

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

Joint Standing Committee on Migration

**IMMIGRATION DETENTION
CENTRES**

INSPECTION REPORT

August 1998

House of Representatives Printing Office

© Commonwealth of Australia 1998

ISBN 0-9586021-07

Printed by the House of Representatives Printing Office, Parliament House, Canberra

CONTENTS

COMMITTEE MEMBERSHIP	V
ABBREVIATIONS	VII
CHAPTER 1 - THE INSPECTION	1
INSPECTION DECISION.....	1
RATIONALE FOR INSPECTION.....	1
INSPECTION PROCESS.....	3
INSPECTION REPORT.....	3
CHAPTER 2 - DETENTION IN AUSTRALIA	5
THE DETENTION FUNCTION.....	5
IMMIGRATION DETENTION CENTRES.....	5
NUMBERS OF DETAINEES.....	6
NATIONALITY OF DETAINEES.....	7
LENGTH OF DETENTION.....	8
OUTSOURCING OF THE SERVICE.....	8
ACTIVITIES WITHIN THE CONTRACT.....	9
ACTIVITIES OUTSIDE THE CONTRACT.....	9
CONTRACT MANAGEMENT.....	10
REDEVELOPMENT OF VILLAWOOD AND PORT HEDLAND CENTRES.....	10
CHAPTER 3 - FACILITIES AND SERVICES	13
OVERVIEW.....	13
CURRENT DETENTION FACILITIES.....	13
HEALTH SERVICES.....	14
WELFARE SERVICES.....	16
EDUCATION SERVICES.....	16
RELIGIOUS PRACTICES.....	18
RECREATION FACILITIES AND SERVICES.....	19
INTERPRETING SERVICES.....	20
CONSULTATIVE COMMITTEES.....	20
DESCRIPTION OF COMPLAINTS SERVICES.....	20
FOOD SERVICES.....	21
ILLEGAL SUBSTANCES AND CONFLICT RESOLUTION.....	22
CHAPTER 4 - AFMA CARETAKER FACILITIES - DARWIN & BROOME	31
BACKGROUND.....	31
LOCATION.....	31
ADMINISTRATION.....	31
CURRENT FACILITIES.....	32
THE NEED FOR UPGRADING FACILITIES.....	33
INSURANCE.....	34
STATISTICS.....	34
SECURITY.....	34
ESCORT DUTIES.....	34
MEDICAL SCREENING.....	35
LEGAL PROCESS.....	35
ACCESS/INSPECTIONS.....	35
INTERPRETERS.....	36
CHAPTER 5 - CONCLUSION	39
OVERALL OPERATION.....	39
SPECIFIC FINDINGS.....	39

SEPARATION DETENTION	40
EDUCATIONAL OPPORTUNITIES.....	40
ACCESS TO LEGAL SERVICES.....	40
FOOD AVAILABILITY.....	41
OVERCROWDING	41
APPENDIX 1	42
APPENDIX 2	57
APPENDIX 3	59

COMMITTEE MEMBERSHIP

Joint Standing Committee on Migration

Chair: Mrs Chris Gallus MP

Deputy Chair: Senator Jim McKiernan

Members: Mr Eoin Cameron MP

Mr Martin Ferguson MP

Mr Noel Hicks MP

Hon Clyde Holding MP

Hon Dr Andrew Theophanous MP

Senator John Tierney

Senator Alan Eggleston

Senator Andrew Bartlett

Secretary: Ms Margaret Swieringa

Secretariat Staff: Mr Shane Holt (until June 1998)

Ms Natalie James (from July 1998)

Ms Penne Humphries

ABBREVIATIONS

ACM	Australasian Correctional Management
ACS	Australasian Correctional Services Limited
AFMA	Australian Fisheries Management Agency
ANAO	Australian National Audit Office
APS	Australian Protective Service
ASeTTS	Association for Torture and Trauma Survivors
DIMA	Department of Immigration and Multicultural Affairs
ESL	English as a Second Language
HREOC	Human Rights and Equal Opportunity Commission
IDC	Immigration Detention Centre
IRPC	Immigration Reception and Processing Centre
NESB	Non-English Speaking Background
RRT	Refugee Review Tribunal

CHAPTER 1

THE INSPECTION

Inspection decision

1.1 The Committee has a responsibility to Parliament to monitor the immigration and multicultural affairs portfolio. This responsibility extends to examining changes to custodial services operating at detention centres under DIMAs control.

1.2 In September 1997, the Department of Immigration and Multicultural Affairs (DIMA) on behalf of the Australian Government entered into contractual arrangements with Australasian Correctional Services Pty Limited (ACS). The contract related to the provision of detention, transfer and removal services at all immigration detention centres throughout Australia. The Committee was interested to inspect the detention centres shortly after the service delivery arm of ACS, Australasian Correctional Management (ACM), assumed control of these functions.

1.3 On 30 April 1998, the Joint Standing Committee on Migration (the Committee) resolved to conduct a series of inspections of immigration detention centres under the portfolio responsibility of the Minister for Immigration and Multicultural Affairs. The Committee also resolved to report its findings to Parliament.

Rationale for inspection

Criticisms of existing practices

1.4 The Committee is aware that the issues of the operation of immigration detention centres and the "boat people" detained at some of these centres form the subject material of recent reports. The Human Rights and Equal Opportunities Commission (HREOC) has released *Those who've come across the seas*¹, which is critical of aspects of the present system. The Australian National Audit Office has released *The Management of Boat People*.² The Ombudsman has recently released a report on the two centres that detain illegal fishermen, predominantly but not exclusively Indonesian, apprehended fishing within Australian territorial waters.³

1.5 These reports have attracted and will continue to attract public interest in the detention facilities operating in Australia. Committee members determined to inspect the centres for themselves to form their own view and in order to provide information

1 HEROC, *Those who've come across the seas: Detention of unauthorised arrivals*, Commonwealth of Australia, 1998.

2 ANAO, *The Management of Boat People*, Commonwealth of Australia, Report 32 in 1997/1998.

3 *Administrative Arrangements for Indonesian Fishermen Detained in Australian Waters*; Report under Section 35A of the Ombudsman Act 1976; July 1998.

about the facilities and the adequacy of the existing management to the Parliament and the community.

1.6 HREOC suggests the overall conditions of detention are inadequate and violate the human rights of non-citizens detained for long periods. HREOC cites as particular problems insufficient resources for education services and inadequate recognition of detainees' experience of traumatic events. Detainees' access to lawyers and separation detention were other areas of specific criticism as was overcrowding that occurs on occasions at all centres. HREOC also advocated external monitoring of the centres. The Attorney General has not yet responded to the report.

1.7 The ANAO report deals with the management of boat people and it encourages further improvements in the areas of formalised arrangements with service providers, security risk assessments, the use of legal resources and cost recovery..

1.8 The Ombudsman's report examined the administrative arrangements regarding the care and management of Indonesian fishermen whilst they are detained within Australia. It also looked at the conditions under which the fishermen are detained. The report concluded that the existing arrangements involved 'unsatisfactory features', even for short stays. The findings of this report will be examined in more detail in Chapter 4 of this report.⁴

Committee focus

1.9 The focus of the Committee's report is on describing the physical premises and custodial services operating at Australia's immigration detention centres. The Committee used the criticisms of the other agencies as a guide to identify those aspects of the existing management regime to be subject to closer inspection. The Committee obtained information on all aspects of the current management practices but looked closely at the criticisms about:

- health services;
- educational services;
- access to lawyers; and
- overcrowding, especially in Perth.

1.10 There was no evidence taken on the wider issues of detention and the detainees were not contacted.

⁴ *Administrative Arrangements for Indonesian Fishermen Detained in Australian Waters, Summary and Conclusions, paragraph 12.*

Inspection Process

1.11 The Committee conducted inspections of four DIMA premises. The Committee was briefed about the facilities and services at each of these sites by local DIMA staff and ACM representatives. Members were conducted on tours through the premises to observe the facilities.

Date	Premise	Members present
30 April 1998	Perth	Mrs Gallus MP, Senators McKiernan, Eggleston and Bartlett
1 May 1998	Port Hedland	Mrs Gallus MP, Senators McKiernan, and Bartlett
17 June 1998	Villawood	Mrs Gallus MP, Senators McKiernan, Bartlett and Mr Hicks MP.
17 June 1998	Maribyrnong	Mrs Gallus MP, and Senator McKiernan

1.12 The Committee was also briefed by DIMA central office staff and supplied with information about the management of those centres.

1.13 Two members of the Committee, the Chair and Deputy Chair, travelled separately to inspect the detention facility operated at Willie Creek, Broome, by the Australian Fisheries Management Agency (AFMA). This centre, and another in Darwin Harbour, is used to detain Indonesian nationals accused of illegal fishing inside Australia's territorial waters. AFMA supplied information about its arrangements for the two centres and this is reported in Chapter 4.

1.14 This information, together with the members' own observations, comprise the information from which the report was prepared.

Inspection report

1.15 The remainder of the report is divided into several chapters. Chapter 2 provides an overview of non-citizen detention in Australia together with a history of the outsourcing to ACM. Chapter 3 describes the detention facilities inspected and the services observed by the Committee. Chapter 4 covers information from the Australian Fisheries Management Agency on the detention of illegal fishermen at Willie Creek and Darwin and the observations of the Chair and Deputy Chair on their

visits to Willie Creek. Chapter 5 as the conclusion records the Committee's observations about the management of the centres.

1.16 As the Committee did not provide an opportunity for the information supplied by DIMA, AFMA or ACS to be tested at public hearings, the Committee considered it inappropriate at this stage to make any specific recommendations regarding the management of the Immigration Detention Centres.

CHAPTER 2

DETENTION IN AUSTRALIA

The Detention Function

2.1 Australia has the right to determine which non-citizens are permitted to enter Australia, the conditions under which they may remain, and the conditions under which they may be deported or removed. The *Migration Act 1958* provides the legislative authority controlling the access of non-citizens to Australia.

2.2 The Act provides that a non-citizen must have a valid visa before entering Australia. Conversely, the Act provides that a non-citizen without a visa, a non-citizen who obtained the visa fraudulently or a non-citizen who holds an invalid visa, is unlawfully in Australia. The Act requires authorised border control officers to detain all non-citizens unlawfully in Australia and to maintain that detention until authorised by the Act to release the non-citizen. The Act also provides for the establishment and operation of immigration detention centres for the purpose of detaining non-citizens.¹

2.3 Immigration detention is an administrative sanction, that is, the deprivation of personal liberty other than as a result of a conviction for an offence. The Australian Government and ACM, as service provider, have a duty-of-care to detainees and all actions relating to the detention and care of detainees must be consistent with the relevant Commonwealth and State laws and, if asylum is sought, with the relevant international conventions covering refugees.

2.4 The detention required by the *Migration Act 1958* is delivered in purpose-specific detention centres that are low to medium security establishments. If individual circumstances warrant, detention can be provided in prisons or, for short periods pending transfer, police cells or remand centres.

Immigration detention centres

2.5 DIMA currently operates immigration detention centres (IDCs) in Sydney (Villawood), Melbourne (Maribyrnong), and adjacent to the airport in Perth. IDCs are used to accommodate non-citizens who seek to enter Australia, through air or sea ports without appropriate documentation, or who are found to be in Australia unlawfully (working illegally or having overstayed their visas).

2.6 DIMA also operates a reception and processing centre (IRPC) at Port Hedland, WA. The Port Hedland facility is used to accommodate unauthorised boat arrivals, the so-called "boat people," that arrive in northern Australia. During 1995,

1 A more detailed analysis of the concepts governing immigration detention is contained in the Committee's recent report, *Deportation of Non-Citizen Criminals*, June 1998 and its earlier report, *Asylum, Border Control and Detention*, February 1994.

DIMA also leased accommodation at the Curtin Air Base near Derby WA when the Port Hedland facility was full. Temporary accommodation is occasionally required at point of landing of boats, in the past on Christmas and Thursday Islands, and in Darwin. IDCs also accommodate some unauthorised boat arrivals.

Numbers of detainees

2.7 Detainees come from a wide variety of social and cultural backgrounds and few have English as their first language. The composition of nationalities in detention at any time can also fluctuate significantly. Length of time in detention has varied significantly, from days to years.

2.8 The Committee sought to provide some measure of these variations by recording detainee numbers at two different times. DIMA supplied the detainee figures at the time of the tender process and the Committee collected the detainee numbers during its inspections.

2.9 As at 24 March 97, there were 472 people in immigration detention in Australia. As at 17 June 1998, there were 394 people in detention:

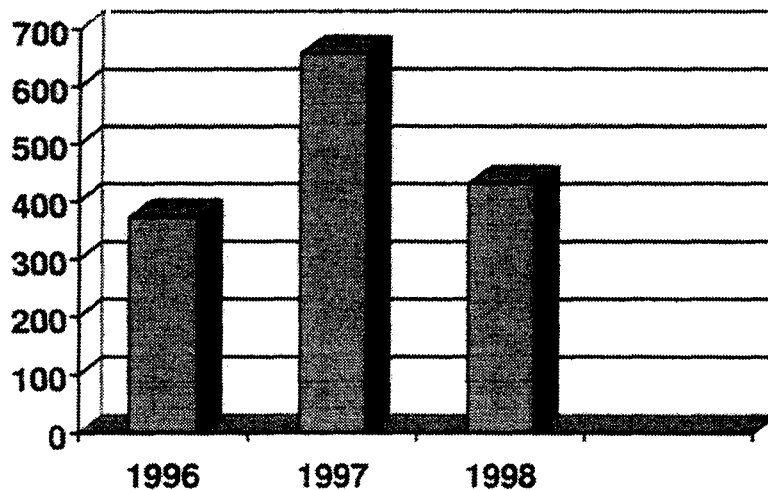
Detention Location 17 June 1998	Unauthorised arrivals	Overstayers	Boat	Stowaway	Total
Villawood	179	64	1		244
Maribyrnong	45	23			68
Perth	24	4		2	30
Port Hedland	21		27		48
Other	3			1	4
TOTAL	272	91	28	3	394

2.10 Since 1993, DIMA reports the number of people requiring detention per annum has fluctuated between 1410 and 2900 persons, with a range of 340 to 1025 persons in detention at any one time. The average number of non-citizens detained on any one day in the period 1996 to 1997 was 495 and 400 respectively. In that same period, the number of detainee days per annum has ranged between 229,570 and 215,654.

**Number of detainees
1993/4 - June 1998**

Year	Number of detainees as at 30 June
1998	372
1997	657
1996	430
Number of persons admitted	
1994/5	1 633
1993/4	2 789

**Number of detainees at June 30
1996 - 1998**



Nationality of detainees

2.11 The volatility of world events, changing theatres of war and, possibly, changing perceptions of Australia as a desirable destination has seen the mix of nationalities held in detention change considerably over time.

2.12 In 1996, non-citizens from the People's Republic of China accounted for 55% of detainees and Sino-Vietnamese over 10% of detainees. By June 1998 in

Villawood, citizens of Sri Lanka, Somalia, Kuwait, Indonesia and Iran outnumbered the Chinese and Vietnamese nationals.

Length of detention

2.13 The marked variation in the duration of immigration detention makes 'average' figures somewhat misleading. For many non-citizens who overstayed their visa, the experience of detention lasts for a few days. For some non-citizens seeking refugee status, detention can last for several months while they await the decision by DIMA and the Refugee Review Tribunal (RRT). For those individuals who exercise their right to appeal rejection of a refugee application through the full gamut of Tribunal and Court appeals, in some cases detention has extended for some years.

2.14 While it is true to say most detainees can avoid lengthy periods of detention by agreeing to removal, detention can be prolonged while travel documentation is sought from their country of nationality (which in some countries can be a time-consuming process).

2.15 DIMA supplied figures about the period of detention for non-citizens released during the year 1997/98:

Time Detained	<14 days	>14 days but <1 mth	>1 mth but <2 mths	>2 mths but <3 mths	> 3 mths but <6 mths	> 6 mths but <1 year	> 1 year but <2 years	>2 years but <3 years	>3 years
Percentage of detainees	24.5%	14.9%	10.0%	17.2%	13.4%	7.6%	4.8%	3.5%	3.9%

In a snapshot, a quarter of detainees are released in less 2 weeks, half are released in less than 2 months and over three-quarters are released within 6 months.

Outsourcing of the Service

2.16 The Australian Protective Service (APS) was contracted under tied provision arrangements to provide the guarding service at all three detention centres and at Port Hedland. The APS provided escort services where a detainee was required to travel outside of a centre. At DIMA's request, the APS also provided or coordinated a range of other services including catering, health, welfare and educational services and building maintenance.

2.17 In the 1996/97 Budget, the Government announced that guarding services be put to competitive tender. It subsequently decided to put the full detention function to tender.

2.18 In September 1997, DIMA announced that ACS was the successful tenderer. ACM commenced operations in November 1997 under a letter of understanding with DIMA and a contract was signed on 27 February 1998.

Activities within the Contract

2.19 Under the contract, ACM provides the following services:

- a. *The transfer and escort of detainees within Australia and on occasion to overseas locations.* For example, this function includes movement from point of arrival in Australian territory to a detention facility, between detention facilities, and subsequently from a detention facility to the detainee's country of origin. These movements can involve large numbers of detainees with escorts on charter flights or may be single person movements on commercial transport services. All movements of detainees must satisfy relevant provisions laid down by Australian and international air transport regulations.
- b. *The provision of facilities for detention of unlawful non-citizens in Australia.* This function involves the management of Commonwealth owned facilities; and possibly the financing, construction and management of new facilities.
- c. *The provision of detention services* includes functions such as guarding, interpreting and translation, catering, cleaning, maintenance, education, clothing, welfare and health services. The services encompass all that is required to provide care and security for detainees from commencing immigration detention to completion of removal or release action.

Activities outside the Contract

2.20 Detainees may seek to remain permanently in Australia by applying for visas under Australian migration legislation. There are legislative requirements and procedures that must be satisfied in that event. Many detainees seek to engage Australia's international protection obligations (commonly referred to as "applying for refugee status") and, in some instances, seek access to lawyers to assist them in this process. Responsibility for management of these processes is retained by DIMA and does not form part of ACM's function.

2.21 Activities which are outside the scope of the contract include:

- a) The processing and decision making on applications for visas from persons in immigration detention and on any appeals and litigation related to such decisions;
- b) The conduct of negotiations with foreign governments and international agencies on questions related to the removal from Australia of foreign nationals;

c) The interpretation of international agreements to which Australia is a party which might impact on the delivery of Australia's immigration detention; and

d) The conduct of negotiations with State/Territory or Commonwealth agencies on questions related to access to detention centres and the applicability of State/Territory or Commonwealth legislation to Centres.

Contract management

2.22 By contracting the day-to-day operational sector management to the private sector, DIMA can focus on its case management of each detainee and other core business activities. DIMA advises that the contract with ACS contains a sophisticated reporting and contract management regime which links payment to performance.

2.23 DIMA cites, as a major advantage of its preparation of the tender, the development of the present Immigration Detention Standards (the Standards). These Standards are reproduced as Appendix One of this report. These principles underpin the provision of detention and the standard of care required to be provided by ACM. The Standards represent the benchmark from which not only ACM but also Australia is judged.

2.24 AFMA is the Commonwealth statutory authority responsible for ensuring the sustainable use and efficient management of Commonwealth fishery resources. Caretaker facilities are managed by AFMA in Darwin and also at Willie Creek, Broome. The management of both facilities is examined in Chapter 4.

Redevelopment of Villawood and Port Hedland centres

2.25 The Committee noted that major redevelopment works were planned or underway at the two largest facilities. When completed, these facilities will represent state-of-the-art detention centres and rival the best in the world.

Villawood

2.26 In May 1998, the Minister announced a major redevelopment of this IDC. The \$35 million upgrade, due for completion in mid 1999, will be financed, constructed and maintained by ACS. The Commonwealth will pay an annual charge to ACS for use of the facility and ACM will continue to provide custodial services.

2.27 The existing two part IDC will be replaced by a single, more secure centre providing detention facilities addressing the needs of detainees with divergent language, religious and cultural backgrounds. The new facility will have a capacity of between 300 to 350 detainees which will provide ample scope to accommodate the existing level of detainees as well as any influx through the year 2000 and into the next century.

2.28 The existing complex will be demolished and much of the existing site redeveloped for activities associated with the Olympic Games.

Port Hedland

2.29 At the time of the inspection, members were able to view the final stages of a major refurbishment of the complex. Over \$11.4 million had been expended in improving the standard of accommodation, the security of the complex and the air conditioning and cyclone protection for buildings.

2.30 Pictures of the complex before and after the refurbishment reproduced at pages... demonstrates the extent of the upgrade.

Community views about the Port Hedland centre

2.31 At Port Hedland, the Committee met with the Deputy Mayor and two members of the shire council, to gain the views of the local community. These Council representatives stated that the IRPC was of great benefit to the community and they wanted to keep the function at Port Hedland.

2.32 The centre represents the third largest enterprise in the community generating as much as \$1 million per annum for the local economy. The centre purchases the majority of its goods and services locally and the recent refurbishment was a boon to local small businesses. ACM had recently run job advertisements in the local paper for staff at the centre.

2.33 The Council representatives noted that the wider community did not appear concerned that the centre was in a residential part of town. While some concerns were voiced following rioting several years ago, the only matter that Council would like considered in the future was the possible relocation of the centre to a site closer to the airport.



CHAPTER 3

FACILITIES AND SERVICES

Overview

3.1 The Committee observed and sought information on the following issues:

- Buildings;
- Health services;
- Welfare services;
- Education services and facilities;
- Religious services and facilities;
- Recreational services and facilities;
- Food services;
- Interpreting services; and
- Complaint procedures.

This chapter provides a brief description of each of these services provided in the four centres inspected by the Committee.

Current detention facilities

Villawood IDC

3.2 This IDC is located in Miowera Road, in a Sydney residential suburb. The IDC consists of two complexes, which separately accommodate high risk and short duration detainees in stage one and low risk and longer-term detainees in stage two. Stage one, built in 1976, is a brick construction with a single storey accommodation block and a two-storey administration centre. Stage two, originally built as a migrant hostel, was converted in 1991. It consists of 12 two storey brick buildings and several temporary demountable buildings for the mess, school and entry building.

3.3 Stage One can accommodate 72 persons in a 44-bed dormitory, a 20 bed dormitory and family units bedding eight. Stage two uses four blocks for single male accommodation housing a maximum of 118 beds, one block for single females housing a maximum of 36 beds and one block for families with a maximum of 46 beds. Stage one is located on approximately 1.35 hectares and stage two occupied 3 hectares.

Maribyrnong IDC

3.4 This IDC is located at 53 Hampstead Road, Maidstone in a light industrial area of Melbourne. Constructed in 1966, the single storey brick construction has a capacity of 80 persons. The IDC can accommodate a maximum of 58 single males and 8 single females in dormitory style accommodation and has four family units with a maximum of 14 beds. This IDC occupies around 0.4 of a hectare of land.

Perth IDC

3.5 This IDC is located on the corner of Baker Road and McCombe Avenue, Redcliffe at the Perth Airport. Constructed in 1981, this purpose built brick construction has a capacity of 42 persons. The IDC can accommodate 34 single males and 8 single females. No family accommodation is available but, in the past, the female dormitory has been used because of the traditionally low numbers in that dormitory. The IDC occupies around 0.13 of a hectare.

Port Hedland IRPC

3.6 This centre is located in Dempster Street, Cooke Point in a residential area of Port Hedland. Formerly a mining company's single men quarters, it was purchased in 1991. The centre has a capacity of 700 persons and consists of one brick and eleven prefabricated cyclone proof blocks with ancillary buildings such as the mess, bulk store freezer room and maintenance sheds. On completion of the refurbishment, the centre will have a maximum of 218 single male beds, 21 single female beds and 44 family units with 264 beds. The IRPC occupies more than 3 hectares of land.

Health services

Villawood IDC

3.7 This centre has a Health Services Coordinator and a General Practitioner, on site or on 24-hour call. General health and welfare services are supplied by five registered nurses (with Mental Health, Midwifery, early childhood and postgraduate tertiary qualifications) rostered 24 hours seven days a week. The doctor sees patients in clinic sessions while out-of-hours matters are dealt with by nursing staff. Other more specialised services include a Clinical Psychologist who visits weekly and an optometrist who visits fortnightly.

3.8 Psychiatrists in the nearby public hospital deal with mental health cases. Staff are trained in seminars to refer behaviour and possible mental health problems to trained on-site counsellors and psychiatric trained nurses. Isolation and lock-up facilities are available and, in emergencies, staff have access to the community health crisis team and liaise with local mental health hospitals and personnel. Staff also attend "Service for the Treatment and Rehabilitation of Torture and Trauma Survivors" (STARTS) conferences and have access to literature.

Maribyrnong IDC

3.9 This centre has a visiting doctor providing clinic services on two afternoons a week. Two nurses are rostered to provide care seven days a week. These nurses, both trained in psychiatric care, also provide mental health services supported by trained custodial staff. Counselling services are provided by one of the nurses and a trained counsellor.

Perth IDC

3.10 Perth IDC has a nurses centre and private consulting room fitted out with basic level medical equipment. The centre is staffed with a full time Registered Nurse (40 hrs per week) and has a medical officer who attends for 2 x 1 hour sessions per week. Health screening services at the centre are limited, however, all detainees are tested for Tuberculosis. Local emergency medical facilities are available if required.

3.11 Medical practitioners engaged at the centre have been trained to identify mental health problems through the ASeTTTS GP Program.¹ The nurse employed at the centre is also a Registered Mental Health Nurse. A counsellor and a psychiatrist are on call as needed, with the Mill Street Hospital available for mental health emergencies. Mental health support facilities at the centre include a 'time out' room and relaxation sessions for detainees.

Port Hedland IRPC

3.12 Medical facilities at the centre comprise a consulting room with office, an examination room, a counselling room and a dispensary/treatment room. Basic emergency equipment is on hand with a medical clinic operating 5 days per week. Access to local emergency services includes an ambulance service, the Port Hedland Regional Hospital and telephone consultation with a GP.

3.13 A general nurse with additional training in mental health, midwifery, family planning and child health is employed full time at the clinic and is on call 24hrs/7days per week. The centre manager is also a Registered Nurse with training in mental health and is available as an on call relief nurse.

3.14 In addition, the centre has a counsellor with qualifications in both counselling and cultural studies. The clinic nurse is trained in suicide assessment and management and acute crisis management skills. All custodial staff undergo pre-service training which includes the identification of mental health problems, suicide, self harm risk and correct referral to specialist staff. An active referral system to the North West Mental Health Service operates and telephone contact with ASeTTTS in Perth is available to specifically address problems associated with trauma and torture.

1 Association for Services to Torture and Trauma Survivors - a program funded by the Department of Health and Family Services and DIMA which provides education programs for health professionals and General Practitioners in the referral of trauma survivors, in particular, refugees, to appropriate services.

Dental services

3.15 Medical, but not cosmetic, dental services are available at all detention centres. These services include all necessary dental treatment, including crowns, fillings, root canals and the removal of dead teeth.

Welfare services

Villawood IDC

3.16 One counsellor with the qualifications of: BSc (major in psychology); MA Psych; postgraduate training in individual and family therapy; and Graduate Certificate in Management Psychology, is available during working hours. A clinic operates in both stages.

Maribrynong IDC

3.17 One counsellor with tertiary qualifications in social welfare is available 40 hours per week. Detainees can access the counsellor direct or be nominated by staff or medical staff.

Perth IDC

3.18 Counselling services are available for detainees at the centre 8.00am-4.00pm weekdays. Services are provided by a Registered Mental Health Nurse and drug and alcohol counsellors. Referral and interpreter services are readily available for counsellors to utilise.

Port Hedland IRPC

3.19 A full time counsellor with qualifications in Counselling and Cultural Studies is available Monday to Friday, 8.30am-4.30pm and after hours as required. Access to the service for detainees is through self or staff referral and through Immediate Risks Needs Assessment on arrival at the centre.

3.20 The counsellor has access to a range of facilities and equipment at the centre including: office space; access to interpreter and referral services; cassette players and relaxation tapes; library membership; and foreign newspaper subscriptions. An extensive network of support agencies is readily available to provide written information and advice.

Education services

Villawood IDC

3.21 An on-site School operates between 9.00am to 2.00pm (4 hours) catering for seven children aged between 6 to 15 as at 22 May 1998. The classroom is a prefabricated building. One teacher with a Diploma in Education, BA (English) and

ESL Certificate teaches a primary curriculum with an emphasis on Maths and English. Art supplies, sporting equipment, a computer and books are available.

3.22 The same teacher provides classes for adults based on an ESL Migrant Program from Western Australia. The centre holds conversation groups and advanced classes based on a Cambridge English Course.

Maribyrnong IDC

3.23 School aged children are placed in the local Catholic school system. A teacher with a BA (Primary Teaching) and a Masters in Theology conducts adult education classes. Any resident may access the teacher for up to 16 hours per week. Facilities include computers, books, art and craft materials together with some language materials.

Perth IDC

3.24 Adult detainees have access to English tuition for 1 hour per week facilitated by a teacher with an ESL background. An art therapy session is also offered for one hour per week.

3.25 Learning aids and equipment at the centre are limited to whiteboards, TV/video and art equipment.

Port Hedland IRPC

3.26 One education officer is employed to provide schooling for children at the centre. The schoolroom operates Monday to Thursday from 9.00am to 12noon. The pre-school curriculum and supporting materials offered are appropriate for children from Non English Speaking Backgrounds with an emphasis on basic numeracy, the alphabet and cooking. Equipment appropriate for pre-primary aged children is provided both indoors and outdoors. Learning facilities include books, pencils, paints, musical instruments, television and video.

3.27 External schooling is available, chiefly for social interaction, if considered appropriate. A weekly placement in a day care centre is also provided for the children as an opportunity for socialisation. The centre has unrestricted access to Hedland College and the District Education Office for education and learning resources.

3.28 An adult education program is offered to interested participants Tuesday, Wednesday and Friday mornings and every afternoon, with an excursion to Hedland College provided every Friday afternoon. The curriculum for adult detainees is flexible and based on assessed need or individual interest. Subjects include Maths (all levels), Engineering, Literacy, Numeracy, ESL and English 1K, pottery, sewing, music and art. Learning aids and equipment include television and video, library access (on and off site), sewing equipment, art materials and a potting wheel.

Religious practices

Villawood IDC

3.29 Detainees able to retain all important religious icons and the centre houses two Mosques and a number of smaller shrines to facilitate personal worship. Detainees have access to pastoral care from religious service providers in the normal visiting hours in private rooms are available to groups.

3.30 The centre observes most religious festivals of significance with special arrangements, which may include fasting, altering of meal times, prayer times and dietary needs.

Maribyrnong IDC

3.31 Similar religious opportunities are provided at this centre. Several private rooms are available for worship during festivals and for religious services. Catholic and Uniting Church ministers visit each week. During Islamic festivals, the TV room is converted into a mosque for prayers and the staff cater for the requirement of special foods and changes to eating times.

Perth IDC

3.32 A room at the centre has been designated and configured as a place of worship. A Catholic Priest attends weekly to say Mass and a bible study group meets regularly. A Muslim Oman makes a monthly visit. Appropriate arrangements are made in accordance with requests from residents wishing to practice other types of religion.

3.33 Religious festivals are acknowledged and celebrated in accordance with the religious calendar.

Port Hedland IRPC

3.34 A room in C Block is available to detainees as a place of personal worship. A Catholic Priest says Mass each week in this room with other religions catered for by request from residents.

3.35 Access to pastoral services is readily available to detainees and is provided through the Catholic Church and the Islamic Association of North Western Australia. A specially designated room is soon to be available for service providers.

3.36 The centre celebrates religious festivals such as Easter, Christmas, Ramadan and Eid-UI-Adah² and facilitates catering accordingly.

2 An annual Islamic festival when an animal is sacrificed in commemoration of Abraham's sacrifice of his son.

Recreation facilities and services

Villawood IDC

3.37 Detainees are able to participate in activities such as craft, conversational groups via the adult education program as well as general sporting activities. Detainees are encouraged to participate in as many programs and activities as they wish.

3.38 The equipment available for organised recreational programs includes pool tables, table tennis tables, soccer, basket and volleyballs, a gym, board games, a library, five TVs and three videos are all available on request.

3.39 The library facilities include approximately 500 books in languages such as Tamale, Arabic, English, and French. Newspapers in other languages are delivered daily which include Arab World, China Independent Daily, Chinese Herald, Daily Telegraph, El-Telegraph, Middle East Herald, Sing Tao, The Australian and the Sydney Morning Herald.

Maribyrnong IDC

3.40 Organised sports include table tennis, basketball, volleyball, pool and soccer. The centre has a small gym with weight equipment, boxing bags and gloves. Seven TVs and 4 video players provide unlimited access to available free to air services. A multilingual library together with some overseas and Australian newspapers provides access to print materials.

Perth IDC

3.41 There are no organised sporting or leisure activities at the centre. Sporting equipment available to detainees includes: volleyballs; soccer balls; table tennis; and badminton. Leisure equipment includes television, videos and access to reading material in the library.

Port Hedland IRPC

3.42 Detention Officers, the Counsellor and the Education Officer provide activities. Programs available include fishing, swimming, shopping, pottery, sewing, technical visits to geological sites and the Port Hedland College library, and a regular volleyball competition. In winter, soccer replaces swimming as an activity. Each resident is permitted to spend up to 10 hours per week participating in recreational activities. Detainees are entitled to leave the centre for recreational activities.

3.43 A wide selection of sporting equipment is available to detainees including volleyballs; table tennis gear; basketballs; soccer balls; and, fishing rods. Residents have ready access to the library at the centre as well as the local library. The centre subscribes to a variety of multilingual newspapers and magazines. Televisions and video equipment are provided in recreational rooms at the centre.

Interpreting services

Interpreting services are provided at all centres as needed.

Consultative Committees

Villawood IDC

3.44 A telephone interpreting service is available on a 24 hour a day basis. A face to face interpreter service is available for a non-English speaking person visiting the nurse/doctor or ACM management. A detainee consultative committee meets approximately fortnightly so the detainee body can be informed of decisions that are relevant to their management.

Maribyrnong IDC

3.45 Maribyrnong offers the same service as Villawood.

Perth IDC

3.46 Services offered are the same as at Villawood, however the consultative committee meets on a monthly basis.

Port Hedland IRPC

3.47 The Port Hedland Centre offers the same consultative system, with residents meeting as required.

Description of complaints services

Villawood IDC

3.48 A detainee must complete a general request form to lodge a complaint. It is reviewed, initially at supervisor level, then passed back to the detainee. A further review by the ACM Centre Manager is conducted if the detainee is not satisfied with the initial decision. Detainees are notified of the complaint procedure on admission to the IDC.

Maribyrnong IDC

3.49 The procedure mirrors Villawood though residents may raise their complaint verbally and obtain the result in a similar fashion.

Perth IDC

3.50 Residents are advised on arrival of their right to make a complaint and the procedures by which this might be done. The first mechanism for complaints is the monthly detainee meetings. A centre supervisor reviews the complaint and refers to ACM management if required. DIMA is advised of all complaints by residents and

will hold meetings to resolve issues. The detainee is informed of the outcome of their complaint either personally or at the monthly meeting.

Port Hedland IRPC

3.51 A complaints box is provided at the centre for residents to advise management or DIMA in writing of any problems. Centre staff are also available to listen to complaints and convey them to management. Residents are advised of the complaints mechanism on arrival at the centre. A complaint continues to be addressed either by ACM management or DIMA until resolution is effected. Detainees are also advised of their right to lodge a complaint with the Ombudsman.

Food services

Villawood IDC

3.52 The menu is set and reviewed by independent consultative dietician. All meat supplied to Villawood IDC is hal-al killed to conform to requirements of the Muslim population and a comprehensive vegetarian menu is available. Current menu guidelines are advised by a dietician and endorsed as culturally sensitive. Under supervision of catering staff, some detainees assist in food preparation. Detainees have access to snacks and drinks outside of meal hours through vending machines situated in stage 1 and stage 2.

Maribyrrnong IDC

3.53 A nutritionist sets the menu. Three chefs prepare international meals, which are subject to comment by a resident committee. Detainees do not assist in food preparation but their suggestions are considered. Vending machines and a residents' refrigerator provide access to food outside of meal times.

Perth IDC

3.54 Detainees at the centre are consulted on menus that are also checked by a dietician for suitability. The menu operates on a four weekly rotation. Vegetarians and residents with other special dietary needs are catered for at the centre. All meat is hal-al killed. Chinese cuisine and pork are offered on weekends. Tea and coffee and a snack vending machine are available for residents at all times. Detainees assist in food preparation.

Port Hedland IRPC

3.55 Residents prepare the food at the centre under supervision. Asian and Muslim cultures are catered for separately with the provision of Asian spices and hal-al food. Snack foods such as noodles and drinks such as cordial, tea and coffee are available to residents outside regular meal hours.

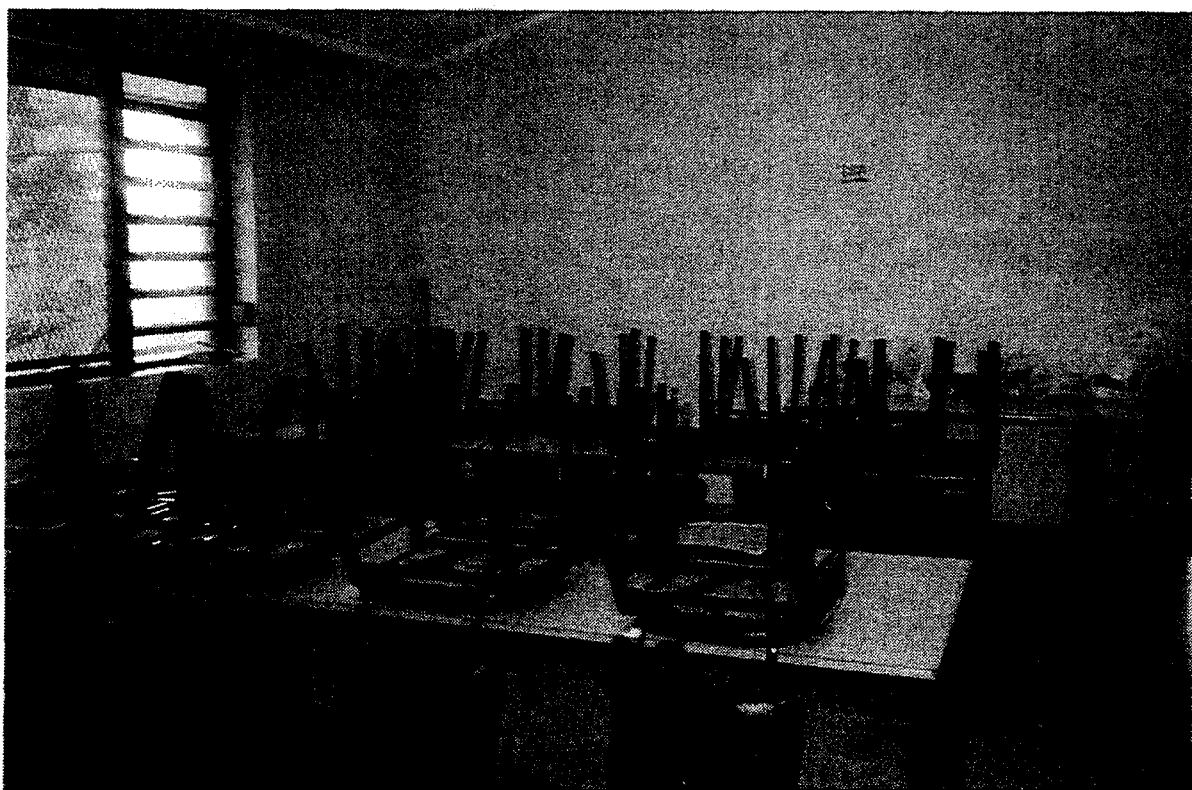
Illegal substances and conflict resolution

3.56 In the event that detainees are found in possession of illegal substances, the police are contacted and the normal law enforcement processes are initiated. If detainees are involved in conflict which manifests itself in a physical manner, staff are able to use minimum force to restrain those involved to ensure the security of safety of all persons within the detention centres.

VILLAWOOD IDC

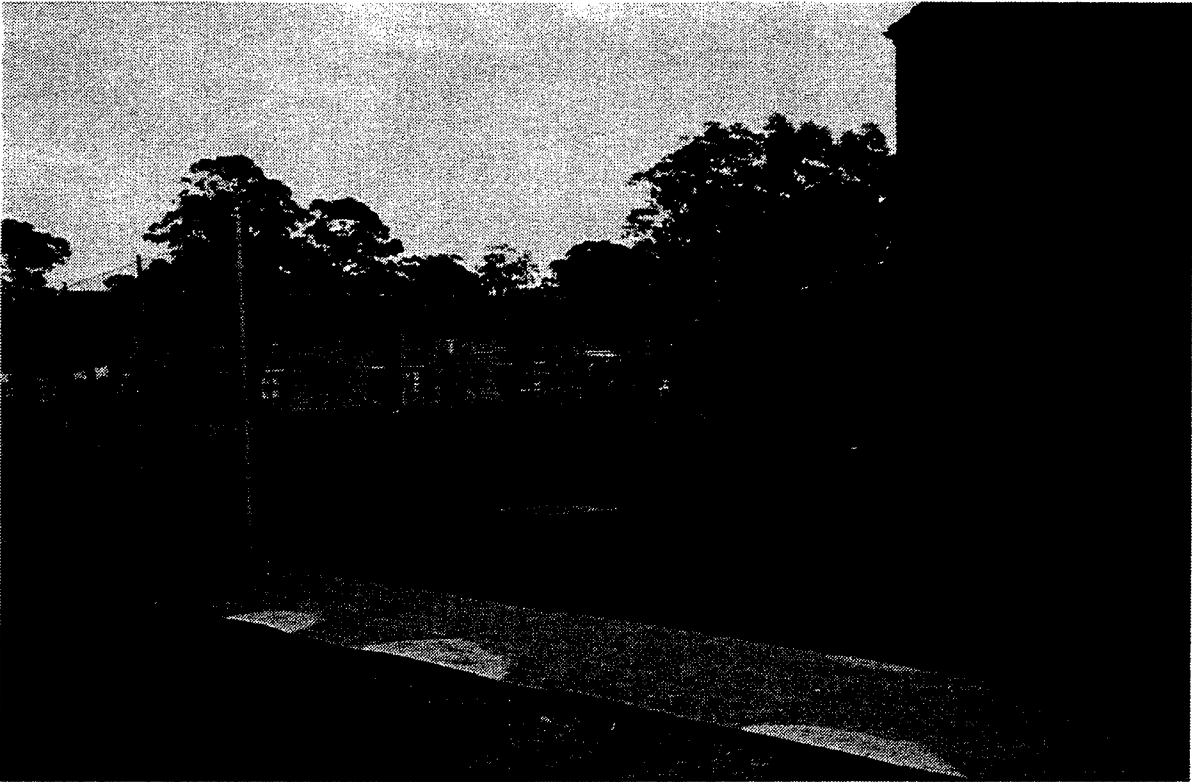


Security Entrance (Stage 2)

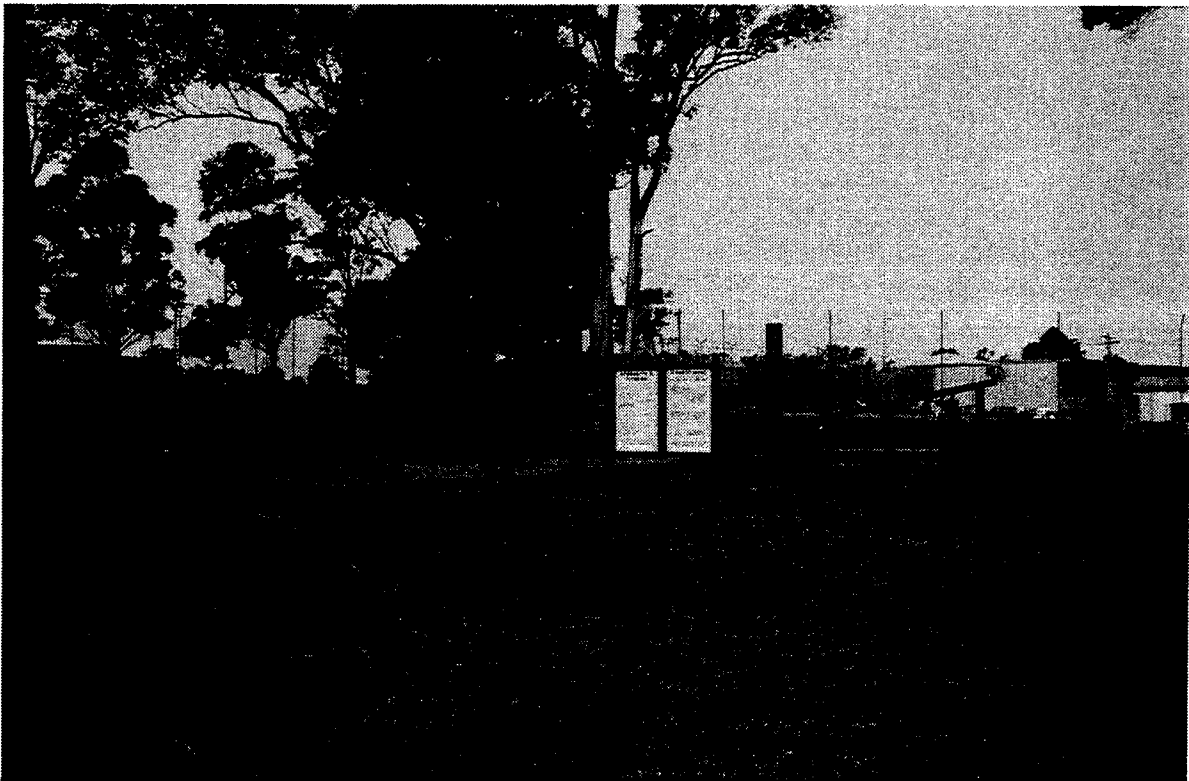


Dining Area (Stage 1)

VILLAWOOD IDC

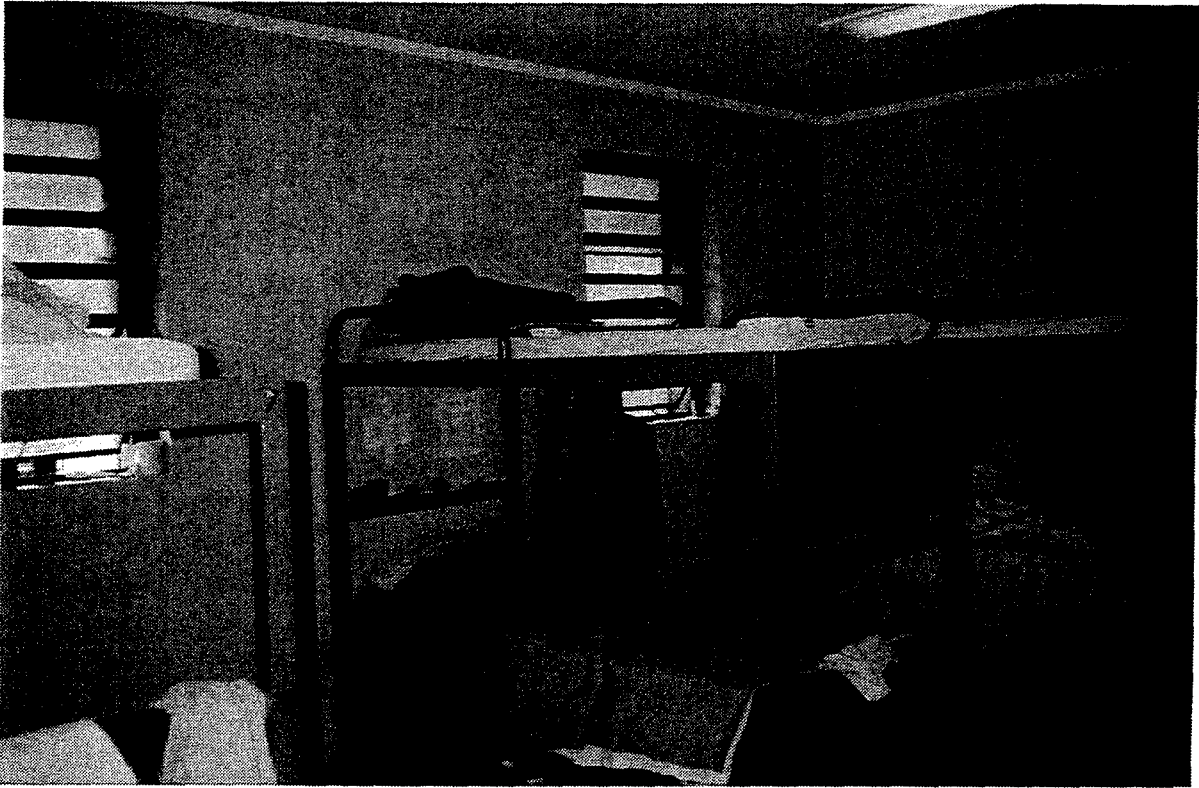


Family Units (Stage 2)

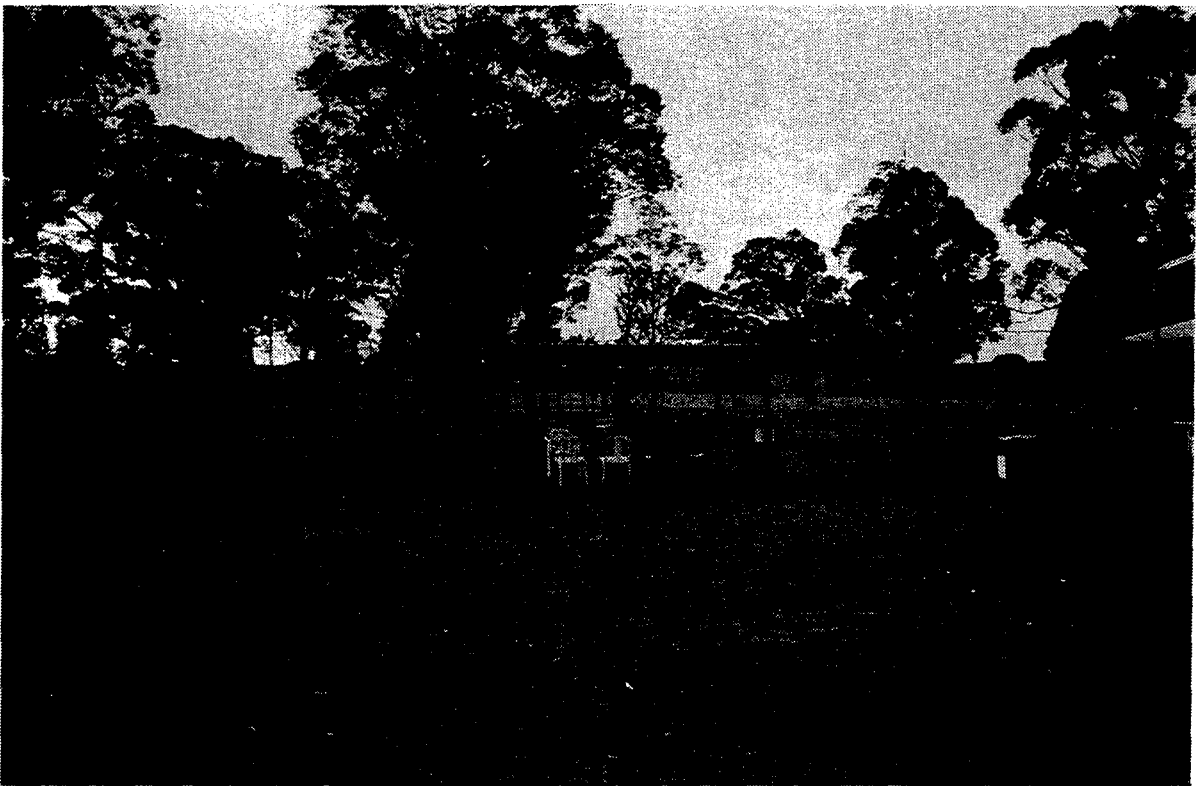


Fitness Area (Stage 2)

VILLAWOOD IDC

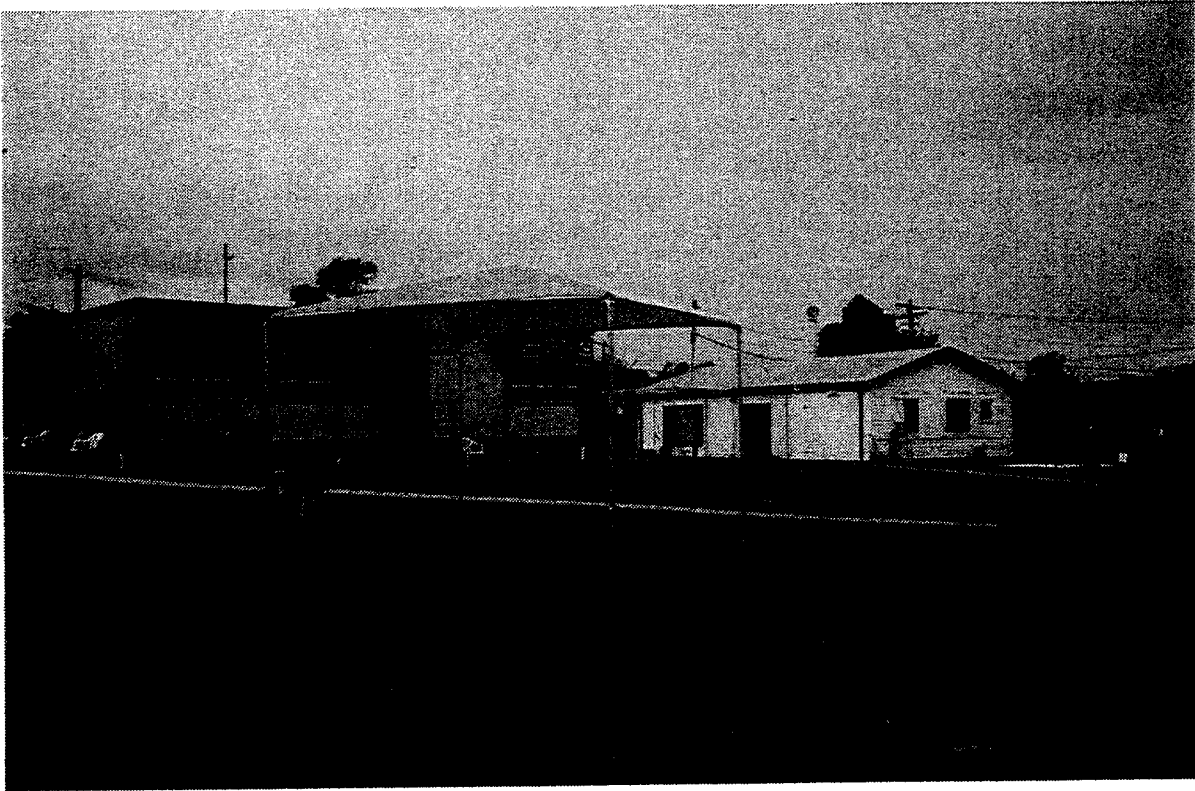


Single Male's Quarters (Stage 1)

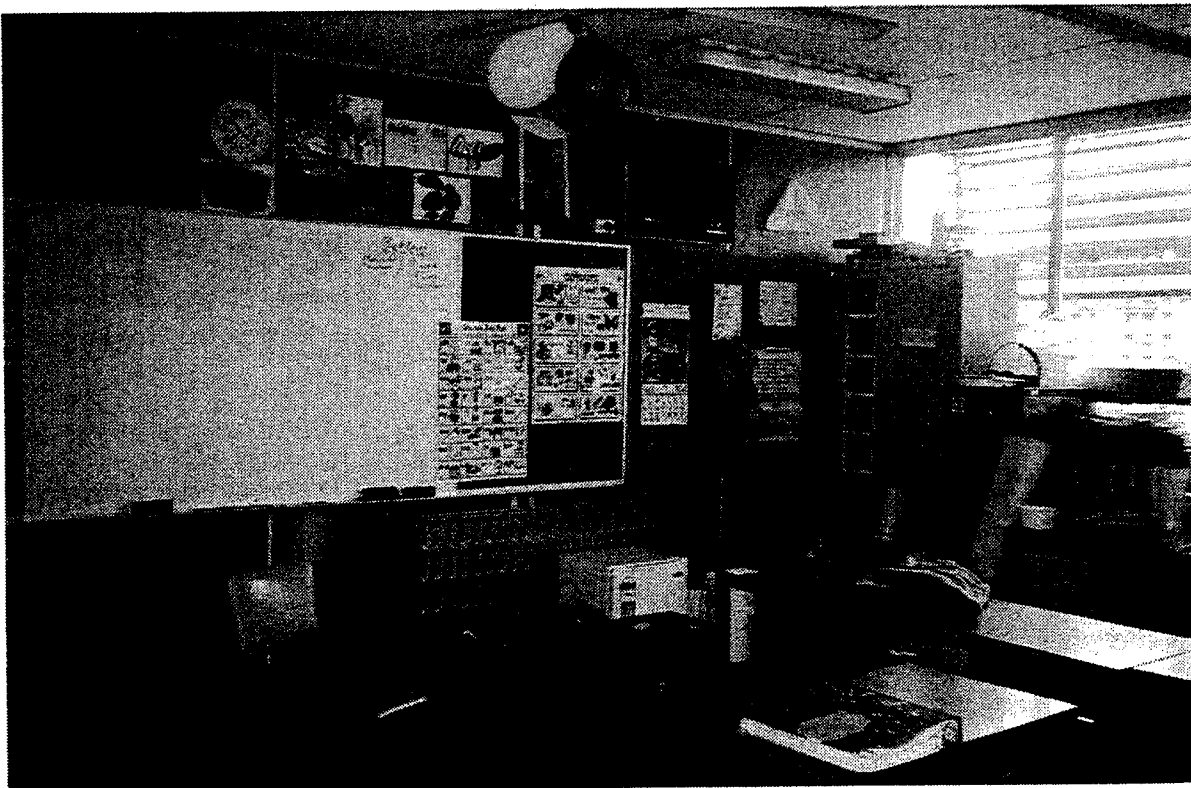


Outdoor Area (Stage 2)

VILLAWOOD IDC

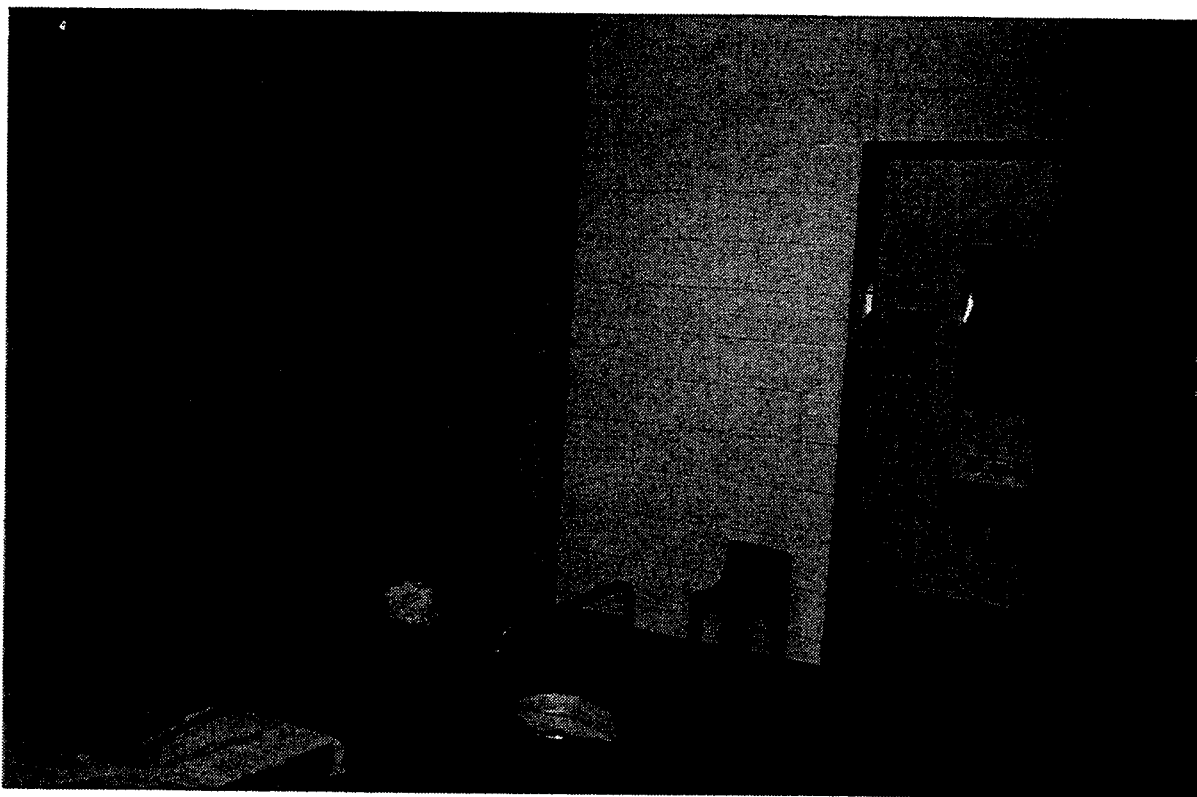


Outside view of schoolroom (Stage 2)

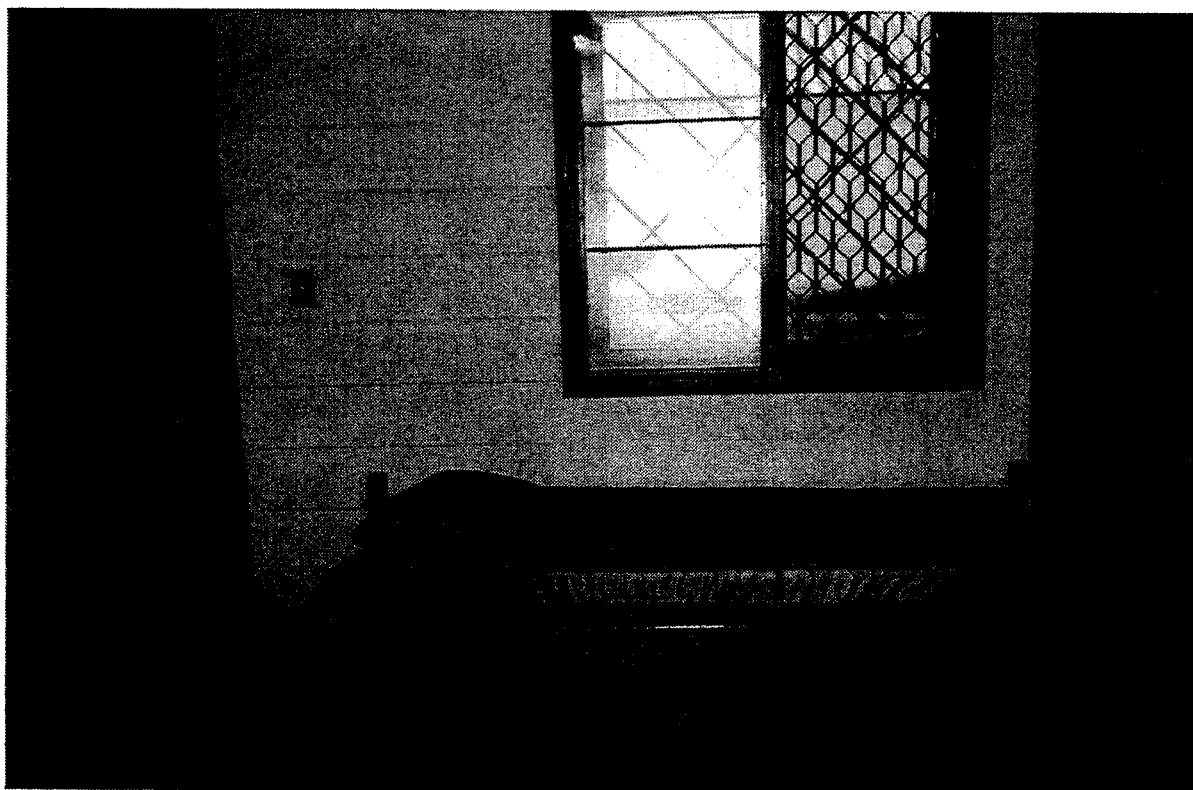


Inside the schoolroom (Stage 2)

MARIBYRNONG IDC



Single female's quarters

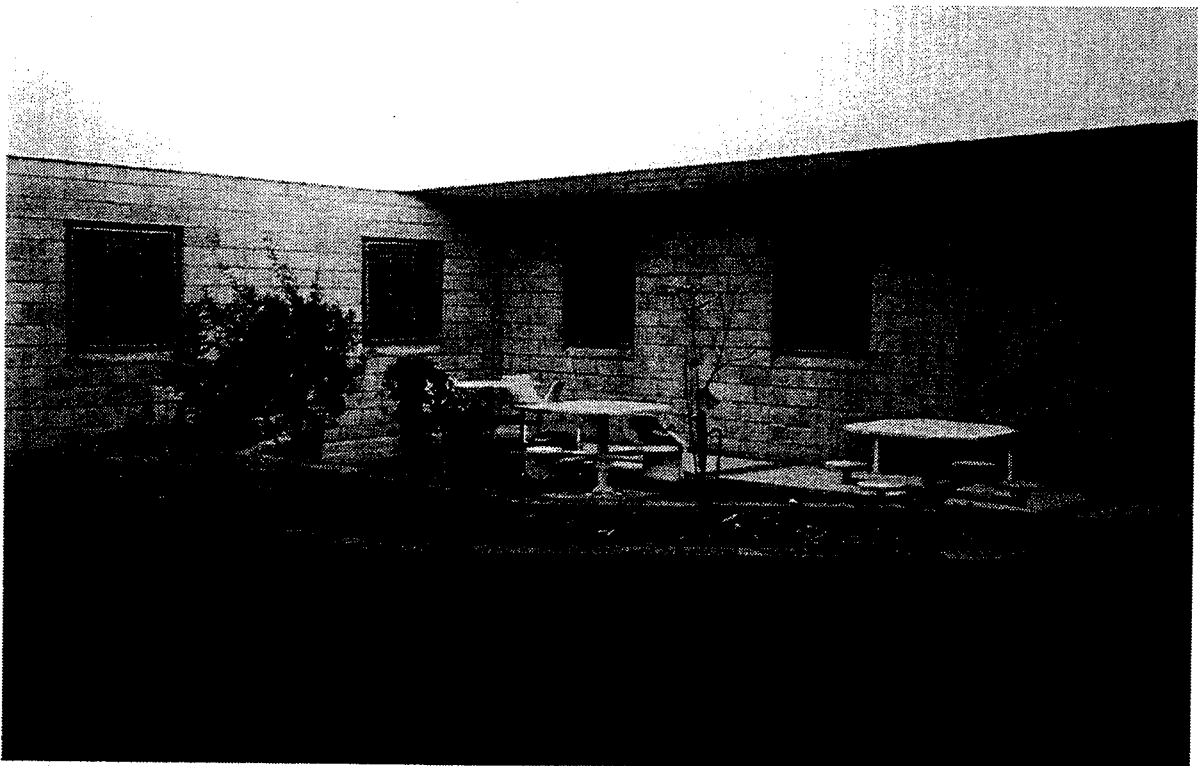


Sick bay

MARIBYRNONG IDC



Children's courtyard



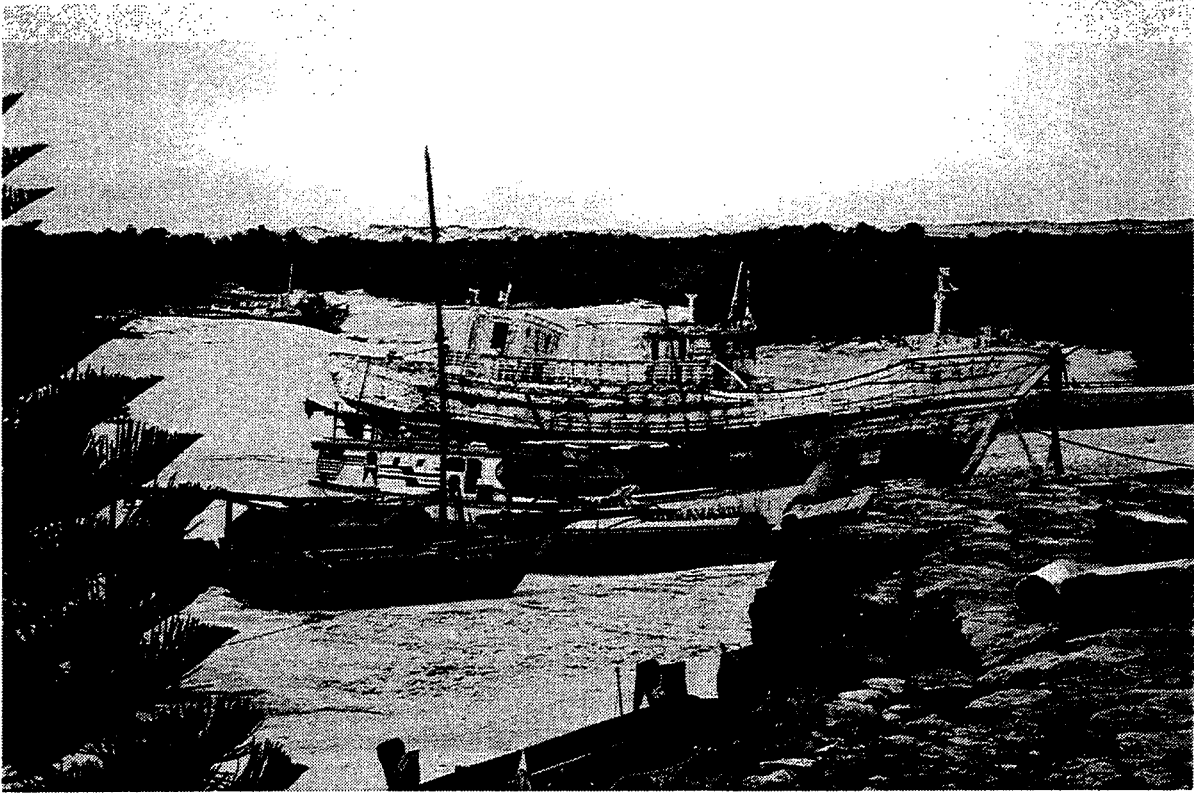
Family courtyard

MARIBYRNONG IDC



Outdoor recreation area

WILLIE CREEK, near BROOME



CHAPTER 4

AFMA CARETAKER FACILITIES

- DARWIN & BROOME

Background

4.1 The Australian Fisheries Management Authority (AFMA) is a Commonwealth statutory body that was established in 1992 under the *Fisheries Administration Act 1991* and manages Commonwealth fisheries under the *Fisheries Management Act 1991*. A Board of Directors is appointed to direct the operations of the Authority. The Minister for Resources and Energy oversees AFMA's activities.

AFMA manages detainee facilities in Darwin and Broome for Indonesian nationals and their vessels caught fishing within Australian territorial waters. A brief was provided by AFMA to the Committee on this matter in response to questions raised on separate visits conducted by the Committee Chair, Mrs Chris Gallus MP, and the Deputy Chair, Senator McKiernan, to Willie Creek, near Broome, in May and June 1998.

Location

Darwin

4.2 AFMA maintains caretaker arrangements at Darwin, pending the hearing of matters in court, or the repatriation of persons not being prosecuted. Apprehended fishermen are kept on their boats in Darwin Harbour, moored in the quarantine area. The detainees are provided with fresh food and water daily, and other services as required. There is a large tender launch overseeing boats under care.

Broome

4.3 AFMA also provides a caretaker facility at Willie Creek, around 32 kilometres north of Broome by road.

Administration

4.4 There are three levels of administration concerned with the caretaking facilities.

- 1 AFMA is the *principal* agency responsible for arrangements.
- 2 The Department of Primary Industries and Fisheries in the Northern Territory, and the Fisheries Department of Western Australia, at the workface perform a role as AFMA's "Coordinating Agent", overseeing the daily activities of the caretaker and carrying out AFMA's instructions as required. The Northern

Territory and Western Australian Fisheries carry out this function under a reimbursable funding arrangement with AFMA.

- 3 The "Caretakers" are contractors to AFMA who carry out a full range of functions set out in the caretaking contract.
- 4 The Department of Immigration and Multicultural Affairs has the responsibility for the repatriation of the detainees and the cost of the repatriation is a cost to the DIMA budget. This is an expense for which there is no line item in the DIMA budget and which can be a considerable and unpredictable amount in any one year. In 1997-98 repatriation of illegal fishermen cost DIMA \$275,000.

4.5 The Committee notes the Ombudsman's comment that these arrangements have created 'a long and uncertain chain of command from DIMA to AFMA to the State and Territory offices to the caretakers'¹ The Ombudsman concluded that the legislative and administrative arrangements dealing with detainee fishermen need to be clarified, and that DIMA should take a more active role in fulfilling its statutory responsibilities while the current arrangements remain in place.²

Current Facilities

Darwin

4.6 The caretaker provides basic services to illegal fishermen on board their boats in Darwin Harbour including food, water and medical attention as required. As there are no land based facilities at Darwin, toilets are not provided. Currently, detainees use the traditional ablution facilities which exist on their boats, and release waste into the sea. The Committee notes that the Ombudsman's report listed poor sanitation, as well as overcrowding among the concerns expressed about the conditions provided in Darwin.³ The Committee was concerned about the environmental and health ramifications of these arrangements, and believes that hygienic sanitation services should be provided as a matter of priority. The Ombudsman reported a divergence of views about the appropriateness of detaining the fishermen on their boats rather than in a land based facility.⁴ This is said to be the

1 *Administrative Arrangements for Indonesian Fishermen Detained in Australian Waters*; Report under Section 35A of the Ombudsman Act 1976; July 1998, Paragraph 5.5 - Detention Arrangements.

2 *Administrative Arrangements for Indonesian Fishermen Detained in Australian Waters*; Report under Section 35A of the Ombudsman Act 1976; July 1998, Summary and Conclusions, paragraphs 1 and 6.

3 *Administrative Arrangements for Indonesian Fishermen Detained in Australian Waters*; Report under Section 35A of the Ombudsman Act 1976; July 1998, Paragraph 5.5 - Detention Arrangements.

4 *Administrative Arrangements for Indonesian Fishermen Detained in Australian Waters*; Report under Section 35A of the Ombudsman Act 1976; July 1998, Paragraph 4.1 - Complaint from the Islamic Society of the Northern Territory - Investigation.

preferences of the fishermen and the arrangement has been favorably commented upon by Indonesian authorities.⁵

4.7 The Committee agrees with the Ombudsman's view that it would be highly desirable that a land based facility be established in Darwin as soon as is practicable.⁶

4.8 Preliminary work has been conducted to identify appropriate sites at which to locate a land-based facility adjacent to Darwin Harbour. However, suitable sites appear to be tied up due to planned commercial developments or native title land claims.

4.9 AFMA will be progressing this matter, if appropriate, once it has been decided which agency, either AFMA or the Department of Immigration and Ethnic Affairs, has responsibility for this activity and necessary funding is made available. The Ombudsman noted that both DIMA and AFMA had reported that they did not have the capacity within their existing budgets to provide funding to upgrade facilities at Darwin or Broome.⁷

Broome

4.10 Through the Caretaker contract arrangements, AFMA provides basic accommodation, cooking and sanitation facilities at Willie Creek. As a result of their visits to Willie Creek, it is the view of the Chair and the Deputy Chair of the Committee that these facilities would require some upgrading. By comparison with the facilities at the other IDCs, they thought the facilities at Willie Creek were inadequate. They observed two incomplete structures for which there did not appear to be any clear plans for completion. There was also a large and potentially dangerous unsecured excavation. The Committee notes that the Human Rights and Equal Opportunity Commission visited the Willie Creek detention centre as part of its inquiry into detention of unauthorised arrivals. The report of this inquiry - *Those who've come across the sea*, does not comment on the standard of facilities provided at Willie Creek.

4.11 In terms of upgrading the facilities, AFMA requires government finance upfront, or approval to enter into a longer term contract with provision to amortise capital improvements over, say, five years.

The need for upgrading facilities

4.12 The Committee notes the Ombudsman's finding that the existing facilities in Darwin and Broome are not satisfactory for ongoing detention of fishermen, and that

5 *Administrative Arrangements for Indonesian Fishermen Detained in Australian Waters*; Report under Section 35A of the Ombudsman Act 1976; July 1998, Overview - Purpose.

6 *Administrative Arrangements for Indonesian Fishermen Detained in Australian Waters*; Report under Section 35A of the Ombudsman Act 1976; July 1998, paragraph 5.8 - Conditions of Detention.

7 *Administrative Arrangements for Indonesian Fishermen Detained in Australian Waters*; Report under Section 35A of the Ombudsman Act 1976; July 1998, Overview - Purpose.

improvements at both locations are urgently needed to provide appropriate and reasonable facilities.⁸ The Committee hopes that the funding issues will be resolved as quickly as possible to enable these urgent upgrades to go ahead

Insurance

4.13 Existing contracts require the two caretakers at Willie Creek and Darwin to carry basic public liability insurance to the amount of \$10 million, plus workers compensation insurance. The Caretaker must also take out additional insurances to cover events such as loss or damage to vessels and catch, or injury to persons under care at the facility.

Statistics

4.14 There is a table at the end of this Chapter with statistics covering numbers of boats, crew, prosecutions, bonds, imprisoned, dismissed, total person days in detention, average days in detention and costs.

Security

4.15 Security at both facilities is managed by the Caretaker.

Darwin

4.16 In Darwin, the Caretaker service maintains a 24 hour watch over the fishermen's boats to ensure that those persons under care remain on their boats in the holding area, and to ensure that any interaction with outsiders is strictly controlled.

Broome

4.17 In Broome, the philosophy is to provide an environment that is non-threatening and which meets the Indonesian fishermen's basic needs, without any need for them to roam further afield. The facility provides a low-level of security. The detainees are free to visit the Caretaker at any time regarding problems or concerns.

Escort Duties

4.18 The Caretaker carries out escort duties under the direction and supervision of the Coordinating Agent.

8 *Administrative Arrangements for Indonesian Fishermen Detained in Australian Waters*; Report under Section 35A of the Ombudsman Act 1976; July 1998, Summary and Conclusions, paragraph 12.

Medical Screening

4.19 Preliminary questioning of arrivals about medical concerns is carried out by officials to identify critical or chronic conditions, and ongoing observation of persons is conducted whilst under AFMA's care. When evidence of more specific conditions arises a more detailed screening is carried out at medical facilities in Darwin or Broome.

4.20 AFMA incurs considerable expenditure addressing medical conditions of Indonesian fishermen. Whilst all genuine complaints are treated without distinction to cause or period, they are for administrative purposes documented as either existing before the persons came into AFMA's care, or "care related" arising whilst in AFMA's care. Pre-existing conditions may include tuberculosis, chronic dental cases or thiamine deficiency, for example.

4.21 The Government of Indonesia was served with a third person note several years ago requesting the reimbursement to Australia of around \$40,000 to cover two years expenditure on "pre-existing" conditions. A response was never received and costs have grown since then as the number of apprehensions and length of stay in detention has increased.

Legal Process

4.22 Matters are brought before the courts as quickly as possible. However, when there are pleas of "not guilty", there have been significant delays in the judicial process. Once matters have been resolved, the Department of Immigration and Multicultural Affairs repatriates detainees as quickly as possible, usually within a week. If convicted for a first offence, detainees are put on a bond and then removed by DIMA. However, prison sentences are sometimes handed down for repeat offenders. There is a record of one fisherman having reentered eight times.

4.23 Legal representation of the illegal fisherman was previously conducted by Legal Aid of Western Australia. Currently there is no legal aid available but *pro bono* assistance is available. However, some cases, in which guilty pleas have been entered, proceed to court without legal counsel.

Access/Inspections

4.24 Access to illegal fishermen is arranged by appointment, to fit in with daily activities, availability of escort officers, and the need to observe any specific health or quarantine issues. AFMA has agreed to facilitate visits by members of Islamic Societies for cultural/religious purposes.

4.25 Facilities in Darwin and Broome were recently inspected by Mr Ron McLeod, the Commonwealth Ombudsman, who, whilst noting that the facilities were basic, commented to AFMA that they were culturally appropriate but that some additional work would be necessary to cater for occupants who may stay for longer periods.

4.26 The facilities have also been visited regularly by other persons, including the Indonesian consuls from Darwin and Perth, who have found the standards acceptable. Other visitors to one or other of the facilities, include Sir Ronald Wilson, the then President of the Human Rights and Equal Opportunity Commission, Mr John Williams, WA State Director of DIMA, and Mr Graham Campbell MP, Member for Kalgoorlie, and Senator David Brownhill, then Parliamentary Secretary for Primary Industry and Energy, in addition to Mrs Chris Gallus MP and Senator McKiernan.

Interpreters

4.27 AFMA's coordinating agents employ the services of accredited interpreters for various activities related to Indonesian caretaking, interviews, court hearings and so on. In addition, Fisheries Officers and caretaking staff have varying levels of Indonesian language skills. AFMA supports on-going education of its officers and contractors to improve language skills.

STATISTICS RELATING TO AFMA CARETAKER FACILITIES

Darwin

Year	Boats	Crew	Prosecuted	Bonded	Imprisoned	Dismissed	Total person days in detention	Average person days in detention	Estimated average cost per day - People + boats ²
1996	64	486 ³	99	88	10	1	12,057	24.8	\$39.17
1997	98 ⁴	805 ⁵	175	164	8	3	21,396	27.11	\$27.89

- 1 Not all members of all crews which arrive a prosecuted. Those who are prosecuted are either bonded or imprisoned.
- 2 Includes care of people, boats and subsequent boat destruction at end of appeal period. Persons reside on boats in Darwin.
- 3 Includes 42 persons from 1995
- 4 Includes 2 boats subsequently released
- 5 Includes 16 persons from two boats subsequently released, and 93 persons of Thai or Korean nationality.

Broome - Indonesians

Year	Boats	Crew	Prosecuted ¹	Bonded	Imprisoned	Dismissed	Total person days in detention	Average person days in detention	Est ave cost per day - People only	Boats only Total cost per boat ¹
1996	35	284	83	61	22	0	5,773	20.33	\$34.92	\$3,840
1997	33	208	120	102	18	7	5,372	25.83 ^{2,3}	\$55.55 ⁴	\$6,029

¹ Not all members of all crews which arrive a prosecuted. Those who are prosecuted are either bonded or imprisoned.

CHAPTER 5

CONCLUSION

Overall Operation

5.1 The Committee resolved to conduct the inspection to report on the recent transfer of custodial services to ACS. At this early stage (less than 12 months into ACS's management), the Committee observed the immigration centres appeared to be operating effectively. Moreover, DIMA was well satisfied with the developing partnership between itself and ACS.

5.2 The Committee notes the view of the HREOC report, *Those who've come across the seas*, that external monitoring may improve services to the detention centres and the transparency of the procedures for the delivery of those services.

5.3 However, notwithstanding the overcrowding in the Perth Detention Centre when the Committee visited it in May and the problems at Willie Creek described in Chapter 4, the Committee was less critical than the Human Rights Commission about conditions in the IDCs. The Committee considered that the facilities were adequate and the services were of an appropriate standard.

5.4 Nevertheless, the Committee recommends that the Joint Standing Committee on Migration continue to monitor detention practices and suggests that the Minister for Immigration and Multicultural Affairs request that the committee again inspect the facilities in the next Parliament.

5.5 The Committee further recommends that, in the next Parliament, the Joint Standing Committee on Migration consider conducting an inquiry into the immigration policy aspects of the detention and removal of illegal fishermen.

Specific findings

5.6 The Committee resolved to comment on several issues raised in the earlier work of other agencies:

- i) Separation detention;
- ii) Education opportunities; and
- iii) Access to legal services.

5.7 During the inspection of the Perth IDC, detainees raised three issues in informal discussions with members. The Committee used these complaints to focus on aspects of the services provided not only at Perth but also at the other centres:

- i) Insufficient food;

-
- ii) Overcrowding; and
 - iii) Slowness of the application-for-refugee process.

Separation detention

5.8 DIMA is developing a procedure to separate newly arrived detainees from the rest of the detainee population. The process originated at the Port Hedland IRPC but will extend to other facilities as facilities are developed.

5.9 Separation enables identity, health and other risk assessments to be completed. With the cooperation of the detainee, these necessary checks can be completed quickly and thoroughly.

5.10 The separation assists DIMA to process new arrivals and allows for a form of quarantine protecting the existing residents. It also limits the opportunity for information exchange and 'coaching' by long term residents of new arrivals seeking to claim refugee status.

5.11 A short period (around a few weeks in normal circumstances) of separation detention appears warranted to manage new arrivals properly and appears in accord with international standards.

Educational opportunities

5.12 Most IDCs have fewer children today than in the past. When centres have large numbers of children their education has been conducted on site as described above. Where there are few children, as currently at Port Hedland, they have been successfully incorporated into the local school. This was considered to be difficult at Villawood. The Committee was told that this would require the school attended by detainee children to be proclaimed as a detention centre, with all the attendant legal implications. The Committee believed that under certain circumstances it would be desirable for children of detainees to attend a local school if it could be arranged.

Access to legal services

5.13 During site briefings, the Committee was told of procedures used to permit detainees access to legal advice. Detainees have 24-hour access to telephones and contact numbers for the Ombudsman and/or other providers of free legal advice are posted throughout centres. DIMA staff also facilitate contact by providing details of local lawyers available to provide advice and immigration agents available to make applications on the resident's behalf.

5.14 DIMA and ACS staff respond to requests from newly arrived detainees for access to lawyers. This, while not proactive and a matter of complaint by the Human Rights and Equal Opportunity Commission, is according to the Department, in accord with its legal responsibilities.

Food availability

5.15 Although one detainee, held in the Perth IDC, alleged that insufficient food was made available especially outside meal times, the Committee noted the efforts made by the centres to provide sufficient and appropriate food for detainees.

5.16 The Committee observed food vending machines and refrigerators in Villawood and Perth centres. ACM management in Perth responded to the particular complaint by informing the Committee that detainees had the opportunity to access foodstuffs like fruit at mealtimes for later consumption and they could obtain additional serves at mealtime. The Committee concluded that the food was culturally appropriate and plentiful.

Overcrowding

5.17 Several Perth long-term detainees complained about the numbers in that centre and requested a transfer. Their complaints were couched in terms that Perth was adequate for short-term detention but, as in their case, was inadequate for detention beyond a few months.

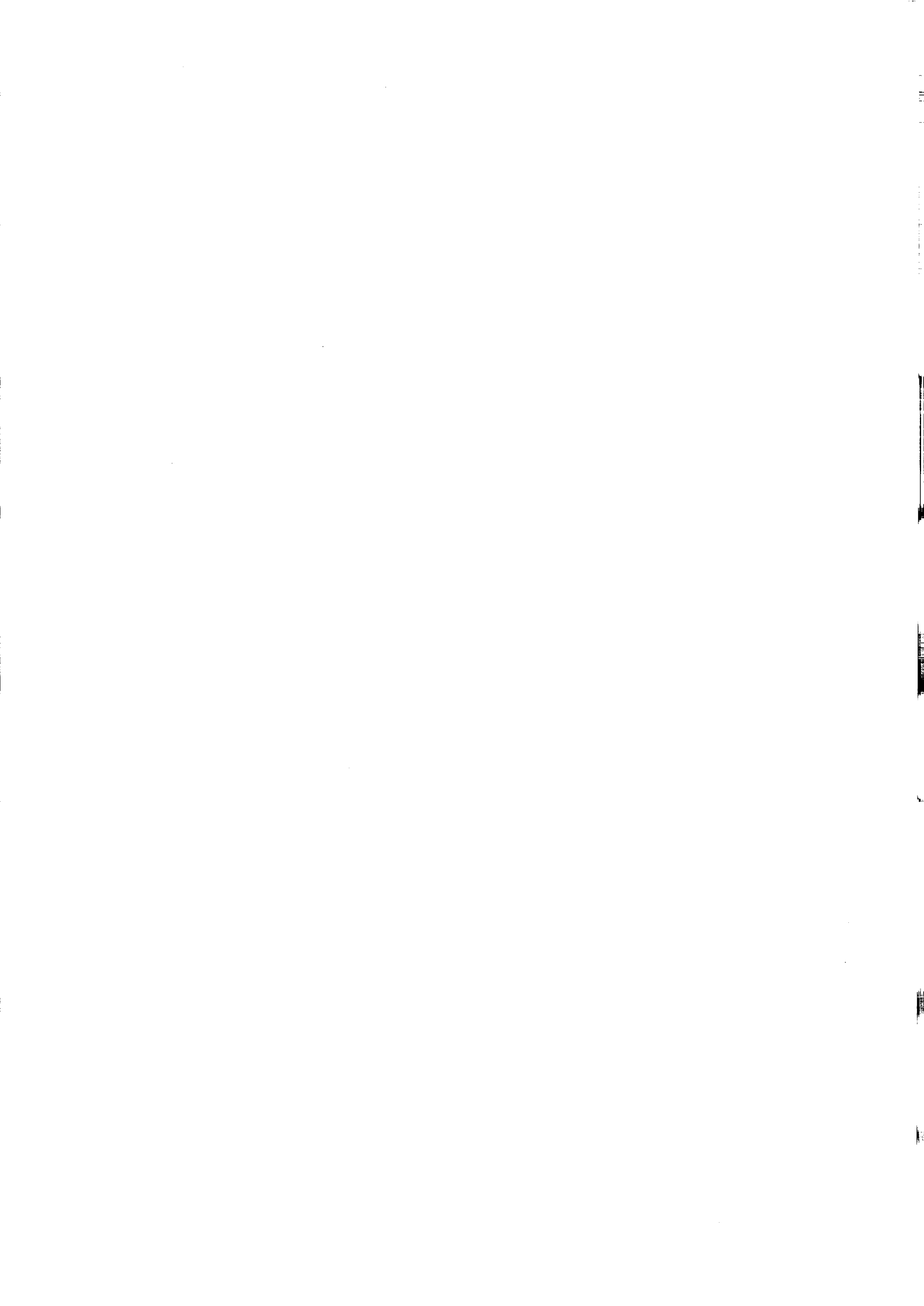
5.18 The Committee noted that the Perth IDC was near the maximum number of single male detainees at the time of the complaint. By far the smallest of the IDCs, Perth is without grassed areas and only has a limited exercise yard. In comparison with the facilities for longer-term detainees at other IDCs, Perth does have some obvious limitations.

5.19 The Committee noted that:

- a) The Minister has advised that detainees will be relocated from the Perth IDC to other centres using case-by-case criteria. The criteria taken into account include the stage of processing, location of community support and the likely timing of removal from Australia;
- b) The Minister intends to use the Port Hedland IRPC rather than Villawood to detain unauthorised air arrivals at Darwin Airport; and
- c) At its subsequent inspection of the Maribrynong facility, several of the detainees from Perth had been transferred to that centre.

CHRIS GALLUS
CHAIR

August 1998



Appendix 1



IMMIGRATION DETENTION STANDARDS

Department of Immigration and Multicultural Affairs

February 1998

IMMIGRATION DETENTION STANDARDS

PRINCIPLES UNDERLYING CARE AND SECURITY

When considering the Immigration Detention Standards that follow, the principles listed below should underpin the provision of the detention function and the standard of care to be provided and the service provider's actions must be guided by them.

- Immigration detention is required by the Migration Act and is administrative detention, not a prison or correctional sentence
- The service provider is to efficiently manage the operations related to the detention function as a contracted agent of the Department of Immigration and Multicultural Affairs (DIMA)
- In its operation of detention facilities the service provider will be under a duty of care in relation to the detainees
- Ultimate responsibility for the detainees remains with DIMA at all times
- All actions relating to the detention and care of detainees are to be consistent with relevant Commonwealth and State/Territory law
- All Departmental policies, instructions and other directions to the extent that they impact on the operation of the detention function are complied with
- Australia's international obligations inform the approach to delivery of the detention function
- The dignity of the detainee is upheld in culturally, linguistically, gender and age appropriate ways
- All persons required to be detained under the Migration Act are detained and prevented from escaping
- Due diligence is exercised in the care and maintenance of public assets
- Any issue which arises in relation to the migration status of a detainee and any request for access to legal advice is referred to DIMA

STANDARDS

The following outcome standards relate to the quality of care and quality of life expected in immigration detention facilities.

These standards must be met in all circumstances except where it is demonstrated that the security and good order of the detention facility would otherwise be compromised.

Further standards may be added, or existing standards modified by DIMA.

1. LAWFULNESS OF DETENTION

- 1.1 The Contractor must satisfy itself that the detention of any person is authorised by the Migration Act
- 1.2 The Contractor must satisfy itself that every place of detention is an authorised place of detention under the Migration Act

2. DIGNITY

- 2.1 Each detainee is treated with respect and dignity
- 2.2 Services, facilities, activities and programs are based on the concept of individual management and designed to meet the individual needs of detainees and have regard to cultural differences
- 2.3 If a detainee cannot understand written information and where it is required that a detainee be informed of a matter in writing, the information is also conveyed orally in a language the detainee can understand
- 2.4 Where a detainee has a non-English speaking background, written information is provided in a language the detainee can understand. An interpreter is always provided for a detainee who does not understand English, when discussing with them matters relating to their management
- 2.5 Each detainee is able to undertake personal activities, including bathing, toileting and dressing in private

3. PRIVACY

- 3.1 Information about detainees is treated in confidence. Information beyond that reasonably required for the detention of the individual and for effective planning and supervision and the management of the detention facility is not collected or retained

- 3.2 Personal information held in connection with the delivery of the service is used only for the purposes of fulfilling obligations to deliver the service
- 3.3 All reasonable measures are taken to ensure that personal information is protected against loss, and against unauthorised access, use, modification, disclosure or other misuse and that only authorised personnel have access to the data
- 3.4 Staff do not disclose information gained by, or conveyed to them, through their position in the detention facility, or contained in a record, return or report prepared by a staff member to any persons except:
- the responsible Minister
 - a supervisor or manager
 - a DIMA Facility Manager
 - the detainee who is the subject of the record, return or report
 - those authorised by the Minister or Secretary
 - the Ombudsman or officers of that office
 - those with a statutory right
 - the detainee's appointed representative or advocate
- 3.5 Where disclosure of personal information may be required by law, the Contractor immediately notifies DIMA Manager responsible for detention matters.
- 3.6 Information from a detainee's file is made available to the detainee on request, except where the disclosure of the information is considered to endanger life or physical safety, or is prejudicial to the security or good order of the facility. Any instance where a request for such information is denied is referred to the DIMA Facility Manager within one day

4. SOCIAL INTERACTION

- 4.1 Each detainee is able to receive visitors except where the security and good order of the detention facility would be compromised
- 4.2 Detainees have access to spiritual, religious and cultural activities of significance to them
- 4.3 Detainees are provided with appropriate recreational activities
- 4.4 All detainees have access to education, recreation and leisure programs and facilities which provide them the opportunity to utilise their time in detention in a constructive and beneficial manner
- 4.5 Detainees are encouraged to participate in such programs

- 4.6 Detention programs are regularly evaluated
- 4.7 Detainees have unlimited access to open air except where the security and good order of the detention facility would be compromised or where the detainee is in isolation detention in which case supervised exercise periods are scheduled

5. SAFETY

- 5.1 Commonwealth Government occupational health and safety standards set out in the Occupational Health and Safety (Commonwealth Employment) Act and its supporting framework of regulations and codes of practice apply to all detention facilities
- 5.2 Detainees, staff and visitors are safe and feel secure in the facility
- 5.3 All reasonable steps are taken to ensure that:
- Detainees, staff and visitors are protected from infection
 - Detainees, staff and visitors are protected from hazards of fire and natural disasters
- 5.4 The security of buildings, contents and people within the facility is safeguarded
- 5.5 Staff are trained to recognise and deal with the symptoms of depression and psychiatric disorders and to minimise the potential for detainees to do self harm

6. SELECTION AND TRAINING OF PERSONNEL

6.1 Competency requirements

- 6.1.1 The following form part of the minimum set of competencies required of all staff:
- an ability to supervise detainees, and to interview and counsel where required
 - an ability to set and maintain limits
 - good oral and written communication skills
 - an ability to effectively communicate and work with detainees of a diversity of backgrounds, including an ability to assess detainee needs
- 6.1.2 The following elements form part of the required knowledge base of all staff:

- the legislative base for immigration detention
- detention policies, procedures and rules
- obligations and responsibilities to protect the privacy of personal information and the consequences of failure to comply

6.2 Personal attributes

6.2.1 All staff are, and remain, of good character and good conduct and pass a national police check before appointment

6.2.2 All staff are efficient and have the requisite physical and psychological fitness to carry out the tasks assigned to them

6.2.3 All staff have:

- an appreciation of the anxiety and stress detainees may experience
- an ability to be objective in relation to a wide variety of detainees
- an ability to be firm, fair and understanding
- an understanding and appreciation of the diversity and cultural backgrounds of detainees

6.2.4 Medical personnel have the capacity to recognise, assess and deal with detainees who have suffered torture or trauma

7. MANAGEMENT AND SECURITY OF DETENTION FACILITY

7.1 Operational Orders

7.1.1 A clear set of operational orders in accordance with relevant DIMA policies and guidelines, and Commonwealth and State/Territory legislation govern the operation of each detention facility and the management of detainees. These operational orders include detailed emergency plans

7.2 Security

7.2.1 Detainees are prevented from escaping from detention either while within the confines of a detention facility or while outside the facility for a specified purpose

7.2.2 Detainees do not have access to, or are able to manufacture, any implement that could be used as a weapon

7.2.3 Staff monitor tensions within detention facilities and take action to manage behaviour to forestall the development of disturbances or personal disputes between detainees. If these occur, they are dealt with swiftly and fairly to restore security to all in the facility

7.2.4 All staff do their utmost to maintain the security of the detention facility, the security of detainees, the security of those employed at the facility and any visitors to the facility

7.3 Detainee Records

7.3.1 A permanent register is maintained of each person detained in each facility detailing:

- the photographic and biometric identity of the detainee
- the reasons and authority for detention
- the date and time of admission
- medical and welfare records
- dietary requirements and religious beliefs
- security assessment
- fingerprinting

7.3.2 DIMA has access to and ultimate ownership of all detainee records

7.4 Reception

7.4.1 New detainees are briefed on the operation of the detention facility in their own language

7.5 Retention of Detainee's Property

7.5.1 All money, valuables, clothing and other effects belonging to a detainee which they are not allowed to retain with them in detention is itemised and placed in safe custody. Steps are taken to keep such items in good condition. An inventory of the property retained is signed by the detainee

7.5.2 Each detainee has personal space in which to store personal effects

7.5.3 Personal effects of a detainee are not used by other people without the consent of the detainee

7.5.4 On release from detention all such articles and money are returned to the detainee who must sign a receipt for them, subject to relevant provisions of sections 209, 210, 211, 212, 223 and 224 of the Migration Act and any changes to the provisions notified by DIMA

7.5.5 Any money or effects authorised to come into a facility for a detainee are treated in the same way

7.5.6 If a detainee brings in any drugs or medicine, a medical or nursing officer decides what use will be made of them

7.6 Transport of Detainees

- 7.6.1 Safe and dignified transport of detainees to and from detention, including the removal from a detention facility to an overseas location
- 7.6.2 When detainees are being transported outside a detention facility they are exposed to public view as little as possible and protected from curiosity and publicity in any form
- 7.6.3 Detainees are not transported in vehicles with inadequate ventilation or light, or which would in any way subject them to unnecessary physical hardship

7.7 Accommodation

- 7.7.1 Accommodation provided for detainees meets Commonwealth Occupational Health and Safety requirements set out in the Occupational Health and Safety (Commonwealth Employment) Act and its supporting framework of regulations and codes of practice
- 7.7.2 Toilet and sanitary facilities are provided for detainees to use as required, and these are kept in a clean condition
- 7.7.3 Adequate bathing and shower installations are provided to enable every detainee to maintain general hygiene by bathing or showering daily at a temperature suitable for the climate
- 7.7.4 All parts of the facility are maintained and kept clean at all times

7.8 Discipline and Control

- 7.8.1 Discipline is maintained in the interests of management, good order and security of the facility
- 7.8.2 Collective punishment is not used
- 7.8.3 Prolonged solitary confinement, corporal punishment, punishment by placement in a dark cell, reduction of diet, sensory deprivation and all cruel, inhumane or degrading punishments are not used
- 7.8.4 When detainees are in solitary confinement for security reasons, a qualified medical officer visits daily and ensures that continued separation is not having a deleterious effect on physical or mental health
- 7.8.5 In instances where detainees commit a criminal act while in detention and a decision is taken to charge the detainee with a State or Federal offence,

there is a judicial hearing with the right to legal representation for the detainee charged with the offence

7.8.6 No detainee is assigned to perform activities as a form of discipline. This is not intended to preclude detainees from voluntarily performing selected activities at the facility for the purpose of earning points to purchase additional items from outside the facility

7.9 Use of Force

7.9.1 Staff may use reasonable force only as a last resort to compel a detainee to obey a lawful order. Where such force is used the staff member reports the fact to the DIMA Manager at the detention facility orally within one hour and provides a written incident report within 4 hours unless the staff member's shift finishes before that time in which case a written report is provided before the staff member completes the shift

7.9.2 Staff have the skills and knowledge to enable them to restrain aggressive detainees. This training emphasises techniques which allow detainees to be restrained with minimum force

7.9.3 Staff only use weaponry approved by DIMA. No staff are issued weaponry unless specifically trained in its use

7.9.4 Where weaponry is issued or used it is orally reported to the DIMA Manager responsible for the detention facility within one hour and a written incident report is provided within 4 hours unless the staff member's shift finishes before that time in which case a written report is provided before the staff member completes the shift

7.10 Instruments of Restraint

7.10.1 Where detainees are unco-operative or disruptive, physical and other forms of restraint are used as a last resort only and to the minimum extent necessary. Chemical restraints are used only under medical or nursing supervision

7.10.2 Instruments of restraint such as handcuffs, chains, irons, straight-jackets and chemicals (such as sedatives) are never applied as punishment

7.10.3 Instruments of restraint are not used except when approved by the Contractor's Facility Manager when other methods have failed, in order to prevent detainees from injuring themselves, or others, or from damaging property

7.10.4 Instruments for the prevention of escape are used during a transfer or other temporary absence from the detention facility, only where the Contractor's Facility Manager assesses that there is a serious risk of escape

7.11 Complaints mechanism

7.11.1 Detainees have the opportunity to comment or complain about the conditions of detention to DIMA or the service provider on any matter. Provision is made for a detainee to lodge a written complaint in a secure box within the confines of the area of detention. A copy of all complaints lodged is lodged with DIMA

7.11.2 Material advising of the right to complain to the Ombudsman is available

8. MANAGEMENT OF DETAINEES

8.1 Quarantine and Public Health Requirements

8.1.1 The requirements of the Commonwealth Quarantine Act (1908) are met with respect to new detainee arrivals

8.1.2 In order to meet the requirements of the respective State Public Health Acts, medical examinations are carried out and appropriate facilities provided

8.1.3 Where a detainee is found to have an infectious disease, the detainee is treated so as to minimise the possibility of contamination of the detention environment before the detainee is allowed to enter the normal routine of the detention facility

8.1.4 Detainees isolated for health reasons are afforded all rights and privileges which are accorded to other detainees so long as such rights and privileges do not jeopardise the health of others. Any instances of isolation for health reasons in excess of seven days are notified to the DIMA Facility Manager with supporting medical certification

8.2 Clothing and Bedding

8.2.1 Where detainees do not have their own clothing, detainees are provided with adequate clothing suitable for the climate

8.2.2 Detainees are required to maintain their personal clothing in a state which is clean and fit for use

8.2.3 Every detainee is provided with a separate bed and sufficient bedding. This bedding is clean when issued, kept in good order and changed often enough to ensure its cleanliness

8.3 Health Care Needs

8.3.1 The care needs of each new detainee are identified by qualified medical personnel as soon as possible after being taken into detention. The medical officer has regard not only to the detainee's physical and mental health but also the safety and welfare of other detainees, visitors and staff

8.3.2 Detainees who require specialist treatment are referred or transferred to specialist institutions or to community hospitals

8.3.3 The care needs of each detainee are regularly monitored

8.3.4 All detainees are provided with necessary medical or other health care when required

8.3.5 Detainees are provided with reasonable dental treatment necessary for the preservation of dental health

8.4 Food

8.4.1 Every detainee is provided with food of sufficient nutritional value, adequate for health and wellbeing, and which is culturally appropriate

8.4.2 Three meals a day are provided

8.4.3 Fresh drinking water is available to every detainee at all times

8.4.4 Special dietary food is provided where it is established that such food is necessary for medical reasons, on account of a detainee's religious beliefs, because the detainee is a vegetarian, or where the detainee has other special needs

8.5 Personal Hygiene

8.5.1 Detainees are responsible for keeping themselves clean, and are provided with toiletries and ablution facilities that are necessary for health and cleanliness.

9. INDIVIDUAL CARE NEEDS

9.1 The individual care needs of detainees with special needs are identified and programs provided to enhance their quality of life and care

9.2 Unaccompanied Minors

9.2.1 Unaccompanied minors are detained under conditions which protect them from harmful influences and which take account of the needs of their particular age and gender

9.3 Infants and Young Children

9.3.1 The special needs of babies and young children are met

9.4 Children

9.4.1 Social and educational programs appropriate to the child's age and abilities are available to all children in detention

9.4.2 Detainees are responsible for the safety and care of their child(ren) living in detention

9.4.3 Where necessary, help and guidance in parenting skills is provided by appropriately qualified personnel

9.5 Expectant Mothers and Infants in Detention

9.5.1 Expectant mothers have access to necessary ante-natal and post natal services

9.5.2 Arrangements are made, wherever practicable, for children to be born in a hospital outside the detention facility. If a child is born in a detention facility this is not recorded on their birth certificate

9.5.3 Where a nursing infant is with its mother in detention, provision is made for the child-to be cared for by the detainee

9.6 Psychiatrically disturbed

9.6.1 Detainees in need of psychiatric treatment have access to such services

9.6.2 Arrangements are made to move detainees who are found to be severely mentally ill or insane to appropriate establishments for the mentally ill as soon as possible

10. RELIGION

- 10.1 Detainees have the right to practise a religion of their choice, and if consistent with detention facility security and good management, join with other persons in practising that religion and possess such articles as are necessary for the practice of that religion
- 10.2 A qualified religious representative approved under guidelines is allowed to hold regular services and to pay pastoral visits to detainees of the appropriate religion at proper times, so long as it does not interfere with the security and management of the detention facility

11. COMMUNITY CONTACTS

- 11.1 Contact between detainees and their families, friends and the community is permitted and encouraged except when in separation detention. The contact is facilitated through detainee access to telephones, through regular visits and letters
- 11.2 Detainees are allowed reasonable facilities to communicate with the diplomatic and consular representatives of the country to which they belong or with their legal representatives
- 11.3 Detainees are allowed the opportunity to keep informed of current events

12. NOTIFICATION OF DEATH, ILLNESS, TRANSFER

- 12.1 Upon death, serious illness or serious injury of a detainee, or a detainee's removal to an institution for the treatment of mental illness, the Contractor's Facility Manager arranges as soon as possible, for the information to be conveyed to the person previously designated as next of kin or contact person, where the next of kin or contact person resides in Australia
- 12.2 A detainee is informed as soon as possible following the notification of the death or serious illness of any near relative or member of the detainee's extended family as defined by cultural values of the detainee

13. MONITORING AND REPORTING

- 13.1 DIMA has full access to all relevant data to ensure that monitoring against these standards can take place
- 13.2 The Contractor ensures that adequate reporting against the standards is provided on a regular and agreed basis

- 13.3 Any incident or occurrence which threatens or disrupts security and good order, or the health, safety or welfare of detainees is reported fully, in writing, to the DIMA Facility Manager immediately and in writing within 24 hours
- 13.4 The Contractor ensures that it responds within agreed time frames to requests for information so as to enable DIMA to meet Departmental and Government briefing requirements

14. DEFINITIONS

"assault" means an unlawful physical or sexual attack upon another person or a threat to do violence to another person

"education programs" means pre-school and school curriculum based programs, focussing on English as a second language and taking into account variable lengths of stay in detention of students, in line as far as possible with local education authority standards, provided by qualified teachers, either within the detention facility, or within local schools if appropriate and within requirements for continued detention

"incident" (reportable through Incident Reporting Procedures detailed in Operational Orders) means a variation from the ordinary day to day routine of a facility which threatens, or has the potential to threaten, the good order of the facility, or, which threatens the success of escort/transfer/removal activities, or may impact on immigration processing, including but not limited by:

- . escape from lawful detention or attempted escape
- . attempted self harm
- . hunger strike in excess of 12 hours
- . solitary confinement of detainee
- . transfer of detainee/s to another facility, state institution
- . indications of rising tension within a facility, eg prior/post major removal activity, prior/post visa decision advice
- . approaches to staff by, or presence at the facility of, media representatives
- . industrial action by staff

"minor incident/disturbance" (major incidents/disturbance would usually be covered by Emergency Procedures in Operational Orders) means an incident or event which affects, but to a lesser degree than a major incident, the good order and security of the facility or which threatens the success of escort/transfer/removal activities, including but not limited by:

- . attempted self harm
- . transfer of detainee/s to another facility, state institution
- . indications of rising tension within a facility, eg prior/post major removal activity, prior/post visa decision advice

approaches to staff by, or presence at the facility of, media representatives

"major incident/disturbance" (major incidents/disturbance would usually be covered by Emergency Procedures in Operational Orders) means an incident or event which seriously affects the good order and security of the facility or which threatens the success of escort/transfer/removal activities, including but not limited by:

- . medical emergency eg serious accident, serious self inflicted injury, infection contamination of facility
- . serious assault eg sexual assault, assault causing serious bodily harm
- . riot
- . hostage situation
- . hunger strike (of over 24 hours)
- . sit-in, barricade (if not dealt with within 4 hours)
- . rooftop demonstration
- . food poisoning/epidemic
- . bomb threat
- . failure of mains system/power failure; electronic security system
- . hazardous materials contamination
- . fire, storm and tempest
- . damage caused to facility

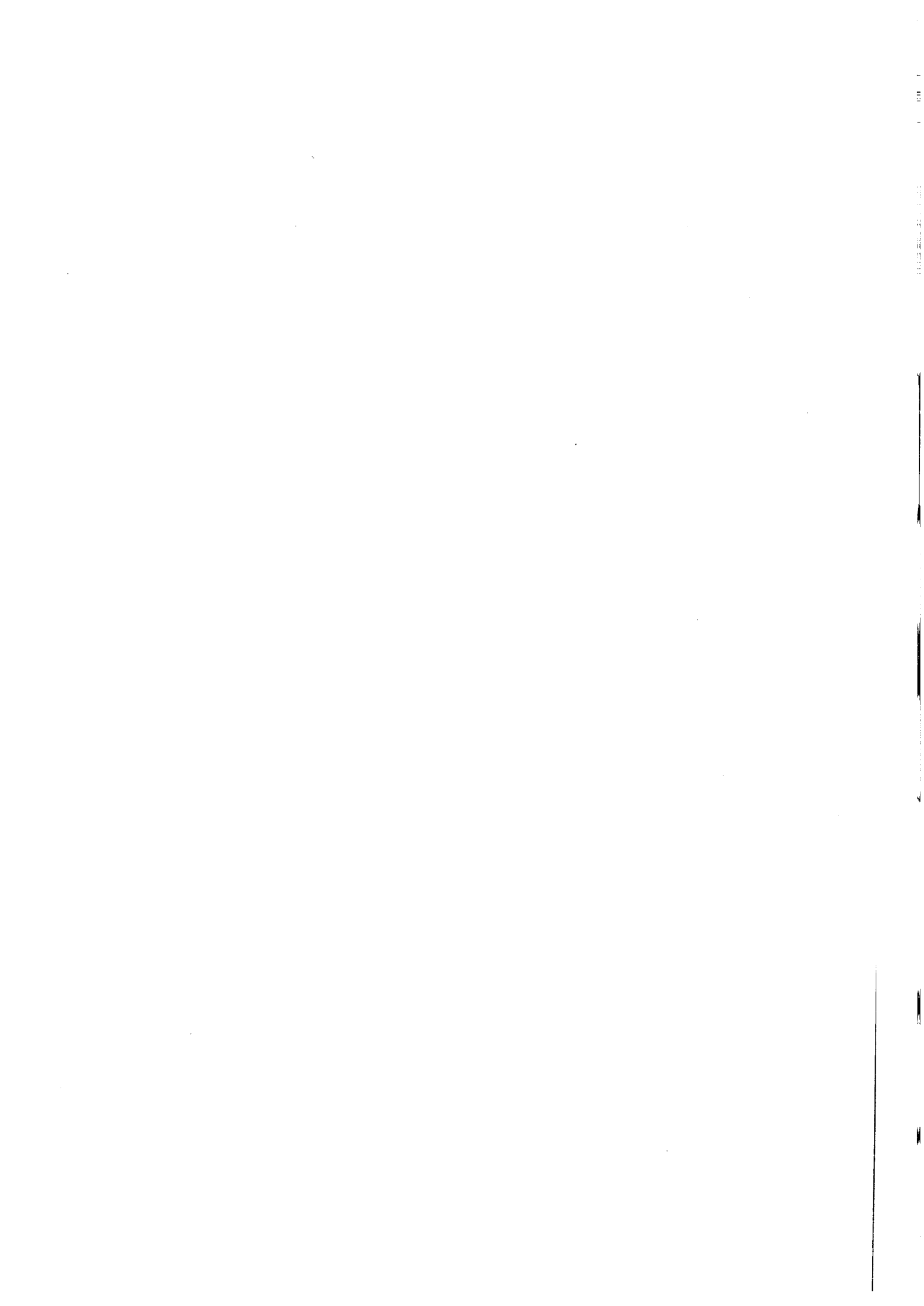
"recreation/leisure activities/programs" means access to opportunities to effectively utilise time in detention in a constructive and beneficial manner, including indoor and outdoor exercise and sport, sporting equipment, games, outings, books, newspapers, television, videos, craft activities, English language tuition, vocational activities

"separation detention" means detention which restricts a person or a group of persons to a particular area of a detention facility on initial arrival at, or prior to removal from, a facility

"serious assault" means an assault involving violence upon another person, for example occasioning serious bodily harm, sexual assault

"substantiated complaints/non compliance" means objective assessment against requirements including legislation, procedures, or, qualitative assessment by Contract Administrator based on available evidence/data

"unaccompanied minors" means children under 18 years of age not accompanied by a relative eg parent, adult sibling, aunt/uncle. Programs for unaccompanied minors include placement, where possible, within the facility with an adult/s who is/are willing to take a parenting role in relation to the child, dedicated social activities, provision for contact with family members overseas



Appendix 2

Boat people granted entry into Australia since 1989

Table: Boat people granted entry into Australia since 1989¹²

Year	Total No. Arrivals (a)	Granted Entry (b)	Proportion Granted entry	Ethnicity of people granted entry
1989	27	21	78%	Chinese, Vietnamese, Cambodian
1990	216	87	40%	Chinese, Vietnamese, Cambodian
1991	230	163	71%	Vietnamese, Cambodian, Chinese
1992	221	31	14%	Sino-Vietnamese, Chinese, Romanian
1993	86	63	73%	Sino-Vietnamese, Chinese, Turkish
1994	977	131	13%	Bangladeshi, Chinese, Sino-Vietnamese
1995	242	12	5%	Sino-Vietnamese (1), Afghani, Kurdish
1996	661	50	8%	Iraqi
1997(c)	328	8	2%	Iraqi

- (a) The total number of arrivals includes babies born in detention to boat people who arrived during that year.
- (b) Total granted entry includes all the people who arrived by boat in that year who have been granted refugee status or granted entry to live in Australia on humanitarian or other grounds.
- (c) Year to 9 September

1 Source: *Those who've come across the seas – Detention of unauthorised arrivals*, Human Rights and Equal Opportunity Commission, 1998, Table 2.1, p32

2 These figures do not include the small number of people granted refugee status who had not yet been released into the community.



Department of Immigration and Multicultural Affairs

80. Locating overstayers in Australia

Costs | Undertakings | Reasons for overstaying | Locating overstayers | Consequences | Statistics |

New technology is now making it quicker and easier to locate 'overstayers' - people who have stayed on after their temporary visas have expired, and are now unlawfully in Australia.

Three Government departments - Immigration and Multicultural Affairs, Social Security (that is, Centrelink), and the Australian Tax Office are now exchanging data to locate overstayers who are defrauding the taxpayer by claiming welfare payments and benefits to which they are not entitled.

A data matching pilot project is now in place with the Health Insurance Commission.

In 1996-97, 614 people were located through data matching, 1 365 through referrals by other departments and 327 through police referrals.

Most recent figures available (31 December 1996) show that there are an estimated 45 100 overstayers in Australia (27 000 males, 18 000 females), a drop of 2 500 from 31 December 1995.

Costs to the taxpayer

Overstayers cost the taxpayer millions of dollars each year in fraudulent claims and through the cost of locating and removing them from Australia. Unlawfully in Australia, they have no work rights; those who are working may well be taking jobs away from unemployed Australian residents.

Of the 10 138 overstayers located in 1996-97, 21% (2 103) admitted they had been working.

The Department of Immigration and Multicultural Affairs conducts an Employer Awareness education campaign to encourage employers not to employ foreign nationals who do not have permission to work while in Australia.

During 1996-97, DIMA officers conducted 1 693 Employer Awareness visits (covering 206 000 employees) and 160 community visits.

Promise to leave

Overstayers arrive in Australia with valid temporary visas, mainly as tourists, but also as working holiday makers, students and temporary residents.

There are conditions attached to each type of visa. For example, tourists may not work while on holiday here; students may work only 20 hours per week while college is in session.

By applying for a visa to enter Australia, people effectively sign a contract to comply with the conditions of their visas and to leave Australia before their visas expire, or to

apply to extend their time in Australia where this is legally possible. Most do, but a small percentage (less than 1%) become overstayers.

Many overstayers have been in Australia for long periods - 21 per cent longer than nine years - and have not taken any of the opportunities or concessions available to them during that time to stay in Australia legally.

Reasons for overstaying

One of the many reasons for overstaying is the desire to live and work long-term in Australia.

However, the Australian Government runs a carefully-managed migration program, in which prospective migrants must meet criteria based on the skills and/or family relationship to an Australian resident, and which include stringent checks on their good health and character.

Overstayers who choose the illegal 'backdoor' method of staying in Australia do not undergo those checks. From data matching, it can be seen that many would not meet the migration criteria, and are a considerable cost to Australian residents.

Knowing they have no legal right to be in Australia, they become neighbours, friends, colleagues, employees and even relatives of lawful Australian residents, who may become unwittingly involved in legal action at a later stage when the overstayer is located.

Locating overstayers

Community information has been a prime source of information on overstayers until very recently - some 750 were found this way in 1996-97. But the increasing use of technology is likely to overtake this.

All passengers arriving in and departing from Australia complete a card giving their personal and travel details. By checking one against the other, the Department of Immigration and Multicultural Affairs locates the names of overstayers.

Those names are then matched against lists of people receiving benefits or paying tax to find a last-known address. The result is then double-checked, to ensure the person has not since applied for a further visa or left Australia.

Immigration officials then follow up and locate the overstayers.

Consequences of overstaying

The law requires that people who are in Australia illegally (and who are not taking steps to obtain a visa) must leave Australia. Immigration officials have no option but to enforce the law.

Apart from departing voluntarily (which allows the overstayer to leave without being detained or removed by immigration officials), overstayers may depart by:

- supervised departure - takes place when overstayers located by immigration officials are prepared to leave at their own expense. They are usually granted a bridging visa and taken to the airport to ensure they depart;
- removal - for overstayers who are unwilling or unable to arrange their own

departures. It generally involves a period of detention while departure arrangements are made. Costs of removal and detention are met by the Department, and overstayers are given notice that they must repay the debt.

During 1996-97, 5 654 overstayers departed following their location by compliance officers. Of these, 4 043 arranged their own travel and left voluntarily, 1 359 were detained and removed by the Department and 252 were detainees whose departure was supervised but who met their own travel expenses.

Note: Deportation is only used against people who have been convicted of serious crimes. A person who is deported is banned from ever returning to Australia.

Bridging visas

A new bridging visa system was introduced in September 1994 under the Migration Reform Act (MRA) which enables unlawful overstayers to be made temporarily lawful through the grant of a bridging visa. This avoids the need to detain overstayers, allows them to make arrangements for their departure from Australia or to seek a further visa, if possible.

Exclusion from Australia

Overstayers are subject to an exclusion period from returning to Australia, usually up to three years, irrespective of whether they leave voluntarily. They cannot be given visas to return to Australia even after the exclusion period has finished until they repay the cost of their removal and detention.

Statistics

Recent trends

In 1996-97, 3.1 million visas were issued to visitors, 68,600 to students, and 90,500 to temporary residents. At 31 December 1996, there were 45,100 overstayers, comprising 34,450 visitors, 2800 students, 3500 temporary residents and 4350 in other categories. This compares with a total of 47 600 at 31 December 1995.

Length of overstay

The length of overstay of the estimated 45,100 people who were in Australia illegally at 31 December 1996 was:

Less than 1 year	7 800(17%)
Between 1 and 2 yrs	3 374 (7%)
Between 2 and 3 yrs	2 929 (6%)
Between 3 and 4 yrs	1 971 (4%)
Between 4 and 5 yrs	2 143 (5%)
Between 5 and 6 yrs	3 324 (7%)
Between 6 and 7 yrs	6 654(15%)
Between 7 and 8 yrs	4 391(10%)
Between 8 and 9 yrs	2 903 (6%)
9 yrs or more	9 599(21%)

Composition of overstayers

In terms of actual numbers, the ten countries with the most overstayers (for example,

visitors, students, working holiday makers, temporary residents and others) at 31 December 1996 were:

United Kingdom	5 319	11.8%
USA	4 449	9.9%
Indonesia	2 292	5.1%
Japan	2 276	5.0%
China, People's Rep#2	1 554	4.7%
Philippines	1 709	3.8%
Fiji	1 704	3.8%
Malaysia	1 530	3.4%
Germany	1 117	2.5%
Korea	1 099	2.4%

includes 188 unauthorised boat arrivals.

Visitor overstay rate

The visitor overstay rate shows the estimated percentage of visitors (that is, people who arrived in Australia primarily as tourists), who no longer have a valid visa:

Syria	3.1%
Colombia	2.4%
Bangladesh	2.5%
Western Samoa	2.5%
Tonga	2.5%
Cambodia	1.6%
Burma	1.4%
Pakistan	1.2%
Vietnam	1.2%
Turkey	1.1%
Lebanon	1.0%
Romania	1.0%
Overall rate	0.1%

Located overstayers

The nationalities most frequently located during 1996-97 were:

United Kingdom	1 474
Indonesia	986
Fiji	707
China, People's Rep of	614
Philippines	432
Korea, Republic of	392
Ireland	389
Tonga	308
Thailand	295
Sri Lanka	217

Recent statistics for overstayers

	Locations	Enforced departures
1996-97	10 138	5 654
1995-96	7 800	5 381

DIMA Fact Sheet 80

1994-95	9 018	7 095
1993-94	16 392	8 870
1992-93	14 874	9 180
1991-92	11 682	7 165

The Department of Immigration and Multicultural Affairs operates a national telephone inquiry line on 131 881, for the cost of a local call anywhere in Australia. Overseas, please contact your nearest Australian mission.

Fact Sheet 80. Produced by the Public Affairs Section, Department of Immigration and Multicultural Affairs, Canberra. Revised 30 October 1997.

