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DEFENCE AND TRADE HUMAN RIGHTS SUBCOMMITTEE

Reference: Human rights conditions in migration detention centres

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JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

Human Rights Subcommittee

Thursday, 1 March 2001

Members: Senator Ferguson (*Chair*), Senators Bourne, Calvert, Chapman, Cook, Gibbs, Harradine, Hutchins, Macdonald, O'Brien, Payne and Schacht and Fran Bailey, Mr Baird, Mr Brereton, Mrs Crosio, Mr Laurie Ferguson, Mr Hawker, Mr Hollis, Mr Jull, Mrs De-Anne Kelly, Mr Lieberman, Dr Martin, Mrs Moylan, Mr Nugent, Mr O'Keefe, Mr Price, Mr Prosser, Mr Pyne, Mr Snowdon, Dr Southcott and Mr Andrew Thomson

Subcommittee members: Mr Nugent (*Chair*), Mr Hollis (*Deputy Chair*), Senators Bourne, Ferguson, Gibb, Harradine, Payne and Schacht and Mr Baird, Mr Brereton, Ms Moylan, Mr Price and Mr Pyne

Senators and members in attendance: Senators Ferguson and Harradine and Mr Baird, Mr Hollis, Mr Nugent and Mr Price

Terms of reference for the inquiry:

Human rights conditions in migration detention centres.

WITNESSES

BEDLINGTON, Ms Jenny, First Assistant Secretary, Refugee and Humanitarian Division, Department of Immigration and Multicultural Affairs 265

GODWIN, Ms Philippa Margaret, First Assistant Secretary, Detention Task Force, Department of Immigration and Multicultural Affairs, 265

ILLINGWORTH, Mr Robert, Assistant Secretary, Onshore Protection Branch, Department of Immigration and Multicultural Affairs 265

KELLY, Mr Gregory Charles, Director, Detention Operations, Department of Immigration and Multicultural Affairs 265

METCALFE, Mr Andrew, Deputy Secretary, Department of Immigration and Multicultural Affairs 265

VARDOS, Mr Peter, Assistant Secretary, Unauthorised Arrivals and Detention, Department of Immigration and Multicultural Affairs 265

Subcommittee met at 4.32 p.m.

BEDLINGTON, Ms Jenny, First Assistant Secretary, Refugee and Humanitarian Division, Department of Immigration and Multicultural Affairs

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METCALFE, Mr Andrew, Deputy Secretary, Department of Immigration and Multicultural Affairs

VARDOS, Mr Peter, Assistant Secretary, Unauthorised Arrivals and Detention, Department of Immigration and Multicultural Affairs

ACTING CHAIR (Mr Hollis)—Welcome. On behalf of the subcommittee, I declare open this private meeting with representatives of the Department of Immigration and Multicultural Affairs. First of all, an apology from the chair, Peter Nugent who is delivering a report in the chamber. He will be here as soon as he finishes delivering that report. The meeting is a continuation of the discussions we had with DIMA and representatives of Australasian Correctional Management Pty Ltd on Thursday, 8 February. While many issues were addressed at that meeting, time prevented us considering arrangements for and time taken to process applications for visas and protection. That matter was listed for consideration here today.

I understand that, as a result of the subcommittee's meeting earlier today, the secretariat has advised you that we would also like information on the following issues: the treatment of those detainees who are in gaol, either on remand or, for any reason, in isolation; arrangements for the disposal of those who have failed the various processes for entry into Australia; and details of the contractual arrangements with ACM. It would be helpful to us if DIMA officers could in turn make an opening statement on these matters before we proceed to questions from the subcommittee. Would somebody like to make an opening statement?

Mr Metcalfe—I must say I have not prepared an opening statement. I might just make a couple of introductory remarks and thank you for the opportunity. Firstly, let me just advise the subcommittee that Rosemary Greaves has joined us today—today is actually her first day in the department. Rosemary is a long-term officer in the Department of Foreign Affairs and Trade, has recently headed the branch in the Office of National Assessments and been a key contact of ours in relation to illegal immigration and related issues. Importantly, she has joined the department to head up a new branch recently established to deal with detention policy issues. The branch will work with Philippa Godwin and with Peter Vardos's branch which deals with day-to-day operational management of centres of detention centres. There are clearly a large number of policy and accountability issues in this area and we believe that appointing a branch head and setting up some greater resourcing is important to deal with those issues.

In relation to the matters that the committee would like briefing on this afternoon, Bob Illingworth, as head of the Onshore Protection Branch, is able to answer questions and provide information in relation to processing for temporary entry, both the arrangements—and I do not recall whether we have covered it in detail at earlier briefings—and to assist the committee in walking you through what actually happens with people upon arrival in Australia and the types of processing that occurs. He can also provide some statistical and other information about processing times and that sort of material.

In relation to the issues of immigration detainees held in non-immigration detention centres in state custodial institutions or in remand centres, Philippa Godwin, Peter Vardos and I are very happy to provide briefing in relation to those. Similarly, in relation to the issue of the removal of failed asylum seekers or people who have no grounds to be in Australia, that particular issue is a complex matter depending largely on the willingness of the individuals to cooperate and the willingness of a country to receive them, and we can provide information or if necessary take detailed questions on notice.

Finally, in relation to the contract with ACM, we are happy to discuss the contract in broad issues. For reasons that I think we have explained in the past we can provide a copy of the contract to the subcommittee, but there are certain areas that have been withheld from public disclosure. It is an issue that I have discussed at Senate estimates on a number of occasions. It does not go to commercial in confidence issues, as such, but rather the 1997 tender process, which resulted in ACM being awarded the contract, is the subject of litigation by another disappointed tenderer who essentially has argued that the tender process was flawed. That matter is in dispute between the Commonwealth and the aggrieved party, that litigation is on foot, and there are certain parts of the contract we believe may be at issue were some of the particular financial aspects of the contract to be released. But I am happy to provide more detail. As I have said, I have discussed that extensively particularly with Senator Cooney at Senate estimates.

In relation to where we are with the contract and its renewal, again I am happy to provide the briefing that I can, but I am very mindful of legal issues and the propensity of people to sue the Commonwealth in this type of area. We will certainly provide what information we can and we will chart the way forward in relation to those issues. I think that those are all the introductory comments I have and we are very happy to answer any questions or provide briefings on specific issues.

Mr PRICE—I understood that there were questions you took on notice from our last meeting, I think it might be helpful if you responded. So you do not have any stuff here?

Ms Godwin—We have provided the additional statistics that we talked about last time there. There were a range of individual questions which we have worked through. I have actually got a fair bit of material here but it needs to be checked for completeness against the questions.

Mr PRICE—That is fair enough.

Ms Godwin—It will be provided.

Mr PRICE—If you are not in a position to respond yet, that is fair enough.

Mr Metcalfe—It sounds as though it is not far away.

Ms Godwin—No, just a couple of days.

Mr Metcalfe—You can imagine that we have had to deal with a number of issues on this in recent days, so priority setting has been pretty crucial.

Mr BAIRD—With Philippa having been on the trip, I have had the opportunity to raise many issues regarding the detention centres—the processing, the questions that we are interested in. Can we deal with this in segments—firstly, those who engage. I would like some feedback—and perhaps Mr Illingworth can do this—on how long it takes, on average, to get through, the range of times, for those who engage. I understand the maximum is about 14 weeks and, on average, it is about eight to 10 weeks. We would like some confirmation on whether that is in fact the case. What percentage of the total number actually engage? I do not know whether you call it a primary decision if they engage?

Mr Metcalfe—No. Would it be worth while, Mr Baird, running very quickly through the process and explaining some of the terminology?

Mr BAIRD—All right.

Mr PRICE—Before you do that, can you give me your targets at each point of the process and how you are meeting them?

Mr Metcalfe—In terms of what our preferred processing target happens to be for timeliness?

Mr PRICE—What is the status of your targets? Do you have a target for anything?

Mr Metcalfe—I will cover that in the discussion.

Mr PRICE—Could you help me out—yes, no or maybe?

Mr Metcalfe—We do have objectives for our preferred average processing time. There are a couple of reasons for that. Firstly, we want to ensure that processes are covered off quickly and that we do come up with the right answer quickly. There is a financial imperative, or constraint, associated with that in the funding model that has now been developed between the department and the Department of Finance and Administration, in that we are essentially funded for, I think, 13 weeks initial processing for every arrival and 14 weeks initial processing for every arrival—

Mr BAIRD—Is that the average or the maximum?

Mr Metcalfe—That is the average. That is essentially what our standard is, and that is reflected in the funding model.

Mr BAIRD—That has come down from what?

Mr Metcalfe—It has come down from 18 weeks, which is where it was set in July last year.

Mr BAIRD—And your objective is in line with Mr Price's request?

Mr Metcalfe—Our objective now is 14 weeks. Bob can tell you whether we meet or exceed that. Essentially, that is the complexity around the financial arrangements between us and DOFA, but we have been keen and they have been keen to ensure that there are incentives rather than no incentives for us to process people quickly, and no financial incentive for us to complete a case quickly.

Mr PRICE—With your indulgence, Mr Chairman, I just want to understand the funding mechanism that Mr Metcalfe has referred to. What happens to funding if you are able to get that average down to 10 weeks?

Mr Metcalfe—Two things. Firstly, in financial terms, the department would make a profit, in that we have been funded for 14 weeks but we needed to use only 10 weeks of funding. That means that we would have exceeded our purchasing agreement targets and therefore we would have funds available to do other things. There are many things that we are not funded to do, or not specifically funded to do, so it is a real incentive for us to be able to do things in less than 14 weeks. At the same time, we are very conscious of government requirements that we process with high integrity, that we carefully assess cases, et cetera. We have been careful to avoid incentives to simply process quickly without in fact making quality decisions.

Mr PRICE—What would happen if that average were 20 weeks; how does the penalty work?

Mr Metcalfe—Again, the department would suffer a shortfall in funding. At the end of the day, the department is not going to go bankrupt over this. If, over a period of time, it becomes apparent that we really can process in 10 weeks or, alternatively, that it is really taking us 20 weeks, the department of finance will be after the extra money that we have saved or, alternatively, we will be going back to the department of finance and saying that we need more money.

Mr PRICE—If there is a shortfall, what programs do you take the money from?

Mr Metcalfe—Initially, it would be looked for within the detention purchasing agreement vote itself. I will explain it to you in a little more detail. Essentially, for every unauthorised arrival, we are provided with detention funding—the daily rate, for a period of 14 weeks. That is on the basis that we expect that we will have completed processing within that time. There is then a different daily rate applicable for successive weeks if a person has been refused a visa until they can be removed from Australia, or if they go into a merits review process in the RRT, the courts, international tribunals, or whatever.

The funding model is not simply 14 weeks; it is 14 weeks plus other things. Essentially, we are paid a higher daily rate for the first 14 weeks on the basis that that needs to cover our own processing costs, and there is a lesser daily rate following the 14 weeks because the processing costs associated with that are expected to be with the RRT or there is no processing under way because it has already been completed and we are waiting to remove people.

To answer your question, if there is a shortfall, where do we look for the money? We have a budget of \$700 million. We will obviously be having to look within that budget as to whether we need to subsidise this program. Also, if there is a blowout—let us say the composition changed, there were significant issues which meant that the processing times are delayed or there was a very significant number of people with security profiles that meant that ASIO was taking a long time to clear them—then we obviously have the recourse to go back to the Department of Finance and Administration. So the purchasing agreement provides a funding basis for the department. It provides incentives for us to process quickly. It provides penalties if we process slowly, but at the end of the day, if there are good reasons, there is always the opportunity to go back to the department or, depending upon the size, to ministers for additional funding.

Going back to Mr Baird's original question, I will quickly walk through the process. A person arrives in Australia without authority, usually on a boat. They are taken into detention. Usually, that occurs at Ashmore Island and they are brought in under the detention of the Navy or Customs and delivered to the department in Darwin or Broome. They are then transferred to a detention centre and initial processing is undertaken. That initial processing consists of a medical screening, intelligence debriefings—'who are you, where do you come from, are there any other boats, who are the people smugglers'—to try to build up a picture of what we are dealing with.

In that initial processing team there is a departmental representative—from Bob's branch, the Onshore Protection Branch—who is able to examine the interview records of people to see whether there are any issues that have been raised that go to whether Australia prima facie has any protection obligations to people. In some cases that may be very straightforward because a person says to us, 'I'm fleeing Saddam's regime because my brother was killed. I've had a death threat.' There are some very obvious issues. Others may be more difficult or they may not be as explicit as that. We have seen increasing examples of people being coached or being aware of the sorts of questions we are going to ask and being ready for us. Therefore, a very high proportion move across into the so-called screened-in caseload. A decision is made by the onshore protection officer—not by an officer of the entry program or elsewhere—as to whether the person has prima facie engaged our protection obligations. If they have, processing of their case commences in detail.

Mr BAIRD—What percentage of those who come into the country engage at that point?

Mr Illingworth—In terms of boat arrivals, it depends very much on the nationality. Probably 80 to 90 per cent of Afghans and Iraqis will be identified as raising issues which prima facie may engage our protection obligations, so we would initiate contact with a service provider and induction into the protection visa process. If you are looking across all unauthorised arrivals, the percentage drops to around 50 to 60 per cent.

Mr BAIRD—If they are from the Philippines, to pick an example, what would the percentage be?

Mr Illingworth—I do not have precise data, but I would say it would be very low rates.

Mr Metcalfe—Probably the best comparison to the Iraqi and Afghan caseload is the Chinese caseload. We have not seen a Chinese boat for a while, but we saw a lot two years ago and virtually none were engaging. The sorts of questions we ask are well known: who are you, where did you come from, how did you get here, why did you come here, and is there any reason why you shouldn't go home? Through that questioning process you can get: 'I do not want to go home because I am going to be killed' or 'I came to Australia to get a job for the Olympics', which is what the Chinese caseload were largely telling us—'I heard there were jobs in Australia for the Olympics and I want to stay here and get a job and sponsor my mum.'

Mr BAIRD—On that point, is there some merit in the statement that I think was made by the British immigration minister that we should designate certain countries as being appropriate refugee countries, which would then simplify the matter and perhaps not encourage those not in the qualifying countries?

Mr Metcalfe—It is a good issue to raise. It is an issue that we have looked at time and time again over the years. One of the vernacular descriptions of that is the so-called white list—a list of countries which are incapable of producing refugees. Should you argue that no-one from Canada, the United States, the United Kingdom, whatever, is going to be a refugee? The issue that always comes up against that is, of course, that the refugees convention entitles any individual to have their case assessed on its merits.

Senator FERGUSON—Are you talking about article 14?

Mr Metcalfe—Article 1(a): do they have a well-founded fear of persecution? It is an individual determination. It is never an issue you would want to rule out or rule in entirely. Most countries that talk about developing a white list—the Brits have talked about it before—find that the countries that would be on their white list are not the ones that are producing numbers of people of concern. It would be impossible to argue that you would put Iraq or Afghanistan, for example, on a white list. We are not seeing unauthorised arrivals from the countries that you might put on a white list.

The nearest analogy in our current legislation is the so-called safe third country arrangements, which I mentioned to the committee at our last meeting. That is where we have made a group determination in relation to people who have refugee status elsewhere and who then come to Australia essentially seeking a migration outcome. There are arrangements that we have with China in relation to the ethnic Chinese Vietnamese group. There are certain prerequisites in the legislation: there needs to be an agreement, and a statement needs to be tabled in parliament. But essentially it is a group determination, that no-one of that group can in fact apply for a protection visa in Australia. A similar mechanism could be used in developing a white list, but you would then have to go through a process, country by country, of seeing whether anyone possibly could be a refugee. And we have had applications from Canada, the US and the UK, and rarely, but occasionally, someone is found to be a refugee.

Mr BAIRD—What percentage of Iranian refugee claimants engage?

Mr Illingworth—It would be a lower percentage, although still significant, than Iraq or Afghanistan. For example, there were 580 Iranian arrivals between July 1999 and the year to date.

Mr Metcalfe—Since July 1999 we have had 580.

Mr Illingworth—Yes, and we have had 139—

Mr BAIRD—Engage?

Mr Metcalfe—No, that is granted protection visas. We will have to get you the figures.

Mr BAIRD—Iran is one of the problem areas, it seems.

Mr Metcalfe—The people we have seen in numbers have been from Iraq—but we have been seeing fewer Iraqis more recently—Afghanistan and Iran, and we have been seeing increasing numbers of Palestinians in recent times.

Mr BAIRD—I am interested in Iran because of the claims made to us that they were being treated differently from the Iraqis—

Mr Metcalfe—Yes.

Mr BAIRD—and, obviously, that they are not engaging. It must be considered, therefore, that the situation in Iran does not present the same problems as the one in Iraq.

Mr Metcalfe—We will take that on notice and we will come back to you with perhaps the top five nationalities, the proportion of unauthorised arrivals, and the proportion who are from—

Mr BAIRD—That would be great. I do not want to dominate these questions but perhaps we can run quickly through the other segments. You have the engaged sector; then we need primary decisions.

Mr Metcalfe—Before a person is assessed, after that initial entry interview, as having prima facie engaged, the process then kicks in. That process is medical processing and security processing. ASIO is a part of our teams now, and we have made very conscious efforts to bring all the processes together at the beginning and to run them simultaneously rather than having them run sequentially, which is the reason for some of the delays that we saw last year and the year before. The person is entitled to be provided with application assistance under the immigration asylum application assistance scheme, and so a service provider is appointed to assist them to develop their case. There is an interesting background to that—if I could just diverge very quickly. That arrangement of publicly funded assistance to prepare a refugee claim came about back in the early nineties, because some of the Cambodian boat people kept saying that they were going to make an application for refugee status, and it was about 17 months before—eventually—an application came forward. So we had had people in detention for 1½ years, and they were arguing that they needed help and there was no help available. The then government thought it would be worthwhile funding people to, in fact, professionally assist a person to make a claim so that the claim could be brought in a short time to assist processing.

Mr BAIRD—I understand.

Mr Metcalfe—The service provider lodges the application. A team from the onshore protection area then goes up—and quite often it is done boat by boat—and undertakes interviews and makes a decision. Bob can take you through some of the timing issues associated with that, because that is all meant to be contained within the 14 weeks.

Mr BAIRD—That would in the 14 weeks?

Mr Metcalfe—That is right.

Mr BAIRD—We have the percentage of those who engage. Of those who engage, what is the percentage of those who are then granted the TPVs?

Mr Metcalfe—Who are given a primary decision?

Mr BAIRD—Yes, which is the same as—

Ms Godwin—Yes, that is when they get a TPV.

Mr Metcalfe—That is refugee status. We will take that on notice. We will follow that chain of the process and do it all—

Mr BAIRD—Does everyone who is granted the primary decision get a TPV?

Mr Metcalfe—Some people who get a primary decision will be refused. But if they are approved, they will get a TPV. The TPV, of course, is dependent not only on the person being found to be a refugee but also on their having good health and character and on meeting the security issue. So the decision is based on all those elements, rather than merely the refugee—

Mr BAIRD—When they are in the TPV category, how long is the process before they are granted permanent residency?

Mr Metcalfe—The TPV is for a period of three years, and essentially it is open to a person to apply for the permanent visa.

Mr Illingworth—They can apply at any time, but there is a bar on the grant of the permanent visa before 30 months have expired of the currency of the temporary protection visa. So, essentially, there is a waiting period within which the permanent visa cannot be granted.

Mr BAIRD—So that means that, if they have come out here and left their family behind, they do not have the ability to contact their family, leave the country or any of those things?

Mr Illingworth—They are free, of course, to contact their family, but there is no restriction on departing the country.

Mr BAIRD—There is no restriction, but they cannot come back?

Mr Illingworth—There is no restriction on departing but there is a restriction on re-entry, and there is a provision in the migration regulations which enables the minister in an individual case to set a shorter period than the 30 months, which is the waiting period.

Mr PRICE—For permanent residence?

Mr Illingworth—For being able to be granted a permanent residence visa. So there is a mechanism there.

Mr BAIRD—During that period they are not entitled to the full benefits, which leads to the articles that we saw last weekend or the weekend before.

Mr Metcalfe—In the *Weekend Australian* magazine. There has been an element of political debate about that, as I am sure you are. Essentially, temporary protection visa holders are granted access to Medicare, access to income support, eligibility for special benefit and a range of other benefits. If the committee would like details of what they are, we will get them and advise you.

Mr BAIRD—Can we go back to the other stream, which is also the one that concerns us. With respect to those ones who miss out on the primary decision, who get a no or who fail to engage, they are then advised to go to the RRT?

Mr Metcalfe—The people who do not engage in the first place do not have access to the RRT because they have not even reached first base. They have not in fact made a primary decision that brings with it a review right.

Mr BAIRD—Then you attempt to repatriate them?

Mr Metcalfe—That is right. Then one of two things can happen. They are repatriated after a short or a longer period of time, depending upon how cooperative they are and on whether someone is prepared to take them back. Alternatively, after some period of time, they may in fact come forward with claims that mean that we then regard them as engaging our protection obligations.

Mr BAIRD—But if they come from Iraq, Afghanistan, Syria, et cetera and they fail to engage, they are in limbo from that point on?

Ms Godwin—Not necessarily. There are certainly issues about involuntary return to all of those countries. Voluntary return to all of those countries is possible but difficult—less difficult with some than others. Involuntary return, of course, is something which is the subject of our negotiations with those countries.

Mr BAIRD—Of those that do not engage, what percentage actually are returned and what percentage are in this no-man's-land where they cannot be sent back and they are sitting there in detention? We saw a whole number of these, and the ones that cause concern, and concern for their families.

Mr Metcalfe—We can provide you with some statistics of those people who are awaiting removal. We should be able to break that down between people who have been right through the process and have been found not to be refugees and people who have not engaged, and we can provide you with details of people who have been removed.

Mr BAIRD—Also, we would like to know how many people have been there for one year, up to one year, 18 months, two years, three years.

Mr Metcalfe—Yes.

Ms Godwin—The tables that we have provided as a result of the request for stats before cover almost all of the questions. It might be worth going through the tables and seeing if we have given you everything that you require. If not, we can supplement it. But those tables, for instance, give you, by nationality, by centre, where people are in the process and how long they have been there.

Mr BAIRD—And these were submitted just today?

Ms Godwin—Yes. They were the ones that we said last time we had not yet been able to prepare because it actually takes a fair bit of cross-matching.

Mr BAIRD—Okay, so we have got to do it ourselves.

Mr Metcalfe—We are happy to communicate with the secretariat about this.

Mr BAIRD—You understand clearly what we are trying to get a feel for—how many are in these centres.

Mr Metcalfe—How many people have basically reached the end of the road and are awaiting return, and how long they have been waiting.

Mr BAIRD—That is right, because that obviously is one of the problems. Just to complete the process, what is the average processing time for the RRT?

Mr Metcalfe—The average processing time in the RRT?

Mr BAIRD—Yes.

Mr Metcalfe—We will take that on notice. They do give priority to detention cases. Indeed, because of the flow of cases, it is only in the last few months that they have started receiving significant numbers of this caseload because of the process taking a while to produce people who are refused a primary decision and who are now advancing to merits review.

Mr BAIRD—Then of course we are interested in those who failed that, then what numbers go to court, the success rate of those and how many people we have got left after all that.

Mr Metcalfe—We will track that process for you as much as we can. The other challenge for us in producing these statistics is how we do that by year. We have got to deal with that.

Mr BAIRD—I would be interested in having a short session where you could run through that with us to make sure that we understand it. I have other things that I would like to ask but I think it is appropriate that I hand over to other people.

Mr Metcalfe—To complete that, in terms of the way we present that, it may be useful if we took a particular cohort, for example, arrivals in the first six months of the year 2000, and then illustrate where they are now in the process—this can supplement the other material we have provided—how many were never screened in, how many have been screened in, approved at primary stage and are now on TPVs and how many have been refused so that we can actually have a look at the one group—

Mr BAIRD—So we can understand and are not on the wrong track. That would be very useful.

Mr Metcalfe—We will come back at your convenience and try to work through that with you.

Mr BAIRD—Thank you.

ACTING CHAIR—I know it is early days but many of the issues that we are interested in have been covered by Flood's report, and I guess the department is going through it and analysing it. You are not going to give the definitive answer, the departmental response, to the Flood report—

Mr Metcalfe—I think we have. The minister has provided the government response. It was tabled in the House on Tuesday. So, essentially, yes, to anticipate your question, there was an annex to the minister's statement which sets out the recommendations and the government's response.

Mr PRICE—Do you have a financial model for processing refugees overseas?

Mr Vardos—In terms of offshore humanitarian?

Mr PRICE—Yes.

Mr Vardos—It is covered in our financial arrangements with the Department of Finance. I do not have the detail with me but I could get that to you.

Mr PRICE—It must be very tempting to shift some of the resources from processing those to earning some dollars—

Mr Vardos—No, there is no correlation.

Mr PRICE—Actually, the Refugee Review Tribunal have responded to my office saying that the overseas cases are suffering because they are giving priority to detention centres.

Mr Metcalfe—The RRT has no ability to know about that so I would be interested to see what they have said.

Ms Godwin—They have got community based cases but—

Mr PRICE—No, not your processing; their processing.

Ms Godwin—But they do not have overseas cases so they must be drawing a comparison between community based cases and people in detention.

Mr PRICE—Okay, sorry.

Mr Metcalfe—Certainly detention cases have a priority, for obvious reasons.

Mr PRICE—In terms of your purchasing agreement with DOFA, last calendar year, was it the low forties that you were meeting?

Mr Metcalfe—In terms of weeks?

Mr PRICE—In terms of meeting your 14 weeks.

Mr Metcalfe—Low forties is percentage, is it?

Mr PRICE—Of those that were released in the population for calendar year 2000, your success rate would have been about 42 per cent—

Mr Metcalfe—To meet that standard?

Mr PRICE—Yes.

Mr Illingworth—The success rate varied through the year—

Mr PRICE—I am just using the Flood report, by the way.

Mr Metcalfe—They are absolutely accurate statistics, because we provided them to Mr Flood.

Mr Illingworth—Eighty per cent of the people who arrived by boat and lodged applications in the second quarter of 1991-2000 got a decision in 228 days—around 7½ months.

Mr PRICE—That was not good, was it?

Mr Illingworth—No, it was not good. By the fourth quarter of 1999-2000 that had dropped to 145 days. By the first quarter of this current financial year it had dropped to 101 days, and the numbers are still improving.

Mr Metcalfe—That is very close to the 14 weeks.

Mr PRICE—What you are saying is that DOFA is the one that is really setting the processing time through the purchasing agreement? There is a contract—you talked about the purchasing contract with DOFA?

Mr Metcalfe—We are the Commonwealth; we do not have a contract. It is an agreement between the agency.

Mr PRICE—It is an agreement between DOFA and you.

Mr Metcalfe—It is a government endorsed funding model so it is essentially a matter as to how the department is budgeted for and financed in this area.

Mr PRICE—If you were to have an average processing time of seven weeks, you would be able to give the committee the costs of that then?

Mr Metcalfe—I do not quite understand the question.

Mr PRICE—You have said 14 weeks, haven't you?

Mr Metcalfe—We believe that we can achieve it in 14 weeks and DOFA accepts that we can achieve it in 14 weeks.

Mr PRICE—That is fine. You would then be able to give us a projection of what the initial cost would be then for 10 weeks, wouldn't you?

Mr Metcalfe—No. Essentially, there was a major seachange last year in the way processing—

Mr PRICE—With boat people?

Mr Metcalfe—No pun intended. It was a move from a process that was appropriate to a small number of people to a process that was appropriate for large numbers of people and a process that was appropriate to a group of people who were getting to know more about it and where arrangements were being put in place for appropriate checking. The most important thing we did was to move from a process where the key elements happened sequentially, whereby the refugee status determination occurred firstly, then health checking occurred after that, then security checking occurred after that and each one took up a number of weeks. A year ago there was no financial incentive for the department to, in fact, complete processing in a particular time, and that is what we all regarded as being inappropriate. We needed, essentially, to front-end load the entire process. So for a person who, prima facie, engages our obligations, we commence the refugee status determination process—the service provider, the application form

or whatever. We commence security checking because with many cases, ASIO can check them on the spot. With others, they need to make more substantial inquiries which can take some time because they have to talk to colleagues elsewhere. Character checking arrangements, similarly, have been difficult to work through because in some countries information is almost impossible to get. Biometric testing and other issues as to whether people have got refugee rights elsewhere are also issues that we commence and check.

That all happens simultaneously rather than sequentially, and that is where we have been able to achieve the drop from 228 days to 101 days and where we hope it will drop further. But I do not think that we would have any confidence that we would be able to drop it to seven weeks, for example, or three weeks if we just added a lot more money into it. There are some things that simply take time because they are out of our control and they are, indeed, out of other people's control as well.

CHAIR—What would you regard as an optimum time?

Mr Metcalfe—I would regard an optimum time as how long is a piece of string?

CHAIR—You are putting the proposition that resources are not the answer—some resources are, but not infinite resources?

Mr Metcalfe—We do not see resourcing as being the issue. It is getting the arrangements right because the other aspect of this is to ensure that we get the decisions right to ensure that: if a person is a criminal we find out; if a person is a security risk, that it is uncovered; if a person has typhoid, or hepatitis, or TB, that it is dealt with and properly treated. I do not think a person should be in detention for a day longer that is absolutely necessary. What 'absolutely necessary' is in practical terms is somewhere around where we are now.

CHAIR—I apologise to your entire team.

Mr Metcalfe—We understand.

CHAIR—I chair another committee and we were tabling a report. Have we covered the department's response to the Flood report?

Mr Metcalfe—To the extent that Mr Hollis asked if there was a departmental response, and we said there was a government response tabled by the minister.

CHAIR—Yes, I have seen that.

Mr PRICE—I congratulate you on your negotiations with DOFA. I am sure other departments would welcome your expertise. So you are really saying to the committee that if we were able to get you another 10 expert staff, or another \$1 million recurrent, really it is not going to make a great deal of difference at all?

Mr Metcalfe—I appreciate what you are saying, and I am not disagreeing with you. The funding model, in fact, provides us with the incentive to do that already, in that we are funded

for 14 weeks. If we can get 10 extra staff, which will mean that we can reduce our processing to 10 weeks, then there is a financial incentive for us to do that.

Mr PRICE—We come from a different perspective where we do not ignore finance as an issue, but certainly I hold the view that the administrative detention of people in our detention centres is rather horrible, so there is a big win for humanity if the minimum time is taken. So, therefore, it is of critical interest to know what flexibility there is in the system by way of recommendations to lower that.

Mr Metcalfe—Yes, I am agreeing—

Mr PRICE—And you are saying that there are pressures because of the DOFA funding model. I would like to think that I am coming at it from another angle in saying, ‘What then is reasonable?’ You could very well say to me two weeks is absolutely ludicrous, but a target of 10 weeks or eight weeks is achievable.

Mr Metcalfe—Bob has just drawn my attention to the fact that our performance target is 80 per cent of cases decided within 42 days, within seven weeks. So that is what we are shooting for and that is going to require not only us, but also all the other people out there. We have got to get the doctors on stream, we have got to get ASIO on stream and some of these things you just cannot do. I agree with you, Mr Price, that the funding model, in fact, allows us to do that. It provides us with incentives to make an investment. For example, I do not think I am disclosing—

Mr PRICE—Is a reasonable target 90 per cent in eight weeks? What are the constraints?

Mr Illingworth—There are so many variables it is very hard to get a handle on what is an acceptable target because the caseloads vary so much. We are really talking about drawing generalisations about what is an individual case determination. Perhaps if I explain about the bits that are within DIMA’s control. We can control when we interview the person. We can control when we assign a IAAAS service provider—we can put pressure on that service provider to essentially perform by going up and talking to these people within set time frames. We can control the availability of country information that will, off the shelf, be able to support a decision. In many cases, we are at the stage where the entry interview occurs in the first week of arrival or the following week. Perhaps with a gap of one or two days, after the entry process is finished the IAAAS providers are there taking applications. Straight on the back of that we have our people interviewing. There can be large numbers of cases where the interviewing officer walking out of the interview knows what the outcome is, but then you still have to say, ‘Has ASIO given the all clear on security? Has this person provided us with a penal check from the country they have been living in for the last five years?’ While we often talk about processing delays and processing times, essentially what we are talking about is a couple of discrete elements that go to the criteria for grant of a visa.

Mr BAIRD—I think what you are actually saying is that, if it were entirely up to you, you could meet the criterion. It is all on the migration committee in terms of this processing. In terms of our interest, we would like to know where the problems are occurring: is it ASIO that is dragging its heels? Is it the Federal Police?

Mr Metcalfe—No, it is certainly not the Federal Police because they do not have a role.

Mr BAIRD—No, but where is it occurring?

Mr Metcalfe—Again, the issue is that we accept responsibility for the fact that the process is ours, even though we rely upon other people. ASIO are a classic example—they needed to bring in additional resourcing to deal with this particular caseload and to bring up their own capacity to deal with it. It made sense for us to pay them to do that. The funding model provided the incentive. We were looking at the cases last year, and there were a lot of good cases which were ready for approval and one thing was outstanding, and that was the security check. Therefore, it made sense—and we spent a lot of time working with our colleagues over there—to get them to understand and to put the resources into it so that there was a financial benefit for everyone. There was a benefit for the detainee because their decision came through more quickly; there was a benefit for us because we were not detaining people that we did not want to detain; and there was a benefit for the Commonwealth because people were being released more quickly and costing less, at least in detention. In fact, the funding model does provide the sorts of incentives that Mr Price has been talking about. We, DIMA, have to work with everyone else to invest—

Mr BAIRD—Where is the problem now? Having fixed the ASIO problem, what is the problem now?

Ms Godwin—I think part of the difficulty is looking at it as though there is a problem. With some of the processes there is sort of a natural limit as to how far you can squash them down in terms of time. Bob probably has some figures there of cases where everything goes swimmingly. Their health check is clear, their security clearance is made immediately, and there is no penal check required because they have not lived anywhere else for the requisite period of time. The case officer does their work as quickly as they possibly can and therefore there are, in effect, no impediments to granting the visa. But even that process takes a certain period of time. Once you add to that the fact that ASIO pulling out all the stops might still need, for example, to check with another country, they could be hammering every day, ringing every day, but there is a point at which they have to wait to get the information. It is the same with Health, and the same with even our own case officers. If the standard country information does not go to the issue of the claim that the individual has raised, then we have to seek more country information. That might require research and cables back to the Middle East or whatever, so all of those things can add time.

Bob probably has the figures. If a case is absolutely straightforward, I think we can get through that in a matter of, say, three or four weeks. You could say that that is the target, but only a proportion of cases are as simple as that. All of the others start to add complexity. Once you add complexity, the time starts to creep up, and that is where the average comes from. Even if the average is 10 weeks or 14 weeks, clearly there are some people whose applications are getting processed in much less time than that and some people whose applications are taking longer.

Mr Metcalfe—There are all sorts of factors. A very good illustration is the situation that I think the committee literally came up against; that is, we had a typhoid outbreak and we needed to do some checking on everyone at Curtin. So there were probably people who had been right

through the process but, because the medical question then arose which required certain tests to occur—and in Western Australia there was only the capacity to do so many tests in a particular day—that meant that to get the final go-ahead on a particular case took longer than we would optimally want.

Senator FERGUSON—Apart from people who are in remand because they have been charged with a criminal offence or people that have been convicted of a criminal offence, are there any detainees held in gaol for purposes of isolation or for any other purpose?

Mr Metcalfe—Or for security reasons?

Ms Godwin—There certainly would be some immigration detainees in state correctional facilities who are not charged. Once they are convicted, they are obviously in the criminal justice system. There would be some there who are not the subject of formal charges or on remand as such. Generally speaking, there are a number who are the subject of criminal deportation orders.

Senator FERGUSON—You mentioned these others.

Ms Godwin—The numbers at the front-end, if I can put it that way—people who are not the subject of criminal deportation orders and who are not the subject of charges. I do not know if I actually have that specific figure, but I could get it for you. It is a very small number—probably eight or 10 people—but there are a few.

Senator FERGUSON—Why are they there? Where are they?

Ms Godwin—There would be a range of facilities in a number of states.

Mr Metcalfe—The reason they are there is because there is an assessment made that we cannot properly detain them in an immigration detention centre which is a low to medium type security environment.

Senator FERGUSON—These are people who, through your security checks, you have deemed to be a risk.

Mr Metcalfe—It is usually because of their behaviour in the centre—that they have escaped repeatedly or that they have been a disruptive influence.

Senator FERGUSON—If that is the case, who determines that they should be kept in a gaol setting?

Mr Metcalfe—The state director of the department is obliged to authorise their removal. Usually it would be a recommendation from our centre manager at ACM. The state director is obliged to make that decision and to review that monthly. The Ombudsman has been looking at this issue and will be making a report, I suspect in the next few days or weeks, on this particular issue.

Senator FERGUSON—So to the best of your knowledge, there would not be more than eight or 10?

Ms Godwin—At the moment. I would have to check the figures. The bulk of people who are immigration detainees, who are not in an immigration detention centre but are in a state correctional facility, are the subject of criminal deportation orders. In other words, they have been convicted of a serious crime.

Senator FERGUSON—But not necessarily here?

Ms Godwin—Yes, the crime occurred in Australia.

Senator FERGUSON—I am wondering about another case. Is there anybody that you have found through your security checks that, in fact, has committed a felony in another country and, because of that, you want to keep them separated from the people who are involved in detention centres?

Ms Godwin—I do not believe so. Generally speaking, the assessment would be based on their behaviour in Australia. We know there are people with those sorts of backgrounds but, if they are not presenting a danger to other people in the centre or to detention officers, if they have been well behaved. They are here as immigration detainees—notwithstanding that they may have a criminal record elsewhere.

Senator FERGUSON—So do you willingly make those statistics public? I think it is better to have statistics published than have people writing articles in the paper suggesting that—

Mr Metcalfe—Certainly we are happy to provide them. I think the last time we had 80 immigration detainees in state correctional facilities—

Ms Godwin—But it is less than that at the moment. It is 62.

Mr Metcalfe—But the vast majority are people with criminal records who are awaiting deportation. The Ombudsman's report will have statistics, but we are happy to provide the committee with the most up-to-date figures.

Ms Godwin—And we can. In fact, I can give you this table. There are 62 people who are currently, as at 19 February, in state correctional facilities—of whom 40 are criminal deportees. In addition, there are four who are character cancellations of their visa—that is, they are not the subject of a formal criminal deportation order, but their visa has been cancelled on the basis of the character provisions in the act. There are 17 that are listed as what is called compliance pick-ups. They are people who have been picked up in compliance operations and they are people, for instance, known to the police to have a violent background or something of that sort. There is one UNA—unauthorised arrival.

Senator FERGUSON—I thought they were all unauthorised.

Ms Godwin—No, in fact some of the people we are talking about would have arrived lawfully and had their visa cancelled.

Mr Metcalfe—They would have come as migrants and simply committed a crime and been ordered to be deported.

CHAIR—What would you do in that context if, for argument's sake, in the processing and checking of somebody's criminal record overseas you found, for example, that they had been convicted as a paedophile? Clearly, they might not necessarily have committed the offence here, but you would have to think seriously about letting them loose in a camp that has kids.

Ms Godwin—Sure, and we have moved people from one detention centre to another—

Mr Metcalfe—I recall one case where they have—

Ms Godwin—for exactly that reason.

CHAIR—Do you put them into a civilian detention centre or what?

Ms Godwin—It would depend again on their behaviour because bear in mind we cannot insist that the state correctional facility take an immigration detainee. It is a matter of negotiation between us and generally speaking, perfectly reasonably, the state correctional facility needs to be convinced that there is a proper reason for someone going to a state correctional facility and not staying in an immigration detention centre. If the person is, in a sense from our perspective, not of security concern but nonetheless has that sort of a background, we would look to move them to a different facility. For instance, if it was an issue in relation to children you might look to move them to Villawood stage 1 or to Perth where we do not have families or children. There are different things we would do and it would depend a lot on both the individual's background and their behaviour in the detention centre.

Mr PRICE—What is the cost that you pay those state correctional facilities per day?

Ms Godwin—We pay whatever they—

Mr Metcalfe—They charge us.

Mr PRICE—Is that more or less than \$105 per day?

Ms Godwin—A hundred and five dollars is an average so the cost in any individual detention centre varies as it does in state correctional facilities.

Mr PRICE—Could I get the answer to that if you would like to take it on notice?

Mr Metcalfe—We will take it on notice.

Mr PRICE—By the way, you were going to check stuff for me. In the transcript it says you were going to check it. Have you had an opportunity to do that?

Mr Metcalfe—I do not think we have seen a transcript.

Ms Godwin—No.

Mr PRICE—Haven't you?

CHAIR—The secretary will ensure you get a transcript forthwith.

Mr Metcalfe—We will happily check it. I am sorry, Mr Price, was there something—

Ms Godwin—What were we going to check?

Mr PRICE—The questions I was asking about children last time. You were not sure and you said you would check it.

Mr Metcalfe—Okay.

CHAIR—You will get a transcript forthwith.

Mr Metcalfe—We will check.

Mr BAIRD—You talked about the incentives of putting resources in for early processing?

Mr Metcalfe—Yes.

Mr BAIRD—Do you have similar incentive arrangements for those who have failed the primary decision and are being put forward to the RRT? It seems to take an awful long time. Why are not more resources put into having more RRT officials to provide decisions?

Mr Metcalfe—The RRT has detention cases as their top priority so essentially its resourcing should be directed towards these cases as a top priority.

Mr BAIRD—Is that happening?

Mr Metcalfe—Yes.

Mr BAIRD—What was the time for processing by the RRT last year compared to—I suppose we have not had too much of this year—but for the last 12 months compared to the 12 months before?

Mr Metcalfe—Maybe last financial year and this financial year to date might be a reasonable comparison. We will take that on notice. We will talk to the RRT and get those figures.

Mr BAIRD—I have one further question in relation to the advice by DIMA. It seems to me, and we raised this before, that despair comes across a lot of these people when they do not know what is happening to them or where they are in the process. They put in a request to see a

DIMA official, it takes a month to get to see them and then they are given five minutes and they know nothing more. What are your proposals in that area to improve on that inadequacy?

Ms Godwin—If I can issue a caveat first, we do not necessarily think that the people wait a month. We have checked with each of the centres and it is certainly true people do not necessarily get to see a DIMA officer the day they ask but, that said—and I think I said it the last time that we met—this issue obviously has come up in a number of centres. What we are looking at introducing, although there are some practical issues that we have to work through in a couple of the centres, is a standard interview process, if I can put it that way, where each of the detainees has a set interview time with a DIMA officer on a regular basis whether that is fortnightly or every three weeks or whatever it is. That would not preclude people from asking to see a DIMA person at other times if something arose or, indeed, a DIMA officer seeking to speak to a detainee if there was something about to happen with their case, say, a decision coming down or something of that sort.

Clearly, this question that you have raised is something that has come up a lot: people feel they do not know what is going on; they do not know whether they have just been forgotten about or whatever. It may well be that at a preset interview we cannot tell them any more than, ‘Your case is continuing to be processed; we haven’t forgotten about you, but we are still working through,’ or there might be other information. I think it is at least worth trying—that we take the initiative and give them the interview rather than them having to ask.

The practicalities that I mentioned that we are working through, as you would be aware from seeing the centres, in most centres—in fact in all of them—the admin areas are outside the main compound areas. Generally, we have to rely on ACM finding the person for the interview and bringing them out to the admin area and so forth. It is very time consuming and cumbersome. We are looking at trying to set up some sort of interview capacity in the main accommodation areas so that there can be a more steady flow of people. That means we have to get a phone in there. There is a question of whether we need a dual handset for interpreting purposes. There are various things like that that we have to sort out. But we are down the track of actually looking at that. Once that happens, it does not then rely on ACM finding people; people will self-regulate, if you know what I mean. If they know that today is their day for the interview with a DIMA person they will no doubt turn up.

We are also looking at what Greg calls a shopfront, if I can put it that way. There would be a period for preset interviews and then there would be a period of time when there would be a DIMA officer available for ad hoc approaches from people in the compound whose day it isn’t for an interview but who might have questions or concerns they want to raise.

Mr BAIRD—I suppose, also, as part of that, the range of options open to that individual in that you can advise, ‘You can terminate this process if you wish by voluntarily opting to be repatriated,’ et cetera.

Ms Godwin—Yes. We are also doing a bit more of what we have done before, but on a less systematic basis. There is another area in Peter’s branch, the arrivals and removals area, if I can put it that way. We have staff in that area who have been visiting each of the centres and talking to people about exactly the point you are making: ‘Look, you’re through the process. Here are your options. Here’s what we can do to help.’ We are looking at how we can do that on a more

systematic basis as well. The other question is whether there are other agencies that can assist. For example, the International Organisation of Migration, IOM, actually runs repatriation programs in a number of countries. We are in the very early stages of consideration of whether there would be role for IOM in this sort of situation on a visiting service basis to each of the detention centres to focus on the people who are either at the initial screened-out phase or are through the process and are therefore available for removal. IOM could perhaps say to them, 'Okay, you're not going anywhere as far as the Australian government is concerned. Here are your options and here's what we can do to help.' There are some fairly fundamental difficulties in all of that, though. It goes to questions of getting travel documents and people's willingness to cooperate. We have recently been right through a process of trying to get a travel document for an individual who, at the eleventh hour, said, 'Actually, I'm not from that country; I'm from a different country.' In effect, we had to start the process all over again—getting documentation, seeking travel documents from the country he now says he is from. So some of these things are, from our side—

Mr BAIRD—Yes, that is going to happen.

Ms Godwin—They are also inherently time consuming at the other end because a lot of the countries we are dealing with just do not have the sorts of developed administrative systems that enable these things to be done quickly.

Mr BAIRD—The hopelessness that develops is a real problem. It has taken me a fair while to work out how long the various processes take. In some way, they need a certain version of how long on average this takes, so they know what it is going to mean. 'This means you are going to be here, on average, another year. So you have to be prepared. Alternatively, you can take the option'—

Mr Metcalfe—Or, 'If you go to court, on average, it will be another year, or if you go to an international complaints tribunal, it may be two or three.' Mr Chair, it might be useful if I supplemented something I was saying to Mr Baird and Mr Price earlier. We were talking about incentives and financial models and how we could reach an optimal processing time. Understandably, there is a very strong focus on what the department needs to do. There is, of course, more than one side of the coin. The other side of the coin does come to that issue of how cooperative and truthful is the applicant.

CHAIR—Do you mean that there are some that are less than truthful?

Mr Metcalfe—We should not lose sight of the fact that most applicants turn up with no personal identity documents whatsoever.

Mr BAIRD—What would be the percentage that turn up with no documents?

Mr Illingworth—I do not have the figure offhand and, once again, it varies. But it would be very high; it would be over 80 per cent.

Mr BAIRD—Of all applicants?

Mr Metcalfe—Of all unauthorised arrivals, or they may be fraudulent documents. That may not be necessarily an individual's decision. The people smuggler may well require them to provide their passport so they can be recycled for some other reason or throw them overboard or whatever it might happen to be. But we are dealing with a caseload where identity fraud—and Mr Flood, in fact, recognises this—and nationality fraud are issues that exist in the caseload. We are not dealing with people on the whole turning up with perfect set of travel documents, a perfect set of material. There is a lot of information that we have to try and draw out to try and satisfy ourselves as to, 'Is this a credible issue? Is this person at risk?' and so on. Certainly, there are strong reports and some evidence to suggest that many people do attempt to assume an identity other than their real identity to benefit from the process. Many claimed Afghans are in fact Pakistanis. Many claimed Iraqis are in fact Iranians. When we talk about biometric testing or linguistic testing and those sorts of issues, they are a response to try and ascertain, in accordance with the government's requirements about integrity of the process, whether or not people are who they say they are. In this environment it is very difficult. We certainly are aiming to do the very best we can in terms of processing times but it is a two-way street and we are dealing with a group of people who quite often are not assisting us in doing that job.

The other dimension that is completely outside the department's control is how many people arrive. We certainly are doing everything we can internationally in terms of disruption and working with law enforcement bodies and there have been indications of some success. The Indonesians, for example, have been very cooperative in attempting to reduce the number of people coming into Indonesia. They are working with AFP and ourselves to deal with the issue. All the information we have is that there are a lot of people still wanting to come to Australia. The sailing season being what it is, we could well see more people coming in future weeks and months. We have no control over the timing of arrivals, whether we get a boat of 355 people one day or we get a boat of 200 the next. That all adds pressure on our capacity. While we are a big department, we do not have unlimited resources. I think it would be unrealistic to expect that we have a large number of people who are immediately available for deployment for this particular task. That is very much the situation we were facing in the August to February period in 1999-2000 where there was an unexpected, unanticipated and unpredictable huge surge in arrivals. It took time for us to gear up the processes. The processes are now geared up to cope with arrivals in the order of what we are seeing. But if we were to get, for example, a boat of 800 people, such as arrived on the Riviera the other day, it would strain our resources. Our processing times would take some time to adjust and get up to speed. So we have a very strong objective of minimum processing times, but that has to be seen in the context of how cooperative our applicants happen to be as well as what sort of arrival numbers we are actually getting.

CHAIR—If you have been over this before I got here, I apologise. Please correct me if I am wrong about this: given that, as I understand it, approximately 90 per cent are allowed to stay officially in one capacity or another—

Mr Metcalfe—Of the current case load, particularly the Afghan case load.

CHAIR—that must presumably imply that an awful lot of people we are accepting are people who come here with no documents or else are telling fibs. On what sorts of criteria would we accept people if we know they are not telling the truth?

Mr Illingworth—If you know somebody is not telling the truth, or even if you have strong suspicions that can be substantiated, then there are good grounds for refusing protection. But we are obliged to extend the benefit of the doubt to applicants for protection. That does not mean suspension of disbelief, but it recognises that a refugee can legitimately—you can easily conceive of such a scenario—arrive at the border of a country with no documentation and nothing but the clothes on their back, and be in desperate of protection. Not all refugees have enough warning time and opportunity to gather together evidence to prove that they need protection or, indeed, to say who they are.

CHAIR—That would be boat people, because certainly people would not get on a plane without a passport.

Mr Illingworth—There are some extenuating circumstances in relation to boat arrivals to Australia which differentiate us from, say, people with a land border in Europe, where you are looking at people with opportunities to flee immediately over a border and seek refuge. People do get tested quite rigorously in the determination process, to determine their credibility and to try, as far as we can, to substantiate their claims as to who they are, what nationality they have and whether or not they can be consistent and detailed enough about their claims to give us some assurance that we should believe them. So part and parcel of a refugee approval is the case officer, after using all of the tools available to them, forming the conclusion that they believe the person is who they say they are and of the nationality that they say they are, and that there is a real chance that they will suffer persecution on return. So there is a credibility assessment that has to be made.

CHAIR—One of the obvious areas of difficulty that we came across is that clearly there is a significant number of people who have been through all the various processes, including the appeal process, but the time comes when we say, ‘No, we are not going to accept you.’ We may then have a real problem of where we are going to send them back to, if anybody will accept them, or whether they want to go back there and whatever. Other countries must have the same sort of problem. How do other countries deal with that? I think the logic of that situation is that you face the choice of finishing up with a very large detainee population because you have got nothing else to do with them, or, ultimately, having to start releasing people whom you know you should not accept, because there is nothing else to do with them.

Mr Metcalfe—That is right, and the process therefore is seen to be completely worthless and a major pull factor in planning to move.

CHAIR—Exactly right, so why do you bother? I am not advocating that; I am posing the question.

Mr Metcalfe—I understand. The short answer is that we are not at that stage. I hope we never get to that stage.

CHAIR—You have got some that have been there three years or more.

Mr PRICE—Hasn't there been a family that was in fact five years in a detention centre?

Mr Metcalfe—That is a family that pursued avenues through the courts.

Mr PRICE—But they were in a detention centre for five years?

Mr Metcalfe—The law required that they were in a detention centre for five years. Ultimately the child of the family was found to be a refugee and was released, and the family was released on visas as well. But that is a consequence of the current law and the processing times, in a matter that ultimately went to the High Court through all the courts in Australia. It was a Chinese family. But essentially, Mr Chair, this brings us back to the issue of the efforts that the minister and the department—and, indeed, the government more broadly, the foreign minister and DFAT—are undertaking to negotiate with countries of first asylum. Large numbers of the people who are found not to be refugees are found so because it is believed that they do have a place that will offer them refuge, or they have residence or some other place to go to. Therefore, it is a question of whether those countries will take them back.

Those countries quite legitimately say, ‘We are hosting refugee populations of millions of people. Why would we want to take some people back from Australia?’ What we say is that the international protection system is in danger of falling apart if countries with developed asylum systems, like Australia, at the end of the day cannot achieve a return of non-refugees. It is a key issue for UNHCR; it is a key issue for governments. At a bilateral level we are doing more than ever to try and work through those issues. We have got a delegation from Syria here in a couple of weeks time, we had a delegation from Pakistan a couple of weeks ago, we had an Iranian delegation—and all of these are reciprocal upon visits the minister has made. We are working at these issues, and we will keep working at them. But I agree that, at the end of the day, this is a very difficult area.

CHAIR—In that context: I do not claim to be overly familiar with this, but as I understand it the British have recently come up with a new or suggested approach. Can you comment on that?

Mr Metcalfe—Yes. It is probably covered in the *Hansard*; Mr Hollis or Mr Baird may have raised it earlier. This is the issue of whether certain countries are regarded as not being able to produce refugees.

CHAIR—That is right.

Mr Metcalfe—It is covered in the earlier remarks, but essentially that is an issue that we have looked at. I do not think any government would want to rule that out, but I would point to some issues that would need to be considered by a government. The refugees convention requires that there is an individual determination as to whether a person is a refugee. There is an exception in Australian law, under the law that was brought into effect in 1994, pursuant to an agreement we have with the People’s Republic of China. It concerns people granted refugee status by China. The Sino-Vietnamese case load group that I briefed the committee about last time, where we have an MOU with China, were essentially excluded from Australia’s protection visa process because they are regarded as having refugee status elsewhere. There is a legal mechanism and whatever associated with that. But declaring a country to be not capable of producing refugees would presumably require assessments that in that country there are no human rights abuses, no potential human rights abuses and so on.

CHAIR—In that case, you would not find a single country, would you?

Mr Metcalfe—We have had refugee applications from Canada, Hong Kong, the US and the UK. It is rare that they are approved. I recall one American case that was approved, and there is a celebrated one in the High Court at the moment about a gentleman who frequently appears in the *Australian* newspaper and recounts his story. So the issues that a government would have to look at—I am sure the UK government has looked at this issue in the past—would be whether, at the end of the day, it wants to raise a statutory presumption that a country cannot produce a refugee. Otherwise, that country would need to consider moving away from the refugees conventions.

CHAIR—But countries like Britain, France or Germany are getting, presumably, far larger numbers than we are.

Mr Metcalfe—Absolutely, yes. The British had 70,000 last year, I think.

CHAIR—Obviously, they will accept some but reject others, in the same way as we do. They ultimately must have the same problem that we do: if you have got somebody you do not want to accept and you cannot get rid of them, what do you do with them?

Mr Metcalfe—Yes.

CHAIR—So what are those countries doing?

Mr Metcalfe—All of those countries are working on the same issues as we are.

CHAIR—Are they keeping the people locked up?

Mr Metcalfe—They are not. Indeed, one of the issues that Mr Straw has been talking about is a concern that the immigration system has essentially failed, in that there are large numbers of rejected asylum seekers who are in the community and not locatable, and a concern about the incapacity of the authorities to actually deal with them. But I would return to my earlier comments that the return of non-refugees is a significant international issue and it is one that we and a large number of other countries are working on.

Ms Godwin—Could I just make a couple of comments. In certain circumstances some of those countries do have detention. The UK has just opened a new detention centre and they have got three more on the drawing board.

CHAIR—Where have they placed those?

Ms Godwin—I do not know precisely, but we are about to try and find out. The Canadians have detention centres. The Americans have detention centres. The Americans use state prisons as well as immigration detention centres. The UK uses prisons as well as detention centres and so does Canada. They try to make an assessment of whether they think someone is a flight risk and they will detain someone that they think should be removed if they think they are a flight risk. It is a pretty difficult assessment to make about whether or not someone is going to abscond and certainly their experience seems to suggest that their assessments are not all that accurate but, in any event, they do detain people. They do not have a mandatory detention regime in the way that we have it, but they do have immigration detention.

Mr Metcalfe—Another recent development that may be of interest: you will recall that a large number of boat people arrived in France last weekend—around 700 or 800 people—and I saw a report from UNHCR yesterday that indicated that only about one third of those people are still in the facilities that the French government provided and very large numbers have been turned back from the German border. At prime ministerial level, Britain has already talked to the French basically saying that any who arrive in the UK will be summarily returned to France as well. Again, these are issues that any immigration authority, any country, is having to deal with.

Ms Godwin—On that, an important point to make is that the French have made available to all of those people facilities for making asylum claims. Only something like 200 out of the 900 who arrived have actually availed themselves of the facility to make an asylum claim. The rest of them are essentially out there looking for work.

CHAIR—I have just been reprimanded by the main committee secretary that this is an issue we are going to pursue apparently in a public hearing on 21 March in the UN subcommittee, so I will move on, if I may.

Mr PRICE—I am a little distressed about the things that were taken on notice at our last hearing. One question that I asked was: which centres met the relevant Commonwealth legislation, state legislation and local government regulations?

Ms Godwin—I do not have it but we certainly did relay that and it is being worked on.

Mr PRICE—Senator Harradine, I understand you were asking about the qualification of teachers at the last session and were very interested in the curriculum, and that was taken on notice as well.

Ms Godwin—It was, Mr Price. I apologise that we have not tabled it yet. I think I mentioned right at the beginning that I have actually got a large body of material here which is being collated. We have not checked it for consistency and comprehensiveness against the questions that were asked, but I would imagine we could get that to the committee within a couple of days. I have got a list here from ACM of the teachers that they employ and their qualifications.

CHAIR—It would be particularly helpful—bearing in mind that we are talking to the minister next Thursday—if we could have it at least a couple of days before we see him so we can digest it and take up any issues with him.

Mr Metcalfe—Certainly, our expectation was that we were coming back today largely to talk about processing times and we certainly will provide the material that we have taken on notice to the committee in as timely a manner as we possibly can. I think I said before, Mr Price, that we obviously want to provide this material as quickly as we can. The people involved in preparing this work have been very tied up on the response to the Flood report and associated issues. It is not for lack of wanting to—

Mr PRICE—To be frank, I cannot understand how it is possible that you cannot give us an answer on whether the detention centres meet the relevant Commonwealth legislation.

Ms Godwin—There is a whole area in the department which is responsible for the detention infrastructure. They are the ones who are checking through records to give you the answer to that. We have passed that question on. I know they are looking at it and we will provide you with an answer.

CHAIR—And that will come by next Tuesday.

Senator HARRADINE—On the question of the women and the children, the minister indicated in a media interview that he was going to announce certain measures. Has he done so as yet?

Mr Metcalfe—What the minister indicated in his speech to the House of Representatives on Tuesday is that he intends to proceed with the trial and his first priority is to consult with the town community in Woomera, which he will be doing in the next few days. The issue of details of the trial and further issues are matters that he would want to consider having consulted with the community.

Senator HARRADINE—He indicated also, as I understand it, that there would be an additional person appointed, a DIMA person appointed in each of the centres.

CHAIR—Yes.

Ms Godwin—A deputy business manager.

Senator HARRADINE—Yes. Could you give the committee a copy of that agreement with PRC that you mentioned?

Mr PRICE—I am sorry, just to follow on from that issue of the additional person, does that come under your agreement with DOFA, or is that new money that you will be getting?

Mr Metcalfe—It will be funded out of the overall detention vote. We are talking about a \$100 million vote here, so five or six extra staff is a drop in the ocean compared to the overall amount of money spent on this issue. This is something, in fact, that has been under way for some time. I think you called for applications for staff some two or three months ago?

Ms Godwin—Yes, just before Christmas.

Mr Metcalfe—So we have been in that process for some time and we will be getting those staff in place as soon as we can. Funding again is not an issue; it will happen.

Mr PRICE—With your indulgence, Senator, I did not hear all of the minister's speech outlining the role of that person. Would you be able to provide details to us of the role or specifically the impact that person is going to have in each centre?

Mr Vardos—The deputy business manager will be there to support the DIMA business manager. Their time will be divided broadly across two functions: one with the general administration of persons in detention as it relates to their immigration status, but the other body

of work will be performance monitoring of ACM to feed into the quarterly assessment process that we undertake of the delivery of their services. That is in very broad; obviously it is broken down into a number of more specific issues.

Mr PRICE—I would be interested in seeing their duty statement, but thank you.

Mr Metcalfe—I think you asked me a question about the agreement with the People's Republic of China. We could certainly provide that to the committee. From memory, it consists of a statement tabled to parliament as well as a gazette notice which is supported by regulation under the migration regulations. So they are all public documents, and indeed have been in place since January 1995 and have been renewed on two or three occasions. I think the regulation or the legislation requires essentially that it can only be a two-year agreement. It has been renewed a couple of times along the way. You recall that it relates to the group of people, the 300,000 or so people who were granted refugee status by China in the early 1980s following the border conflict where UN funding has been provided to assist their resettlement in China itself.

Senator HARRADINE—On this question of the deputy business manager, have there been occasions where—I know of at least one, a celebrated one—a person who has not met the test of being a refugee and is being deported has at the last minute raised matters with DIMA in a detention centre which would be disturbing? Are the DIMA managers of the detention centres given instructions that they must pass on all of that information to central office to the people that have issued the instructions that the deportation should take place? I am referring, for example, to the woman who was sent back to China and forced to undergo an abortion.

Mr Metcalfe—Essentially your question, I think, Senator, is are there arrangements in place to ensure that, if a person makes a last minute request, that it is appropriately acted upon and drawn to the attention of the relevant minister. The answer is that there is a very strong focus, particularly in relation to female Chinese who may be pregnant, to ensure that, if there are any matters like that, they are drawn to the minister's attention. But, more generally, there is a strong focus on ensuring that if a person wishes to raise issues at the last moment they are given the opportunity to do so, and that is passed on to senior people in Canberra who can appropriately deal with the matter.

Senator HARRADINE—But on that occasion that did not occur?

Mr Metcalfe—That has been the subject of a separate committee and I think we have undertaken to brief you in detail about the government response to that. I was going to talk to you about that privately after this hearing. I recall the discussion you had with Mr Farmer during estimates last week and I was going to contact you about that this evening. But the short answer is there are very clear understandings with our business managers as to the expectations in that area.

Mr PRICE—In terms of clear understandings by business centre managers, what action do they take when a riot breaks out? Do they issue a press release or are they asked to inform—

Mr Metcalfe—Our centre managers do not issue press releases, Mr Price.

Mr PRICE—How does the public become informed that that has taken place in a centre?

Mr Metcalfe—It is a matter for—

Mr PRICE—They obviously report it upwards?

Mr Metcalfe—Of course. Any incident like that is reported up. Ultimately decisions on which matters are put in the public domain are taken by the minister or his staff.

Mr PRICE—I see. In the case of the riot that would have been reported up and lodged at the minister's office. Does he then issue the statement or does he direct the department to issue a statement or does that vary?

Mr Metcalfe—It can vary. Quite often if there is a riot and the police are called for example then the police usually have a mandatory reporting arrangement anyway. As soon as the police are involved it is in the public domain so our media involvement at that stage is in the context of responding to inquiries from the media.

Mr PRICE—So there is no mandatory reporting? In the case of a senior ACM official bashing a detainee, what is the reporting mechanism there?

Ms Godwin—In a sense it is the same as any incident in a detention centre. The standards have got time frames within which certain sorts of types of incidents are required to be reported as soon as they become known by management. There are two layers to this question. I know we are talking about a real case. It is the incident in Port Hedland where—

Mr PRICE—It is a good illustration, I think.

Ms Godwin—Sure, but I will talk about once it became known and then go back to the other end of it if you like. Immediately it became known in the centre that there was a report of a detention officer assaulting a detainee the detention officer was suspended by ACM. We were advised and the police were advised. The police then investigated. Some days later after interviewing the detainee and presumably interviewing the detention officer involved and so forth they indicated that they would lay charges.

Mr PRICE—Was that referred to the minister in terms of the public release of information like the riot?

Ms Godwin—I would have to take that on notice. We would normally alert the minister's office if there was a serious incident of some sort.

Mr Metcalfe—I recall, Mr Price, that the first we learnt of that incident I think was in fact the day that we last appeared before this committee or within 24 hours of us appearing before this committee.

Ms Godwin—I am sorry to interrupt. I have to correct my colleague here. We were aware of it earlier than that. It was not put into the public domain at that point because the police were

investigating. In fact, the police had indicated that it would be better for it not to become a public matter at that point. Nonetheless it had been told to us and as I say it had been advised to the police.

Mr PRICE—This might sound like a silly question but does the department issue any press releases? I know we are talking about a sensitive area in detention but in other programs does the department—

Mr Metcalfe—The department on occasion does issue press releases.

Mr PRICE—On its other programs?

Ms Godwin—On detention as well.

Mr PRICE—On detention matters?

Mr Metcalfe—On a number of matters.

Mr PRICE—To be frank, I think that it is no secret that perhaps some of us feel that there needs to be extra scrutiny. I think Flood recommends external scrutiny too, if my memory is correct. I am also concerned that there ought to be an even-handed release of information. It is fair enough to have the media have a field day about a riot and every detainee be demonised—I do not approve of riots, I hasten to add—but it only trickles out some days later that in fact what presumably caused the riot was a bashing of a detainee!

Mr Metcalfe—That is a big leap, Mr Price, if I may say so. To be fair, I do not think that anyone has suggested or proved that.

Mr PRICE—They were two incidents separated by 24 hours, weren't they?

Mr Metcalfe—Yes.

Ms Godwin—Yes. Can I make a couple of comments. The incident that involved the detainee being assaulted happened on the Saturday night. At that point, that detainee went into an individual room in the area of the medical clinic—not because of any injuries but because he was at that point very agitated. He remained there, I think, for a couple of days, certainly passed the point when the incident happened the following evening. He had not gone back to the area where the other detainees were until after the other incident had occurred. So, at that point, he would not have been in a position to say to the other detainees, 'I was assaulted.'

The question of when something is put in the public arena goes, I guess, to the type of issue. You may be aware that we issued a departmental media statement on the Saturday morning after the detainee died at Maribyrnong on the Friday night immediately prior to Christmas. That was something that was known to the media, but they did not cover it—for whatever reason. In any event, we put out a media statement, which was then picked up by the media a few days later after Christmas. There are occasions when we put things into the public arena. In relation to the Port Hedland incident, there was a question about whether that should be the subject of a public

statement but, as I say, we consulted the police who said, 'Look, we are conducting an investigation. We need to interview people. We obviously don't want that to get muddied by a public discussion of this in case there are other people that we ought to be interviewing.' As Andrew said, we became aware of it on the day that the police indicated that they would lay charges. The first opportunity for us to talk publicly about it was when we were appearing before the committee, and that is when it was—

Mr Metcalfe—That is when, I think, ACM mentioned it to the committee.

Mr PRICE—That was a private meeting.

Ms Godwin—Sorry, you are right: it was not public.

Mr PRICE—Without being difficult and prolonging this, I am very keen to learn if there are any guidelines in this area; if so, could I have a look at them?

Mr Metcalfe—There are none. The issue of when the department or the minister chooses to make public comment is a matter determined on a case by case basis by the department and the minister.

Mr PRICE—So was the one you issued following the committee's visits a departmental initiative or was that ticked off by the minister?

Mr Metcalfe—It was a departmental initiative on the basis that we had a view that certain inaccurate statements were made in the media and we were wanting to ensure that the correct perception was out there in the public domain.

Mr PRICE—we could debate that.

CHAIR—We will not. I would like to move on to a new area. You may have covered it while I was out, but I am interested in the contractual arrangements with ACM and, without necessarily prejudicing future contract letting, what other options there might be. Can you give the committee a feel for the market, the sorts of issues involved in selecting the appropriate company and how you are actually able to control or monitor what they do? What do you do if they—not necessarily ACM, but any company who has the contract—do not perform? It is not a question of how many people escape—I am talking about whether racist or sexist comments are made or whatever or when they do not pass on messages when they should and so on. Could you talk to us a bit about that area.

Mr Metcalfe—That is a very big question. I will probably answer the first part and Philippa might answer the second part. It is worthwhile to go back to 1996 and before. The service delivery arrangements for immigration detention for many years had been performed by Australian Protective Services, a division of the Attorney-General's Department, which of course provides guarding services to Commonwealth installations. In the August 1996 budget the government decided that it wanted to open those services up to contestability. It did not have a view that they should be outsourced to the private sector, but it thought that at least there should be some contestability. I do not think I am breaching any issues with APS to say there have been some disputes as to whether we are receiving value for money and that sort of thing.

In addition, the service delivery area certainly required some modernisation. There were no standards in place. It was very difficult to benchmark whether service delivery was appropriate or not. In addition, service delivery by APS—and this was what the department had required of it—to provide guarding services and other services such as health services and catering services and various things were provided by other contractors. So the department wanted to use that opportunity to, in fact, get an integrated service. As a result of the government's decision in August 1996, in early 1997 expressions of interest were called for from industry to provide this particular service. I am advised by Mr Vardos that that was a select tender process, that the market was checked, and that indeed 17 organisations—both public and private sector—were contacted to submit tenders. Only five did. APS was not one of them. We shortlisted that five down to three who were then invited to go through detailed presentations. Through that process, ultimately, ACN were identified as the most suitable service provider.

One issue that is important is that one of the other two organisations that was unsuccessful in that tender process was not happy with that decision and has pursued a variety of actions against the department since that time, and that litigation remains on foot. The department obviously contests their view, so those issues are still being worked through. It is for that reason and that reason alone that over the last couple of years the department has talked about not releasing the full contract and certain commercially sensitive parts of the contract. It is because of the fact that there is litigation pending in what is a very large Commonwealth contract.

One of the key issues in developing the tender and modernising the arrangements about service delivery was the development of the immigration detention standards. Until that time there were no standards and no benchmarks, and the standards were made an integral part of the contract and performance against the standards was essential. This is a view that was taken at the time. The contract is not proscriptive about standards, it is more about quality. It is a discussion about whether things are met in the quality sense. It does not say that you need to have so many meals comprising so many different food groups. It talks about meeting nutritionally balanced requirements and so on, as an example.

The issue of monitoring the contract and seeing whether or not value for money is being provided and whether appropriate service is being provided is an issue that we have talked a lot about. I might ask Philippa to work through the issues of how we actually monitor service delivery, what more things we plan to do to monitor service delivery, including the establishment of the Immigration Detention Advisory Group. I might then come back at the end of that and talk about where we currently are with the contract in terms of its expiry date and processes into the future.

Ms Godwin—Under the contract we are required to conduct a quarterly assessment of the contractor's performance against the detention standards and what is called a performance linked fee matrix. Using the matrix we essentially work through the standards and look at what we expect in terms of indicators and benchmarks. That is conducted on a quarterly basis. We base these on our assessment of the incident reports from ACM, the reports from our DIMA business centre managers and on any other material that may have come to our attention during the course of the quarter, and we assign positive or negative points. In other words, it is possible for ACM to be awarded positive points for good performance and negative points for poor performance against a particular issue—it is essentially a mathematical calculation—and at the end we add it up. If the result is negative there is a penalty process that applies, and if it is

positive the points can be carried over to the next quarter—we do not pay them. If they happen to get negative points in the next quarter the positive points can be applied against those of the previous quarter.

CHAIR—So they can be good boys for nine months, and then beat everybody up in the final quarter and still not lose any money—but that is a cynical point.

Ms Godwin—No, that is actually a sensible point. In fact it goes to the fact that we do not regard this performance assessment process as being a single point in time assessment and that they have either passed or they have failed, because each quarter we look at the same sorts of issues. It is true that from time to time we will have remarked positively on something in one quarter and then in the following quarter they will have done something in the same area that we would regard as unsatisfactory, and vice versa. If an issue comes up in the quarterly reports a couple of times and it does not appear to have been adequately resolved, we would then raise that with them in what we call contract operation group meetings—or management group meetings, as we are recasting them. We would raise our concern with ACM management that a particular issue had not been properly addressed.

This whole process is designed to focus on where they are performing well and where they are performing badly; and they will then be sanctioned for individual incidents that occur during the quarter. However, there is no capacity for a quantitative assessment, so if they did 900 things well and one thing badly, if the one thing that was done badly attracts negative points in the performance matrix then they will be awarded negative points, despite there being a lot of things done well.

CHAIR—That is fine in concept, and I am not agreeing or disagreeing; I am just trying to understand. For example, let us take Curtin. Your DIMA manager there will be a busy person with their own responsibilities.

Ms Godwin—Yes.

CHAIR—I would have thought that it would be very difficult for that person to observe to any degree of detail the performance of a lot of ACM staff across a wide area. How are you able to make an assessment of whether ACM is behaving properly and doing the right thing? I am not necessarily making the accusation that they are not doing the right thing, but how do you know they are not?

Ms Godwin—We do so in a couple of ways: firstly, we rely not only on the reports of the DIMA business manager but also on an analysis of the incident reports which come through at a pretty steady rate each day. All of those incident reports are examined and, if we believe issues require follow-up, we will follow them up. Secondly—

CHAIR—So it is taken as read that there will be a stream of incident reports?

Ms Godwin—But incident reports go to a whole range of things—somebody became ill, there was a birth, people are wanting to get married, which are at the benign end, right through to escapes, assaults and all of those sorts of things. There is a steady stream of that sort of stuff that comes through to us. That is the first thing to say. Secondly, ACM themselves will from

time to time report that they have identified an officer who has not performed properly or appropriately and will report that to us. You could ask why they would do that. I guess it is an interesting question but they do. Often the way we find out about a performance concern is because ACM have themselves reported it to us. Thirdly, there is our own DIMA business manager. That has been essentially the core of our process.

We are adding to that a couple of things. We are increasing our DIMA staff in the centres to in effect increase our capacity to monitor what is going on. We are introducing a process of what you might call monthly checks. We are developing a matrix of all of the issues in the detention standards, and we will institute an audit against each of those at least once in every 12-month period. That will be done sometimes by our own DIMA staff, sometimes by engaging someone externally, a consultant or someone of that sort, who has got particular expertise in a particular area. Then, as Andrew mentioned, the minister has already announced the establishment of the detention advisory group. The detention advisory group are not advising the department, they are advising the minister. They will have open access to the centres, essentially according to whatever work plan they develop, but inevitably, I would think, they will be a source of advice to the minister which the minister will pass on to us for part of that monitoring.

CHAIR—In appointing those people, presumably there must be some sort of general agreement between the minister and the individuals as to how much is going to be involved in the job. Are you really saying they will meet a couple of days a month and maybe over the period of six months visit each detention centre or are you saying they are going to work half time and go to each detention centre once a month?

Mr Metcalfe—It is probably more towards the former than the latter, but it is something that the minister is determined to institute and to make work. I think it will depend a little bit upon the people and their own capacity to get involved. There is a range of backgrounds in the group: some professionals, some former administrators, some former ministers.

CHAIR—Mr Hodge signed my citizenship papers. I know the name well.

Mr Metcalfe—Therefore, it may well be that, for example, people resident in Melbourne would quite often go to Maribyrnong. How we deal with ensuring that there are regular visits to the more remote centres is obviously an issue that we will be developing with the group.

Ms Godwin—There are a couple of other things to say. A number of the centres have groups called community representative councils or community consultative councils. They were established as a result of a Joint Standing Committee on Migration look at detention arrangements back in about 1994, and they were developed with a particular set of issues in mind at that time. We are currently going through a process of looking again at those committees to see whether they have the most comprehensive membership they could have, whether the agendas and the terms of reference for those committees are relevant for current circumstances, and we may well revamp those as part of this monitoring arrangement. Finally, the other point to make is that another important source of information to us is the detainees themselves. They do make complaints, and when they make complaints we check them out. Depending on the nature of the complaint we either check it ourselves or we seek to have it checked by somebody else, for example, the police. And we get those complaints in a variety of ways. We either get them direct from the detainees, or the detainee will contact the

ombudsman's office or HREOC, and they of course draw it to our attention and we then check through the information that we have to respond to the complaint.

Mr PRICE—Can I ask you to give me an example so I can understand how the process works. What is your minimum standard for recreation for detainees?

Ms Godwin—I think, without being able to quote chapter and verse, the detention standard says something along the lines that appropriate recreation facilities will be available for all detainees, suitable for their age, gender, so forth.

Mr PRICE—None of them have it, do they, in the detention centres that I saw.

Ms Godwin—In what sense?

Mr PRICE—In what sense are you saying 'appropriate'?

Mr Metcalfe—It is a combination of sporting equipment, playgrounds, televisions and whatever.

Mr PRICE—I am not trying to joke. I do not see how they—

CHAIR—I think where Mr Price is coming from is that, at each of the centres we went to, and where there would be several hundred detainees, when you actually looked at recreational facilities, applying what I would call commonsense—and you use the word 'appropriate'—and using my experience of the world, which is what I would regard as appropriate, I do not think I would make the judgment that there were too many places that I went to where you would say they were appropriate for the number of people they had to service. We were told in different places, 'We have this facility, that facility.' The program sounded great but when you actually went and looked at the actual resource that was being provided you would have to say to yourself, 'Is this for real?' I am not trying to be difficult about it but I think, using standards that I would use as a human being, as a normal person, I have to say that I thought most of the resources were pretty poor. You talk about a football field. You can have a thing that is full of corrugations with bits of stone all over the place. It is just an invitation for accidents and injuries and things like that. I think the overwhelming impression the committee got when we got the management briefings about the facilities and the things that were available for detainees was that it sounded great, but when we actually went and saw it we were saying, 'Are we talking about the same thing?' That, perhaps, is an overgeneralisation, but it was of that nature. I think that is the root of what you are getting at, isn't it?

Mr Metcalfe—I absolutely accept what the committee is saying. It is interesting, though—and I am not in any way seeking to be combative in saying this—that different people do have different views. Another committee of the parliament went and looked at the detention centres last year—

Mr PRICE—And never spoke to a detainee and was proud of it—never spoke to a detainee and was proud of it.

CHAIR—That is a matter for that committee.

Mr PRICE—I mean it was a building inspection.

Mr Metcalfe—That is a matter for that committee. For example, a member of the community from Woomera went to the centre the other day to have a look and came away and said, ‘Look, this is outrageous; it is too luxurious.’ There are minimum standards, and I am not for a moment suggesting that we cannot do more and we have said we are going to do more in providing facilities. But there are lots of different perceptions around this particular issue.

CHAIR—We have had a letter from Padre Jim Monaghan. He has written to us since our visit. We met him while we were there. He has listed a whole range of things that he thinks are inappropriate.

Mr Metcalfe—What I am saying is it does tend to bring out black and white views in people. As far as we are concerned we have no interest in providing anything other than proper facilities. If the facilities are not up to scratch then they will be brought up to scratch. If the recreational facilities are not sufficient they will be improved. But there are widely differing views about what is appropriate in these circumstances. As far as we are concerned, and Mr Price very rightly points to this, there are minimum standards. There are standards laid down in the contract and if they are not being met then they will be enforced.

Mr PRICE—Let me put something on the table that perhaps reflects my position a little more reasonably: we take a great deal of concern to ensure that there is a whole variety of things that can occupy prisoners, and they at least have the benefit of being able to count down their prison sentence. For people who are in a detention centre for many months there is just not that choice. How is a standard derived? Is there a way that we can actually define and then measure it? If the minister or the parliament has been remiss in not defining it, then we can hardly be critical if that is not a feature of your auditing and reporting.

Mr Metcalfe—The point that you are driving is a very real issue for us. The fact is that the current standards—which, as I said earlier, did not exist until 1996—are not prescriptive but descriptive. It may well be that—

CHAIR—Your judgment and my judgment might be different.

Mr Metcalfe—Absolutely—but it may well be that our experience in recent times indicates that we need to be far more prescriptive than we have been. I am not saying that that is a conclusion but that is clearly where I think you are coming from, and where other people are coming from. In terms of our own experience with contract administration, some greater measurability may assist both us and the contractor.

Mr PRICE—At the end of the day we want to make recommendations to the parliament which are reasonable and which appear, at least to you, to be administratively sensible and which do not create another set of problems but provide solutions to what we perceive as current problems.

Ms Godwin—I understand the point entirely. Our challenge—to pick up the point that Andrew made—is that, now that we have sufficient experience to be a bit more prescriptive than we were when we set out on this, we have to ensure that we do not get into the situation

that other institutions have been in and have tried to get out of, saying, 'You have to have one of this, four of that and three of that for this number of detainees,' or whatever the population is. That could become the focus regardless of whether or not, when you look at it, it would have been better to have two of the first thing and only two of the second. It is that whole question of—

Mr Metcalfe—I do not disagree with that. Do we measure inputs or outcomes? The focus today is that we must look at the outcome and then find ways to describe that outcome. Have we done that sufficiently clearly?

CHAIR—One of the reasons—and I express a personal view because the committee has not come to a collegiate one—that I am keen for external scrutiny is that you can then make those judgments. To take the simple example of sporting facilities, if you go to one location, such as Villawood, where a certain set of circumstances exists it may be totally different from what you provide in Woomera. Climatically alone I suppose one would have some thoughts about those things. If there is some external scrutiny then people can make a reasoned judgment and assess whether what is being done in one institution is reasonable, or whether what is being done in another is reasonable, even though what is being done is entirely different in each instance. The difficulty with being too prescriptive is that you will get this 'two of this and one of that' type of thing, which does not work. But who is judging what is appropriate at the moment? That is the difficulty.

Mr Metcalfe—Defining those performance standards or those outcomes—or whatever—is a key issue that we need to work through. If in fact we do develop a new tender process, then that is an issue that will be given a lot of attention.

CHAIR—I am keen to come back to the bit that you were going to talk to us about. Have you finished, Ms Godwin?

Ms Godwin—Yes.

Mr Metcalfe—You would have seen many issues that we agree with—and it is a question of being able to do that properly and sensibly. We made the point before—but I think it is worth while making again—that one of the things that Flood points out is the quite remarkable achievement of both the department and indeed the contractor in responding to what was a completely unpredicted and unpredictable arrival break. When we had 25 people in Port Hedland in late 1998, should we have been building detention centres with the expectation that 4,000 people would arrive during the next 12 months, even when there was no information to indicate that? You can imagine the reaction of the Department of Finance if we had asked for \$50 million because—

CHAIR—We are not blaming the Department of Finance. That is an old—

Mr Metcalfe—Any sensible budget process would say, 'Where is your justification?' We saw an entirely new phenomenon develop in the second half of 1999. There was a response. In terms of the basics, people had a bed to sleep in, they were medically checked, they were provided with meals and other facilities. Could we have done it better? Possibly we could have. Now that we have had the opportunity to get the processes up and running, to get the infrastructure in

place, to get the security sorted out, there is obviously a very strong focus on ensuring that the facilities are acceptable and are brought up to standard and that the sorts of issues this committee is focusing on are dealt with.

In terms of the future, I think the committee is aware that the relationship with ACM exists on a couple of levels. There is in place a 10-year general agreement which is an overarching contract but which has no effect unless service agreements are in place underneath it. The term of the service agreement was initially for three years. It was entered into, from memory, I think on 28 February 1997, and it expired yesterday. Last year it became obvious to us that with the incredible focus that we had on simply providing services and dealing with the issues that we had we would not be able to go through a sensible process of consideration as to whether we should extend the contract or re-tender, so a decision was made to extend it for 12 months pending a full consideration. The contract requires that the department and ACM go through an exclusive negotiating process prior to a decision being made by the department as to whether we should extend the contract or re-tender. We have been in that process, and that exclusive negotiation process is virtually complete. Essentially that means that ACM have the opportunity on an exclusive basis to satisfy us, firstly, as to whether we are getting best value for money in accordance with the Financial Management and Accountability Act, and, secondly, whether industry best practice is being provided to them and whether appropriate standards are being met. We have been going through that consideration, particularly in relation to the financial issues because that is a threshold issue, and we will soon make a decision on that particular issue.

For reasons that I am sure you will understand it is simply not appropriate for me to speculate as to what our decision will be. I am very mindful of the litigation from the last tender process and I do not want any more litigation in relation to this issue if we can possibly avoid it. But in coming weeks the decision will be taken by the secretary as to whether the contract is extended or not. If the contract is not extended then that will mean that we will move into a new tender process and we will call for tenders. We would obviously look very carefully at the contract and at issues such as the performance standards and measuring those standards and whatever in developing that tender process. ACM, of course, will be open to compete in that particular market.

You asked earlier as to what the market was like. There are only, to my knowledge, three service providers beyond public authorities in Australia. One is ACM which has contracts in place with the Queensland corrections department where it runs a prison, Arthur Gorrie; it runs Junee prison in New South Wales; it runs Fulham prison in Victoria; it has a number of other related contracts such as transport services and I think the provision of medical services to correction facilities in Victoria, and it has the immigration detention contract. There is another company called Corrections Corporation of Australia which has centres certainly in Queensland and, I think, Victoria. There is another company which has received some publicity, particularly in Melbourne, called Group Four. That is not to say that there may be other potential service providers. You could not rule out that there could be public sector service providers or that there may be other private service providers, but the market is not large in terms of the *Yellow pages* test.

Mr PRICE—I welcome the minister's announcement about the pilot with women and children. What would be the difficulty if there were a further pilot? Would that be administratively more difficult—a pilot with families?

Mr Metcalfe—Entire families, including the male?

Mr PRICE—Yes.

Mr Metcalfe—I cannot talk about it in a lot of detail. You will appreciate that these are issues that ultimately the minister has to deal with.

Mr PRICE—I do not want to stray into any area, but are there some minefields that the committee ought to be aware of in such an approach?

Mr Metcalfe—One obvious one, and certainly one that I think the minister has referred to, is the question of availability. What is immigration detention about? It is about ensuring that people are available to process and, if the answer is 'no', that they are available to be sent home at the end of the day. We have seen the experience in the community situations in Australia, where people who were told 'no' were very hard to locate, and certainly the international experience is the same. There has been a practice for many years, since time immemorial, that if people are located illegally in the community and it is a family situation, quite often, if there is a suggestion that the family may abscond, the male member is taken into custody and the other family members remain at liberty in the community. In advancing the trial, the minister wanted to say, 'What is something that we are familiar with in terms of administration?' Certainly, we acknowledge that in developing the trial there will be issues of ensuring, if there is an adult male member of the family, that there is contact between the family on a very regular basis. Those are the very matters that a trial will explore in order to see what is feasible and what is not feasible in terms of both the dynamics of the situation and the infrastructure that is available. I do not think the minister is going to rule anything in or out at this stage. He wants a trial.

Mr PRICE—I am just looking at the issue in terms of the committee's deliberations. For my part, I am a very strong subscriber to the rights of the child and children's rights to access both their parents.

Mr Metcalfe—In advancing the trial we are very conscious of the appropriate and regular need for contact with the father.

Mr PRICE—Did we canvass stateless people? In view of the time, could you take that on notice? That seems to be a real problem. I would like to know a little bit about the dimensions of the problem and what could be arranged. Are there any solutions that can be looked at?

Mr Metcalfe—We will take it on notice. Again, it is a very difficult area. The key issue is: if a person is not a refugee, if they have no right to be in Australia, where do they go? Unless a country is prepared to take them back, an airline is not prepared to take them on board. We cannot have people bouncing around the globe looking for somewhere to settle. So for people who refuse to cooperate in obtaining travel documents or for people who may have nowhere to go, in many cases those issues will be picked up in the refugee status determination. But for

someone who comes out at the end of that process with nowhere to go, there is that range of issues that we discussed earlier, and there are the complexities of where you send someone home to if they do not have a home.

Mr PRICE—We are talking here about administrative detention as opposed to people who are criminals. We talked about processing times at the bottom end to speed it through. I want to acknowledge, as I have done previously, that the department does quite well with quite a large number of people. But what about those people who are staying for many months? Have you given any consideration to extra action once a person is in for, say, six months or 12 months? Alternatively, if they are in for 12 months, is there an upper limit to administrative detention? Is there something else we ought to consider?

Mr Illingworth—Within the primary process we pay very close attention indeed to the duration of detention and the processes that we have to undertake to reach a decision about whether or not they should be granted a visa. There is a wide range of reports so we actively follow up individual cases, and the degree and the frequency and the detail of the follow-up increases dramatically as the age increases. Essentially, before we get to the week seven mark—seven weeks from date of application—we have already identified cases that are outstanding and we are already looking at an individual case level to see what are the reasons for that case being outstanding and we are retesting again with the case officer. We are asking: are the things that are outstanding actually outstanding? Are they required for a decision? Is there a penal check, for example? There are possibilities for a waiver to be obtained in certain circumstances that we are following up with ASIO, if that is still outstanding at that stage, to ensure that we are providing whatever information we need to provide. So there is active pursuit of finalisation of the case, and it starts in earnest in week seven, so by the time we get to week 14 I suppose the cases are in what we define as the red zone and we are actively pursuing them. So there are no cases beyond that point where we are not absolutely certain that the issue that is holding up finalisation is in fact an issue which does relate to a finalisation decision and it is necessary for them.

Senator HARRADINE—I have some questions which might have to be taken on notice. I have a general question relating to ACM and then some specific questions relating to Woomera. Is DIMA aware of the alleged poor record of ACM's parent company, Wackenhut?

Mr Metcalfe—We are aware of media reports and other issues in relation to the American company Wackenhut.

Senator HARRADINE—Eleven Wackenhut guards are currently awaiting trial on charges of bashing and raping women at Travis County Community Justice Centre in Texas and legal proceedings were brought against Wackenhut in relation to its inappropriate and excessive use of chemical restraints on detained juveniles. That led in September 2000 to the closure of the Wackenhut facility in Louisiana. That is the allegation.

Mr Metcalfe—I am aware of the report but, with respect, I do not really see why or how that is relevant to Australia. The reason for that is that what happens in America happens in America. Whether or not ACM fulfil their contract or do not fulfil contractual obligations is what we care about here. Wackenhut is a half owner of ACM; the other owner is Thiess Constructions, an Australian company. Certainly, in the decision to grant the contract to ACM,

probity and other checking of the American parent company and their administration in the US was done back in 1997. It was certainly looked at in terms of the overall ability of the company's procedures and processes to deal with these issues. But the issues before us now and indeed in the future are going to be how is the company performing in Australia.

Senator HARRADINE—I think we did ask this previously but, so as to get a handle on it, has the privatisation of the running of these detention centres resulted in more economic benefit as compared with DIMA?

Mr Metcalfe—You have asked the question but at a different committee.

Senator HARRADINE—Could you take it on notice, please?

Mr Metcalfe—Yes.

CHAIR—And make sure we get the same answer!

Mr Metcalfe—It is probably safer if I do take it on notice. It is an issue that Senator McKiernan has discussed with me in Senate estimates, and I recall that you raised it last week in estimates. I will take it on notice but I will simply say that, as I indicated to the Chair earlier, it is very difficult to give you an answer on that, because we are comparing quite different things. What APS provided in the environment pre-1996 and what ACM provide now is different in size, scale, service and obligations. I would simply note again that APS was not a tenderer and so we were not in fact able to do a benchmarking or other comparison between them. What is in the public domain and what we discussed with the committee is what it costs now—whether that appears reasonable and whatever. I took that on notice at estimates and we will make sure this committee gets the same response.

Senator HARRADINE—Is it fair to say that there has been an advance in improvements since October last year in Woomera, for example? I note that, since the first arrivals in November 1999, around March 2000 they were able to send letters overseas. Access to international telephone calls started in May 2000—I do not know whether you have got this information—they were able to send letters within Australia around August 2000; they had access to newspapers in October 2000; they had access to radio and broadcast news in November 2000; and their first outside visit by family and friends was January 2001. Is it fair to say that—

Mr Metcalfe—The short answer is yes, it has been improving. The reason is that we have had a very strong commitment—and it is very much continuing—to improve the facilities, the amenities and the service as we have been able to improve the infrastructure. The infrastructure that the committee saw in the new part of Woomera is obviously superior to what we could get in place earlier. You may or may not have been briefed at Curtin, but in the early days of Curtin we had people in tents; we had nowhere else to put them—in the same way that we had 1,400 East Timorese in tents in Darwin when they were evacuated from Darwin.

Senator HARRADINE—We are not talking about why.

Mr Metcalfe—In terms of Woomera, yes, I would be disappointed if there had not been a steady increase. I recall that in June last year Mr Farmer, the secretary, was actually going down to Woomera to satisfy himself and to take measures to ensure that service standards were improving. Unfortunately, that visit changed from being a visit to work with the people in the centre on improving performance to negotiating the return of 400 people who had escaped from Woomera Detention Centre.

CHAIR—Are you alleging that Mr Farmer's attendance caused the escape?

Mr Metcalfe—No, he went to the rescue. But essentially he and Mr Vardos were involved in lengthy discussions with people about the issues that had led to their unauthorised departure and the discussion relating to their return. The point I am making is that those sorts of incidents were regrettable as they did not assist us in providing facilities. The fact that some people took it upon themselves to burn down about \$1 million worth of Australian government property does not assist us in providing facilities. Notwithstanding that, we are determined to provide them.

Senator HARRADINE—I am just trying to get a handle on it overall. As to initial processing, is there some way that you can prove that there has been an improvement in Woomera from a particular date—say, from when it started until now?

Mr Metcalfe—We certainly can do that. We will take that on notice. But Mr Illingworth, I think—

Senator HARRADINE—But my information is that it has improved.

Mr Metcalfe—It has improved remarkably. Mr Illingworth read some figures into the record earlier which showed that over a year ago the processing time was around 220 days. That was explainable but not acceptable. It was explainable by the vast increase in people and the fact that the department had to gear up. A year later, he is now saying that our service standard is 42 days and that we are getting down towards that. We are at around the 100 days mark, so it is about 14 weeks, and we want to go further. We can provide you with some figures specific to Woomera, which I think will indicate that your—

CHAIR—Are you talking about processing times or are you talking about other standards in the camp as well?

Senator HARRADINE—I was talking about processing times then but there are a number of other things, including the fact that the manager there, Tony Hamilton-Smith, appears to be working flat out on a few things. Could I go to a couple of negatives that have been raised before—but I cannot recall the responses—about the sudden movements of people. At Woomera there was a situation on 19 January, when 40 people were removed to other camps. The response that was given, as I recall it, was there was a need to create a space for new arrivals at Woomera. Isn't that odd or puzzling, because the other 50 or so remaining earlier arrivals at Woomera were shifted to the Sierra compound, which has a capacity for over 200 people? Those people could have been accommodated; there was no need to shift those 40 people. It was sudden. With very little notice, off they go.

Ms Godwin—Mr Vardos might be able to comment on the question of notice. The issue about whether we could have fitted them all into Sierra and whether that would be a reasonable thing to do went to the question of the group that we were looking at. They had all been in Woomera for a lengthy period of time. Some of them had been involved in disputes between groups. Some had been participants in the disturbances in June and August and some had not, and there were tensions between those groups. The people who had participated thought that the ones who had not participated should have, and there were various things like that. Simply putting them all into Sierra did not seem to be a reasonable response. We could not leave them in the main compound, because we needed that area for the new arrivals. In terms of achieving separation between the new arrivals and the people who had been there for a period of time, we could not leave the people who had been there for a long time in the main compound.

Senator HARRADINE—Could I go to the question of whether they participated in the demo or whether they did not. Presumably, those 40 people either did participate or did not participate.

Mr Vardos—The ones that remained at Woomera in the Sierra compound are the ones whom we are talking about. They were left at Woomera because they had a range of applications on foot that required their presence in South Australia.

Senator HARRADINE—But the person who had been sent off to—

Mr Vardos—I think it was Curtin.

Senator HARRADINE—Curtin had already been granted refugee status and was awaiting release or whatever you call it.

Mr Vardos—I do recall that there was an issue relating to one person moved to Curtin but I cannot recall the details. A couple of people who were transferred did have processes on foot that perhaps should have remained with the other 40, but that was an error rather than an intent to specifically remove them. But the large body that were left behind in Woomera were there because they had a range of applications on foot that required their continued presence in South Australia.

Senator HARRADINE—Ms Godwin just said that it was because of the tensions and the people accusing other people of not joining in the demo.

Ms Godwin—What I was trying to illustrate was that, given we in our view needed to move them from the main compound, the question then became where would they go to. We could have moved them all into Sierra. They would have all fitted there. It would have been a bit of a cramped situation but nonetheless they would have all fitted there. Then the question was whether it was reasonable to put them all into that area given that there had been tensions between the groups previously.

Mr Metcalfe—Especially tensions between the Iraqi and the Afghan nationals.

Mr Vardos—The Afghans, in fact, went to Perth and the remainder of the group that was removed from Woomera were then split between Curtin and Port Hedland.

CHAIR—It seems to me what we are trying to get at is: what are your criteria for deciding when to move people? Obviously, people are going through a difficult time, anyway, particularly if they have been there any length of time and if they suddenly get up to move somewhere else it can often just add to the stress and the trauma and so on. It is a question of what are the criteria or the rules, if you like, on which you base your decisions. Are there fixed rules? If this happens, we do this or is it just a matter of local judgment at the time?

Ms Godwin—It is not just a matter of local judgment. The starting point is that we do not regard it as desirable to move people around anyway if we can avoid it.

Mr Metcalfe—It costs money, apart from anything else.

Ms Godwin—That is right but apart from anything else, as you have pointed out, notwithstanding that we might regard Woomera as hot and undesirable and all sorts of other things, if people have been there and they have formed connections with other detainees and those sorts of things we do not intend, generally speaking, to split people up just for the sake of it. But if circumstances arise where people need to be moved then that is looked at again on a case-by-case basis. It depends on whether it is an individual, a family or a bigger group and particularly where it starts to be a bigger group it is not something that would be done just on a local initiative. It is something that has got to be done in consultation with central office. Apart from anything else, what we have got to satisfy ourselves of is that, if the judgment is that people need to move, then the question is where should they reasonably move to? Is there capacity for them there? What will that do in terms of the management of that other centre if you move new people in and so forth? Our starting point is that we prefer not to move people if we can possibly avoid it. On the other hand—and this is something which has come up a lot in public debate—some people regard some centres as more appropriate for certain sorts of detainees and in fact are saying to us that we should move people more than we do in order to get a better match between them and the centre they are in.

CHAIR—I am sorry, Brian, to horn in on your question but I certainly had the impression that we met people in Curtin who had come from Woomera. We met people in Hedland who had come from Woomera. I think there were even one or two in Perth and then of course there were the people in Woomera. I cannot remember about Villawood but certainly one got the impression that there had been 20, 30 or 40 people moved from Woomera to here and from Woomera to there and so on. Those people themselves felt that they had been identified as trouble makers and that they were being split up in order to break up the group at Woomera. They then got ‘special treatment’ when they got to their new destination. Special treatment would be perhaps in terms of the attention they got from the ACM staff. I do not mean special treatment in a positive sense. I think that was the implication. I have not got any evidence to prove all this but what I am saying is, I think that is what we are trying to establish. If there are no criteria on which you make such decisions and you are saying that, ‘We really do not want to move people,’ why did we meet all these groups? When we got to Woomera, the place was half empty so capacity did not seem to be a problem.

Ms Godwin—It was not so much absolute capacity. It went to this question of separation of the various groups. It certainly is true that you would have met people. You would have equally met people in Port Hedland who would have moved from Villawood, because at a certain point last year when we were worried about overcrowding at Villawood we did move some people to

Port Hedland to relieve overcrowding. It seemed a sensible thing to do. Saying we would prefer not to move people does not mean we do not move them. It means that, when we do, we do it for reasons that seem appropriate and sensible at the time.

At the beginning of January we had an operational preference not to move anybody else into Woomera until we could move into the new compound, phase 2, because the buildings are bigger, have the communal area at the end, the ablutions blocks are better and all that sort of stuff. At the end of last year we were putting people into Port Hedland and Curtin in order to not put people into Woomera. In fact, we left the people who were there, and that group was gradually reducing as visas came through, people were removed or whatever. It was only when arrivals at the end of December and the beginning of January reached a certain number and we had no more space for whole boat groups in Curtin or whole boat groups in Port Hedland that we started to look at what else we could do. If we did not have room for a whole boat group in Port Hedland or in Curtin, they would have to go to Woomera. What would we then do with the people in Woomera? And that is when all these other things came into play.

CHAIR—You are trying to fit jigsaw bits together basically?

Ms Godwin—That is right.

Mr Vardos—Can I add a point to something you touched on in your earlier comments. Certainly—and I am talking in the broad here—a brewing situation can be diffused by moving one, two or three people out of the centre.

CHAIR—I accept that. If you had said to me that is why you did it and it was a conscious decision, I would accept that that is a valid judgment to make.

Mr Metcalfe—I think we are saying that there are criteria but they are not written down. Again it may be an issue that we need to formalise some of those issues so there is greater understanding of the sorts of issues that we need to consider.

Mr PRICE—In what way do you report on those transfers? I apologise, I have not looked at your annual report. Do you report?

Mr Metcalfe—That level of detail would not go into an annual report. There is no formal reporting as such on that.

Senator HARRADINE—I am conscious of the time, but I do not know where else I can ask. I will not go into the May 2000 removal of people into the Sierra compound either in Woomera. That caused a lot of stress and distress. I am told it was quite intense. The point is it is important not to further distress or terrorise people who are already frightened and traumatised. I do not have to say that to you, because you know that and you understand it. But these sudden moves do not do any good for their peace of mind.

There are a number of other things. Some of the improvements that have been made have to be put on the record, and I would be anxious to do that. I have just a couple of things, because of the time. The first relates to visits of religious people like imams for Moslems. I know it is

said that there are people at Woomera who could perform the duties, but I am told that there are some Moslems there who are concerned that they have not seen an imam.

Ms Godwin—The question of religious observance, particularly for people from an Islamic background, is an issue.

Senator HARRADINE—If you could take that on notice, I would appreciate it. Another issue is the isolation and the need for visits from friends and representatives of community groups. It is way out Woop Woop, as we all know. That is a bit distressing to the people there.

Ms Godwin—It is something that Father Monaghan raised with me when we were there with the subcommittee visit. As a result of his suggestions, we are looking at whether we could facilitate visits. It is not something that has developed, but—

Senator HARRADINE—You could take that on notice.

Mr Metcalfe—It is an issue that we are aware of and are looking at.

Senator HARRADINE—There are facilities there, but I am told that calling overseas costs \$22 a call for three minutes or something like that. You have no special deal with any of the carriers.

CHAIR—If we privatised the rest of Telstra we would have more competition in the marketplace.

Ms Godwin—Only for certain countries.

Mr Metcalfe—That may well be the point. In the case of Hong Kong, it is \$1 for three minutes, but whether that is the case for Iran, I do not know. We will take that on notice.

Senator HARRADINE—There are the delays in processing applications. There are a number of other things, but I might put some questions on notice.

CHAIR—Perhaps we could start to wrap it up now. Mr Price has indicated that he has retired hurt but he might put some more questions on notice.

Mr Metcalfe—I am conscious of the minister seeing the subcommittee next week. We have taken a lot on notice and we have other material from last time on notice. Clearly, we will endeavour to provide as much as possible by next Tuesday.

CHAIR—Tomorrow lunchtime?

Mr Metcalfe—I was wondering about later tonight! I wonder if there are any particular areas where responses by the department may assist prior to the minister coming so that, if we have to make decisions about priority in responding to this material, we can do that.

CHAIR—Off the top of my head, the priority ought to be in areas where we might be probing the minister on broader policy issues—whether it is the removal of women and kids, whether it is what you do with long-term detainees when there is nowhere for them to go or whether it is the independent scrutiny. The issue of processing times comes into that area. That is not a very specifically prescriptive area. If we have asked you for some stats on how many people have moved from A to B, that is not going to occupy us greatly with the minister, unless the numbers are stunning. As a general guide, what we need early is stuff that will be relevant to what we might wish to pursue with the minister. If some things have to come later, perhaps it could be things of a more minor nature. Is that sufficient guidance for you?

Mr Metcalfe—Thank you. That helps. We want to assist the committee as much as we can and as quickly as we can, but I remain conscious that the very people doing that have the daily task of making this contract work and trying to improve these standards. We might remain in touch with the committee secretary and just try and provide as much as we can.

CHAIR—He might provide something.

Mr Metcalfe—Obviously the production as quickly as possible of the *Hansard* of today and of the previous appearance would assist, because we have taken some questions on notice.

CHAIR—You will get the previous appearance now. I apologise for the fact that you have not had it before and I will shoot the secretary afterwards.

Ms Godwin—Don't do that until after he has given us the one for today.

CHAIR—I also understand we are going to give you a copy of a letter about the treatment of a particular detainee in Villawood. But it needs to be on the clear understanding that there must not be any reprisals or actions. I am sure there would not be.

Mr Metcalfe—Absolutely. We are very used to receiving individual complaints.

CHAIR—We will pass that to you. I wanted to say this while Mr Price was here: inter-committee squabbles should not have been aired here. Of course, the chair of the immigration committee obviously did an outstanding job because she has since been promoted to the ministry. That is for the benefit of Mr Price; we will draw his attention to that in writing.

We are going to Maribyrnong on the 14th; we are going to see the minister on the 8th. One of the things we want to do after that is to have a public hearing, both with Mr Flood and yourself, to look at the Flood report and the government's reaction. We will obviously raise this with the minister. I think it would be useful, preparatory to our report going to the parliament, if some things can be asked on the record. I have been very firm in making sure that, as far as I am able, our sessions to date have been private sessions.

Mr Metcalfe—We appreciate that.

CHAIR—It would be my intention to ensure that the committee's report deals with issues rather than individual people or particular problems, but there may be some issues that we feel are better put on the public record in preparation for that. That is something that is in the

committee's mind at the moment. I am really just flagging that with you. Certainly, it is not my intention, or the committee's intention, to publish the transcript from either your previous session or this session.

Mr Metcalfe—I do not think there is anything that we would have said that we would not be happy to say publicly, but we appreciate the fact that these have been private briefings.

CHAIR—I thank you all for coming.

Committee adjourned at 7.23 p.m.