

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 13 February 2006

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

(49) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

In relation to another “very tragic case” of wrongful detention:

1. What is the name or identifier assigned to the individual?
2. Provide a general timeline regarding the person, indicating...
 - a. On what date was the woman first apprehended?
 - i. Where was she apprehended?
 - ii. By whom was she apprehended? DIMA or another agency?
 - iii. Indicate the circumstances in which she was apprehended.
 - iv. Why was she suspected to be an unlawful non-citizen at that time? What was the basis of the suspicion?
 - v. After her apprehension, what further checks were undertaken to ensure that the reasonable suspicion was justified?
 - b. If the woman was apprehended by an agency other than DIMA, on what date was the woman transferred to the custody of DIMA?
 - i. How was she transferred to DIMA?
 - ii. Were any health checks performed by DIMA at this point?
 - iii. Precisely what checks did DIMA undertake regarding her immigration status?
 - iv. At this stage, what did DIMA believe her immigration status was, including what steps they took to ensure that they could maintain a reasonable suspicion as to this status?
 - c. After she was first apprehended by DIMA, where was she transferred?
 - i. On what date did this occur?
 - ii. Was she transferred to a detention centre, or to a prison?
 - iii. Was she interviewed by DIMA? If so, on what date? If not, why not?
 - iv. Was she allowed an interview with any other person? For instance, lawyers, community groups, consular officials, etc.
 - v. If not, did she request such an interview? If so, give details and indicate why it was denied.
 - d. If she was transferred to a prison...
 - i. On what date was she transferred to the prison?
 - ii. During her stay at the prison, was she subject to any disciplinary action and – if so – what?
 - iii. During her stay at the prison, precisely what checks did DIMA undertake regarding her immigration status and what other inquiries DIMA was undertaking regarding her case?
 - iv. Was she visited by
 - v. On what date was she transferred to a detention centre from the prison?

- e. When she transferred to a detention centre...
 - i. On what date was she transferred to the detention centre?
 - ii. What health checks were performed when she was transferred to the centre and on what dates were those checks performed?
 - iii. During her stay at the detention centre, was she subject to any disciplinary action. If so, what was it?
 - iv. During her stay, indicate precisely what action DIMA was undertaking to confirm her immigration status, and any other inquiries DIMA was undertaking regarding her case?
- f. When did DIMA come to the belief that she was not an unlawful non-citizen?
 - i. How did DIMA come to this conclusion?
 - ii. What actions were taken subsequently to this?

Answer:

1. The Ombudsman released his report on 23 March 2006 into the detention circumstances of the case described by the Minister as the “tragic case”. The Ombudsman’s report does not name the individual and identifies him as Mr T.
2. The Ombudsman’s report includes a section entitled Chronology of Events and Circumstances of Detention, relating to each of the three occasions when Mr T was placed in immigration detention.
 - a. The Ombudsman’s report refers to Mr T’s history of involvement with law enforcement authorities and responds to part 2a of this question. As the report explains, all three occasions when Mr T was placed in immigration detention resulted from Mr T being picked up and referred to DIMA by NSW Police.
 - b. The timeline and discussion of the circumstances of each of the three immigration detentions in the Ombudsman’s report addresses part 2b of this question.
 - c. The Ombudsman’s report addresses i – iii of part 2c of this question. Mr T was interviewed by DIMA without a support person or legal representative in attendance. There is no evidence that Mr T requested the attendance of a third party at these interviews.
 - d. This question is not applicable as Mr T was not transferred to a prison.
 - e. The Ombudsman’s report addresses i, ii and iv of part 2e of this question. In relation to the three detentions: the first detention– Mr T was taken to Villawood Immigration Detention Centre on 19 March 1999; the second detention – Mr T was taken to Villawood Immigration Detention Centre on 17 January 2003; the third detention – Mr T was taken to Villawood Immigration Detention Centre on 17 October 2003. Mr T was not subject to any disciplinary action during his detentions in 1999 and 2003.
 - f. The Ombudsman’s report details the circumstances in which DIMA reached the view that Mr T was not an unlawful non-citizen and, subsequently, was released from immigration detention.