

asrc Asylum Seeker
Resource Centre

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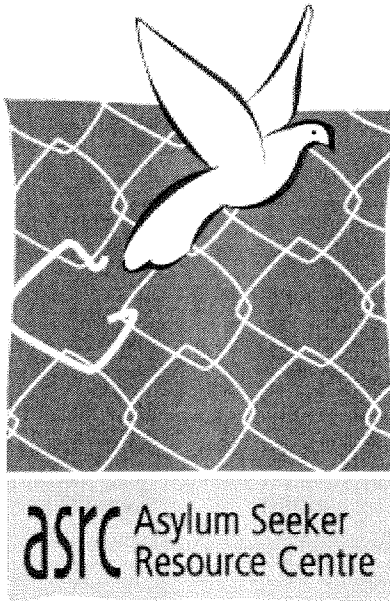
Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Dear Secretary,

Please find enclosed this submission from the Asylum Seeker Resource Centre.

Yours Sincerely,

Pamela Curr
Campaign Coordinator
Asylum Seeker Resource Centre



The Hon Anthony Byrne, MP
Chair
Parliamentary Joint Committee on Intelligence and Security
Parliament House
CANBERRA ACT 2600

Dear Mr. Byrne

Please find enclosed this short submission to the Parliamentary Joint Committee on Intelligence and Security from the Asylum Seeker Resource Centre (ASRC), Melbourne. Our concerns are centred on the following within the context of the annual review of the administration, expenditure and financial statements of the Australian Security Intelligence Organisation (ASIO) as to:

- The capacity of ASIO to conduct these assessments within a reasonable time frame.
- The reason for the sudden increase in numbers of people found to be a threat.
- The ability of ASIO to provide reasons for the decisions made in view of the catastrophic effect on the lives of people given a negative decision.

The ASRC is an independent, community based agency funded largely by philanthropy and fundraising. We provide legal as well as a wide range of other services to asylum seekers and refugees. The ASRC legal team represent mainly community-based asylum seekers who have arrived by air as well as some asylum seekers in detention. The ASRC campaigns team advocates for many asylum seekers in detention both on and off shore. It is from this perspective that we submit these questions and concerns.

Time taken to conduct security checks

Of primary concern to the ASRC is the length of time taken to conduct security checks on people who have been found to be refugees. The number of people in such a situation languishing in detention while awaiting security checks is now 900, as was revealed in Senate estimates last week.

Included in this number are many teenage boys whose age precludes the likelihood of their presenting a threat to Australia even though they are spending months in the harsh conditions of our detention centres both on and off shore.

Also included are people who have suffered extreme torture in their countries of origin. Mr MF is one such case. He was imprisoned in Iran for seven years where he was tortured "like in the middle ages". He was granted a visa within five months because of the strength and irrefutability of his case. Yet he remains in detention, 12 months later, awaiting a security check.

There are men from Burma who have been subject to all manner of brutality. There are also the cases of women in Afghanistan who are the wives of refugees who have been granted permanent status in Australia. These Afghan women, mostly Hazara, have of necessity lived behind the doors of their compounds in hiding. Their very presence is hardly known of by the authorities and many have no documentation even of their birth. Their survival depends on remaining invisible. The likelihood that they are a threat is minimal yet years are taken to make the security assessment.

We seek an examination of the administration of the security check protocols to ascertain if there can be a means of risk assessing the least likely to prove problematic. Furthermore, prioritising the vulnerable using the intelligence analysis, which is a strength of this organisation, should also be considered

Administration, capacity and communication

On the issue of capacity, we are aware that ASIO has received a significant increase in funding over the past decade. Is there a sufficient allocation of resources to the business of security clearances of refugees? Are these security clearances prioritised sufficiently to ensure that they are done in a timely way? Does ASIO consider the trauma inflicted on vulnerable people by the prolonged periods of incarceration incurred as a result of delays

with security clearances? These questions arise at a time when advertising campaigns in the national papers suggest that the exciting core business of ASIO is surveillance of Australians in urban coffee shops.

On the issue of co-operation between government agencies to ensure that the money provided by the Australian tax payers is used to ensure the most efficient and effective delivery of service, concerns are raised when DIAC refuse to communicate with ASIO when asked about specific cases. Australian advocates are told sternly that they are on no account to contact ASIO on their own initiative and yet DIAC refuse to do so.

Is ASIO aware of the process where once an asylum seeker receives refugee recognition preparatory to a visa, many of the lawyers finish the client /lawyer relationship? The DIAC case officers who are responsible to provide timely information to the asylum seeker in detention are on rotation every two to six weeks especially in the isolated camps. As a result, people in detention are then left to a system where no one has responsibility for, or knowledge of, the progress of their cases. This leaves the client lost in the system. Currently there are 900 people in this situation waiting for decisions. This recently drove one man to attempt self-immolation and others to self harm.

A further cause for concern is the total lack of information as to when the security checks begin or an estimate of time for their completion. Currently people in detention are being given letters notifying them of a positive decision and reminding them of their requirement for health and security checks before they can be released with no estimate of the time which these will take for completion. It is also not known when DIAC's grant of refugee recognition actually activates the commencement of the ASIO security check. This is becoming problematic as highlighted by the following example.

Teenagers in Darwin were given their letters of acceptance on the 22nd of February 2011. These letters were dated 7th December 2010. They are thus being informed of a positive decision 10 weeks after it has been granted. They do not know when the security check begins and may then have to wait another 6-12 months on current timelines. The relationship and cooperation between these two agencies becomes very important when the release of people from detention depends on their communication compatibility.

Number of negative decisions

Another concern has been the escalation in the number of negative decisions. Questions need to be asked about the criteria for the decision making. Has this changed that we now

find that, where there were years of no negative decisions or two at most, there are now 11 negative security findings including one involving a young mother of two and a man who has worked for years for the United Nations? Some of those given adverse ratings have formerly been recognised as refugees by the UNHCR. This status is only conferred after strenuous investigation which includes their security background. The backgrounds of the people found to be a threat seem remarkably benign and raise many questions as to the criteria for assessment. We draw your attention to the findings from the parliamentary committee report of 2008 *Immigration detention in Australia: A new beginning Criteria for release from immigration detention First report of the inquiry into immigration detention in Australia Joint Standing Committee on Migration* (Commonwealth of Australia, Canberra) available at : <http://www.aph.gov.au/house/committee/MIG/detention/report.htm>

This report found that the available historical evidence suggests that the security risks posed by unauthorised arrivals have been minimal.

For example:

- Out of the 5986 security checks that ASIO had performed on boat people between 2000 and 2002, no individuals were assessed as a security risk. Page 86
- Out of 688 visa security assessments conducted by ASIO across the whole migration program, two applicants (or 0.00003 per cent) were assessed to pose a direct or indirect risk to security and received adverse assessments. Page 84
- Between 2004 and 2005 ASIO provided adverse security assessments for two unauthorised arrivals from a total of 4223 assessments. This represents approximately 0.05 per cent of the total number of assessments for unauthorised arrivals. Page 85

The increase in adverse assessments without providing reasons leads to concerns about the independence of ASIO decision making and fears that the ASIO assessments may be linked to broader political considerations that have little to do with the security of Australia.

Providing reasons for adverse assessments is necessary for three reasons. Firstly, in fairness to allow the person to respond to the evidence. Secondly, as proof that the decisions are not driven by politics in this most politically divisive of areas. And thirdly, for Australians to have trust and faith in the process of security clearances and in the role of our government and the agencies charged with the responsibility of ensuring the nation's security.

The administration of the security agencies and expenditure which is provided to ensure that these agencies operate in the best interests of the nation, is fundamental to good governance and to Australian's trust in the institutions guarding our security.

The ASRC is seeking the following changes to the administration of the security agencies.
We would like to see a process of natural justice in these determinations by:

- Providing reasons for adverse security checks.
- Conducting the security check protocols within a timeframe and reasons given where this is not done.
- Using intelligence analysis to recommend release of people who are unlikely to be given an adverse assessment but who come from countries where information is difficult to get and recognising that some people are stateless and come from countries where they have been denied official recognition and documentation.

Yours sincerely,

Pamela Curr

Campaign coordinator

Asylum Seeker Resource Centre