

## QUESTION TAKEN ON NOTICE

**BUDGET ESTIMATES HEARING: 21 May 2007**

IMMIGRATION AND CITIZENSHIP PORTFOLIO

### **(21) Output: Internal Product**

Senator Nettle (L&CA 31-32) asked:

You have given us already some examples – where a child has been in detention all their life and turns 10, they can become a citizen. That was one of the categories. Can you give us any more insight into the other kinds of categories amongst that Australian group we are looking at? That is the example I remember – children who had been in detention and turned 10.

*Answer:*

The cases of the 28 citizens that the Department has identified amongst the released “not unlawful” cases were investigated by the Ombudsman under the categories of:

- Children in Detention – includes 7 Australian citizens,
- Mental Health and Incapacity – includes 6 Australian citizens, and
- Detention Process – includes 15 Australian citizens.

Details about the first two categories are provided in the Ombudsman reports on Children in Detention and Mental Health and Incapacity, published in December 2006. The Ombudsman proposes to publicly release all remaining group reports relating to the referred cases shortly. These reports will provide further details of the Detention Process category of cases.

The Children in Detention category includes cases of children who acquired Australian citizenship while in detention when they turned ten years of age (in accordance with the provisions of the *Citizenship Act 1948*), and cases of children who were Australian citizens by birth but were detained with a parent who was an unlawful non-citizen.

The Mental Health and Incapacity category includes cases where mental health issues may have impacted on establishing the correct identity of the individual.

The Ombudsman has described the Detention Process category as including cases where the decision to detain may have fallen short of the relevant legislative or procedural requirements.