

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(101) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

What is the length of average detention among the following age groups:

- (a) 0-4
- (b) 5-12
- (c) 13-18

Answer:

The Department does not maintain statistics in a form that provides this information.

For information on the length of stay for children in immigration detention (including those in alternative detention arrangements) as at 21 January 2005, please see Question on Notice 100.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(102) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Please supply statistics on the number of children travelling to Australia as unaccompanied minors between 1999 and present, showing visa class at time of arrival (if any); visas applied for (if any); and outcome of any visa applications.

Answer:

This information is not available. Data which could identify children travelling as unaccompanied minors is not collected.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(103) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Please supply statistics on the number of children travelling to Australia as unaccompanied minors between 1999 and present who were apprehended enroute and sent to Nauru, Manus Island or Christmas Island: showing visas applied for (if any); outcome of visa applications; average length of time spent in immigration detention; and where the children were ultimately sent.

Answer:

Between 1 July 1999 and 25 February 2005, 16 'unaccompanied' minors were intercepted enroute to Australia and transferred to Christmas Island Immigration Reception and Processing Centre (IRPC).

- As at 14 April 2005, there are no unaccompanied minors at Christmas Island IRPC. All minors currently located at Christmas Island IRPC are accompanied by their parents.

Of these 16 'unaccompanied' minors, three minors, none of whom were wards of the Minister, were accommodated at the Christmas Island IRPC. Each was accompanied by a relative. All three have subsequently been granted visas. For these three minors, the average length of time in immigration detention was 382 days.

Of these 16 persons, 13 unaccompanied minors were subsequently transferred to the Nauru Offshore Processing Centre (OPC). For these 13 unaccompanied minors, the average length of time of in immigration detention was 50 days.

Of the 13 unaccompanied minors that were transferred from Christmas Island IRPC to the Nauru OPC:

- Five were found in need of protection. Of these:
 - Three were subsequently granted a Subclass 447 - Secondary Movement Offshore Entry (Temporary) visa and were resettled to Australia; and
 - Two were resettled to New Zealand.
- Seven were not found to be in need of protection. Of these:
 - Six have since voluntarily returned to their country of origin; and
 - One is now aged 18 and is no longer classified as an unaccompanied minor.
- One person entered Australia as a transitory person and was subsequently granted a Temporary Protection Visa.

Four unaccompanied minors were intercepted enroute to Australia and transferred directly to the Nauru OPC. There are currently no unaccompanied minors at the Nauru Offshore Processing Centre. Since July 2001, 17 Unaccompanied Minors have resided in the Nauru Offshore Processing Centre. It is important to note that none of the unaccompanied minors were held in immigration detention in Nauru.

Of the four cases transferred directly to the Nauru OPC:

- One was found not to be owed protection and has since returned voluntarily to their country of origin;
- Two were processed by the UNHCR and were found not to be owed protection and voluntarily returned to their countries of origin; and
- One was processed by the UNHCR and was resettled to New Zealand prior to assessment.

No unaccompanied minor has been accommodated at the Offshore Processing Centre in Manus Province of Papua New Guinea.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(104) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Please supply the statistics on the number of unaccompanied minors presently held in Nauru and in mainland detention centres.

Answer

There are no unaccompanied minors presently held in Nauru or mainland immigration detention centres as at 4 March 2005.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(105) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Please supply statistics (by year) on the number of children in detention identified as having a mental illness, indicating time at which such identification is made (ie upon admission, time after admission), broken down by type of mental illness diagnosed.

Answer:

The Department does not have this information readily available and to collate this information would require a manual examination of individual files.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(106) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Please supply statistics on the number of children identified as victims/potential victims of trafficking from 1999 to the present, showing their mode of arrival (boat/plane), status on arrival (visaed/unvisaed), visa applied for (if any) and outcome – removed, visaed.

Answer:

Of the 139 people referred over this period by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) to the Australian Federal Police (AFP), showing signs of trafficking, 6 were under the age of 18 years. In none of these cases was trafficking substantiated.

Their details are as follows:

- a male national of Sierra Leone who arrived by air on a permanent Refugee Visa and remains resident in Australia;
- a New Zealand male citizen, born in Congo (Zaire), who entered by air, on a temporary Special Category Visa, and is currently resident in Australia;
- a female Vietnamese national who entered Australia, by air, on her mother's temporary Spouse (Provisional) Visa and remains resident in Australia on her mother's permanent Spouse Visa;
- a female Chinese national who entered Australia by air as a dependant on her father's Business (Long Stay) Visa and remains onshore awaiting the outcome of a judicial review of the cancellation of her family's visas; and
- Indonesian male and female siblings, who arrived by air on Visitor (Short Stay) Visas. The two children were included in an application by their mother for a Protection Visa that was refused. These two children currently remain onshore.

QUESTIONS TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(107) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Please supply statistics on the number of adults (by gender) identified as victims/potential victims of trafficking from 1999 to the present, showing their mode of arrival (boat/plane), status on arrival (visaed/unvisaed), visa applied for (if any) and outcome – removed, visaed.

Answer:

Between the introduction in December 1999 of the *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999* and 21 February 2005, the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) has referred 133 adults around whom there was one or more indicators of trafficking, of whom around 60 per cent were accepted for assessment by the Australian Federal Police (AFP).

Of the 133 adults referred by DIMIA to the AFP, 36 were granted Bridging F Visas (BVF). As at 21 February 2005, 19 of the 36 granted BVFs had progressed to Criminal Justice Visas (CJVs), 3 persons had chosen to return home prior to the expiry of their BVFs, 9 BVFs were still in effect, 2 were assessed by the AFP as not being in danger and have now departed and 2 submitted other applications and remain onshore. One person did not progress to a CJV and was granted a further bridging visa to enable her to prepare to depart Australia, but has failed to depart.

Between 1999 and 31 December 2003, 12 adults were granted CJVs. As at 21 February 2005, 6 were still in effect, 3 decided to return home, 1 ceased because the trial was finalised and the AFP withdrew support for 2 others.

Attached are tables providing visa information for the 133 adults referred to the AFP, all of whom arrived by air. Data on the movements of these persons, some of whom would have departed of their own volition, is not readily available.

PEOPLE TRAFFICKING – REFERRALS AND VISA GRANTS

1999 – 21 FEBRUARY 2005

NUMBER OF IDENTIFIED SUSPECTED TRAFFICKED ADULTS REFERRED TO THE AFP				
Nationality	Visa on Arrival		Status at time of referral	Total
Thailand (75 Females) (1 Male)	Tourist (Short Stay) (TR676)	67	Unlawful Non-Citizens	53
	Business (Short Stay) (UC456)	5	Lawful Non-Citizens	22
	Sponsored Family Visitor (short Stay) (UL679)	2	Offshore	1
	Student (UA560)	1		
	Unknown	1		
Taiwan (2 Females) (Nil Males)	Electronic Travel Authority (Visitor) (UD976)	2	Unlawful Non-Citizens	2
Indonesia (7 Females) (Nil Males)	Tourist (Short Stay) (TR676)	3	Unlawful Non-Citizens	4
	Business (Short Stay) (UC456)	3	Onshore	3
	Higher Education Sector	1		
Laos (1 Female) (Nil male)	Tourist (Short Stay) (TR676)	1	Unlawful Non-Citizen	1
Malaysia (1 Female) (Nil Male)	Tourist (Short Stay) (TR676)	1	Tourist (Long Stay) (TR686)	1
PRC (6 Females) (Nil Males)	Tourist (Short Stay) (TR676)	3	Unlawful Non-Citizen	3
	Business (Short Stay) (UC456)	1	Lawful Non Citizen	3
	Student (TU560)	1		
	Prospective Marriage (TO300)	1		
South Korea (15 Females) (Nil Males)	Working Holiday (Temporary) (417)	5	Unlawful Non-Citizen	9
	Electronic Travel Authority (Visitor) (UD976)	3	Lawful Non citizen	6
	Student (TU560)	1		
	Tourist (Short Stay) (TR676)	6		
Myanmar (2 Females) (Nil Males)r	Tourist (Short Stay) (TR676)	2	Lawful Non Citizen	2
PRC(HKSAR) (20 Females) (Nil Males)	Electronic Travel Authority (Visitor) (UD976)	18	Lawful Non Citizen	20
	VET sector (TU572)	2		
Uzbekistan (2 Females) (Nil Males)	Business (Short Stay) (UC456)	1	Unlawful Non-Citizen	2
	Electronic Travel Authority (Visitor) (UD976)	1		
India (1 Female) (Nil Males)	Domestic Worker Temporary Executive (TG427)	1	Unlawful Non-Citizen	1
TOTAL PERSONS				133

1 January 2004 – 21 February 2005

Bridging F Visas

Visa Type	Number Granted	Nationality
BRIDGING F VISA	36	31 x Thai 1 x Uzbek 1 x Malaysian 1 x HKSAR 1 x Indonesian 1 x Indian

Visa Type	Number Granted	Nationality
CRIMINAL JUSTICE STAY VISA	19	17 x Thai 1 x Uzbek
	Note: 1 person has been granted 2 CJSVs	
CRIMINAL JUSTICE ENTRY VISA	1	Thai

1999 – 31 December 2003

Criminal Justice Visas

Visa Type	Number Granted	Nationality
CRIMINAL JUSTICE STAY VISA	11	5 x Indonesian 6 x Thai
CRIMINAL JUSTICE ENTRY VISA	1	1 x Indonesian
	Note: Person previously granted a CJSV	

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(108) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Please supply statistics on the number of adults held in immigration detention broken down by nationality and giving the average length of their stay, from 1999 to the present.

Answer:

The Department generally prefers not to provide statistical averages for periods in detention as a small number of exceptional cases distort the figures which creates an inaccurate representation of the length of time most people spend in immigration detention.

In relation to adults taken into immigration detention, their length of stay as at 21 January 2005 was as follows:

- For less than 6 weeks, 33 per cent;
- 6 weeks to less than 3 months, 15 per cent;
- 3 months to less than 6 months, 10 per cent;
- 6 months to less than 12 months, 11 per cent; and
- For 12 months or more, 31 per cent.

Between 1 July 1999 and 25 February 2005, 37,646 adults were taken into immigration detention representing over 150 nationalities. Specific data by nationality is not readily available, however the top 10 nationalities for adults in detention for this period were from the countries of Indonesia, People's Republic of China, Iraq, Afghanistan, Malaysia, Republic of Korea, Thailand, India, Philippines and Vietnam.

Immigration detention includes alternative detention options such as Residential Housing Projects (RHPs), prisons and community-based arrangements with community groups and non-government organisations.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(109) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Please supply statistics (by year) on the number of adults in detention identified as having a mental illness, indicating time at which such identification is made (ie upon admission, time after admission), broken down by type of mental illness diagnosed.

Answer:

The Department does not have this information readily available and to collate this information would involve a manual examination of individual files.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(110) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Please supply statistics on the number of adults in immigration detention who have been held previously in a correctional institution, indicating numbers with criminal convictions.

Answer:

The Department is unable to provide definitive data on those immigration detainees who have criminal convictions that are not related to their immigration status, as this information is not necessarily recorded in departmental records.

As such, only those immigration detainees who have come into immigration detention as a direct result of criminal activity have been identified. This group comprises:

- (a) those with a criminal deportation order signed against them; or
- (b) persons whose visas have been cancelled under the provisions of section 501 of the *Migration Act 1958*.

Under section 501 of the *Migration Act* the Minister may cancel a person's visa if the person has a substantial criminal record, having engaged in past and/or present criminal activities. Criminal deportation has a similar effect in requiring the removal of that person as soon as reasonably practicable.

The Department endeavours to process such cases well ahead of the end of their prison sentence and as a result most are removed from Australia directly from prison. In general, only a small group that are unable to be removed directly from prison due to ongoing challenges of their cancellation or deportation order at the AAT and the courts need to be taken into immigration detention to facilitate removal at a later date.

As at 18 February 2005, departmental records show there were 973 persons in immigration detention. Of these, there were:

- (a) 42 detainees who are recorded as having served sentences in an Australian correctional facility for criminal activity; and
- (b) 5 detainees who have been detained due to prior criminal convictions outside Australia or who are deemed to be not of good character.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(111) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Please supply statistics on the cost of detaining non-citizens in each of the detention centres, (including Manus Island and Nauru), broken down by year 1996 to present, by global cost and cost per detainee.

Answer:

People in the Nauru and Manus Offshore Processing Centres are not detained, but are in Nauru and PNG legally on special purpose visas.

Per capita costs for failed asylum seekers accommodated in offshore processing centres are not calculated. This is because offshore processing centres are kept in a state of readiness and, therefore, changes in the number of residents may not necessarily have an impact on costs. Offshore costs also include capital expenditure. This arrangement differs from the costing structures that apply to onshore detention facilities where occupancy levels are a major determinant of costs.

Listed below are the tables of the cost by centre by detainee day where applicable and the total operational costs by operational centre. These costs include payments made under the contract for managing the detention centres as well as departmental expenses such as those for employees, travel, motor vehicles, telephones, interpreting costs, depreciation and other administrative costs. The costs shown do not include Departmental head office corporate costs, capital costs or costs for detainees located in state correctional facilities.

DETENTION CENTRE COSTS AND DETAINEE DAYS

	1996-97	1997-98	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05 YTD 31 January 05
Centres									
Cost per Detainee per Day									
Immigration Detention Centres									
Villawood	NA	NA	NA	\$80	\$67	\$113	\$124	\$111	\$118
Maribyrnong	NA	NA	NA	\$170	\$154	\$191	\$206	\$243	\$259
Perth	NA	NA	NA	\$253	\$273	\$344	\$315	\$551	\$499
Immigration Reception and Processing Centres									
Baxter	NA	NA	NA	NA	NA	NA	\$415	\$292	\$192
Curtin	NA	NA	NA	\$109	\$121	\$140	\$251	NA	NA
Port Hedland	NA	NA	NA	\$70	\$87	\$95	\$215	\$313	NA
Woomera	NA	NA	NA	\$129	\$161	\$150	\$414	NA	NA
Residential Housing Projects									
Port Augusta Residential Housing Project	NA	NA	NA	NA	NA	NA	NA	\$658	\$196
Port Hedland Residential Housing Project	NA	NA	NA	NA	NA	NA	NA	\$1,671	NA
Woomera Residential Housing Project	NA	NA	NA	NA	NA	\$533	\$508	\$902	NA
Offshore Immigration Reception and Processing Centres									
Christmas Island	NA	NA	NA	NA	NA	\$400	\$627	\$555	\$404
Cocos Island	NA	NA	NA	NA	NA	\$346	NA	NA	NA

	1996-97	1997-98	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05 YTD 31 January 05
Centres									
Operational Cost per Facility									
	\$M	\$M	\$M	\$M	\$M	\$M	\$M	\$M	\$M
Immigration Detention Centres									
Villawood				\$9.13	\$9.51	\$16.19	\$22.87	\$21.33	\$13.61
Maribyrnong				\$4.61	\$4.67	\$4.99	\$5.26	\$4.91	\$3.85
Perth				\$2.91	\$2.78	\$3.71	\$4.01	\$3.69	\$2.72
Immigration Reception and Processing Centres									
Baxter				NA	NA	NA	\$30.58	\$22.20	\$11.37
Curtin				\$28.31	\$31.06	\$28.11	\$4.55	NA	NA
Port Hedland				\$18.67	\$17.36	\$12.79	\$11.15	\$8.81	\$0.69
Woomera				\$32.08	\$37.13	\$42.72	\$14.89	NA	NA
Residential Housing Projects									
Port Augusta Residential Housing Project				NA	NA	NA	NA	\$2.70	\$1.12
Port Hedland Residential Housing Project				NA	NA	NA	NA	\$0.74	NA
Woomera Residential Housing Project				NA	NA	\$2.03	\$2.17	\$2.45	\$0.05
Offshore Immigration Reception and Processing Centres									
Christmas Island				NA	NA	\$18.49	\$6.50	\$8.71	\$3.54
Cocos Island				NA	NA	\$5.25	\$0.13	\$0.04	\$0.00
Manus				NA	NA	\$29.40	\$20.60	\$6.20	\$1.00
Nauru				NA	NA	\$48.50	\$45.00	\$33.60	\$18.30
Offshore Operational Costs (Manus & Nauru Only)				NA	NA	\$7.80	\$2.30	\$1.50	\$0.70
Onshore Operational Costs#	\$22.66	\$22.09	\$22.60						
# Break down by centre was not available under pre FMA Act program reporting.									

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(112) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Please supply statistics on the number and nationality of non-citizens apprehended upon arrival as unauthorised entrants between 1999 and the present and show:

- (a) the mode of entry of such people (by boat or plane);
- (b) the number who claimed refugee status;
- (c) the number removed from Australia without making any application for a visa;
- (d) the number accepted as refugees;
- (e) the number removed from the country after being rejected.

Answer:

As at 25 February 2005, the number of unauthorised arrivals air and boat detained since 1 July 1999 was 13,137.

(a) As at 25 February 2005, the number of unauthorised arrivals detained since 1 July 1999 by mode of entry and nationality (top 10) was as follows:

UNAUTHORISED BOAT ARRIVALS WHO HAVE BEEN DETAINED BY NATIONALITY

Citizenship	Number of Clients
Iraq	4214
Afghanistan	3771
Iran	825
Palestinian Authority	187
Sri Lanka	100
Vietnam	61
Syria	47
China, Peoples Republic of	29
Turkey	28
Pakistan	24
Other	422
Total	9708

Note: Approximately 87 per cent of these unauthorised boat arrivals were detained in the period 1999-00 to 2000-01.

UNAUTHORISED AIR ARRIVALS WHO HAVE BEEN DETAINED BY NATIONALITY

Citizenship	Number of Clients
Malaysia	307
Iraq	224
China, Peoples Republic of	173
Korea, Republic of	170
Afghanistan	96
United Kingdom	91
Indonesia	80
India	77
Sri Lanka	77
Iran	74
Other	2060
Total	3429

Note: These figures relate to unauthorised air arrivals who were detained.

UNAUTHORISED AIR ARRIVALS WHO HAVE BEEN REFUSED IMMIGRATION CLEARANCE AT AUSTRALIAN AIRPORTS

Year	Refused Entry Cases
1999/00	1,694
2000/01	1,508
2001/02	1,193
2002/03	937
2003/04	1,241
2004/05 (as at 28/02/05)	968

The full nationality breakdown for unauthorised air arrivals refused immigration clearance since 1999 is not readily available. However, the top three nationalities refused entry for the period 2001/02 to 28 February 2005 were Malaysia, New Zealand and the Republic of Korea.

(b) As at 25 February 2005, the number of unauthorised arrivals detained since 1 July 1999 who subsequently lodged initial Protection Visa (PV) applications was 10,245. The nationality breakdown (top 10) was as follows:

Citizenship	Number of Clients
Iraq	4494
Afghanistan	3876
Iran	882
Palestinian Authority	182
Sri Lanka	178
Vietnam	62
Turkey	57
Stateless	53
Pakistan	47
Syria	44
Other	370
Total	10245

(c) As at 25 February 2005, the number of unauthorised arrivals detained since 1 July 1999 who were subsequently removed from Australia without making any application for a Visa was 2,750. The nationality breakdown (top 10) was as follows:

Citizenship	Number of Clients
Malaysia	297
Korea, Republic of	158
Sri Lanka	134
China, Peoples Republic of	129
United Kingdom	82
Indonesia	72
Thailand	69
United States of America	68
Hong Kong (SAR of China)	52
India	52
Other	1637
Total	2750

(d) As at 25 February 2005, the number of unauthorised arrivals detained since 1 July 1999 who were subsequently granted a Protection Visa was 8,991. The nationality breakdown (top 10) was as follows:

Citizenship	Number of Clients
Iraq	4303
Afghanistan	3698
Iran	510
Sri Lanka	124
Palestinian Authority	98
Stateless	46
Turkey	36
Pakistan	28
Syria	21
Kuwait	15
Other	112
Total	8991

The rate at which unauthorised arrivals apply for and obtain protection in Australia varies widely depending on their nationality, particular claims and the human rights situation in their homeland at the time.

(e) As at 25 February 2005, the number of unauthorised arrivals detained since 1 July 1999 who subsequently applied for asylum but were later removed was 660. The nationality breakdown (top 10) was as follows:

Citizenship	Number of Clients
Iran	207
Afghanistan	80
Palestinian Authority	67
Iraq	53
Sri Lanka	37
Bangladesh	20
Syria	18
Turkey	18
Pakistan	16
India	11
Other	133
Total	660

Source: All figures in the above tables are sourced from ICSE. Some clients may have applied for more than one PV.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(113) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

1. Why did the Commonwealth decide not to appear before the High Court in the *Ruhani* case? Was DIMIA consulted or did the Department provide advice to this effect?
2. What was the cost of the *Ruhani* case to the Commonwealth? Did the Commonwealth fund the Nauruan case directly or indirectly through a more general agreement?
3. What is the overall legal cost to the Commonwealth of cases arising from the detention centre in Nauru?
4. Does the Commonwealth have any interest in defending the Australia-Nauru agreement allowing appeals to the High Court/does Australia support voiding the agreement? Will it take action to void such agreement considering it did not regard it as sufficiently important to defend?

Answer:

1. The decision not to intervene in the proceedings was taken by the Attorney-General. As such the question should be directed to the Attorney-General's Department. This Department was consulted.
2. As at 9 March 2005 the Commonwealth has paid the Nauruan government \$237,057.03, for the legal costs of the *Ruhani* case (including the original Supreme Court of Nauru case known as *Amigi & ors*), indirectly through a more general agreement.
3. As at 9 March 2005 the Commonwealth has paid \$1,395,527.67, in legal costs for cases arising from the offshore processing centre in Nauru comprising:
 - (a) *Ruhani* (as above) - \$237,057.03;
 - (b) *Ali Hussain & Ors* – Victorian Supreme Court - \$987,063.28;
 - (c) *Mahdi & Ors v Director of Police & Ors* – Nauru Supreme Court - \$26,180.82;
 - (d) *Sadiqi* – High Court and Federal Court - \$145,226.54.
4. As the question involves an international agreement regarding judicial arrangements, the question should be directed to the Attorney-General's Department and/or the Department of Foreign Affairs and Trade.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(114) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

Regarding cases over the last two years where the department compensated an individual for time spent in detention or wrongful search:

- (a) Can you outline the circumstances of each of those cases, how much each person was paid, and why they were paid?
- (b) On what basis was the decision made to pay them? Who made the call?
- (c) In what way is the Rau case different?

Answer:

(a)

SACKO – Mr Sacko, a French national, was refused immigration clearance at Sydney airport on 31 August 2003 because he was not able to satisfy clearance requirements. Mr Sacko's passport was assessed as being a genuine French passport containing eight irregularities that appeared consistent with photo-substitution together with other documentary concerns. A Notice to Remove was served on Qantas but they were unable to remove Mr Sacko from Australia within a suitable time period. Mr Sacko was detained from 31 August 2003 until 4 September 2003. He was released following confirmation from the French Consul General in Sydney that his passport was genuine. On the basis of legal advice from the Australian Government Solicitor the Department participated in an alternative dispute resolution process with Mr Sacko. Comcover, in consultation with the Department, agreed to a private settlement in the light of a legal technicality.

GOLDIE - Mr Goldie, a British national, was detained from 24 February 1998 until 27 February 1998 due to an error in a departmental computer record which conveyed the impression that he had no current visa. The Federal Court found that Mr Goldie had been arrested and detained unlawfully. On 27 February 2004 French J awarded damages in the sum of \$22,000.

AFGHANI NATIONAL - In December 2003 a settlement was reached with an Afghani national who claimed to have been unlawfully detained for a period of approximately 20 months. Following consideration of Senior Counsel's advice, and in consultation with Comcover, a confidential settlement was reached.

(b)

SACKO - The decision to pay Mr Sacko was made following consideration of advice from the Australian Government Solicitor and in consultation with Comcover

GOLDIE - Damages awarded by order of the Federal Court

AFGHANI NATIONAL - The decision to pay was made following consideration of Senior Counsel's advice and in consultation with Comcover.

(c)

The decision to detain was based on a reasonable suspicion that the client was an unlawful non citizen. This suspicion was formed and continued to be held as a result of information that Ms Rau consistently presented to the Department in relation to her background and status in Australia.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(115) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

- (1) What factors are taken into account when processing a visa application in a circumstance such as the Marko Perkovic case?
- (2) In processing a visa application such as this, is any consideration given to the harm that would potentially be done to ethnic community relations in Australia?
- (3) In circumstances such as these (where a performer has been banned from performing in another country), will Immigration have any contact with officials from the Netherlands relating to why this individual was banned from performing there?
- (4) Will Immigration have contact with the Croatian police, who have recently interviewed him?
- (5) In the past twelve months, have DIMIA refused visa entry to any person because of links or suspected links with neo-Nazi or fascist organisations or convictions resulting from a link to a neo Nazi or fascist organisation?

Answer:

- (1) All visa applications are assessed lawfully against the criteria set down in the Migration Act 1958 and the Migration Regulations depending on the class of visa applied for.
- (2) Yes. Every visa application is considered to ensure that the entry of the applicant will not bring harm to the Australian community, and an applicant may be refused a visa if they are not of good character. Section 501 of the Migration Act 1958 defines the various aspects of how someone may fail to pass the 'character test'.
- (3) Additional information is sought and an assessment of the information as a whole is taken into account.
- (4) The Department has contact with other countries' police forces, where required, through Interpol.
- (5) The Department keeps statistics on refusals. However, these statistics are not further categorised according to the particular political or social positions of applicants.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(116) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

I refer DIMIA to the article of 11/2/2005 in the *Australian* titled 'Ex-cons held with detainees'

- (a) When was the policy of locking up convicted criminals with asylum seekers implemented?
- (b) Why was this policy implemented in the first place – what is the rationale behind it?
- (c) Was it approved by the minister?
- (d) Can the department confirm any other incidences of violence where an asylum seeker has been assaulted by a prisoner?
- (e) What are the range of crimes that the criminal detainees have committed?
- (f) Are any measures in place to ensure that asylum seekers are not exposed to criminals awaiting deportation?
 - (i) If not, why not?
 - (ii) If so, what are they and when were they implemented?
- (g) What measures are made to separate violent offenders from members of the opposite sex?

Answer:

(a) There is no such policy. People are held in immigration detention not because they are asylum seekers or convicted criminals, but because they are unlawful non-citizens.

The legislative requirement to detain all unlawful non-citizens has been in place since 1994.

If not for their immigration status, persons who had completed a criminal sentence would normally be released into the community. Those detained in immigration detention have completed their sentences.

Decisions made on where to accommodate a particular detainee require careful consideration of various factors, including the length of time a person is expected to

be in detention, their individual circumstances (including any known history of criminal activity) and the security and good order of a particular facility.

Some state correctional authorities have assisted the Department in holding some former criminals for whom an immigration detention facility has not been considered appropriate. Ultimately, however, the decision about whether a person is held in a state correctional facility as an immigration detainee rests with the relevant state government. Most states have indicated that they will hold people in immigration detention only on an exceptional basis.

(b) See (a) above.

(c) See (a) above.

(d) There are no prisoners detained in Immigration Detention Facilities (IDFs). Those persons in detention who were previously in correctional facilities in Australia have completed their sentences.

The Department takes a serious view of violence by detainees at IDFs.

From time to time, detainees commit acts of violence within IDFs. These are generally of a minor nature, and any conflict is addressed as far as practicable through communication, negotiation and conflict resolution.

The Department aims to minimise risk for everyone in detention facilities. There are processes in detention centres that seek to minimise the potential for any detainee to harm themselves or others. These include a range of accommodation options, behaviour management plans that aim to involve the individual as a participant, and encouragement of relationship building.

Where allegations are received by the Department, it may decide to investigate an incident or require GSL to conduct an investigation. DIMIA can also take over a GSL investigation or participate in a joint investigation. External investigators are sometimes appointed.

Furthermore, in relation to possible criminal actions, the police have jurisdiction in this area and such matters are referred to them.

(e) Detainees with a criminal background have received convictions for various offences including robbery, drug offences and at times violent criminal acts. The Department works cooperatively with state correctional authorities in determining the most appropriate place of detention.

A criminal background may be one of many factors which influence a detainees' behaviour. Such background is taken into account prior to their detention in an IDF to ensure appropriate management and safety of other detainees and staff.

(f) The Department aims to minimise risk for everyone in detention facilities. There are processes in detention centres that seek to minimise the potential for any detainee to harm themselves or others. These include a range of accommodation options,

behavioural management plans that aim to involve the individual as a participant, and relationship building.

(g) The Department operates a network of detention facilities which allows the service provider to accommodate detainees appropriately. It is a requirement of the Immigration Detention Standards that all detainees have access to safe and secure accommodation and that a safe and secure detention environment is established and maintained. Adult males without a family in a facility are generally accommodated in compounds separate to women, children and families. Decisions made on where to accommodate a particular detainee requires careful consideration of various factors, including the length of time a detainee is expected to be in detention, a detainee's individual circumstances (including any known history of criminal activity) and the security and good order of the facility.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(117) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

1. Regarding the Maribyrnong Detention Centre is that funding has been allocated primarily to upgrade the standard of facilities for detainees and to provide for better separation between asylum seekers (particularly families and children) and criminal deportees. Is this correct? If not, what is it for?
2. Is it correct that that this upgraded facility is planned to be an interim one and that longer term plans exist for a permanent new centre in Broadmeadows in 2007?
 - (a) If not, what is the expected life of the Maribyrnong detention centre?
3. How much is planned for spending on the non-permanent facility?
4. What plans does the Department have for the site once it ceases to be a detention centre?
5. Given the large amount of development in Maribyrnong in the vicinity of the centre, is any co-ordinated planning being done with the local council? If not, why not?
6. What is the planned completion date of the Broadmeadow detention centre?

Answer:

1. Yes. The works are to improve separation options, amenity and capacity for residents.
2. The upgrade is an interim measure. The Broadmeadows site has been reserved to retain a future option for the Government as a possible site for an immigration detention facility. Government will consider its position further in coming years with any new facility not expected to be operational before 2010-11.
 - (a) The future of the Maribyrnong Immigration Detention Centre (MIDC) will be reviewed when a new facility is developed.
3. The 2004-05 budget allocated \$7 million for the expansion.

4. A decision on the MIDC site has yet to be made and is dependent on the development of a new facility.
5. Consultation has taken place regarding the design of the facility and visual design discussions are ongoing with the Maribyrnong City Council town planners.
6. The Broadmeadows site has been reserved to retain a future option for the Government as a possible site for an immigration detention facility. Government will consider its position further in coming years with any new facility not expected to be operational before 2010-11.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(118) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

I refer you to the answer to Question on Notice 38.

1. Regarding the new recording system on instances of illegal work that came into operation on July 2000:

(a) What data does this system record?

(b) Does this system record instances where an illegal employee was caught at the place of work?

(i) If yes, please completely answer question (a).

(ii) If not, why not?

(iii) If not, where does the data that was provided in the answer to QoN 38 come from?

2. How many employers have been charged, but not convicted?

3. How many non-employers have been charged with offences relating to employing illegal workers?

4. How many non-employers have been convicted of an offence relating to employing illegal workers?

Answer:

1. (a) The new recording system that came into operation on July 2000 is the Investigations Permission Request (PR) that resides on the DIMIA Integrated Client Services Environment (ICSE). The Investigations PR is a tool allowing investigation milestones to be recorded and monitored.

(b) No.

(i) Not relevant.

(ii) The PR is an investigations tool designed to monitor and record investigation milestones.

(iii) Data provided to answer part (a) and (b) of QoN 38 regarding where illegal employees were located at work were obtained from the Enforcement/Enforcement PR. Data to answer part (c) relating to charges and convictions of employers was obtained from the Investigations PR.

2. None.

3. & 4. Two individuals who were not employers but identified as co-offenders have been charged and convicted with offences relating to employing illegal workers.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(119) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

1. Has a site for the Detention Centre at Pinkenba been formally selected yet?
2. What was the rationale for building a 550 bed detention centre in the middle of a built-up area in a capital city?
3. What affect does the Portside development have on DIMIA plans to build the detention centre?
4. When does the Department propose to begin community consultation, and advise the local residents of the Department's plans?
5. Has DIMIA purchased or leased land from Defence at the former Damascus Barracks at Meeandah?
6. Have the architect concept designs been completed yet? Are they available?

Answer:

1. A preferred site has been reserved for possible future use as an Immigration Detention Centre.
2. The preferred site is in close proximity to the Brisbane Airports and has existing infrastructure in place to allow cost saving benefits during construction and operation. The decision was based on an anticipated increase in numbers of compliance detainees (predominantly visa overstayers and those found in breach of visa conditions identified in the south east corner of Queensland).
3. None.
4. Consultation on the proposed Brisbane Immigration Detention Centre commenced in March 2001 and continued following the announcement in April 2002 of the preferred site, a portion of the existing Damascus Barracks in Sugarmill Road, Brisbane Airport.

Further consultation will occur when further decisions on the site are made.
5. No, although action is underway for DIMIA to purchase the preferred site from the Department of Defence to reserve the Government's options for the future.

6. No further design work has been undertaken following the original concept design competition in mid 2002.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(120) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

1. What plans, if any, does the Department have for the future use of the Christmas Island detention centre?
2. If the centre is to close, where will the people, currently in detention, be sent?
3. Is the Department aware of any plans to convert the Christmas Island detention centre into a Military Base?

Answer:

1. The Government will consider the future of the existing temporary detention facility at Phosphate Hill following the completion of the new Christmas Island Immigration Reception and Processing Centre (CI IRPC) which is due for completion in late 2006.
2. A decision on the relocation of any residents of the Phosphate Hill facility will be made following the completion of the new CI IRPC.
3. No.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(121) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

1. How many people, working illegally, were taken into detention in Australia in 2004/5?
2. Of those detained, how many were detained?
 - (a) On worksites or
 - (b) Other places of employment or
 - (c) Their place of residence?
 - (d) Of these workers detained on worksites, how many were employed in the construction sector?
3. Of the number detained at worksites, and other places of employment;
 - (a) How many separate employers were involved in work rights cases?
 - (b) What sanctions – if any – were imposed on employers?
 - (c) What systems does the Department have in place for the transfer of information between DIMIA and the ATO?
 - (d) What fines – if any – were imposed on their employers?
 - (e) How many of these employers were investigated by the ATO?
4. Were those companies investigated for breaches of tax and/or breaches of superannuation requirements?
5. When does the Department expect to launch any legal proceedings against those investigated?

Answer:

1. There are no definitive statistics on those working illegally. Many people detained may have been working illegally but unless they are located breaching their conditions in the workplace they would only be recorded for the primary reason for detention.
2. (a)-(b) 2239 people were detained at their place of work from the 01 July 2004 to 31 January 2005.
- (c) Not available.

(d) 214 as at 31 January 2005.

3. (a) Data on the number of employers is not available. However, over this time frame 1182 illegal worker warning notices (IWWN) were issued to 702 separate employers. Not all employers found to have employed illegal workers are necessarily issued an IWWN.

(b) Illegal Worker Warning Notices are issued. While immigration compliance activities are designed to minimise any impact on business, operations may be disrupted particularly when illegal workers are removed from the workplace.

(c) DIMIA works closely with other Commonwealth agencies such as the ATO to locate illegal workers and visa overstayers and information is exchanged in conformity with the *Privacy Act 1988*. This may involve joint operations or data interrogation or matching.

(d) None.

(e) DIMIA does not maintain information about the investigations conducted by the ATO.

4. & 5. DIMIA does not maintain information on these types of investigations as administrative responsibility for investigating breaches of taxation or superannuation laws rests with other Commonwealth departments.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(122) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

Has there been any planning for an expected increase in detention numbers, or any projected numbers provided to detention contractors?

Answer:

The Department currently has mothballed facilities at Woomera, Port Hedland, Cocos Island and Singleton that are available to accommodate increased numbers of detainees if required. The Government has also flagged the option of constructing new Immigration Detention Centres in Melbourne and Brisbane in several years time, if these facilities are required.

In addition, the Government has decided to upgrade a portion of the contingency facility in Darwin to cater for the detention of Illegal Foreign Fishers, prior to their repatriation. Work on making this facility operational is in the early planning stages and the current detention services provider, GSL (Australia) Pty Ltd, has been approached in relation to the operation of the facility.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(123) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

1. The Department has assisted failed Afghan asylum seekers to return to Afghanistan. How many have returned since the reintegration package was announced on 16 December 2002?
2. What follow up has been done on the safety and wellbeing of these people? Personal contact with them?
3. Have departmental officers carried out follow up visits? If not, who? What periods/dates were follow up visits?
4. Were people able to resume previous jobs, Professions? Accommodation?
5. Has any report been commissioned to determine these people's re-settlement conditions and well being?
6. How many Afghan returnees under the government's reintegration package have left for a neighbouring country?
7. Is the government aware of the reasons for this happening, i.e. reunion with families, fear of persecution?
8. Which countries did they go to (and which countries are now shouldering responsibility for their care)?

Answer:

1. Sixty seven (67) failed Afghan asylum seekers have returned to Afghanistan since 16 December 2002.
- 2.-8. The Department does not monitor returnees.

The only effective way to protect refugees is to have a reliable process in place to test people's claims and to identify refugees so they are not sent home in the first place. Australia has such a process – a world class process – and the people in question have been through that process and been found not to need protection.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(124) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

How many long-term detainees have been in detention for:

- (a) Over four years
- (b) Over 3.5 years
- (c) Over 3 years
- (d) Over 2.5 years
- (e) Over 2 years
- (f) Over 1.5 years
- (g) Over 1 year

Answer:

As at 25 February 2005, there were 338 people who had been in immigration detention for 1 year or longer. Of these:

- (a) 82 people had been in immigration detention for over 4 years.
- (b) 36 people had been in immigration detention for over 3.5 years, but less than 4 years.
- (c) 19 people had been in immigration detention for over 3 years, but less than 3.5 years.
- (d) 20 people had been in immigration detention for over 2.5 years, but less than 3 years.
- (e) 41 people had been in immigration detention for over 2 years, but less than 2.5 years.
- (f) 78 people had been in immigration detention for over 1.5 years, but less than 2 years.
- (g) 62 people had been in immigration detention for over 1 year, but less than 1.5 years.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(125) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

(1) Over the last financial year, what amount has been recovered to cover the cost of removing stowaways whose applications for a protection visa failed, and from which supply companies were these sums recovered?

(2) Has the Government attempted to recover the cost of detention and processing of ship jumpers seeking protection over the last 12 months; including the cost of removing them from Australia if their applications for protection visa fail; If not why not?

(3) In the last 12 months, how many ship jumpers lodged applications under the special category visa?

(4) What is the eligibility criteria for this visa category?

(5) For each of the last two financial years, what payments under the Migration Act were made by each shipping companies for the cost of detention and removal of each ship jumpers? Is there infringement notices issued to the shipping companies that are responsible for bringing in unlawful non-citizens into the country? If not why not? Does DIMIA record data on the cost to each shipping company of detention and removal costs; if not why not; if so from which date are statistics recorded?

Answer:

(1) No such funds have been recovered as the shipping company responsible for bringing a stowaway to Australia in each case paid the costs for their removal.

(2) Yes. A deserter who arrives lawfully as a crewmember is individually liable for the costs of their detention and removal. Repayment of a debt to the Commonwealth is a criterion in respect of future visa applications.

(3) and (4) The Special Category Visa relates to New Zealand citizens.

Special Purpose Visas (SPV) for maritime crew come into effect by operation of law on the arrival of a vessel to Australia, provided crew members present both a valid passport and a seafarer's identity document confirming their employment on board the vessel. An SPV held by a ship jumper ceases to be in effect when the person is no longer a member of crew. Accordingly, no application is possible.

(5) No payments were made by any shipping company for the cost of detention and removal of ship jumpers. A deserter who arrives lawfully as a crewmember is individually liable for the costs of their detention and removal. Unless the costs are paid directly, the person will receive a bill from the Commonwealth for the costs of their detention and removal. Repayment of a debt to the Commonwealth is a criterion in respect of future applications.

Infringement notices are issued to carriers bringing unvisaed passengers to Australia.

Where immediate removal is arranged by the responsible carrier, DIMIA does not record the cost of removal as they are borne directly by the carrier.

If a person is detained in immigration detention and later removed by the responsible carrier (eg. following a failed protection visa application) DIMIA records and seeks to recover the cost of detention. Detention costs in relation to unauthorised arrivals on board commercial ships have been recorded since 2001.