

Question on notice no. 19

Portfolio question number: 19

2021-22 Supplementary Budget Estimates

Foreign Affairs, Defence and Trade Committee, Foreign Affairs and Trade Portfolio

Senator Rex Patrick: asked the Department of Foreign Affairs and Trade on 28 October 2021—

Senator PATRICK: Have any Australians been arrested or detained under the national security laws?

Mr Hayhurst: I don't think so-

Ms Campbell: We can ask our consular.

Mr Hayhurst: I will check with consular, but I think the answer is no. We will check and I will come right back if that's not right.

Senator PATRICK: Is DFAT confident that the Australian Consulate-General in Hong Kong would be immediately informed in the event of the arrest of an Australian citizen under the new national security laws?

Mr Hayhurst: Our expectation would be that the authorities in Hong Kong, like authorities elsewhere, should fulfil their obligations to advise us if an Australian citizen was detained.

Senator PATRICK: I think that is a nuanced answer talking about what your expectation is, whereas I'm going to confidence.

Mr Hayhurst: That's right. As we're saying, we don't know; we don't have experience of any Australian being implicated in Hong Kong under this law at this point.

Senator PATRICK: Do you have knowledge from other jurisdictions that would inform you in relation to this?

Mr Hayhurst: It's possible; it's quite likely. I suspect the Consulate-General has discussed this with a range of partners. Let me find out and come back to you.

Ms Lawson: I think we're aware of one case of a detention, but that person was subsequently released, so we're not aware-as far as I'm aware-of any arrests at this stage or anyone being held.

Senator PATRICK: How long was that person detained for?

Ms Lawson: It was not that long. It was a few days. I'll need to come back to you to clarify the details.

Senator PATRICK: Thank you. In those circumstances, was the Australian consulate notified?

Ms Lawson: I'll need to come back on the details.

Answer —

Answer attached

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Topic: Hong Kong

Senator Rex Patrick

Question

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Answer

We are aware that one person, a dual Australian-Chinese citizen, was arrested in Hong Kong on 6 January 2021 for conspiring to subvert state power, a charge under the National Security Law. The person was released on bail on 7 January 2021. Hong Kong Police Force, National Security Division, notified the Australian Consulate-General in Hong Kong on 11 January 2021.

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As the person was born in Hong Kong and deemed to be a Chinese national under the Chinese Nationality Law, which does not recognise dual citizenship, we were not granted consular access. Our bilateral consular agreement with China (including Hong Kong Special Administrative Region) allows us access only to Australian citizens who have entered China on an Australian passport.

On 28 February 2021 Hong Kong Police advised the individual that he was to be charged for "subversion" and was required to attend West Kowloon Magistrates' Court on 1 March 2021, where he was again placed under arrest. The individual remains in detention.

As the matter is currently before the court, and for privacy reasons, we are unable to disclose further details.