention of children prior to charge?

AFP Response

Both the former and present Minister for Home Affairs received briefings in relation to the age determination issue and detention periods.

The former Minister for Home Affairs received briefings in relation to these issues through AFP Ministerial briefings dated 10 September 2010, November 2010 and 28 January 2011. This information was incorporated into ministerial briefings that also included concurrent AFP activities such as the investigation into the SIEV 221 disaster, updates on current people smuggling investigations and reports on the issues regarding court proceedings.

On 27 February 2012, the current MHA was briefed by the AFP into the practices and procedures of the AFP People Smuggling Strike Teams and the steps undertaken by AFP investigators in relation to people smuggling crew investigations. This brief also addressed the issue of age determination and issues surrounding the detention of alleged minors.

In particular, it should be noted in the ministerial briefings dated 10 September 2010, 28 January 2011 and 27 February 2012, that the AFP complies with the prosecution policy of the commonwealth in respect to juveniles. Subject to this policy, the AFP only charge juveniles if they are suspected of being repeat offenders or involved in a serious incident such as death or serious harm. In this regard, the AFP only charge crew believed to be adults, or juveniles fitting the exceptional circumstances above.

In respect to the ministerial brief dated 27 February 2012, it should also be noted that DIAC now undertake an initial age assessment with all crew and removes those crew assessed to be juvenile.