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JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS,  
DEFENCE AND TRADE HUMAN RIGHTS SUBCOMMITTEE

**Reference: Aspects of HREOC's annual report 2000-01 concerning immigration  
detention centres**

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**JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE**

**Human Rights Subcommittee**

**Thursday, 22 August 2002**

**Members:** Senator Ferguson (*Chair*), Mr Brereton (*Deputy Chair*), Senators Bartlett, Bolkus, Cook, Eggleston, Chris Evans, Harradine, Hutchins, Johnston, Sandy Macdonald, O'Brien and Payne and Mr Baird, Mr Baldwin, Mr Beazley, Mr Bevis, Mr Edwards, Mr Laurie Ferguson, Mrs Gash, Mr Hawker, Mr Jull, Mr Lindsay, Mrs Moylan, Mr Nairn, Mr Price, Mr Prosser, Mr Bruce Scott, Mr Snowdon, Mr Somlyay and Mr Cameron Thomson

**Subcommittee members:** Senator Payne (*Chair*), Senators Bartlett, Bolkus, Ferguson and Harradine and Mr Baird, Mr Brereton, Mr Ferguson, Mr Lindsay, Mrs Moylan, Mr Price, Mr Somlyay and Mr Cameron Thompson

**Senators and members in attendance:** Senators Bolkus, Ferguson, Harradine and Payne and Mr Baird, Mr Brereton, Mrs Moylan, Mr Price and Mr Cameron Thompson

**Terms of reference for the inquiry:**

Review of aspects of HREOC's annual report 2000-01 concerning immigration detention centres.

**WITNESSES**

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**Subcommittee met at 11.52 a.m.****RICHARDSON, Mr Dennis James, Director-General, Australian Security Intelligence Organisation**

**CHAIR**—Welcome to this public hearing of the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade into a review of aspects of the *Annual Report of the Human Rights and Equal Opportunity Commission 2000-01* concerning conditions in immigration detention centres and the treatment of detainees. On Monday the subcommittee heard from HREOC and DIMIA. Today we will hear from ASIO and the Australian Federal Police, two organisations with close first-hand experience of dealing with asylum seekers and illegal entrants on arrival and within immigration detention centres in some cases. We are looking forward to hearing perspectives on the issues concerning the centres and in particular on developments in the last 12 months.

The subcommittee intends to conduct today's proceedings in public, although should you wish at any stage to give any evidence in private you may ask to do so and the subcommittee will consider that request. Although the subcommittee does not require evidence to be given on oath, I remind you that these hearings are legal proceedings of the parliament and therefore warrant the same respect as proceedings of the House. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. Mr Richardson, I would like to invite you to make some opening remarks and then we will proceed to questions.

**Mr Richardson**—ASIO's role in the processing of illegal arrivals is to provide security assessments. We do not do character checks, nor do we make assessments on character grounds. That is the responsibility of the department of immigration. ASIO's security assessments are designed to ascertain whether someone poses a direct or indirect threat to Australia's security, being defined in the ASIO Act as:

- (i) espionage;
- (ii) sabotage;
- (iii) politically motivated violence;
- (iv) promotion of communal violence;
- (v) attacks on Australia's defence system; or
- (vi) acts of foreign interference;

ASIO does not, as a matter of course, do security assessments for all illegal arrivals but it does so for individuals from countries of security interest—for instance, countries in which extremist terrorist organisations are prominent or in which communal violence is common.

Until 1999, ASIO conducted 250 to 350 security assessments a year in respect of illegal arrivals. Our assessment work was done in Canberra at the back end of immigration processing. In other words, we did our security assessments after Immigration had completed all its checks. The increase in illegal arrivals in 1999 required ASIO to review its process of security assessment. The significance to ASIO was that virtually all arrivals claimed to be from

countries of security interest, such as Afghanistan and Iraq. The higher demand placed upon ASIO at that time came up very much against our heavy involvement in Olympics security activity.

In the middle of 2000, with the cooperation of Immigration, we reviewed our processes. That led to, firstly, the creation of a dedicated section to conduct the security assessments; and, secondly, the removal of the processing to the front end rather than the back end. In other words, we had the initial interviews for security assessments soon after people arrived rather than waiting until Immigration had completed its processing. We also streamlined our processes, including prioritising our case load. To be quite frank, when we were doing 250 to 300 a year the requirement to prioritise was not particularly great but, with the increased arrivals from 1999 onwards, there was a clear need for us to have a sharper sense of our priorities.

Our priorities feed off Immigration's priorities. For example, people at risk of self-harm obviously need to be processed quickly and, wherever possible, priority is given to unaccompanied minors and women where there is an assessed need to provide an assessment in respect of those individuals. Our benchmark since that review—it remains our benchmark—is for us to complete 80 per cent of security assessments within 10 working days of our receiving them and to complete the remaining 20 per cent within three to six months.

I will give you an idea of the case load and walk you through to the present. In the financial year 2000-01, a total of 3,704 illegal arrival cases were referred by Immigration to ASIO for security checking. In the same year—that is, 2000-01—3,658 security assessments were issued by ASIO. In the financial year 2001-02, a total of 1,574 illegal arrivals were referred by DIMIA to ASIO for security checking. In the same year—that is, 2001-02—2,281 security assessments were issued. Between 1 July 2002 and 16 August 2002, 56 illegal arrivals were referred by DIMIA to ASIO for security checking. Also in the same period—that is, between 1 July and 16 August this year—47 security assessments were issued.

As at 21 August 2002, ASIO had about 393 cases. In respect of 310, we were awaiting further information because of incomplete or inaccurately completed forms. Thirty-one of the 393 were out of process—that is, they were no longer with DIMIA; they were either before the RRT or awaiting judicial review. We had 52 active cases as at 21 August—that is, yesterday. Of those 52 active cases in detention awaiting resolution by ASIO, 16 were less than two weeks old, a further 16 were less than three months old and a further five were less than six months old. This means there were 15 cases which, as at yesterday, had been with ASIO for more than six months. Of those 15 cases, 14 are in offshore detention and one is in onshore detention.

Of the 14 cases in offshore detention, seven are cases in which the ASIO processing is the only outstanding requirement. In other words, in seven of those 14 cases, but for ASIO processing, the totality of the processing would have been completed. Of those seven cases, three were interviewed in Nauru last week and four are scheduled to be interviewed in Manus in early September.

Of the one onshore detention case which has been with us for more than six months, the individual concerned was originally cleared by ASIO on 12 April this year but the clearance was withdrawn a couple of weeks ago in light of new information provided by the individual on 9 August. In that new information provided on 9 August the applicant claimed that he had been

misleading in his original application. He claimed that he had given a false name and a false date of birth. He also advised that he had in fact lived in the Netherlands for four years immediately prior to coming to Australia and that he had been subject to arrest there. Clearance for that person is proceeding on the basis of the new information provided.

The biggest single challenge we face in speedy processing is the accuracy of information provided by applicants, especially as many applicants arrive in Australia without documentation. Some applicants exaggerate or fabricate their claims with the perception that this will assist their claims to asylum. For instance, it is not uncommon for applicants to claim involvement with groups such as Hamas and the Islamic Jihad in the expectation that somehow that will strengthen their claim for asylum. In fact it leads to security interest and lengthens processing. In cases where individuals claim connections and involvement of this sort, we seek to obtain information—to the extent possible—through overseas services, interviews and the like, and this can be time consuming.

The last point I would make is that checking with liaison partners takes time because our liaison partners have their own priorities. We constantly stress to them the importance of this processing within an Australian context and in terms of our own responsibilities. Sometimes that sometimes cuts ice; sometimes it does not, because of their own priorities. They are the two biggest issues that we have in seeking to handle cases as quickly as we can.

**CHAIR**—Thank you, first of all, for the extremely detailed, up-to-date information that you have provided the subcommittee. We could not ask for anything more. I apologise because we are sitting during the processes of parliament and we are constrained by that.

**Mr BRERETON**—Dennis, can you advise us of the number of rejections following your assessments over each of those periods that you have given us figures on?

**Mr Richardson**—Yes, I can. Until now there have been no rejections on security grounds, and you would not necessarily expect any. To put that into context, in the financial year just ended—that is, 2001-02—we had 39,000 visa applicants referred to us for security checking, in respect of which we provided five adverse assessments. In other words, our job is very much to look for the exception to the rule.

**Mr BRERETON**—So we have had no rejections.

**Mr Richardson**—No.

**Mr BRERETON**—How many total assessments were there during that period that you have referred to? You gave us year-by-year—

**Mr Richardson**—There were 3,658 in 2000-01, 2,281 in 2001-02, and 47 since 1 July.

**Mr PRICE**—Not one was found to be a risk.

**Mr Richardson**—No. The criteria we are measuring include whether someone poses a direct or indirect threat to Australia's security. It does not mean that they have had connections and involvement which we need to follow through very carefully.

**Senator BOLKUS**—It is interesting when you put that together with the advice we had recently from the commissioner of police at another inquiry that, subject to checking, he thought that there was no-one who had criminality problems. That confirms the profile, I suppose.

**CHAIR**—Mr Richardson, when individuals are interviewed by ASIO, are they interviewed personally by ASIO?

**Mr Richardson**—Yes.

**CHAIR**—What information do they have about their rights and obligations before the interview commences? Is the interview conducted in their own language or in English through interpreters? How is that process carried out? Do your officers receive a human rights training procedure before they embark on this?

**Mr Richardson**—In answer to the second question, where an interpreter is required, one is provided. In other words, the interview is conducted within the language which is comfortable to the applicant. Our officers receive training in the requirements on them at all times to act legally and with propriety. They are very conscious of those issues. I cannot tell you precisely what advice is provided to the applicant up-front, but I could get that for you very quickly.

**CHAIR**—We would be interested to see that, thank you.

**Senator BOLKUS**—I refer to the process in Nauru and on Manus Island. You indicated in your figures that you are involved in that. To whom are you working in that? Are you working to DIMIA, other organisations or to the Nauru or PNG government?

**Mr Richardson**—No. We are working within the framework of our own act and we are providing advice about the outcome of our assessment to the department of immigration.

**Senator BOLKUS**—They have commissioned you to do that?

**Mr Richardson**—They have made applications, so it is an automatic part of the process.

**Senator BOLKUS**—It is almost like business as usual. Whether it is onshore or offshore, is it the same arrangement for processing?

**Mr Richardson**—In these cases, yes.

**Senator BOLKUS**—Does every one of those people who are relocated there get referred to you?

**Mr Richardson**—I cannot tell you whether all have. I would need to take that on notice.

**Senator BOLKUS**—On alternative approaches to detention, have you made any evaluation of whether any such alternative arrangements would present security problems?



**Mr Richardson**—I do not know whether we have looked at that. I am not aware of our having given thought to alternative approaches.

**Senator BOLKUS**—You may not have as an organisation but do you have any concerns, for instance, about an alternative which demands reporting daily or which involves electronic bracelets or those sorts of things?

**Mr Richardson**—From where I sit, it is not really a policy issue for me. But, where there are reporting requirements in the UK, I do not know to what extent people actually report or not.

**Mr CAMERON THOMPSON**—You said that in 2001-02, of the 39,000 visa applicants who applied, you had five adverse assessments.

**Mr Richardson**—Yes.

**Mr CAMERON THOMPSON**—What do you mean by ‘adverse assessments’?

**Mr Richardson**—An adverse assessment means that we assessed that the person’s entry into Australia would pose a direct or indirect threat to Australia’s security, on the grounds that they could be involved either in espionage related activities or in terrorist related activities and the like.

**Mr CAMERON THOMPSON**—So there were five who fell into that category?

**Mr Richardson**—Yes, that is right. We publish those figures in our annual report every year.

**Mr CAMERON THOMPSON**—Did they then actually successfully enter Australia?

**Mr Richardson**—Put it this way: they certainly did not enter Australia under the name and details provided to us in the original application. Whether they subsequently entered Australia under another guise—a name unknown to us—I would not be able to advise you.

**Mr CAMERON THOMPSON**—Can you tell me the specifics of what objections you found in that case—for instance, what kinds of memberships they had?

**Mr Richardson**—We would not be able to publicly, and I would need to take advice as to whether I would be able to do it in terms of the details of each case.

**CHAIR**—Could we just clarify where that fits in?

**Senator BOLKUS**—The figures that you gave us were that—

**Mr PRICE**—They were the visitor visa applications.

**Mr Richardson**—Yes, they were the visitor visa applications. That is right.

**Mr PRICE**—Of those applications, five were found to be adverse?

**Mr Richardson**—Yes.

**Senator BOLKUS**—It is not the boat people you are talking about?

**Mr Richardson**—No.

**Mr CAMERON THOMPSON**—What were the figures for 2000-01 and for this financial year?

**Mr Richardson**—This financial year we are still in. The figures that I gave you about the 39,000 applications and five adverse were for the financial year just ended—that is, financial year 2001-02. The information relating to previous financial years is in our annual report but I could pull the figures out for you and pass them on to you. But from memory, in 2000-01 there were approximately 33,000 visa applicants referred to us for security assessment, in respect of which I think there were also five adverse assessments.

**Mr PRICE**—I am surprised that there were no adverse findings. I am very grateful for your presentation of the information to the subcommittee. I do not want to go over any information that you have previously given us in camera, otherwise I am in breach of all sorts of rules, but I understood that ASIO had, as you said—though I am not sure of the words you used today—re-jigged the system and was now providing a much faster service.

**Mr Richardson**—Yes, since 2000.

**Mr PRICE**—Has September 11 impacted in any way on your assessment regime, or is the regime you had in place still serving you well in terms of determining—

**Mr Richardson**—No. September 11 has not had an impact. We have not reduced the resources we devote to this area. The resources devoted to this area are funded by arrangements with DIMIA. It is not funded out of our own running costs, and we put a fence around those resources. I am not surprised that there have been no adverse security assessments. It would not surprise me if there were, it would not surprise me if there were not. But, given the number—around 5½ thousand—

**Mr PRICE**—I have still got my P-plates on, so forgive me for being surprised. It is up to the government to respond to the recommendations in the report, of course, but you will notice that one of the recommendations—and I am not trying to get you into any difficulties—was that ASIO should develop a risk profile in order to more quickly process people, especially with the view that any detainees who were not perceived as security risks could, subject to being sponsored, find their way into the community. Do you wish to make any comments to the subcommittee about that recommendation in the report?

**Mr Richardson**—No. I would simply note that it is still before the government.

**Mr PRICE**—You may wish to persist with the same answer to this question. Again, I am not trying to be difficult. A committee may propose a measure which a government has the right to reject because that is its view, given a range of advice and considerations. That is very proper, and I am not objecting to it. Do you have any practical concerns about the recommendation that

appears in the report, bearing in mind that the government will take advice from you and will make its own decisions?

**Mr Richardson**—I would simply note that not everyone in detention from every country is subject to a security assessment now.

**Mr BAIRD**—I wish to follow up that point, which is a really important point. I think we all respect the work you do and see that it is absolutely vital and important to Australia's security. Nevertheless, there are a number of people who blame your organisation—if 'blame' is the appropriate word; not 'blame', because we regard what you are doing as very significant—as one of the key factors as to why the processing of applicants for asylum takes so long. This question of risk assessment therefore becomes important. I understand, from various people, that individual cases are being checked at length, with multiple calls to various places in the Middle East or wherever, and that this process is exhaustive and important. Of course, people are in detention during this period. If the months roll on while this is going on, people can ask why there cannot be a general assessment as to the probability that these people will present problems. Perhaps it could be said that, on the balance of probabilities, there is very little likelihood of risk. If there is any residual element, a reporting basis once they are released will be there. We regard it as important because of the human rights element. We see that it is important for you to do your job in terms of the checking but, because of the length of the checking, people are held in these detention locations for what is seen by some as being excessive periods of time.

**Mr Richardson**—I think a factual judgment as to whether our processing is the cause for most people being in detention can be easily checked. I would simply refute any suggestion that the majority of people were in detention over extended periods because of our processing. There have certainly been cases over the last couple of years where I believe we have made mistakes in our processing in terms of the amount of time we have taken and we have sought to address that when we have identified cases of that kind.

We have a process which seeks to ensure some sort of quality control within the organisation, a reporting arrangement which involves me and the Inspector-General of Intelligence and Security. Rather than assert or not assert, I think it is not hard to pull apart the data and see how long the processing takes in terms of the security checking. In some cases it can take a long time but in most cases it is a fairly speedy process.

**Mr BAIRD**—Evidence was given by Dr Ozdowski, the Human Rights Commissioner, who was here today. He mentioned that people coped with up to three months in detention relatively well; after that there seemed to be a significant impact on the individual. It is for those reasons that we ask, not to question the validity of it, and see whether there are elements of truth in the extensive processing time.

**Mr Richardson**—It is difficult when people do provide false details. It is difficult when people make claims of associations because they think it will further their refugee claims which then require security checking.

**Mr BAIRD**—I understand.

**Mr Richardson**—And we can only operate within the information provided to us.

**Mrs MOYLAN**—Thank you for the interesting overview. I do not want to go back over the ground. I was going to ask some similar questions to the ones that Mr Baird has asked. I would like to go back over the numbers that you first gave. I am sorry I had to leave the room to attend the chambers. Were those cases, those numbers that you were giving us, a mix of people arriving on boats?

**Mr Richardson**—No, they were illegal arrivals. In other words, they might have arrived by boat or by air.

**Mrs MOYLAN**—That is what I mean. They were a mix of arrivals, not just people arriving on boats. Did I understand correctly that none of those arriving on boats that were checked posed a security risk?

**Mr Richardson**—I said that none of them had received an adverse security assessment in terms of posing a direct or indirect threat to Australia's security.

**Mrs MOYLAN**—Right, and of those 52—

**Mr Richardson**—I did not mention risk.

**Mrs MOYLAN**—All right, I will go back over the words carefully. But I think you used the terms 'an immediate risk to Australia's security' or something.

**Mr Richardson**—I used the word 'threat'.

**Mrs MOYLAN**—And of those 52 active cases that you mentioned, do you know how many of those were arrivals by boat?

**Mr Richardson**—No, I do not, but of the 52 active cases at the moment, I could certainly find out for you. We currently have about 393 cases with us, of which about 52 are active. I could certainly find out for you the number that have arrived by boat and the number that have arrived by air, if that would be of interest to you.

**Mrs MOYLAN**—I ask these questions because there is a perception which is driven by some people in the community that people arriving by boat are somehow higher security threats than others. I think that point has to be clarified. You may not be able to answer this but can you outline the types of problems you encounter with the different cases, some of which you have alluded to as being incomplete applications or incomplete forms?

**Mr Richardson**—It is the provision of inaccurate information which is our biggest challenge.

**Mrs MOYLAN**—Is it that you are unable to obtain clarification of that from the person by interview?

**Mr Richardson**—Yes, or where information of one kind is provided in an application form and on interview contrary information is provided.

**Mrs MOYLAN**—Could that be because of language problems?

**Mr Richardson**—In some cases it could be. In many cases it is not.

**Mrs MOYLAN**—You are saying that some people may be deliberately trying to cover their tracks?

**Mr Richardson**—I do not know whether they are trying to cover their tracks but, whatever their motivation, unquestionably a percentage of people deliberately provide misleading information.

**Mrs MOYLAN**—So are those 52 active cases unable to be more quickly processed because they have given information that doesn't stack up?

**Mr Richardson**—No.

**Mrs MOYLAN**—What are the other kinds of problems?

**Mr Richardson**—Of those 52 cases I mentioned, 16 have been with us for two weeks, so we can forget about them—that is, in the sense that we are talking about them—a further 16 have been with us for less than three months, and 15 have been with us for more than six months. Of those, 14 were offshore and one was onshore. Of the 14 offshore seven of them are cases in which the only processing outstanding is ASIO's. And that is an important benchmark that I have within the organisation. I am very concerned to ensure that we keep to the absolute minimum the number of cases that would be completed except for our processing. I am very sensitive to that.

**Mrs MOYLAN**—I understand what you are saying and I appreciate the difficulty. What I was getting at is: what are the other impediments to processing these tough cases that are clearly giving you some difficulties, even though they are a comparatively small number?

**Mr Richardson**—It is the accuracy of information.

**CHAIR**—Is it also sometimes the difficulty of obtaining information from the countries where you may have to seek it?

**Mr Richardson**—Yes. As a general rule we do not go to the authorities of the country in respect of whom an individual is claiming asylum, for obvious reasons. The very act of going to the security authorities of the country in respect of whom the claim is made could add to the claim. There have been a couple of occasions when we have done that after consultation with the Inspector-General of Intelligence and Security.

**CHAIR**—I think we should finish there; we have very little time.

**Mr PRICE**—Just one quick question: is there a secondary procedure for visitor visa overstayers? You have made your assessment of those. Once they are detected as being an overstayer, do you, on your own initiative, do a second assessment?

**Mr Richardson**—No. As a general rule, overstayers are not referred to us as a matter of course.

**CHAIR**—Mr Richardson, thank you very much for appearing before the subcommittee this morning. We are very grateful for the information you have given us. I think you took one or two minor matters on notice and your assistance on those would be extremely helpful.

[12.30 p.m.]

**FAGAN, Ms Audrey, Executive Director, Protection, Australian Federal Police**

**McDEVITT, Mr Brendan Joseph, General Manager, National Operations, Australian Federal Police**

**STUDDERT, Mr Martin Charles, General Manager, Guarding and Security, and Director, Australian Protective Service**

**CHAIR**—I welcome officers of the Australian Federal Police and the Australian Protective Service. Mr Studdert, your presence is a bonus for us. We are very pleased to see you today.

**Mr Studdert**—It is nice to be here, Senator.

**CHAIR**—Although the subcommittee does not require that you give evidence under oath, I remind you that these hearings are legal proceedings of the parliament and therefore warrant the same respect as proceedings of the House. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. Ms Fagan, would you or your colleagues like to make some opening remarks before we proceed to questions?

**Ms Fagan**—Thank you, Senator. I have a short statement that I thought might be useful, depicting the role of the Australian Federal Police. Obviously, the role of the AFP is to enforce the Commonwealth criminal law to protect Commonwealth and national interests from crime in Australia and overseas. The AFP's functions are set out in section 8 of the Australian Federal Police Act. These functions include the provision of police services in relation to laws of the Commonwealth, property of the Commonwealth, including Commonwealth places, and property of authorities of the Commonwealth, and the safeguarding of Commonwealth interests and anything incidental or conducive to the performance of those functions. Within this framework, the AFP is expected to pursue clearly defined outcomes agreed by the government. The outcomes currently being pursued by the AFP are: outcome 1—the investigation and prevention of crime against the Commonwealth and protection of Commonwealth interests in Australia and overseas; and outcome 2—policing that creates a safer and secure environment in the Australian Capital Territory. Funding of outcome 2 is provided for by the ACT government.

The Australian Protective Service, which now falls under outcome 1, became an operating division of the AFP on 1 July this year. This is the first step in a staged approach to coordinate the complementary functions within the core businesses of the AFP and the APS, ensuring the closest possible coordination. The Commissioner of the Australian Federal Police is now the agency head for the Australian Protective Service as well. The APS operates as a discrete division of the AFP and will continue to work its guarding of Commonwealth property, including Kirribilli House, the Lodge, the Governor-General's residences, diplomatic consular premises and other installations such as Pine Gap and the Pacific Island processing centres.

The government shapes the AFP priorities through the ministerial direction made under section 37 of the Australian Federal Police Act. We had a supplementary direction to that

direction on 27 September 2000, which is of relevance to this subcommittee. That direction outlines the AFP's responsibilities regarding countering and otherwise investigating organised people smuggling, including to ensure that it provides an effective contribution to the implementation of the government's whole of government approach to unauthorised arrivals.

The Australian Protective Service also operates under a ministerial direction issued by the Minister for Justice and Customs under subsection 6(1) of the Australian Protective Service Act. This direction stipulates that the APS is to provide for, on behalf of, the Commonwealth protective and custodial services, including custodial services for the Department of Immigration and Multicultural and Indigenous Affairs under the Migration Act 1958.

I would like to say a few words about detention centres. Responsibility for enforcement of local laws at Commonwealth places located in the states and the Northern Territory has, since the 1970s, rested with the state and Northern Territory law enforcement officials. This is by virtue of agreements entered into under the Commonwealth Places (Applications of Law) Act 1970. The AFP's role at DIMIA detention centres is to investigate referrals of serious criminal activity within detention centres, in accordance with the provisions of the AFP's service agreement with DIMIA and the AFP's ministerial direction. The AFP has no role in providing security to the detention centres and is not resourced or trained outside of the ACT to provide crowd control outside the centres in the event of a major disturbance or demonstration.

To ensure that the AFP focuses its finite resources on the areas of focus outlined in its ministerial direction, it utilises a case categorisation and prioritisation model. All referrals received by the AFP, including matters of concern at detention centres, are assessed against this model, existing investigation and available resources, and are accepted for investigation or rejected on a priority basis. The AFP service agreement with DIMIA states that the AFP will apply that model uniformly and consistently in assessing referrals from DIMIA to ensure that the AFP resources are directed to high priority activities. While the Australian Protective Service provides guarding services at the Pacific Island processing centres, it does not provide these services on mainland Australia and has not done so since late 1997.

The commissioner decided recently not to proceed with the APS participating in the tender process for management of the detention centres, including the provision of security at centres in Australia. DIMIA has, on a number of occasions in the last two years, sought additional support from the Australian Protective Service in response to periods of short-term need within detention centres or when a major public demonstration has been predicted. On these occasions, APS involvement has been largely restricted to the area outside of the detention centre perimeter fence and has been closely coordinated with state or territory police law enforcement authorities.

**CHAIR**—Thank you very much. Mr Studdert, did you wish to add anything from the APS perspective?

**Mr Studdert**—No, thank you, Senator.

**CHAIR**—Did you wish to add anything, Mr McDevitt?

**Mr McDevitt**—No.



**CHAIR**—This being the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, one of the areas that we have been pursuing has been the human rights training and education that is given to officers who work, or have contact in any way, with the IDCs, with detainees and so on. From the perspective of the AFP and the APS, what training is given to officers for dealing with unlawful arrivals and asylum seekers and does it have a human rights perspective?

**Ms Fagan**—In my opening statement I said that the role for the AFP relates to investigations and in that role any federal agent going through their training gets diverse cultural awareness training. I would have to take on notice further details specific to the AFP. Perhaps Mr Studdert could expand from the perspective of the Australian Protective Service.

**Mr Studdert**—It is one of the areas of considerable focus in recruit training and ongoing training for the APS because of this ongoing role that we have with DIMIA. We can be called on at quite short notice. So we give our officers cultural training in dealing with people from other cultures. From a deployment perspective, where possible, we try and deploy people with appropriate language skills. We have been surprised how many languages we have had represented across the organisation. Before deployment, refresher training is given—which is sometimes quite brief—on dealing with people from other cultures.

**CHAIR**—So with respect to the people who the APS has deployed in guarding services at the Pacific Island processing centres, such as those on Manus and Nauru, you have endeavoured to strategically deploy those people with the appropriate, as you say, language skills and training to ensure that they are best suited to that environment?

**Mr Studdert**—That is correct.

**CHAIR**—Could you take on notice a question in relation to the note that you have introduced—the versatility in terms of language of the APS—and give us some idea of what that covers?

**Mr Studdert**—Sure, Senator.

**CHAIR**—That will be helpful.

**Senator BOLKUS**—I know you went through this briefly, but can I go back to the arrangements on Manus and Nauru. Both the APS and the AFP are involved there. Are you both, in a sense, contracted by the immigration department?

**Ms Fagan**—I can speak about both of those, Senator. The APS is commercially contracted by DIMIA and obviously contributes to the security and planning on Nauru and Manus. In relation to the AFP, the AFP has supported those operations by providing security advice, physical communication equipment, and also we have had professional negotiators on stand-by at times of need. I am unaware of the commercial relationship that applies to that. We could take that on notice.

**Senator BOLKUS**—Thank you. You say the APS contributes there, but to what extent does the APS contribute? Is it the main player, for instance?

**Ms Fagan**—The processing centres are actually managed by the International Organisation for Migration, so we take on a coordinating and assisting role. It also involves the national police at Manus and Nauru, the Defence Force and private security contractors.

**Senator BOLKUS**—Is the IOM contracted by Australian Immigration or is it contracted by the governments of Nauru and PNG? Would you like to take that on notice?

**Ms Fagan**—Perhaps that would be something that the department could answer.

**Senator BOLKUS**—But you are contracted by the department?

**Ms Fagan**—Correct.

**Senator BOLKUS**—Can you tell us to what extent APS personnel run the centres and to what extent personnel from Nauru and PNG might be involved.

**Mr Studdert**—I can comment on that. The APS role there is not to run things inside the centres; there are private security personnel employed at both Manus and Nauru for that function. So the APS role becomes an advisory role, a role of dealing with any crisis that comes up—for example, if somebody escapes, or those types of specific tasks—but we are not there to run the centres.

**Senator BOLKUS**—Are the private security groups from Australia?

**Mr Studdert**—On Nauru, I believe Chubb is employed as the private security provider, and on Manus, it is a PNG based company called Protect.

**Senator BOLKUS**—So that is done not by you but maybe by Immigration?

**Mr Studdert**—Correct.

**Senator BOLKUS**—Do you know whether it is Immigration or not?

**Mr Studdert**—I cannot confirm that.

**Senator BOLKUS**—We can go back to them about that. That is APS. For the AFP, in terms of checks for criminality and so on, under what arrangement is that done in Nauru and Manus?

**Ms Fagan**—As far as criminal history checks go, should a detainee apply for citizenship in Australia—

**Senator BOLKUS**—Or for residence. Don't jump the gun; it may be residence rather than citizenship.

**Ms Fagan**—Apologies, Senator. Through the criminal records vetting area, we would respond to an authorised consent form. That is the process that is in place for those checks.

**Senator BOLKUS**—So that would essentially be under the normal arrangement you have with Immigration?

**Ms Fagan**—Correct.

**Senator BOLKUS**—And there are no special agreements, for instance, with the government of PNG or Nauru?

**Ms Fagan**—I will take that on notice. It would be a normal process that is in place, and I am not aware of a particular MOU.

**Mrs MOYLAN**—I would like to specifically further the question of appropriate language skills. This should have been a question directed to the previous witness as well. You indicate that you do have officers with a range of language skills who do the initial interviewing and have interaction with these people. Are they properly trained translators or do they just have a working knowledge of the language?

**Mr Studdert**—I should say that this has not been a systematic program on behalf of the APS. Gradually, as we have become involved on an ad hoc basis at the detention centres and at the processing centres, we realised we had a broad range of languages represented in our work force. We then set out to take these people and deploy them to both Manus and Nauru, just because we felt it would help.

**Mrs MOYLAN**—The point I am making here is that, especially when you are dealing with some of the more subtle translation issues, there is a very vast difference between having people who just speak the language and having people with appropriate translating skills. I think it is a very important distinction, and it is very important in terms of giving these people the best chance of succeeding where they are genuine refugees.

**Mr Studdert**—I would not like to give the impression that this was a contracted function of the APS. It was really just a value adding thing—we saw the opportunity to enhance what we do there. It is using people who have these languages by vent of their ethnic background rather than trained interpreters.

**Mrs MOYLAN**—I understand. Obviously, that is a better situation than not having any language skills at all, but I do think there are some critical issues. The proper translation could indeed be very important. I wonder whether you are going to take that particular issue on board, whether you have thought about that and whether there is any plan to actually put your officers through proper translation courses so that they can appropriately deal with the difficult issues that arise.

**Mr Studdert**—The translation function is not really the APS function. That implies translation of documents, which is not really what we do. This is about interpretation and the relationship that we set up, as a Commonwealth uniformed force, with the detainees.

**Mrs MOYLAN**—But I am not talking about translation of documents; I am talking about the interpretation or translation of verbal encounters, which is obviously pretty important in the initial processing phases.

**Mr Studdert**—Again, my response would be that we put people with appropriate languages in there when we are able to. I do not have a program in place to develop people to higher levels of language training at this time.

**Mrs MOYLAN**—The other issue I would like to take up is investigation into complaints. You have outlined clearly that your role is not to provide the security personnel at the detention centres but that you do have a role in investigating complaints and you do have some procedure. Given that our human rights subcommittee has from time to time had complaints of alleged brutality and inappropriate treatment in detention centres, can you outline that procedure for us? First of all, you mentioned that this is directed to high priority issues. Would those kinds of episodes be high priority issues for you? How would you go about investigating those complaints? What procedure is in place for properly investigating such allegations?

**Mr McDevitt**—I could make a couple of comments in relation to that. As Federal Agent Fagan stated in our opening statement, many of these offences are offences against individuals: assaults, offences against the person. The AFP has a capacity to investigate these forms of offences—particularly within ACT policing, where we have a community policing responsibility. At issue for us is that, outside the ACT, we do not generally have responsibility for investigation of offences against the person and our capacity and expertise are directed at other forms of criminality, for example, offences against the government or fraud offences—a different category of offences altogether, requiring a very different skill set.

**Mrs MOYLAN**—But not in looking at allegations of offences against detainees by those who are supposed to be caring for them?

**Mr McDevitt**—We have received a number of referrals.

**Mrs MOYLAN**—That is what I am referring to specifically—that is, offences against detainees by people who are supposed to be looking after them.

**Mr McDevitt**—We have had a range of referrals of allegations of offences from detainees and from prison guards in relation to detainees. We have protocols in place with state jurisdictions, where we discuss referrals or allegations and they are assessed in accordance with the prioritisation model. A number have been taken on and are being investigated. Others are referred to state jurisdictions for investigation.

**Mrs MOYLAN**—So you would first of all refer to the state jurisdiction for initial investigation?

**Mr McDevitt**—We actually have a protocol. For example, at the moment we are negotiating a protocol with New South Wales Police for response to, and investigation of, offences committed at the Villawood Detention Centre. It relates also to responses to non-criminal issues such as protests and that sort of activity.

**Mrs MOYLAN**—You are saying that you are working up protocols now, but what has been happening in the past three or four years in relation to these kinds of complaints, in terms of a proper investigation process?

**Mr McDevitt**—I do not have the breakdown regarding the origin of a particular complaint but I can say that, in the 2000-01 financial year, the AFP accepted a total of 15 referrals for investigation; in the 2001-02 financial year, the AFP accepted a total of 32 referrals.

**Mrs MOYLAN**—We are moving off the point. In Ms Fagan's opening address she said that there were protocols in place for investigating complaints and these were directed to high priority issues. I am trying to understand what kind of complaints get a priority, and what process and protocols are then in place to properly investigate those complaints. If you are only just entering into protocols with the New South Wales Police—because there seems to be a process involving the state or territory police—what has been happening in the past in investigating these complaints from detainees, where the human rights subcommittee has had letters about these issues? What has been done about investigating those complaints by detainees for offences against them by those who are supposed to be caring for them and guarding them?

**Mr McDevitt**—I would have to take that on notice if you are after specific information in relation to the number of complaints—

**Mrs MOYLAN**—No, I am not after specifics. Ms Fagan told us in her outline that one of the roles of the AFP was to provide investigation into complaints and that there was a protocol for that and this process was directed to high priority issues. I think if you go back through the transcript, that is the language that was used. What kind of issues get priority, and how are those complaints dealt with? What is the process? I am not asking for a specific case. I am asking for the general process that takes place when a complaint has been lodged.

**Ms Fagan**—That is the case categorisation and prioritisation model.

**CHAIR**—It is not something with which this subcommittee will be familiar.

**Ms Fagan**—I would be happy to give you some detail on notice about how that process works as far as receipt of an investigation request—

**Mrs MOYLAN**—That is what I am trying to get at. It is clearly an important issue for this subcommittee, given that we have had written communication direct from detainees who feel that their case has not been properly investigated, hence the reason for it coming to this subcommittee.

**Ms Fagan**—If we can take that on notice, we will detail it for you.

**CHAIR**—And outline the CCPM and how it works, because this subcommittee will not have had the pleasure of the AFP's acronyms and the models before. Thank you on behalf of the subcommittee for your assistance today. It has been very helpful to us in a number of areas. In relation to the training questions which I asked earlier, I think you indicated that you would come back to me on the specific details with regard to human rights training—which of course is different from cultural training per se—and there is the matter that Mrs Moylan raised. We may have one or two other questions from Mr Thompson to put on notice, and we will send those to you as a matter of priority.

Resolved (on motion by **Mrs Moylan**):

That this subcommittee authorises publication of the proof transcript of the evidence given before it at public hearing this day.

**Subcommittee adjourned at 12.53 p.m.**