

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 13 February 2006

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

(59) Output 1.3: Enforcement of Immigration Law

Senator Nettle asked:

Provide a table of the age, nationality, length of detention and the reason for the wrongful detention of the 27 extra 'released unlawful' cases discovered since the referral of the 220 to the Ombudsman.

Answer:

These cases involve a range of circumstances and do not necessarily represent inappropriate detention.

A detailed analysis has not yet been undertaken by either the Ombudsman or the Department on these cases. A preliminary analysis, which is subject to change, of the 27 additional cases, has provided the following information on age, nationality, length of detention and reasons for using the Integrated Client Service Environment (ICSE) descriptor 'released not unlawful'.

The Department has placed the data into two tables rather than one consolidated table to prevent the potential identification of individual clients.

Detention periods and age at time of detention and release for the further 27 cases with the system descriptor ‘released not unlawful’

Case 1-27	Nationality	Days in detention facility	Age at Detention	Age at Release
1	Sth Korea	134	11	12
2	PRC	< 1	42	42
3	Vietnam	1172	31	34
4	PRC	379	28	29
		9	40	40
5	Former Yugoslavia	987	37	40
6	Sth Korea	134	6	6
7	Iran	1349	39	43
8	UK	57	40	40
9	Vietnam	174	44	45
10	Sth Korea	5	48	48
11	New Zealand	225	26	26
		119	26	27
12	PRC	< 1	43	43
13	Sth Korea	< 1	38	38
14	Tonga	214	32	32
15	Philippines	2	36	36
16	Iraq	18	20	20
17	New Zealand	5	37	37
18	Lebanon	274	38	39
		1037	39	41
19	PRC	2	33	33
20	UK & Aust.	2	24	24
21	Sth Korea	< 1	45	45
22	PRC	227	38	39
23	PRC	< 1	39	39
24	UK	31	48	49
25	PRC	6	39	39
		47	45	46
26	UK	< 1	37	37
27	France	776	43	45

Detained more than once

**Preliminary analysis of reasons for using the ICSE descriptor
'released not unlawful' (as at February 2006)**

Number of persons	Issues that may have contributed to the use of the ICSE descriptor "released not unlawful"*
8	Affected by the <i>Nystrom</i> court ruling and are now considered to be "Absorbed Persons"
8	Affected by the <i>Srey</i> court ruling
4	Identity issues (this includes an Australian Citizen who used the identity of his unlawful non-citizen brother – also one of the 4)
3	Incorrect/unclear data recorded in DIMA systems
2	Notification issues resulting in re notification by DIMA and RRT
1	Involved a person whose substantive visa was cancelled at the border. Person granted a border visa on compassionate grounds after spending a short time in immigration detention at the airport.
1	Involved a person who was released under Section 253 (9) that allows the Minister or the Secretary to release a person from detention (either unconditionally or subject to specified conditions)

These cases are yet to be analysed in detailed and circumstances surrounding the use of the ICSE descriptor 'released not unlawful' require further examination.