

15th July 2008

Submission No.....	33.....
Date Received.....	ad.....

**The Joint Standing Committee on Immigration
Inquiry into Immigration Detention**

**Submission from: The Migrant Health Service
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RECEIVED
17 JUL 2008
BY: MIG.....

• **Introduction**

The Migrant Health Service is a primary healthcare service, an agency of The South Australian Government Department of Health. It offers healthcare services (medical care and counselling) to newly arrived refugees and asylum seekers. In the last 8 years, several hundred former detainees have accessed clinical services from the agency. The counselling team, in particular has offered extensive assessments and therapeutic support for former detainees. Counsellors have submitted many reports to The Department of Immigration and Citizenship and The Refugee Review Tribunal on behalf of their clients, detailing the negative psychological impact of mandatory immigration detention and the limitations of the temporary protection visa.

• **Review of the Research Literature**

Immigration Detention, as it has been done in Australia in the last decade has received much criticism from the mental health profession. There is a considerable body of research to indicate that Australia's policy regarding asylum seekers and its implementation has had a serious adverse impact on the psychological wellbeing of people held in immigration detention. Thematic analysis of former detainees' reports of their experience (McInerney and Kaye, 2005) indicated that the asylum seeking process was regarded by asylum seekers as arbitrary and hostile. The procedures appeared to them to be frequently carried out in an indifferent, unjust and inhumane way. They saw themselves as demonized and treated with suspicion. The psychological research findings have been well summarized by Derrick Silove and his colleagues (2007).

Reports by clinicians who worked in the centres (e.g. Lyn Bender (2002) and Harold Bilboe, (2002) have concurred with the research findings. Similarly, reports by Human Rights agencies also supported the research findings that detention had a negative impact on a detainee's psychological health (e.g. Report of The Human Rights Commissioner, 2001. Report of Justice P.N. Baghwati, representing the United Nations High Commission for Refugees, 2002.)

Independent analysis has been critical of the use of privatized security agencies in the management of immigration detention. Bebe Loff (2002) reports that such arrangements, where profitability is a primary motive, compromise ethical standards of medical services to detainees. She cites lack of access to basic medical care and in particular to emergency care. Her criticism is supported by Derrick Silove (Silove, Steel and Watters, 2000) who cites personal experience of ethical dilemmas arising in his attempts to provide emergency mental health care to asylum seekers on hunger strike. Richard Payne (2005) has been critical of the ethics of the privatised security industry, its attitudes towards immigrants and displaced people seeking asylum, and

its relationships with governments. He also suggests that out-sourcing to private security is not an economical method of managing detention systems.

• **Clinical Experience at The Migrant Health Service**

Clinical experience at The Migrant Health Service supports the claims made by researchers about the negative impact of immigration detention on detainees emotional health. Asylum seekers (released from immigration detention) referred for clinical assessment to the counselling team of The Migrant Health Service typically presented with the following symptom pattern:

- Severe headaches and other pains in the body with no apparent organic cause
- Numbness and dizziness
- Loss of appetite
- Persistent feelings of helplessness, sadness and despair
- Rage, anger and extreme irritability
- Fear and panic
- Sleeplessness and regular disturbing nightmares: themes of nightmares frequently involved detention experiences.
- Intrusive worried and confusing thoughts.
- Flashback experiences to events in detention centres
- A flashback experience of a feared future possibility of arrest and deportation
- Inability to focus and concentrate. Episodes of disorientation, confusion and dissociation.
- Severely disturbed short-term memory, characterized by extreme forgetfulness.
- Strong suicidal ideation.

Most commonly, clinical assessment indicated a diagnosis of severe depression and posttraumatic stress disorder. Most often, the trauma identified as the causal factor in a person's posttraumatic stress symptom pattern was the experience of mandatory immigration detention. In clinical interviews former detainees often spoke of episodes of physical abuse: rough handling by guards. They also spoke of extreme psychological abuse, including:

- Persistent threats of deportation
- Being held for long periods without access to information or access to support systems. One man reported that for the first nine months of his detention, he, and the group of people who arrived with him were unable to make any contact with family, had no access to information about their rights or access to legal representation and had no access to media (newspapers, radio and television.)
- Being handcuffed when taken to medical appointments or other appointments.
- Episodes of prolonged solitary confinement
- Intrusive video surveillance and lack of privacy. Men and women have reported that they were under surveillance in the bathroom and on the toilet when they were held in management unit 'cells.'
- Difficulty in accessing support, including access to their legal representatives.
- Difficulty in accessing information regarding the progress of their refugee claims.

Clinical experience indicates that the psychological problems suffered by people who experienced long term detention are generally more severe and more intractable to therapeutic intervention. Many asylum seekers have struggled with resettlement tasks such as learning English and developing employment skills. Former detainees

continue to experience major problems during reunification with their families after years of enforced separation. The experience of detention, the limitations and restrictions of the temporary protection visa and the complex asylum seeking processes have had a negative impact on successful settlement in a population, the great majority of whom have been found to be genuine refugees.

- **Submissions and Recommendations**

Based on our clinical experience of providing therapeutic services to asylum seekers who were held in immigration detention in the last 10 years, the clinicians at The Migrant Health Service make the following submissions to the Inquiry into Immigration Detention:

The criteria that should be applied in determining how long a person should be held in immigration detention.

- Immigration Detention should be for the least time possible. It should be regarded as being for administrative purposes to allow for security clearances and health clearances.

The criteria that should be applied in determining when a person should be released from immigration detention following health and security checks

- If security clearances and health screenings indicate that a person is not a security risk or a public health risk, there should be no need to hold her/him in a detention facility.
- There should be no need to detain a person while s/he pursues her/his claim for refugee status.

Options to expand the transparency and visibility of immigration detention centres

- Management of immigration detention should be a transparent and accountable process, overseen by The Minister for Immigration and The Parliament.
- Privatized security is an inappropriate industry to manage immigration detention. It presents the same risks (conflict of interest, perverse incentives) as privatized law enforcement.

The preferred infrastructure options for contemporary immigration detention

- Provision of comprehensive medical services (including mental health services) should be provided by an independent organization, accountable to The Minister and The Parliament. The focus of medical services should be on recovery to optimal health and be of a standard equal to that available to an Australian citizen in the community.
- Comprehensive information about asylum seekers' rights and immigration law should be available to asylum seekers in a form that they understand.
- Supported legal services should be made available to asylum seekers to assist in their refugee claims.

- Review of Immigration Department decisions should be completed without delay and processes be clear.
- Once an asylum claim is upheld, family reunification should be a priority and appropriate legal services provided to expedite the process.
- Comprehensive resettlement services that help the asylum seeker to access appropriate and affordable housing, adequate English language classes and vocational (re)training.
- Adequate training in cultural competency should be essential for all personnel engaged in the management and service provision in all immigration detention centres or other accommodation facilities.

Options for the provision of detention services and detention health services across the range of current detention facilities, including Immigration Detention Centres (IDCs), Immigration Residential Housing, Immigration Transit Accommodation (ITA) and community detention

- A range of immigration detention and housing options should be available and asylum seekers should be housed/detained according to their status with regard to national security and public health, individual health and prospects for successful settlement.

Options for additional community-based alternatives to immigration detention by:

Inquiring into international experience

Considering the manner in which such alternatives may be utilized in Australia to broaden the options available within the current immigration detention framework

Comparing the cost effectiveness of these alternatives with current options.

- Immigration policy and its implementation should be developed within a framework of Human Rights and Social Justice. It should recognize that asylum seekers are frequently an exceedingly vulnerable population who have suffered extreme traumatization. Policy development and funding needs to address the issue of recovery from trauma and to promote optimal resettlement potential with regard to family reunification, housing, English language proficiency and vocational training opportunities.
- All asylum seekers should be presumed to be genuine refugees until proven otherwise.
- The duty of care for health and well-being should increase with the level of restraint of freedoms.
- No one should profit from the detention of people seeking asylum

References

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Appendix:

Terms of Reference:

- The criteria that should be applied in determining how long a person should be held in immigration detention.
- The criteria that should be applied in determining when a person should be released from immigration detention following health and security checks
- Options to expand the transparency and visibility of immigration detention centres
- The preferred infrastructure options for contemporary immigration detention
- Options for the provision of detention services and detention health services across the range of current detention facilities, including Immigration Detention Centres (IDCs), Immigration Residential Housing, Immigration Transit Accommodation (ITA) and community detention
- Options for additional community-based alternatives to immigration detention by:
 - (a) Inquiring into international experience
 - (c) considering the manner in which such alternatives may be utilized in Australia to broaden the options available within the current immigration detention framework
 - (d) comparing the cost effectiveness of these alternatives with current options.

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