

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING: 21 May 2007

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(24) Output 1.4: Compliance

Senator Nettle (L&CA 33) asked:

What is the most recent referral of a person to the Ombudsman on the view that they may have been unlawfully detained?

Answer:

247 cases were referred to the Commonwealth Ombudsman between 2005 and April 2006 as part of his formal own motion investigation into clients released under a departmental system descriptor 'not unlawful'. The last referral of cases under this descriptor was made on 18 April 2006.

The system release descriptor 'not unlawful' was replaced in February 2006, by five more specific descriptors. The five descriptors that replaced 'not unlawful' do not necessarily represent unlawful detention. These descriptors are:

- Identity Confirmed: lawful status determined
- Records Incorrect: lawful status determined
- Process Incorrect: lawful status determined
- Litigation Consequence: lawful status restored
- Operation of Law: status now lawful

In February 2007, a report was provided to the Ombudsman on the use of the new descriptors since February 2006. The Department will continue to provide six monthly reports to the Ombudsman on all cases bearing one of the five descriptors.