

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING: 25 May 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(76) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 36) asked:

In relation to children in detention, provide information from the previous government and the number of children in detention over the last 18 months to 2 years.

Answer:

Data on the total number of children in immigration detention during the period of the previous government is not readily available. The following provides the total number of unauthorised boat arrival children taken into immigration detention from 1991 to 1996, but does not include those taken into immigration detention through compliance action as this is not readily available.

1991: 59 children, and 16 born after arrival = 75
1992: 24 children, and 4 born after arrival = 28
1993: 27 children, and 5 born after arrival = 32
1994: 318 children, and 24 born after arrival = 342
1995: 67 children and 5 born after arrival = 72
1996: 190 children and 1 born after arrival = 191

The comparable figures for 2003 to 2005 (as at 1 August 2005) are:

2003: 15 children, and 5 born after arrival = 20
2004: 0 children, and 2 born after arrival = 2
2005: 0 children and 1 born after arrival = 1

Note: these figures do not include illegal foreign fisher minors.

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(77) Output 1.3: Enforcement of Immigration Law

Senator Nettle (L&C 47) asked:

Are there any children of similar age to Naomi in Maribyrnong? What have been the ages of children over a period of time in Maribyrnong?

Answer:

As at 29 June 2005, there are no children under 3 years of age currently residing in Maribyrnong Immigration Detention Centre.

In the financial year 2004-05 there were 25 children between 1 year and 16 years of age residing in Maribyrnong Immigration Detention Centre.

Some 60% of these children were detained in Maribyrnong Immigration Detention Centre for a period of 2 weeks or less.

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(78) (1.3) Output: Enforcement of Immigration Law.

Senator Ludwig (L&C 48-50) asked:

In relation to the detainees that were not unlawful, provide a list showing the duration of the detention and other information which would not lead to identification of the persons concerned. That information will show the number, obviously, and then any further that have been thrown up through the system in the interim – together with any other searches that you institute as a consequence of these questions today, plus those which are identified on the basis of the time of detention. I would like the basic facts that provide an overview without identifying the individual. And including the reason – for instance you mentioned turning 10 – or the circumstance that sometimes presents itself to the individual.

Answer:

Some 201 individuals during the period July 2000 to April 2005 were released from detention and recorded under the code 'not unlawful'. This reflects a range of circumstances, including the need to establish who someone is, the outcome of legal proceedings underway while a person was in detention and some issues relating to data recording in departmental systems. Complexities in establishing identity and resolving status can occur for a variety of reasons relating inter alia to the information provided by the person, legal issues and their immigration history. Issues such as mental health needs (e.g. Ms Rau) and the need to engage with other agencies can also add to the complexity of resolving such cases.

Approximately half of these 201 people were detained for very short periods (104 people detained 0, 1, 2, 3 days) as suspected unlawful non-citizens while their identity and visa status were established. As is the case for most other people detained under s189, many of these cases were not transferred to a detention centre or other detention facility while their status was resolved.

Of the other 97 persons in this group, their periods of detention are as follows:

4-7 days: 28

8-21 days: 13

21+ days: 56

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(79) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 51) asked:

“The amended terms of reference to the Palmer inquiry were produced by Mr McGauran. On which date were they then sent to the Palmer inquiry?”

Answer:

The amended terms of reference were referred by the then Acting Minister for Immigration and Multicultural and Indigenous Affairs, the Hon Peter McGauran MP, to Mr Mick Palmer in a letter dated Friday 29 April 2005. This letter was received by the Inquiry by facsimile on Monday 2 May 2005.

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(80) Output 1.3: Enforcement of Immigration Law

Senators Chris Evans and Ludwig (L&C 55-56) asked:

In relation to the policy changes and administrative changes announced today, which other departments were consulted and when did DIMIA meet with those departments? What interdepartmental contact and briefings occurred or what input did other departments have in the development of the changes?

Just to follow up Senator Evans's question, we are interested in not only those departments that you have consulted or had contact with but also those departments that may have contributed to or indicated their view on any of those initiatives that were put forward in your ministerial statement of Wednesday, 25 May as well.

Answer:

There were no consultations with other Departments in relation to the establishment of the National Identity Verification and Advice unit in DIMIA.

There were no consultations with other Departments in relation to the appointment of immigration detention review managers in each State and Territory.

There were informal discussions with the Commonwealth Department of Health and Ageing regarding health services in immigration detention centres.

There were no consultations with other Departments in relation to the improvement in case related information management processes

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(81) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 57) asked

Who else is now working with Mr Palmer and Mr Comrie on the inquiry? Provide the list of the skills that Mr Palmer has chosen to have in.

Answer:

The Inquiry team lead by Mr Mick Palmer included Mr Neil Comrie, Mr Rein Mere, Mr Bill Severino, Ms Kathryn McMullan, Mr Peter Pearsall, Mr Glenn Ross, Mr Peter Bache, Mr Darren Sterzenbach, Mr Paul Hornbuckle and Mr Michael Pejovic.

Secretariat support was provided by Ms Robyn Byrne, Ms Pia Davis and Ms Sam Styles.

The skills of the Inquiry team and secretariat support staff included – investigation skills, research, psychiatry and specialist medicine, corrections management, administrative support and writing.

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(82) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 58) asked:

“Another matter came up yesterday in estimates where Mr Mobbs from CrimTrac indicated that he had supplied a document that was classified ‘Law enforcement – in confidence’ to the Palmer inquiry. Is the Palmer inquiry authorised to receipt that? Is he authorised to receive that information and then view it? I do not know what powers you have given Mr Palmer or what authorisations or classification clearances you have provided him. Given that the department is not cleared to obtain CrimTrac, I do not know the standing of Mr Palmer.”

Answer:

The Terms of Reference for the Inquiry conducted by Mr Palmer included:

"examine and make findings on the circumstances, actions and procedures which resulted in [Ms Rau] remaining unidentified during the period in question."

Enquiries Mr Palmer made regarding CrimTrac were in accordance with his terms of reference.

The information provided to Mr Palmer as “law enforcement – in confidence” was provided to Mr Palmer in a manner consistent with the requirements set out in the Commonwealth Protective Security Manual for dealing with “in confidence” material. That is, it was provided to him on a “need to know” basis. The “need to know” arises from the Terms of Reference.

Mr Palmer during the course of the inquiry (concluded on 14 July 2005) held a “secret” clearance.

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(83) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 66) asked:

Provide a copy of the email sent by Mr Young on 4 April 2005.

Answer:

A copy of the document is attached.

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(84) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 71) asked:

In relation to Ms Alvarez, provide a copy of the file note of the discussion on 2 April 2001 between the hospital and the DIMIA official.

Answer:

A copy of this document is attached.

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(85) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 73) asked:

Was the DIMIA official used as an interpreter during the interview with Ms Alvarez on 3 May 2001 accredited?

Answer:

No.

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(86) Output 1.3: Enforcement of Immigration Law

Senators Chris Evans and Ludwig (L&C 77-78) asked:

In relation to the Tran family, will they be returned to Christmas Island? If not, when did the policy change? Has it changed because the Prime Minister made a policy decision at question time or has some other decision been taken?

Answer:

On 24 June 2005, the members of the family were granted temporary protection visas and were subsequently released from immigration detention.

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(87) Output 1.3: Enforcement of Immigration Law

Senator Chris Evans (L&C 78) asked:

Has the Tran family been advised that they will not be returning to Christmas Island and when were they advised of that? Did they accept that option or did they choose to return to Christmas Island? What arrangements have been made for them to live in the community in Western Australia?

Answer:

On 24 June 2005 the members of the family were granted temporary protection visas and were subsequently released from immigration detention.

Upon being granted a temporary protection visa, the Department of Immigration and Multicultural and Indigenous Affairs made arrangements to put the family in touch with relevant service agencies.

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(88) Output 1.3: Enforcement of Immigration Law

Senator Chris Evans (L&C 79) asked:

Have other families currently detained on Christmas Island been offered, or will they be offered, the option of living in the community accommodation on mainland Australia?

Answer:

On 28 July 2005 the Minister intervened and granted temporary protection visas to all people detained at the Christmas Island Immigration Reception and Processing Centre.

Upon being granted a temporary protection visa, the Department of Immigration and Multicultural and Indigenous Affairs made arrangements for these people to move to the mainland and to be put in touch with relevant service agencies.

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(89) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 82) asked:

Provide a copy of file note about the additional information that Ms Alvarez provided, the file note about the bridging visa being granted and the file note about the accommodation being arranged that night.

Answer:

A copy of these documents is attached.

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(90) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 83) asked:

What laws in Queensland would prevent DIMIA officers from taping interviews without consent?

Answer:

While in all the State and Territory jurisdictions, including Queensland, state legislation supports the recording of a conversation without the permission of the other party involved, consent of the person is required for the purposes of the Privacy Act 1988 (the Act). Without the consent of the other party involved in the conversation, it is unlawful for DIMIA to record a conversation.

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(91) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 83) asked:

Provide a copy of Ms Alvarez' interview form for 13 July 2001.

Answer:

A copy of the document is attached.

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(92) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 83) asked:

Is the general view about privacy law issues, whether or not you can tape and the form that is used reflected in the MSI?

Answer:

In line with the Privacy Act 1988, departmental policy, reflected in a number of MSIs, prescribes that the audio/video taping of a conversation requires the consent of the other party involved. There is no standard form required outlining the consent of the other party. However, where circumstances allow, written confirmation of consent to record a conversation is acquired.

MSI 234: General Detention Procedures:

13.4 Taping

13.4.1 If taping an interview, the taping device must be in view of all persons being taped and those persons must be notified that the device is operating. The interviewee must also consent to the interview being taped.

13.4.2 A written interview record should be transcribed from the tape as soon as possible. The interviewee should be given a copy of the tape. The tape should be retained on file in a clearly marked envelope.

MSI 254, "The Character Requirement: Visa Refusal and Cancellation under Section 501"

7.7.4 Case officers should take particular care when advising a visa holder orally of potential visa cancellation that all relevant matters be adequately addressed. If necessary, an interpreter should be used. It is suggested that case officers tape records 501 cancellations carried out at interview. Case officers should ensure that if an interview is taped it is done with the **consent** of the person. A file note should be made of the conversation and attached to the visa holder's personal file. Where circumstances allow, the visa holder should be provided with written confirmation of the notification.

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(93) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 84) asked:

What was the reason Ms Alvarez was unable to sign the interview form on 13 July 2001?

Answer:

The Committee was advised that according to DIMIA file records Ms Alvarez had "some gait problems and hand weakness". This file record is dated 12 July 2001 and quotes St Vincent's Hospital.

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(94) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 84-85) asked:

In relation to interviews, provide a copy of the MSI and advise when the requirement to have a woman present during an interview became policy and what the MSI was prior to that.

Answer:

MSI 391, issued in February 2004 on "People Trafficking" provides that interviews should be conducted by female officers or by male officers in the company of a female staff member.

There is a high level of consciousness of this issue in compliance operations and similar practices are pursued. Where compliance operations target the sex industry, female staff are always present. The 'Planning Module' section of MSI 380 'The National Compliance Operational Guidelines' also requires at least one female officer for field teams.

For some operations, particularly given changes in composition of teams, the hours of operation and the varying mix of people encountered on compliance operations, female staff may not be available to attend all field interviews with female clients. Post-location and office interviews are generally treated more like other client interviews (eg. visa granting) so may be conducted by either male or female staff.

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(95) Output 1.3: Enforcement of Immigration Law

Senators Chris Evans and Ludwig (L&C 84-85) asked:

Was a female officer or anyone else present during Ms Alvarez' interview on 13 July 2001?

Answer:

According to DIMIA file records, the interview with Ms Alvarez on 13 July 2001 was conducted by a male compliance officer from the Southport Office. There is no record of the presence of others.

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(96) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 85) asked:

Provide a copy of the audit logs of the searches made in relation to Ms Alvarez on DIMIA's databases.

Answer:

A copy of these documents is attached.

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(97) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 87) asked:

Check to see whether or not a letter was sent or a note was left at the premises to indicate that officers had called by to inquire about a person you then knew as Ms Alvarez.

Answer:

There is no record of such a letter or note being left at the premises to indicate that officers had called by to inquire about a person known to DIMIA as Ms Alvarez.

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(98) Output 1.3: Enforcement of Immigration Law

Senator Nettle (L&C 96) asked:

“One of the things I remember reading on an MSI (MSI321 or MSI234) yesterday was about where somebody says that they are a citizen and the officer is required to, perhaps travel with them to a point at which they can show any documentation to verify that they are a citizen. Is that correct?”

Answer:

There is no specific requirement for officers to travel to a location with a person who claims to be an Australian citizen in order to verify their status.

However, officers are expected to allow the person a reasonable opportunity to provide appropriate evidence of their status. This includes attending a residence to produce the requisite evidence. However, this may not always be practicable in specific situations and in some cases permission is not given to attend the client's residence. In such circumstances a request to produce other documents or information to enable database checks to be undertaken would be reasonable or a request may be made for the documentation to be brought to the Department.

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(99) Output 1.3: Enforcement of Immigration Law

Senator Nettle (L&C 98) asked:

In relation to the discharge note from the hospital for Ms Alvarez, what does the 'with encouragement' mean in that context?

Answer:

Our records do not provide any clarification of this expression.

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(100) Output 1.3: Enforcement of Immigration Law

Senator Nettle (L&C 100) asked:

What is the cost of providing guards at Glenside?

Answer:

Guards have been required at Glenside to meet the legal requirements of the *Migration Act 1958* for detention. The number of guards required depends on operational needs and the OH&S obligations of the contractor. For the financial year to May 2005 the cost of providing guards at Glenside was approximately \$961,000.