

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 59

Senator Ludwig asked the following question at the hearing on 24 May 2006:

In relation to people awaiting extradition:

Please provide a table showing names, nationality, country seeking extradition and nature of offence for:

- a) People currently being detained pending extradition
- b) People remaining in detention because a Magistrate has determined that they are extraditable.

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

a) The following table lists the people currently being detained in Australia, as at 14 July 2006, in accordance with the Extradition Act.

	Name	Nationality	Requesting Country	Nature of alleged offence
1.	Brock, George	American	United States of America	Drug trafficking
2.	Griffiths, Hew	British	United States of America	Copyright
3.	Lysiak, Janusz	Polish	Poland	Dangerous driving causing grievous bodily harm
4.	Malik, Yasir	Canadian/Pakistani	United States	Drug offences
5.	Peleo, Gonzalo	Filipino	Belgium	Drug trafficking and possession
6.	Rivera, Lawrence	American	United States of America	Murder
7.	Rosario, Steven	Australian	Argentina	Drug trafficking
8.	Tervonen, Jan Atso	Finnish	Finland	Fraud
9.	Vasiljkovic, Dragan	Australian/Serbian	Croatia	War crimes

b) The following table lists the people remaining in detention, as at 14 July 2006, because a Magistrate or Court has determined that they are eligible for surrender.

	Name	Nationality	Requesting Country	Nature of alleged offence
1.	Griffiths, Hew	British	United States of America	Copyright
2.	Lysiak, Janusz	Polish	Poland	Dangerous driving causing grievous bodily harm
3.	Rivera, Lawrence	American	United States of America	Murder
4.	Rosario, Steven	Australian	Argentina	Drug trafficking

Next Steps

Once a Magistrate or Court has determined that a person is eligible for surrender, 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 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 requires that the requesting country arrange the

escort of the person from Australia within two months of the date of the decision to surrender the person. 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.