

Sen the Hon Amanda Vanstone

Minister for Immigration and Multicultural Affairs



Parliament House, Canberra ACT 2600

Telephone: (02) 6277 7860

Facsimile: (02) 6273 4144

Supplementary Submission No. 8.1

Mr Russell Chafer
Joint Committee of Public Accounts and Audit
R1-108
Parliament House
CANBERRA ACT 2600

25 SEP 2006

Dear Mr Chafer,

On 2 June 2006, the Joint Committee of Public Accounts and Audit (JCPAA) chaired by Mr Anthony Smith MP conducted a public hearing to examine three Australian National Audit Office reports, of which the following two were related to my portfolio responsibilities:

- Audit report No. 32 2005-06: *Management of the tender process for the detention services contract*; and
- Audit report No. 34 2005-06: *Advance passenger*

The responses to the Questions on Notice which arose from these hearings are **attached**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Amanda Vanstone', written over a printed name.

AMANDA VANSTONE

QUESTION TAKEN ON NOTICE

JOINT COMMITTEE ON PUBLIC ACCOUNTS AND AUDIT: 2 June 2006

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

(1) Audit Report No.34 2005-06: Advance Passenger Processing

Senator Watson (page 23) asked:

You have not answered my question of whether you sought legal advice as to your obligations to Finance circulars or to requirements under the FMA Act in seeking outside legal advice as to what your status was. The position is not all that clear now because of the devolvement and I am just concerned that devolvement has gone so far as to diminish the impact of the FMA Act and Finance circulars?

Answer:

I can confirm that no legal advice was taken at that time in respect to the Department's legal obligations under the FMA Act.

QUESTION TAKEN ON NOTICE

JOINT COMMITTEE ON PUBLIC ACCOUNTS AND AUDIT: 2 June 2006

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

Audit Report No.32 2005-06: Management of the tender process for the detention services contract

Mrs Bishop (page 20) asked:

You used the AGS for a \$400 million contract. Who did they have acting for them?

Answer:

The Australian Government Solicitor (AGS) acted for the Department in the Detention Contract Project to which the ANAO's Report No 32 of 2005/06 refers. The AGS deployed a team of 3 senior lawyers, comprising at the time:

- Mr John Scala, Chief Counsel Commercial;
- Ms Cathy Reid, Senior Executive Lawyer; and
- Mr Kenneth Eagle, Senior Executive Lawyer.

The AGS is one of a panel of law firms from which the Department may source legal services as and when needed. The panel of legal services providers was established after an open tender process, and consistent with that process, the Department may choose whichever panel member it wishes to perform particular jobs, on the basis of their particular experience.

Mr Scala is currently the national leader of the AGS Commercial Practice Group. He has advised on most of the major Commonwealth privatisations in the last 15 years, including the Moomba-Sydney pipeline, Australian Airlines, Qantas, Commonwealth Bank and the Federal Airports Corporation. Ms Cathy Reid is currently the practice manager for the AGS Commercial Practice Group. She has extensive experience in privatisation and corporatisation transactions for the Commonwealth, including the sales of the Commonwealth Serum Laboratories, Australian National Lines and the Federal Airports Corporation. Mr Eagle continues as a Senior Executive Lawyer with the AGS, with extensive experience in relation to contracting, procurement, outsourcing and tendering, including a number of major maintenance and services contracts for the Commonwealth. He has also been involved in a number of privatisation and corporatisation projects, including the privatisation of the Federal Airports Corporation and the corporatisation of the Snowy Mountains Hydro-electric Authority.

QUESTION TAKEN ON NOTICE

**JOINT COMMITTEE ON PUBLIC ACCOUNTS AND AUDIT:
2 June 2006**

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

Audit Report No.32 2005-06: Management of the tender process for the detention services contract

Mrs Bishop (page 16) asked:

Who wrote the letter to the Minister saying 'It is unlikely that, should we test the market again, any potential provider would be able to insure against detainee damage'?

Answer:

The letter from which this quote was extracted was from the then Minister for Immigration and Multicultural and Indigenous Affairs to the Prime Minister, Minister for Finance and Treasurer. It was drafted by the then Director, Detention Strategy and cleared by the then Acting Assistant Secretary, Detention Strategy Branch.

Both of these officers have subsequently left the Department.

QUESTION TAKEN ON NOTICE

JOINT COMMITTEE ON PUBLIC ACCOUNTS AND AUDIT: 2 June 2006

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

Audit Report No.32 2005-06: Management of the tender process for the detention services contract

The Chair (page 17) asked:

[Steering Committee of August 2001]

You had four senior DIMA staff – being a Deputy Secretary, a FAS for the detention task force, another FAS for border control and compliance and another for corporate governance. Is that right? Can you tell us today who those four were at the time?

Mrs Bishop (page 17) asked:

And let us know if they are still involved in this sort of thing.

Answer:

The Steering Committee was initially set up in early 2001. It consisted of Andrew Metcalfe, Deputy Secretary, Philipa Goodwin, FAS for the Detention Task Force, Vince McMahon, FAS for Border Control and Compliance and Steve Davis, FAS Corporate Governance.

In August 2002, Mr Metcalfe transferred to the Department of the Prime Minister and Cabinet. Ms Goodwin was promoted to the position of Deputy Secretary and Mr Davis moved into the position of FAS Unauthorised Arrival and Detention Division.

This resulted in the original four members of the Steering Committee being reduced and continuing with the remaining three members.

Of the original members of the Steering Committee, Mr Metcalfe, Mr McMahon and Mr Davis are currently with DIMA. Mr Metcalfe was appointed Secretary of the Department in July 2005; Mr McMahon is the FAS for Border Security Division and Mr Davis is the Regional Director (UK and EU Liaison).

QUESTION TAKEN ON NOTICE

JOINT COMMITTEE ON PUBLIC ACCOUNTS AND AUDIT: 2 June 2006

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

Audit Report No.32 2005-06: Management of the tender process for the detention services contract.

Ms Grierson (page 19) asked:

Could you provide for the committee the penalty clauses that you have invoked and what they have been?

Answer:

Under Clause 7.1.1, the Commonwealth's ability to retain any element of the Performance Linked Fee component will be determined by the Services Provider's performance against the Performance Measures, with the benchmark performance points being allocated in accordance with the Performance Linked Fee Matrix. One event may lead to points being allocated against more than one of the Performance Measures.

The following table outlines the Immigration Detention Standard performance measures that have been invoked in the last ten quarters.

Note: Terms which are marked with an asterisk (*) denote terms discussed in the Definitions section of the *Immigration Detention Standards* document. An extract of the relevant terms is at Attachment A.

Immigration Detention Standard (IDS)	Standard Breached / Performance Measure	Reason for Invoking Sanction (and quarter ending)
1.3.1(a)	The day-to-day care needs* of detainees are met. (a) No substantiated instance where a detainee could not have their day-to-day care needs met.	Breach of Standard during transfer of detainees between centres. (June 2005)
1.3.2(a)	A secure and safe detention environment is established and maintained. (a) No instance of a detainee coming to harm as a result of risks not being identified, assessed, managed and ameliorated.	Detainee disturbance. (September 2005)
1.4.1.1(a)	Each detainee is treated with dignity and in a humane manner, and is accorded respect; and the individuality of each detainee is recognised and	Attempt to obtain a urine sample from a female detainee minor.

	<p>acknowledged.</p> <p>(a) No substantiated instance of a detainee being humiliated or treated discourteously.</p>	(June 2005)
1.4.1.1(a)	<p>Each detainee is treated with dignity and in a humane manner, and is accorded respect; and the individuality of each detainee is recognised and acknowledged.</p> <p>(a) No substantiated instance of a detainee being humiliated or treated discourteously.</p>	<p>Verbal abuse of detainee by Detention Service Officer. (March 2004)</p> <p>Inappropriate behaviour towards detainee by GSL staff. (September 2004)</p> <p>Breach of Standard during transfer of detainees between centres. (June 2005)</p>
1.4.2.1(a)	<p>Each detainee is afforded as much personal privacy as is reasonably practicable; in particular, each detainee can undertake personal activities, such as bathing, toileting and dressing in private.</p> <p>(a) No substantiated instance of a detainee not being afforded personal privacy.</p>	<p>Breach of Standard during transfer of detainees between centres. (June 2005)</p>
1.4.4.1(a)	<p>Detainees are provided with current, accurate and comprehensive information relevant to their detention in a language and in terms they understand.</p> <p>(a) No substantiated instance of a detainee not being provided with such information.</p>	<p>Breach of Standard during transfer of detainees between centres. (June 2005)</p>
2.1.2.1(b)	<p>Subject to:</p> <ul style="list-style-type: none"> • the good order and security of the detention facility and the safety of all those within it; • detainees' own preference; and • relevant provisions of Commonwealth or State/Territory law; • detainees are able to retain personal property with them in detention, with the exception of certain items which include but are not limited to money, valuables, documents, and particular items of clothing and other 	<p>Prohibited items including a mobile phone found in detainee's possession. (March 2005)</p>

	<p>personal effects.</p> <p>(b) No substantiated instance of a detainee retaining personal property that compromises the good order and security of the detention facility.</p>	
2.1.2.2(a)	<p>Property retained by the Services Provider is properly recorded, safely stored, maintained and returned, on a detainee's transfer, release or removal, or in any instance in which property is lost or stolen appropriate restitution is made, according to the Property Protocol approved by the Department.</p> <p>(a) No substantiated instance:</p> <ul style="list-style-type: none"> • of property retained by the Services Provider being lost or damaged; or • where the Property Protocol is not adhered to; or • of items prohibited by law not being dealt with in accordance with the law. 	<p>Failure to locate detainee's property. (March 2005)</p> <p>Failure to secure detainee's property. (March 2005)</p> <p>Failure to return detainee property (x 2). (June 2005)</p> <p>Property retained by GSL being lost. (December 2005)</p>
2.1.2.3(b)	<p>Detainees know how their property which has been retained is managed and under what circumstances they may access it.</p> <p>(b) No substantiated instance of a detainee being unable to access their property in approved circumstances.</p>	<p>Detainee refused access to property. (September 2004)</p> <p>Detainee not being able to access their property. (December 2004)</p>
2.1.2.5(b)	<p>With respect to property retained with them, detainees:</p> <ul style="list-style-type: none"> • have access to secure storage for their personal use; • are informed of the need to respect other detainees' personal property; • can expect that their personal effects will not be used by others in the detention facility without their consent; and • are assisted, on transfer, release or removal, to identify and take with them such personal property. <p>(b) No substantiated instance of a detainee:</p> <ul style="list-style-type: none"> • not being given secure storage; or • not being so informed within 5 days of arrival; or 	<p>Property not supplied to detainee on removal. (September 2004)</p> <p>Failure to provide detainee's in-trust property when released. (September 2004)</p>

	<ul style="list-style-type: none"> • being transferred, released or removed without all their property. 	
2.2.1.1.1(a)	<p>Detainees are able to access timely and effective primary health care*, including psychological / psychiatric services (including counselling):</p> <ul style="list-style-type: none"> • in a culturally responsive framework; and • where a condition cannot be managed within the facility, by referral to external advice and/or treatment. <p>(a) No substantiated instance of a detainee not having access to health care of this nature.</p>	<p>Detainee's health care needs not being addressed in a timely manner. (September 2004)</p>
2.2.1.3.1(a)	<p>The individual health care needs of detainees are recognised and managed effectively, appropriately and in a timely manner.</p> <p>(a) No substantiated instance of the individual health needs of a detainee not being recognised and effectively managed.</p>	<p>Failure to meet the individual health needs of a detainee. (September 2005)</p>
2.2.1.3.2(a)	<p>A detainee can expect:</p> <ul style="list-style-type: none"> • to be consulted and informed about his or her medical condition and treatment, including transfer for medical reasons, in a language or in terms he or she understands; and • that the communication of such information and advice will be consistent with the requirements to maintain accuracy and his or her privacy. <p>(a) No substantiated instance of a detainee not being appropriately consulted and informed.</p>	<p>Pushtu interpreter not supplied for consultations. (September 2004)</p>
2.2.1.3.5(a)	<p>On release into the community or removal from Australia or transfer to a state correctional facility or hospital or other medical facility, a detainee is examined by a doctor for fitness to travel and appropriate arrangements are made for referrals/introductory letters.</p> <p>(a) No substantiated instance of a detainee being released, removed or transferred without medical clearance.</p>	<p>Failure to issue an appropriate 'fit for travel' clearance. (June 2005)</p>
2.2.1.3.5(b)	<p>On release into the community or removal from</p>	<p>Failure to issue an</p>

	<p>Australia or transfer to a state correctional facility or hospital or other medical facility, a detainee is examined by a doctor for fitness to travel and appropriate arrangements are made for referrals/introductory letters.</p> <p>(b) No substantiated instance of a detainee being released or removed without being given a referral/introductory letter for their future doctor giving a synopsis of any relevant medical information and instruction on how the doctor may access the detainee's medical records.</p>	<p>appropriate medical clearance. (September 2005)</p>
2.2.1.4.2(a)	<p>Detainees have access to information, services and safe, secure facilities appropriate to their age, gender, family circumstances, linguistic/cultural background and physical/mental disability to enable them to maintain their personal hygiene.</p> <p>(a) The Department is provided with evidence that detainees:</p> <ul style="list-style-type: none"> • Are informed within 5 days of arrival of these responsibilities; and • Have access to such information, services and facilities to enable them to maintain their personal hygiene. 	<p>Breach of Standard during transfer of detainees between centres. (June 2005)</p>
2.2.1.5.1(a) & (b)	<p>Where detainees do not have their own clothing or footwear, they have access to adequate supplies which appropriately address their needs.</p> <p>No substantiated instance of a detainee not having access to such clothing and footwear or that this not be suitable to the climate or fit for use.</p> <p>(b) The Department is provided with evidence that strategies are in place and implemented to ensure adequate and appropriate supplies are available when required and that they are appropriately distributed.</p>	<p>Failure to meet the welfare needs of a detainee. (March 2005)</p>
2.2.1.5.2(a)	<p>Where detainees do have their own clothing or footwear, the Services Provider supplements to appropriately address their needs.</p> <p>No substantiated instance of a detainee not</p>	<p>Failure to provide adequate and appropriate supplementary clothing to a detainee within reasonable timeframe.</p>

	<p>having access to such clothing and footwear or that this not be suitable to the climate or fit for use.</p>	<p>(September 2004)</p> <p>Unnecessary delay in providing baby clothing. (September 2004)</p>
2.2.2.1(a)	<p>Taking account of cultural requirements and the institutional setting, detainees are provided with a choice of food that is:</p> <ul style="list-style-type: none"> • nutritional, • adequate for health and well-being, • dietary specific where required, for example, for religious or medical reasons; • stored, prepared and transported according to relevant laws, regulations and standards; and • in sufficient quantities. <p>(a) No substantiated instance of:</p> <ul style="list-style-type: none"> • a detainee not having access to food of this kind; or • any food handling, hygiene, safety, equipment, storage, preparation and transporting practices contrary to relevant laws, regulations and standards. 	<p>Non supply of dietary specific food for religious reasons (during Days of Heavy Embathal). (March 2004)</p> <p>Breach of Standard during transfer of detainees between centres. (June 2005)</p> <p>Failure to supply dietary specific meal. (June 2005)</p> <p>Failure to provide nutritionally appropriate food and lack of quality control in preparation. (September 2005)</p>
2.2.2.2(a)	<p>Detainees have access to fresh drinking water at all times.</p> <p>(a) No substantiated instance of fresh drinking water not being available to detainees at all times.</p>	<p>Breach of Standard during transfer of detainees between centres. (June 2005)</p>
2.2.3.1.1(b)	<p>The special care needs of detainees are identified, assessed and responded to.</p> <p>Detainees with special care needs may include but are not limited to the following:</p> <ul style="list-style-type: none"> • elderly detainees, whether accompanied or unaccompanied; • minors, in particular unaccompanied minors*; • expectant mothers; • women, whether accompanied or unaccompanied; • detainees with serious health problems; 	<p>Failure to meet detainee's day to day care needs. (March 2005)</p>

	<ul style="list-style-type: none"> • detainees in need of psychiatric or psychological treatment; • detainees at risk of self-harm; • long-term detainees; • victims of torture and trauma; or • detainees with a physical/mental disability. <p>(b) No substantiated instance where:</p> <ul style="list-style-type: none"> • the special care needs of a detainee are not identified; • appropriate Detainee Care Plans are not devised and implemented; and • the special care needs are not addressed and met by appropriately qualified personnel. 	
2.2.3.2.1(a)	<p>The safety, care, welfare and well-being of detainee children, in particular unaccompanied minors, are managed effectively and appropriately in accordance with:</p> <ul style="list-style-type: none"> • their age, family circumstances, gender, background (cultural, linguistic, religious), personal history and physical/mental health, • the law, • relevant Memoranda of Understanding and other agreements agreed between the Department and State/Territory agencies, and • relevant Departmental procedures or instructions. <p>(a) No substantiated instance of a detainee child not being managed according to this Standard.</p>	<p>Failure to control the movement of minors and correctly record related movements. (September 2004)</p>
2.2.3.4.1(a)	<p>The potential for detainees to self-harm is minimised, to the fullest extent possible.</p> <p>(a) Evidence is provided to the Department that strategies are in place and implemented to minimise the potential for detainees to self-harm.</p>	<p>Failure to record suicide and self harm (SASH) observations. (September 2005)</p>
2.3.1(b)	<p>Persons are released or removed from immigration detention according to advice from the Department about their status under the <i>Migration Act 1958</i>.</p> <p>(b) No substantiated instance of a lawful release</p>	<p>Removal of detainee aborted. (June 2004 and March 2005)</p> <p>Failure to comply with</p>

	<p>being delayed or lawful removal being aborted because the Services Provider failed to undertake all the procedures necessary to ensure release or removal in a timely, safe and dignified manner.</p>	<p>DIMA request for services to remove a detainee. (March 2005)</p>
3.3.1(b)	<p>Subject to the security and good order of the detention facility and the safety of all those within it, detainees aged 15 and over have the opportunity to engage voluntarily in useful and meaningful activities so that they may contribute to the care of themselves and the detainee community.</p> <p>Detainees who voluntarily participate in activities which contribute to the good order and functioning of the detention facility have access to merit points which can be exchanged in those facilities for additional goods and services.</p> <p>(b) No substantiated instance of:</p> <ul style="list-style-type: none"> • Participants being under the age of 15 years; or • Adequate supervision not being provided; or • Training not being provided to the level of competency required; or • Appropriate medical and character checks not being undertaken where necessary. 	<p>Failure to provide nutritionally appropriate food and lack of quality control in preparation. (September 2005)</p>
4.4.1(a)	<p>Detainees and the Services Provider effectively communicate with each other through the application by the Services Provider of appropriate communication strategies, taking into account:</p> <ul style="list-style-type: none"> • the languages detainees understand; • the particular circumstances in which the communication is taking place; and • the special needs of illiterate or hearing and/or visually impaired detainees. <p>(a) The Department is provided with evidence that effective communication strategies are developed and implemented to meet the needs of the number and profile of the detainee population at any given time.</p>	<p>Failure to translate minutes of detainee consultative meetings into relevant languages. (March 2005)</p>

4.4.1(b)	<p>Detainees and the Services Provider effectively communicate with each other through the application by the Services Provider of appropriate communication strategies, taking into account:</p> <ul style="list-style-type: none"> • the languages detainees understand; • the particular circumstances in which the communication is taking place; and • the special needs of illiterate or hearing and/or visually impaired detainees. <p>(b) No substantiated instance of:</p> <ul style="list-style-type: none"> • detainees not having access to the means with which to communicate effectively with staff of the Services Provider; and • detainees with special needs such as illiteracy or hearing / visual impairment, not having access to the means with which to communicate effectively with staff of the Services Provider, including for matters relevant to their detention. 	<p>Breach of Standard during transfer of detainees between centres. (June 2005)</p> <p>Failure to provide interpreting service. (September 2005)</p>
4.4.2(a)	<p>Where the use of an interpreter or translator * is assessed as necessary, that interpreter or translator is appropriately trained, qualified and accessible</p> <p>(a) No substantiated instance of interpreters and translators not being appropriately used, trained, qualified, or accessible in such circumstances.</p>	<p>Detainees not having access to qualified interpreter. (June 2004)</p> <p>Interpreter not supplied when requested by detainee for medical consultation. (June 2004)</p> <p>Breach of Standard during transfer of detainees between centres. (June 2005)</p>
6.1.1(a)	<p>Detention facilities are secure.</p> <p>(a) No instance of a detainee escaping from immigration detention.</p>	<p>Escape of detainee. (December 2004, June 2005 and December 2005)</p>
6.1.1(b)	<p>Detention facilities are secure.</p> <p>(b) The Department is provided with evidence that strategies are in place and implemented for the prevention, management and</p>	<p>Rooftop Protest. (December 2004)</p> <p>Compromise of security of keys.</p>

	appropriate resolution and follow-up of escapes and/or disturbances.	(June 2005)
6.1.1(d)	<p>Detention facilities are secure.</p> <p>(d) No substantiated instance of the security systems or infrastructure, including fencing, not being maintained to ensure security and good order.</p>	<p>Unauthorised access. (June 2005)</p> <p>Compromise of security of keys. (September 2005)</p>
6.1.2(d)	<p>The security of all those within detention facilities, including detainees, staff, visitors and sub-contractors, is assured.</p> <p>(d) No substantiated instance of:</p> <ul style="list-style-type: none"> • detainees' access to such materials not being properly controlled, supervised and accounted for; and • equipment brought into the facility by a sub-contractor not being properly controlled, supervised and accounted for. 	<p>Failure to properly account for equipment brought into a centre. (September 2004 and September 2005)</p>
6.1.3(a)	<p>The security of detainees during transfers or escorts to other locations is assured.</p> <p>(a) No substantiated instance of escape from detention during transfers or escorts.</p>	<p>Detainee escape. (March 2004, June 2004, September 2005, December 2005, March 2006)</p> <p>Security of detainees during escort. (June 2005)</p>
6.1.3(b)	<p>The security of detainees during transfers or escorts to other locations is assured.</p> <p>(b) No substantiated instance of the security of a detainee during transfers or escorts being inappropriately managed and, therefore, jeopardised.</p>	<p>Detainee removal – knife found in detainee cabin luggage. (December 2004 and March 2005)</p>
6.2.1(a)	<p>Comprehensive, accurate and current operational procedures are developed and maintained by the Services Provider which:</p> <ul style="list-style-type: none"> • are lawful; • are consistent with contractual obligations, including the Statement of Requirements; • cover the operation of the detention facilities, the management of detainees 	<p>Breach of Standard during transfer of detainees between centres. (June 2005)</p> <p>Failure to implement operational procedures. (September 2005)</p>

	<p>and the provision of services to detainees;</p> <ul style="list-style-type: none"> • accord with the requirements of the Immigration Detention Standards; • are approved by the Secretary of the Department; and • remain current and effective and fully implemented. <p>(a) The Department is provided with evidence that such Operational Procedures are in place and implemented and regularly audited by the Services Provider.</p>	
6.4.3(a)	<p>Collective, corporal, cruel, inhumane or degrading treatments and punishments are not used.</p> <p>(a) No substantiated instance of collective, corporal, cruel, inhumane or degrading treatments or punishments being used.</p>	<p>Breach of Standard during transfer of detainees between centres. (June 2005)</p>
6.4.7(a)	<p>Force is used as a measure of last resort and only where all other control methods have failed or have been assessed as inadequate. Only such force as is reasonably necessary and proportionate in the particular circumstances to resolve the situation is used.</p> <p>(a) No substantiated instance of the inappropriate use of force.</p>	<p>Allegation by detainee of assault by GSL staff. (December 2004)</p>
6.5.1(b)	<p>Screening and searches of detainees are conducted according to the law, Ministerial directions, and operational procedures.</p> <p>(b) No substantiated instance of screening or searches, including a strip search of a detainee, being conducted unlawfully or contrary to Ministerial directions, safeguards, relevant Migration Series Instructions, or operational procedures.</p>	<p>Allegation by detainee of assault by GSL staff. (December 2004)</p>
6.6.1(a)	<p>Items that pose a direct and immediate threat to the security and good order in and of the facility, are unlawful, or have the potential to create dangerous or unsanitary conditions are not permitted.</p> <p>(a) The Department is provided with evidence</p>	<p>Failure to control entry of contraband items to the centre. (December 2004)</p> <p>Detainee removing prescribed medicine</p>

	<p>that strategies are in place and implemented in each facility to prevent entry, acquisition or manufacture of such items, and to seize and, as appropriate, retain or destroy them.</p>	<p>from Stage 1 clinic. (June 2005)</p>
6.7.1(a)	<p>Safe and dignified and timely transport is provided when a detainee is moved to or from detention, including when he or she is to be removed from Australia.</p> <p>(a) The Department is provided with evidence that strategies are in place and implemented to ensure detainees being transported are protected from public view, curiosity, or publicity and in vehicles which do not subject them to unnecessary physical hardship or endanger their safety.</p>	<p>Breach of Standard during transfer of detainees between centres. (June 2005)</p>
6.8.2(a)	<p>Detainees are protected from assault by:</p> <ul style="list-style-type: none"> • other detainees; • detention officers; and • others. <p>(a) No substantiated instance of:</p> <ul style="list-style-type: none"> • an assault on a detainee by a detention officer; or • such assault not being reported to the Department orally within one (1) hour and in writing within four (4) hours. 	<p>Allegation by detainee of assault by GSL staff. (December 2004)</p> <p>Assault on detainee by Detention Services Officer. (December 2004)</p>
7.1.2(a)	<p>Staff behave in a tolerant, respectful and culturally sensitive manner.</p> <p>(a) No substantiated instance of staff being intolerant, patronising or paternalistic towards detainees, or of being insensitive to the cultural or ethnic background or special needs of detainees.</p>	<p>Inappropriate behaviour by IHMS staff member. (December 2004)</p>
7.1.3(a)	<p>The qualifications, competencies, registration, accreditation and authorisation of staff are appropriate to their specific tasks, roles, and responsibilities.</p> <p>(a) No substantiated instance of staff undertaking tasks, roles or responsibilities without the necessary:</p> <ul style="list-style-type: none"> • qualifications and competencies; 	<p>Medical professional without appropriate qualifications. (June 2005)</p> <p>Breach of Standard during transfer of detainees between centres.</p>

	<ul style="list-style-type: none"> • training in appropriate competencies; • Commonwealth, State or Territory registration and accreditation to enable them to practice in the State/Territory where they are working; and • authorisation under the Migration Act. 	(June 2005)
7.1.4(a)	<p>All staff are of good character and conduct, and have the appropriate physical and psychological fitness to perform their duties to the required standards.</p> <p>(a) No substantiated instance of staff being employed who:</p> <ul style="list-style-type: none"> • have not undergone a national police check prior to employment and annually thereafter; or • have not undergone other clearance procedures required by relevant State/Territory legislation; or • have not had a pre-employment medical check; or • do not have the physical and psychological fitness to carry out the tasks assigned to them. 	<p>Staff on-site without necessary police checks or prior approval from DIMA. (December 2005)</p>
7.1.5(b)	<p>All staff have the communication, counselling, negotiation and conflict resolution skills necessary to the performance of their duties.</p> <p>(b) No substantiated instance of staff performing duties for which they are inadequately skilled.</p>	<p>Breach of Standard during transfer of detainees between centres. (June 2005)</p>
7.1.6(b)	<p>All staff abide by a Code of Conduct approved by the Department.</p> <p>(b) No substantiated instance of non-compliance with the Code of Conduct.</p>	<p>Use of inappropriate language by GSL staff member. (March 2005)</p> <p>Breach of Standard during transfer of detainees between centres. (June 2005)</p> <p>Inappropriate behaviour by staff. (June 2005)</p>

		Breach of code of conduct. (September 2005)
7.2.1(b)	<p>All staff are trained or provided with access to training programs or other training, approved by the Department, to enable them to operate effectively:</p> <ul style="list-style-type: none"> • in an administrative detention environment; • relevant to the specific duties they are assigned; and • in a context where the number and profile of the detainee population change over time. <p>(b) No substantiated instance of staff performing duties for which they are not trained.</p>	Breach of Standard during transfer of detainees between centres. (June 2005)
8.1.2(a)	<p>Complaints by detainees are forwarded to the relevant agency in a timely fashion and, where appropriate, according to the law.</p> <p>(a) No substantiated instance of written communications addressed to:</p> <ul style="list-style-type: none"> • the Services Provider not being dealt with appropriately and responded to in a timely fashion; or • the Department, or concerning the Department's business, not being passed promptly to the Department; or • HREOC or the Commonwealth Ombudsman not being forwarded promptly to addressees; or • a specific detainee, from HREOC or the Commonwealth Ombudsman in response to a complaint by that detainee, not being forwarded promptly. 	Breach of Standard during transfer of detainees between centres. (June 2005)
9.1.2(a)	<p>All breaches of these <i>Immigration Detention Standards</i> are reported by the Services Provider to the Department.</p> <p>(a) No substantiated instance of a breach of these <i>Immigration Detention Standards</i>:</p> <ul style="list-style-type: none"> • not being reported; or • not being reported in specified timeframes. 	Breach of Standard during transfer of detainees between centres. (June 2005)

<p>9.1.3(b)</p>	<p>Any incident or occurrence which threatens or disrupts the good order, safety and security of the facility, or the health, safety or welfare of those within it is reported by the Services Provider to the Department.</p> <p>No substantiated instance of a failure:</p> <ul style="list-style-type: none"> • to report any such incident or occurrence to the Department's Manager within timeframes specified including in Attachment A of these IDS; • to complete incident reports* within the timeframes required for critical, major and minor incidents, and to the standards specified; or • to record action taken in response to breaches of these <i>Immigration Detention Standards</i> and to critical, major and minor incidents. 	<p>Inaccurate reporting of minor incident - Incident incorrectly claims that play group transfer was on time. (June 2004)</p> <p>Non reporting of minor incident – discovery of a 'still'. (June 2004)</p> <p>GSL staff found in possession of a prohibited article. (September 2004)</p> <p>Failure to report an incident within specified timeframe. (September 2004)</p> <p>Failure to report a minor incident. (June 2005)</p> <p>Attempt to obtain a urine sample from a female detainee minor. (June 2005)</p> <p>Breach of Standard during transfer of detainees between centres. (June 2005)</p> <p>Failure to report minor incidents within specified timeframes. (September 2005)</p> <p>Failure to report major incidents within specified timeframes. (September 2005)</p> <p>Failure to report an</p>
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		incident. (December 2005)
9.1.4(a)	<p>The Department has full access to data and records for monitoring and accountability purposes.</p> <p>(a) No substantiated instance of data, records or reports inappropriately removed, missing or misplaced.</p>	<p>Missing/misplaced gatehouse daily occurrence register. (June 2004)</p> <p>Missing records. (June 2005)</p>
9.1.4(b)	<p>The Department has full access to data and records for monitoring and accountability purposes.</p> <p>(b) No substantiated instance of:</p> <ul style="list-style-type: none"> • data or records not being made available to the Department to monitor performance against these <i>Immigration Detention Standards</i>; or • requests for information, data or records for accountability purposes not being met promptly; or • data and records not being current; or • data and records not being maintained in accordance with accepted archival and evidentiary protocols. 	<p>Inaccurate lists of detainees requiring dietary specific food provided to DIMA. (September 2004)</p> <p>Failure to provide information to DIMA in a timely manner. (December 2004 and June 2005)</p> <p>Failure to meet the deadline for information required for an Ombudsmans Enquiry. (December 2004)</p> <p>Issues arising from Expert Panel review into Food and Catering. (December 2004)</p> <p>Breach of Standard during transfer of detainees between centres. (June 2005)</p> <p>Failure to meet a request for information promptly. (September 2005)</p>

DEFINITION OF TERMS

An extract of the definitions from the *Immigration Detention Standards*, which are referred to with an asterisk (*) in the above table, is provided for reference.

- Clause 1.3.1(a):

“needs of detainees”

means providing a level of services essential to meet, in the first instance, security and primary health, welfare, accommodation, food, clothing, and information requirements of the detainees and, where necessary and appropriate, additional such requirements, e.g. specialist health care. It does not include the wishes, desires or requests of detainees which are prohibited under law or inappropriate either to the detention environment or to the level of care determined by these *Immigration Detention Standards*.

- Clause 2.2.1.1.1(a):

“primary health care”

The level of primary health care services available to detainees in detention facilities should sit broadly within the norms of primary health care available to members of the Australian community through a GP, or a community health centre. Primary health care services include optical and mental health services.

- Clause 2.2.3.1.1(b)

“minor/minors”

any reference to a minor or minors is synonymous with any reference to a child or children.

“unaccompanied minors”

are children who are under 18 years of age and who meet the requirements of the *Immigration (Guardianship of Children) Act 1946* (the IGOC Act), that is, non-citizen children who enter Australia intending to become permanent residents but who are without the care of a parent, relative over 21, or intending adoptive parent. As guardian of these children, the Minister is legally responsible for ensuring they receive appropriate welfare and care.

The IGOC Act empowers the Minister to delegate his powers to any officer or authority of the Commonwealth or of any State or Territory and he has delegated powers to various officers of the State or Territory department responsible for child welfare services.

The provision of detention services to unaccompanied minors should take into account any linkages the child may have formed during the journey to Australia with members of his or her extended family or other care-givers.

- Clause 4.4.2(a):

“interpreters and translators”

qualified interpreters and translators means interpreters and translators who are accredited and recognised by the National Accreditation Authority for Translators and Interpreters Ltd (NAATI).

“NAATI” means the National Accreditation Authority for Translators and Interpreters Ltd. It is a national standards body owned by the Commonwealth, State and Territory Governments of Australia, which sets and monitors standards of translation and interpreting (T&I) in Australia by accrediting translators and interpreters at a number of levels of competence. All government Translation and Interpreting services require translators and interpreters to be NAATI-accredited. NAATI is also an advisory body, producing annually a national directory of accredited and recognised interpreters and translators which enable agencies, businesses and government organisations to locate suitably qualified interpreters and translators.

- Clause 9.1.3(b):

“incident report”

means a report on incidents. Incident reports will conform to a format and standard established by the Department. Incidents are categorised as critical, major and minor.