

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

Question No. 12

Senator Hanson-Young asked the following question at the hearing on 14 February 2012:

Senator HANSON-YOUNG: Have the eight individuals who have a question mark over their age determination all seen lawyers? I imagine the four who are out on bail have seen lawyers or legal representatives. Have the remaining four?

Mr Craigie: I am not sure, quite frankly. Ordinarily, the legal aid bodies in each of the states and territories do represent these people. In the specific instances that you ask about, I am not sure, but I can tell you that we are at pains, particularly on the bail issue, to have it known to people over whom a question mark is raised—whether they have raised it or someone else has—our position on bail.

Senator HANSON-YOUNG: I understand that, but if four of those people have not had access to legal representation yet then I can understand perhaps why that application has not been put.

Mr Craigie: I would be astonished, given the controversy and the interest shown by a number of bodies, let alone legal aid lawyers, were that indeed the case.

Senator HANSON-YOUNG: Would you be able to take that on notice then, please.

Mr Craigie: I will take that on notice, most certainly.

Senator HANSON-YOUNG: Would you also be able to tell me how long they have been detained?

Mr Craigie: I can take that on notice as well.

Senator HANSON-YOUNG: Thank you.

The answer to the Honourable Senator's question is as follows:

Each of the eight individuals was legally represented as at 14 February 2012 and continues to be legally represented except in one case where the prosecution has since been discontinued.

As at 28 February 2012 the information about the period for which the eight individuals the subject to the question had been detained, whether they have been released on bail, and the present position about their claims in relation to whether they were a juvenile at the time the offence was committed is as follows:

1. Defendant from SIEV 202, detained for 1 year, 3 months and 18 days, the prosecution was discontinued on 14 February 2012;
2. Defendant from SIEV 215, detained for 1 year, 3 months and 2 days, no application for bail, the defendant is no longer claiming to have been a juvenile at the time the offence was committed;
3. Defendant from SIEV 239, detained for 7 months and 15 days, bail was applied for and granted, unopposed by the CDPP 3 days after the issue of age was first raised by defendant's legal representative;
4. Defendant from SIEV 221, detained for 1 year, 2 months and 13 days, no application for bail, the defendant's legal representative has indicated that the defendant is no longer claiming to have been a juvenile at the time the offence was committed;
5. Defendant from SIEV 267, detained for 3 months and 25 days – bail was granted, unopposed by the CDPP, on the first day of court proceedings when the defendant's legal representative raised age as an issue for the first time;

6. Defendant from SIEV 267, detained for 3 months and 25 days – bail was granted, unopposed by the CDPP, on the first day of court proceedings when the defendant’s legal representative raised age as an issue for the first time;
7. Defendant from SIEV 268, detained for 3 months and 12 days – bail was granted, unopposed by the CDPP, on the day after the first day of court proceedings when the defendant’s legal representative raised age as an issue for the first time;
8. Defendant from SIEV 257, detained for 6 months and 25 days – bail was granted, unopposed by the CDPP, 4 days after the defendant’s legal representative advised that the defendant was contesting the issue of age.