

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 2.2**

**Question No. 42**

**Senator Ludwig asked the following question at the hearing on 13 February 2007:**

In relation to people waiting extradition, please provide a table showing name, nationality, country seeking extradition, length of detention (if applicable) and nature of offence for:

- a) people currently being detained pending extradition;
- b) people remaining in detention because the magistrate has determined that they are extraditable

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

a) The following table lists the cases in which people are currently being detained in Australia, as at 12 March 2007, in accordance with the Extradition Act. Names and nationalities have not been provided in light of advice about privacy considerations.

<b>No</b>	<b>Requesting country</b>	<b>Nature of alleged offence(s)</b>	<b>Extradition stage</b>	<b>Date committed to custody</b>
1	Germany	Armed Robbery	Section 22	24 January 2007
2	United States	Drug trafficking	Section 21	17 March 2005
3	United Kingdom	Grievous bodily harm	Section 16	5 March 2007
3	United States	Child sex offences	Section 22	18 September 2006
4	Croatia	Murder, attempted murder	Section 22	19 September 2006
5	Canada	Fraud, theft	Section 19	18 September 2006
6	Germany	Procuring Murder	Section 22	7 December 2006
7	Hong Kong	Forgery	Section 22	17 August 2006
8	United States	Murder	Section 22 Appeal	19 September 2002
9	Argentina	Drug trafficking	Section 22	11 February 2005
10	Finland	Fraud	Section 19	4 July 2006
11	Croatia	War Crimes	Section 19	19 January 2006

b) The following table lists the cases in which people remain in detention, as at 12 March 2007, because a Magistrate or Court has determined that they are eligible for surrender. The table also lists people who have consented to extradition before a magistrate. Names and nationalities have not been provided in light of advice about privacy considerations.

<b>No</b>	<b>Requesting country</b>	<b>Nature of alleged offence(s)</b>	<b>Extradition stage</b>	<b>Date committed to custody</b>
1	Germany	Armed Robbery	Section 22	24 January 2007
2	United States	Drug trafficking	Section 21	17 March 2005
3	United States	Child sex offences	Section 22	18 September 2006
4	Croatia	Murder, attempted murder	Section 22	19 September 2006
5	Germany	Procuring Murder	Section 22	7 December 2006
6	Hong Kong	Forgery	Section 22	17 August 2006
7	United States	Murder	Section 22 Appeal	19 September 2002
8	Argentina	Drug trafficking	Section 22	11 February 2005

If a Magistrate or Court determines that a person is eligible for surrender, or a person consents before a magistrate, a number of steps are involved before the person will either be surrendered to the requesting country or released from custody:

- Appeals – if the person did not consent to extradition, the person can appeal the Magistrate’s decision to the Federal Court or the Supreme Court of the State or Territory. Further appeals to the Full Court of the Federal Court and the High Court are provided for under section 21 of the Extradition Act 1988.
- Representations – under the Extradition Act 1988, the Minister has a broad discretionary power to decide whether a person should be surrendered in response to an extradition request. A lawful exercise of that power requires that the Minister consider all relevant factors. The person the subject of the extradition request will be invited to make representations as to the matters the Minister should take into account. Representations may also be received from other persons, family members, legal advisers and support groups.
- Submission – every matter raised in the representations has to be investigated to enable advice to be provided to the Minister on whether the matter is relevant to the surrender decision, and if so, whether it is determinative, influential or of less importance. Decision making submissions for the exercise of the power under section 22 to determine whether a person should be surrendered can require extensive consideration of many relevant factors, including the mandatory and discretionary grounds for refusal set out in any treaty. They can also require further investigation of

claims made, and the testing of those claims by seeking comment from the country seeking the extradition.

- Surrender or release – if the Minister determines that the person is to be surrendered to the requesting country, the Extradition Act provides that a court can order the release of a person from custody if the requesting country does not arrange for the escort of the person from Australia within two months of the date of the decision to surrender the person. However, the court will not order a person be released from custody in these circumstances if the court is satisfied that the person has not been conveyed out of Australia within two months of the date of the decision to surrender the person because to do so would have been dangerous to the life or prejudicial to the health of the person, or for any other reasonable cause. If the Minister determines that the person is not to be surrendered, the person is released from custody.
- Further appeals – a decision by the Minister to surrender a person can be appealed to the Federal Court and the High Court. The person would remain in custody pending the determination of any appeal from the Minister’s decision.