

QUESTION TAKEN ON NOTICE

SENATE LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE: 11
October 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(6) Inquiry into the Administration of the Migration Act 1958

Senator Nettle asked:

Since the Nystrom decision of 1 July, has DIMIA reviewed all the cases that involve absorbed persons? How many people fit this category? How many people have been released under or as a result of the Nystrom decision? How soon after the court decision was the review initiated? Was this initiated by the Minister?

Answer:

Assessment of whether someone holds an absorbed person visa is a complex legal and evidentiary task and can only be determined after a comprehensive review of a range of information relating to the individual in question. Such assessments therefore are only done where it is necessary to determine the immigration status of the person.

Once a full analysis of the court decision had been completed, including its implications for other persons who could be in a similar situation, the department commenced a case by case review of persons whose visas had been cancelled under section 501 and who were in immigration detention to see if they were affected by the *Nystrom* decision. As a result, twelve people in immigration detention and one in prison were identified as likely holders of an absorbed person visa that was not considered in the cancellation process. Apart from the person in prison, all were released immediately the assessment had been completed. In a small number of these cases, involving very serious crimes, action has commenced to consider again whether to cancel the visa under section 501.