

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

Question No. 241

Senator Ludwig asked the following question at the hearing on 14 February 2006:

a) Regarding the article ' 'Humanitarian' people smuggler escapes trial' appearing in the Age on Wednesday, 21/12/2005? Is the article correct in that charges have been dropped against the people smuggler?

i) In this case, why was it decided not to proceed against Mr Nguyen?

b) In how many other instances people smugglers have had charges against them dropped?

c) For the other cases (if there are any) in which people smugglers have had charges against them dropped, are you able to indicate the reason?

d) What issues were taken into consideration when it was decided not to proceed against Mr Nguyen?

i) Were humanitarian concerns taken into account and, if so, how much of a role did they play in the decision not to prosecute?

e) Did Mr Nguyen receive remuneration for the activities that led to him being charged?

f) In deciding whether or not to prosecute a case, what weight is given to humanitarian concerns in deciding whether to prosecute? Does this differ between crimes and, if so, what weight is that consideration given in the case of people smuggling cases?

g) How many cases have not been prosecuted due to humanitarian concerns?

The answer to the honourable senator's question is as follows:

a) Yes.

i) The decision not to proceed to a third trial against Mr Nguyen was taken in accordance with the Prosecution Policy of the Commonwealth on evidentiary and public interest grounds.

b) For matters commenced in the years 2003, 2004, 2005 and 2006 no other prosecution against a person has been discontinued.

c) See b).

d) The Director considered the prosecution of Mr Nguyen in accordance with the criteria set out in the Prosecution Policy of the Commonwealth.

e) The prosecution had no evidence that Mr Nguyen profited from bringing persons to Australia.

f) All cases prosecuted by the DPP are considered against the same criteria, being the criteria in the Prosecution Policy of the Commonwealth.

g) All cases are assessed against the same criteria. See b).