



**The Hon Brendan O'Connor MP**  
Minister for Immigration and Citizenship



699-1129.

**The Hon John Murphy MP**  
Chair  
Standing Committee on Petitions  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600

Dear Mr Murphy

Thank you for your letter of 10 September 2012 to the former Minister for Immigration and Citizenship, the Hon Chris Bowen MP, concerning a petition from St Timothy's Catholic Parish of Vermont in Victoria, about the release from immigration detention of three persons with adverse security assessments (ASAs). I regret the delay in responding.

Due to privacy laws, I am unable to discuss specific details of any case. I can assure you, however, that the Australian Government is committed to providing protection consistent with the values and principles of the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* and other human rights treaties to which it is a party.

The Australian Security Intelligence Organisation (ASIO) issues an adverse security assessment when it assesses an individual to be directly or indirectly a risk to security within the meaning of section 4 of the ASIO Act 1979. It is the Government's view that it is not appropriate for individuals with adverse security assessments to be released into the Australian community. The Government accords a very high priority to national security concerns and any indication of a national security risk is taken seriously. These are very complex cases and decisions are not taken lightly. I am advised that they make up less than one per cent of all irregular maritime arrival visa security assessments undertaken since January 2010.

On 16 October 2012, the Government announced that it will provide an independent review process for those persons assessed to be a refugee but not granted a permanent visa as a result of an Australian Security Intelligence Organisation (ASIO) adverse security assessment. Asylum seekers who are the subject of an adverse security assessment will have access to this new independent review process.

The Hon Margaret Stone commenced work on 3 December 2012 as the inaugural Independent Reviewer of Adverse Security Assessments. Ms Stone is a former Judge of the Federal Court and an eminent Australian with experience in legal, immigration and national security matters. Ms Stone will provide an independent review process for those assessed to be a refugee but not granted a permanent visa as a result of an ASIO adverse security assessment.

Ms Stone has recently written to people in immigration detention who are eligible for review, notifying them of their entitlement to seek review and attaching the application form. It is a matter for Ms Stone to determine how particular cases will be prioritised. However, she will provide a recommendation to the Director-General of Security and report these findings to the Attorney-General, the Minister for Immigration and Citizenship and the Inspector-General of Intelligence and Security. When a person makes a request for independent review, ASIO will provide an unclassified written summary of reasons for the decision to issue an adverse security assessment to the Independent Reviewer, to be provided to the person. The reasons will include information that can be provided without prejudicing the interests of security. There will also be a regular 12 month periodic review of adverse security assessments for refugees in immigration detention.

The Inspector-General of Intelligence and Security (IGIS) also maintains oversight of ASIO's security assessment function. Although it is not a function of the IGIS to review the merits of adverse security assessments, under the *Inspector-General of Intelligence and Security Act 1986*, the IGIS may review the legality and propriety of associated ASIO practices and procedures.

The Government's position regarding people who receive an adverse security assessment is that they should be removed from Australia, either to their country of origin or a safe third country, where this is consistent with Australia's international obligations. Australia continues to have contact with officials from a number of resettlement countries to explore options for resettlement of refugees with adverse security assessments.

The Government has determined that individuals who have been assessed by ASIO to be directly or indirectly a risk to security should remain in held detention, rather than live in the community, until such time as resettlement in a third country or removal is practicable.

Of course, we ensure appropriate arrangements are in place for the care and support of people detained due to an adverse security assessment. Accommodation placement decisions are made on a case-by-case basis, taking into account the person's individual level of security risk and their care needs. Where appropriate, placement options within the immigration detention network include the least restrictive facilities, such as Immigration Residential Housing and Immigration Transit Accommodation.

Accommodation placement decisions are subject to regular reviews to ensure that the placement remains appropriate, including Departmental senior officer and Commonwealth Ombudsman reviews.

Thank you for raising St Timothy Catholic Parish of Vermont's concerns with me.

Yours sincerely



**BRENDAN O'CONNOR**

14 MAR 2013