

## QUESTION TAKEN ON NOTICE

**ADDITIONAL ESTIMATES HEARING : 08 February 2016**

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

### **(AE16/034) - Custodial Sentences determination - Programme 1.3: Compliance and Detention**

Senator Carr, Kim (L&CA 62/63) asked:

Senator KIM CARR: Have any of those that are currently being detained not served a custodial sentence of 12 months?

Mr Williams: It is possible there might be some who are subject to discretionary cancellation. We would have to check.

Senator KIM CARR: Can you give me that information as to how many?

Mr Williams: Sure.

Senator KIM CARR: How are they determined? Can you give me a list of the criteria for the determination?

Mr Williams: We can do that on notice.

*Answer:*

Two non-citizens in detention had custodial sentences under 12 months.

In exercising the discretion, delegates must have regard to both the primary and ancillary considerations set out in Ministerial Direction 65 (the Direction). The Minister is not bound by any Ministerial Direction, however may have regard to the same considerations.

A copy of the Direction, and a Fact Sheet on the Character Requirement, are at the links below:

<https://www.border.gov.au/visas/Documents/ministerial-direction-65.pdf>.

<https://www.border.gov.au/about/corporate/information/fact-sheets/79character>