



# Refugee Council of Australia

## **RESPONSE TO QUESTIONS ON NOTICE FROM PUBLIC HEARING ON AUSTRALIA'S IMMIGRATION DETENTION NETWORK, 5 OCTOBER 2011**

### **1) Use of residence determination powers to release children and other vulnerable people from detention**

RCOA's concern about the detention of children grew during 2009 as the number of children held in detention arrangements other than community detention increased and as more information came to light about some of the arrangements for "alternative temporary detention in the community".

In January 2009, RCOA completed its submission to the Australian Government on the 2009-10 Refugee and Humanitarian Program. In this submission, we urged the Government to implement fully its July 2008 "detention values" and ensure that children are not subjected to detention-like conditions. The submission is available at [http://www.refugeecouncil.org.au/resources/intakesub/2009-10\\_Intake\\_Sub.pdf](http://www.refugeecouncil.org.au/resources/intakesub/2009-10_Intake_Sub.pdf) (see Section 8.2.4, p. 82).

This concern was reiterated in a meeting with advisers from the office of the then Minister, Senator Chris Evans, on 27 January 2009, in which the importance of specific time limits for the detention of children was discussed. The same concerns were raised with DIAC on the same day at a stakeholder meeting regarding detention on Christmas Island.

The need for greater use of residence determination powers to release children from detention was raised at the DIAC-NGO Dialogue held on 4 August 2009. RCOA encouraged the Government to make use of its residence determination powers to release children and families from "alternative temporary detention" (primarily in the old Phosphate Hill IDC) into community detention. According to publicly available statistics on immigration detention, at this time there were 83 children in immigration detention out of a total detention population of 998. Only 30 of these children were in community detention, the remainder being in "alternative temporary detention" (49 children) or Immigration Residential Housing (4 children).

### **2) Processing of asylum seekers under the Pacific Solution**

Under the offshore processing arrangements in place under the Pacific Solution, access to legal advice was very limited and there was no independent review of the decisions made. Extensive research conducted by the Edmund Rice Centre for Justice and Community Education, a member organisation of RCOA, has revealed that many asylum seekers whose claims for protection were rejected under offshore status determination processes experienced persecution or serious threats to their safety and security after returning to their countries of origin. The Edmund Rice Centre has confirmed the deaths of 11 failed asylum seekers whose claims were processed offshore under the Pacific Solution. A further nine asylum seekers are also believed to have been killed.

The findings of the Edmund Rice Centre's research are detailed in the publications below.

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The Refugee Council of Australia represents  
non-government organisations and  
individuals working with and for refugees  
in Australia and around the world

- Glendenning, P., Leavey, C., Hetherington, M., Britt, M. & Morris, P. (2004). *Deported to Danger: A study of Australia's treatment of 40 rejected asylum seekers*. Homebush West: Edmund Rice Centre for Justice and Community Education, [http://www.erc.org.au/index.php?module=pagemaster&PAGE\\_user\\_op=view\\_page&PAGE\\_id=80&MMN\\_position=83:79](http://www.erc.org.au/index.php?module=pagemaster&PAGE_user_op=view_page&PAGE_id=80&MMN_position=83:79)
- Glendenning, P., Leavey, C., Hetherington, M. & Britt, M. (2006). *Deported to Danger II: The continuing study of Australia's treatment of rejected asylum seekers*. Homebush West: Edmund Rice Centre for Justice and Community Education, [http://www.erc.org.au/index.php?module=pagemaster&PAGE\\_user\\_op=view\\_page&PAGE\\_id=80&MMN\\_position=83:79](http://www.erc.org.au/index.php?module=pagemaster&PAGE_user_op=view_page&PAGE_id=80&MMN_position=83:79)
- Banham, C. (2008). "Afghans sent home to die." *Sydney Morning Herald*, 27 October, [www.smh.com.au/news/national/afghans-sent-home-to-die/2008/10/26/1224955853319.html](http://www.smh.com.au/news/national/afghans-sent-home-to-die/2008/10/26/1224955853319.html)