

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

Program 1.1 CrJD

Question No. 114

Senator Hanson-Young asked the following question at the hearing on 14 February 2012:

Boat Crew

1. What is the daily cost of their detention, broken down into costs pre-charge, costs post charge? How is it divided currently between the States and Cth?
2. What is the cost of running age determination hearings?
3. What is the cost of detention for boat crew (e.g. in Berrima House/state and territory prisons/immigration detention network?)
4. Does the Dept have any evidence that the mandatory minimum sentences have any deterrence effect?

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

1. AGD does not collect this information. This is a question for DIAC for all pre-charge matters, and for all post-charge matters involving a defendant who has been released on bail to an immigration detention facility. Otherwise it is a matter for States and Territories as, under the federal arrangements in place since 1901, the cost States and Territories incur for detaining a prisoner charged with a federal offence is a matter for those jurisdictions, although it is one of the matters taken into account by the Commonwealth Grants Commission when making periodic assessments of the level of Commonwealth funding to be provided to the States and Territories.
2. AGD does not collect this information. State and Territory Legal Aid Commissions are able to claim reimbursement from the Commonwealth Attorney-General's Department for the cost of defending people accused of people smuggling offences. However, the Department does not receive information in a way that enables the isolation of costs specific to age determination hearings. This question is a matter for the CDPP for the cost to the prosecution. Otherwise it is a matter for States and Territories as, under the federal arrangements in place since 1901, prosecutions for almost all federal offences occur in State and Territory courts. Again, this is a matter taken into account by the Commonwealth Grants Commission.
3. See the answer to question 1 above.
4. In 2001, the then Minister for Immigration and Citizenship, the Hon Phillip Ruddock MP, made statements to the Senate Standing Committee for the Scrutiny of Bills in its consideration of the Border Protection (Validation and Enforcement) Bill 2001. Mr Ruddock stated that:

In 1999, the Parliament created new people smuggling offences that carried maximum penalties of 20 years imprisonment. However, since the creation of those offences, the penalties imposed by the Courts have generally been much less than the maximum penalty available.

This has not been a strong deterrent to persons who are participating in people smuggling, and some have committed repeat offences once they were released from prison... The provisions are intended to provide a deterrent to those people who might be minded to act as people smugglers.

Since September 2008, AGD is aware of only four individuals alleged to have committed repeat people smuggling offences.