

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

ATTORNEY-GENERAL'S DEPARTMENT

CRIMES AMENDMENT (FAIRNESS FOR MINORS) BILL 2011

QUESTION NO. 1

Senator Hanson-Young asked the following question at the hearing on 16 March 2012:

In terms of alerting the Indonesian consulate—this is probably more of a question for the Attorney-General's Department—at what stage have the Indonesian government been told that they have juvenile Indonesian nationals being held without charge for a period of 301 days, overall upwards of 734 days, in detention before charges were dropped?

Mr Anderson: Senator, the Indonesian consulate is advised very early on in the process—and I will see if I can find the exact timing there—that one of their citizens is believed to be a member of a crew and is facing investigation. My colleagues, hopefully, will be able to get the exact timing there. There is a limit to how much we can provide the consulate with in respect of any individual unless that individual consents to providing full details. We do provide a sanitised level of information to the consulate in that regard. The consulate has prepared a video that can be shown to the alleged crew that explains to them their situation. The consulate makes regular visits to Darwin and can meet with any crew who wish to meet. Following interception, when the vessel actually arrives on Christmas Island, the Department of Foreign Affairs and Trade advises the Indonesian consulate of any Indonesian citizens who are crew.

Senator HANSON-YOUNG: But you do not tell them whether they are juveniles or claim to be juveniles.

Mr Anderson: I do not believe we do. I need to correct myself. DIAC does actually provide information.

Senator HANSON-YOUNG: Sorry, could you repeat that.

Mr Anderson: The Indonesian consulate is advised of the age of their citizens who are crew and are being investigated.

Senator HANSON-YOUNG: That is contradictory to what I was told at Senate estimates. You are absolutely certain that that is what happens?

Mr Anderson: I am advised by my colleagues that that is the case. We can take it on notice to confirm that. We can also look at what was said, if it was said by—was it said by this department?

The answer to the honourable senator's question is as follows:

The Department of Immigration and Citizenship (DIAC) advises the Indonesian consulate whether crew are adults or minors.

On interception of a suspected irregular entry vessel (SIEV), the Department of Foreign Affairs and Trade provides the Indonesian Embassy with initial advice where Indonesian crew are suspected of being on board the SIEV. This initial advice is prepared on the basis of information provided by Border Protection Command and does not detail whether suspected Indonesian crew are minors.

On arrival at Christmas Island and during initial processing, Indonesian crew are offered consular access by DIAC staff. If the crew consent to consular notification, DIAC notifies the Indonesian Consulate that they are in immigration detention. Indonesian crew are also asked whether they wish to contact a consular officer or have consular officials visit them. All of these interactions are attended by an accredited Indonesian interpreter or through accredited telephone interpreting services. In addition, Life Without Barriers provides

an independent person who is always present for discussions with Indonesian crew who are or claim to be minors. Indonesian crew are shown a consular notification video and are shown the consular notification form supplied by the Indonesian Government. If Indonesian crew request access to the Indonesian Consulate at any time, DIAC facilitates this at the earliest practicable occasion.

DIAC also provides email notifications to the Indonesian Embassy of Indonesian crew who arrive at Christmas Island, are transferred between immigration detention facilities, are transferred into Australian Federal Police custody for charging, and are removed to Indonesia. Where the Indonesian crew member has consented to consular notification, the notification specifies the name, SIEV number, whether they are an adult or a minor and where they arrived, were transferred to or were removed to. Where the Indonesian crew member has not consented to consular notification, the notification only specifies the SIEV number, whether they are an adult or a minor and where they arrived, were transferred to or were removed to. These notifications are provided to the Indonesian Embassy as soon as practicable after an arrival, transfer or removal takes place.

Upon arrival in Darwin, Indonesian crew members are provided information on how to access the Indonesian Consulate by the DIAC detention service provider. Shortly after arrival in Darwin, DIAC staff provides an additional consular access briefing to Indonesian crew. DIAC facilitates contact with the Indonesian Consulate upon request by Indonesian crew or when a client is unable to do so themselves. In addition, representatives from the Indonesian Consulate in Darwin regularly visit DIAC immigration detention facilities.