

## QUESTION TAKEN ON NOTICE

### BUDGET ESTIMATES HEARING : 25 May 2015

#### IMMIGRATION AND BORDER PROTECTION PORTFOLIO

##### **(BE15/129) - Retired Indonesian Lieutenant-General Kiki Syahnakri - Programme 1.1: Border Enforcement**

Senator Xenophon, Nick (L&CA) written:

Retired Indonesian Lieutenant-General Kiki Syahnakri entered Australia in September 2014 to speak at a conference at the RACV Club, Melbourne. The Governor-General, Peter Cosgrove, was a keynote speaker at this conference. But Kiki was indicted for Crimes Against Humanity (murder, forced deportation, persecution) by the joint UN/Timor-Leste Serious Crimes Unit in 2003.

1. How did Immigration let him into Australia?
2. Applicants for Australian tourist visas (Form 1419) and business visas (Form 1415) are required to answer the following questions: "Have you, or has any member of your family unit included in this application, ever committed, or been involved in the commission of, war crimes or crimes against humanity or human rights?" and "... served in a military force or state sponsored/private militia..." Kiki would seem to be covered by these provisions, yet he was permitted to enter Australia.
3. Which box did Kiki Syahnakri tick on his visa form?
4. Did he make a false declaration?
5. Is there an Immigration watchlist for suspected war criminals? Have any other individuals who've been indicted for war crimes or crimes against humanity entered Australia?
6. What kinds of watchlists exist? What categories of activities are prescribed by watchlists?
7. Is Kiki a member of the Indonesia-Australia Defense Alumni Association?
8. Has he had meetings with any ADF personnel who engage in joint training or exercises or seminars with Indonesia?
9. Did the conference at which Kiki spoke receive any government funding or support of any kind?

*Answer:*

1. For operational reasons, the Department is not able to disclose details about specific cases.
2. For operational reasons, the Department is not able to disclose details about specific cases.

Please note that the Department would not have granted a visa unless it was assessed that the applicant met all relevant Public Interest Criteria (PIC) for the grant of a visa, including PIC 4001 (character) and PIC 4003(a) (foreign policy). In December 2014, changes were made to the character test at section 501 of the Migration Act 1958 whereby a person can fail the test if [501 (6)(f)] "the person has, in Australia or a foreign country, been charged with or indicted for one or more of the following:

- (i) the crime of genocide;
- (ii) a crime against humanity;
- (iii) a war crime;
- (iv) a crime involving torture or slavery, and
- (v) a crime that is otherwise of serious international concern.”

Individuals applying for a visa post December 2014 are subject to this provision. Please note that failure to pass the character test does not automatically lead to the refusal of a visa.

3. For operational reasons, the Department is not able to disclose details about specific cases.

4. For operational reasons, the Department is not able to disclose details about specific cases.

5. The Department administers the Movement Alert List (MAL), which is a computer database that stores biographic details of identities and travel documents of immigration concern to Australia.

Amongst the records on MAL are the details of non-citizens that are subject to indictments from internationally recognised courts or tribunals for crimes of serious international concern including genocide, war crimes or crimes against humanity - such indictments are of immigration concern as they are a relevant consideration for a visa under the character test at section 501(6)(f) of the Migration Act.

Departmental records for war crime screening only cover the period since 2003. Those records indicate that since 2003 (until June 2015) only one non-citizen subject to an indictment from an internationally recognised court or tribunal has been granted a visa to enter Australia.

6. The Department administers the Movement Alert List (MAL), which is a computer database that stores biographic details of identities and travel documents of immigration concern to Australia.

People can be listed on MAL for numerous reasons, including when: they have a serious criminal record, or face serious criminal charges; their presence in Australia might constitute a risk to the Australian community; or they are subject to an exclusion period prescribed by migration legislation.

7. For operational reasons, the Department is not able to disclose details about specific cases.

8. Meetings with ADF personnel would be a matter for the Department of Defence.

9. The Department generally does not monitor government funding or support for conferences. The Department can advise that it did not provide any funding for this Conference.