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JOINT STANDING COMMITTEE ON MIGRATION (JSCM)

INQUIRY INTO IMMIGRATION DETENTION IN AUSTRALIA

44 QUESTIONS

Responses from the Department of Immigration and Citizenship
as at 26 September 2008

12. Since 1992, what is longest period of detention for an immigration client? Between which dates was this person in immigration detention?

Departmental records indicate that the person detained in immigration detention for the longest period of time has been detained from 5 January 2001 and as at 12 September 2008 has been detained for 2807 days, or more than seven years.

Since the implementation of the scheme for 'detention debt waiver and recovery':

18. How many detainees have been subjected to the charges?

Between 2004 and 2008, a total of 17,335 detainees have been invoiced for detention debts.

2004-05	5,542
2005-06	5,306
2006-07	4,101
2007-08	2,386
Total	17,335

19. What is the total of their debt?

The total debt invoiced between 2004 and 2008 is \$170,143,787.37.

2004-05	\$65,346,414.02
2005-06	\$50,509,908.73
2006-07	\$30,999,374.29
2007-08	\$23,288,090.33
Total	\$170,143,787.37

20. How much has been repaid?

The total amount of debt that was repaid between 2004 and 2008 was \$4,116,629.08.

Debts Recovered onshore

2004-05	\$1,197,784.74
2005-06	\$928,368.13
2006-07	\$776,920.79
2007-08	\$736,616.18
Total	\$3,639,689.84

Debts recovered offshore

2004-05	\$56,209.69
2005-06	\$160,437.43
2006-07	\$126,078.08
2007-08	\$134,214.04
Total	\$476,939.24

Total debts recovered \$4,116,629.08

21. In how many cases has the debt been:

- **waived?**
- **written off?**

The debt has been waived in 495 cases between 2004 and 2008.

2004-05	19	\$ 332,786.07
2005-06	324	\$1,668,901.03
2006-07	10	\$ 616,111.00
2007-08	142	\$3,417,006.51

Total numbers of debts waived: 495

Total amount of debt waived: \$6,034,804.61

The debt was written off in 10,580 cases between 2004 and 2008.

2004-05	738	\$38,071,638.64
2005-06	4,528	\$46,714,235.93
2006-07	3,571	\$28,910,699.34
2007-08	1,743	\$19,253,883.43

Total numbers of debts written off: 10,580

Total amount of debt written off: \$132,950,457.34

22. How many individuals have repaid the debt?

- in full?
- in part?

2004-05	Paid in part	443	\$444,872.89
	Paid in full	444	\$752,911.85
2005-06	Paid in part	410	\$665,014.19
	Paid in full	172	\$263,353.94
2006-07	Paid in part	300	\$593,467.37
	Paid in full	91	\$183,453.42
2007-08	Paid in part	286	\$581,046.21
	Paid in full	81	\$155,569.97

In his report *DIAC: Administration of detention debt waiver and write-off*, the Ombudsman recommended the reduction of detention debt in cases where factors beyond a person's control delayed their removal. DIAC responded that it agreed with the recommendation and would review the policy.

24. Does DIAC seek to locate all affected people to inform them that their debt has been waived?

DIAC does seek to locate all affected people to inform them that their debt has been waived. In any instances where the department become aware of someone who has been released not unlawful then the department would be initiating a waiver request and seeking to advise the client of the outcome.

People not lawfully detained

27. What compensation has been given to these people?

In relation to the 247 cases of immigration detention referred to the Commonwealth and Immigration Ombudsman, as at 20 August 2008, the Commonwealth has made offers of compensation in 31 matters. Thirteen matters have been resolved through confidential negotiated settlements with compensation payable.

The Department will continue to make offers of compensation in cases where there is a meaningful prospect of liability. In cases where there is no risk of legal liability, consideration is being given to whether individual circumstances meet the criteria for compensation under administrative compensation schemes, including payments for 'defective administration'.

Whilst the financial compensation process is underway, it is too early to assess the extent of the total claims that may be paid.

Community-based alternatives to immigration detention

The Committee is required to advise on options for additional community-based alternatives to immigration detention.

29. What criteria are used to determine whether a person is placed in a community-based alternative (a) instead of being detained or (b) after being detained?

The community based alternatives referred to in the response to question 28 [question 28 currently being reviewed – community based alternatives include Community Detention and alternative temporary detention in the community, eg. motels, hotels, private apartments, hospitals and foster care] are both forms of immigration detention under the Migration Act and legally constitute being detained. A bridging (or other) visa is the only current alternative to a person being held in a form of immigration detention.

The criteria used to determine all placements in immigration detention are set out in the Client Placement Model (CPM) Instruction and are based on the following placement indicators:

1. health and wellbeing
2. family structure
3. availability of community support
4. immigration pathway
5. cultural and religious sensitivities
6. availability of detention accommodation
7. security risk assessment.

The series of documents used to consider placement decisions are attached.

The scope of the Community Care Pilot referred to in the response to question 28 does not extend to criteria used to determine if a person is placed in any form of immigration detention.

31. What criteria are used to determine the type of immigration detention (e.g. detention facility or community-based) applied to individuals (a) initially and (b) subsequently?

The criteria currently used to determine the type of immigration detention applied to individuals (a) initially and (b) subsequently are set out in the CPM (refer to the response to question 29).

The Community Care Pilot's scope does not extend to criteria used to determine if a client is placed in any form of immigration detention.

32. Are there policies/procedures specifying (periodic) review of the type of detention and if so, what are they?

Currently, the CPM provides the policy and procedural framework for ongoing review of the appropriateness of immigration detention accommodation placements.

Under the CPM, a Case Manager reviews a person's immigration detention accommodation status via a client placement review. These placement reviews occur at the following predefined points in a person's immigration detention pathway:

- 48/72 hour review of initial placement into the detention network (all initial placement reviews will be completed before 48 hours where practicable, but no later than 72 hours); and
- monthly placement review as part of the monthly case plan review.

Departmental officers in IDCs conduct Client Placement Assessments as required, outside the monthly placement reviews conducted by Case Managers. These assessments may be triggered by:

- a request from an internal or external stakeholder including but not limited to:
 - the case manager
 - the person in immigration detention
 - the Detention Service Provider or Health Service Provider
 - the Commonwealth Ombudsman's Office or
 - the Australian Human Rights Commission;
- a change to a placement indicator (as described in the response to question 29); or
- new and significant information that is received about a person.

The Minister indicated in his speech on 29 July 2008 that he will be seeking earlier and more frequent reviews of the decision to detain. The Department is currently working on an implementation plan for the *New Directions in Detention* policy, including the introduction of a review by a senior departmental officer every three months, and the introduction of an earlier review by the Commonwealth Ombudsman, at the six month mark.

44. In what proportion of cases before the Refugee Review Tribunal are Departmental decisions are overturned?

Departmental records as at 22 August 2008 indicate that of the 2405 decisions made by the Refugee Review Tribunal (RRT) in the 2007-08 program year, 566 applications (23.5%) were remitted to the Department. These figures are indicative only and may differ to that held by the RRT.