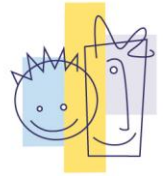


Detention of Indonesian minors, 24 August 2012, Questions on Notice

Witness	Hansard page No.	Senator	Question
Scott	9	Hanson-Young	Senator HANSON-YOUNG: You said that you raised these issues with the Human Rights Commission. Did you make any representations to the Attorney-General's Department at any stage? Ms Scott: The commissioners nationally wrote to the Attorney-General about our concerns. Senator HANSON-YOUNG: Do you know when that was? Do you have the dates? Ms Scott: I do have the dates. I can provide them to you. Senator HANSON-YOUNG: It would be helpful if you could. Did you receive a response? Ms Scott: I did receive a response. Senator HANSON-YOUNG: Would you be willing to table the communication to the Attorney-General's Department and the response for the committee? Ms Scott: Yes, I am happy to do that.



Obj File Ref No: CYP/10078

The Hon Nicola Roxon MP
Attorney-General
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Dear Attorney General

I am writing on behalf of the Australian Children's Commissioners and Guardians (ACCG) regarding the possible detention of Indonesian children in Australian adult prisons.

At the November 2011 meeting of the ACCG, the Children's Commissioners and Guardians discussed their concerns about the wellbeing of juveniles who are held in Australian adult prisons awaiting trial for crewing fishing boats carrying asylum seekers to Australia.

Article 37 (c) of the *United Nations Convention on the Rights of the Child*, includes the requirement that: "... every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances."

Adult prisons are not able to accommodate the needs of children adequately. They do not, for example, provide programs and services appropriate to children's developmental stage. In addition, the children we are concerned about are likely to have little English language ability or cultural understanding, no family contact and heightened anxiety as a result of their recent experiences. In adult prisons, these juveniles are vulnerable to the influence and actions of adult detainees and to developing mental health and other problems.

We recommend that where there is any doubt that a person is under 18 years of age that they are presumed to be a child and placed under supervision in the community or if detention is deemed necessary, in a setting where appropriate programs and services are available, until their identity can be determined.

We also urge the Australian Government to stop relying on wrist x-rays to determine age in favour of a more holistic approach to determining age that involves a range of child experts reviewing multiple sources of evidence to decide questions of age.



We note that the Australian Human Rights Commissioner has recently announced an inquiry into the treatment of individuals suspected of people smuggling offences who say they are children and we will follow the outcomes of the inquiry with interest.

In the meantime we would welcome prompt action from the Australian Government to remove from adult prisons anyone claiming to be under the age of 18 years and where there is no reliable evidence to demonstrate otherwise.

If your Office requires further information, please contact Gregor Macfie, Director, Policy and Research, on

Yours sincerely

Megan Mitchell
Commissioner
25 January 2012

Signed on behalf of ACCG members:

Michelle Scott, Commissioner for Children and Young People (Western Australia)

Alasdair Roy, Children and Young People Commissioner (ACT)

Aileen Ashford, Commissioner for Children (Tasmania)

Howard Bath, Children's Commissioner (Northern Territory)

Bernie Geary, Child Safety Commissioner (Victoria)

Elizabeth Fraser, Commissioner for Children and Young People and Child Guardian (Queensland)

Pam Simmons, Guardian for Children and Young People (SA)