

Audit Report No. 57, 2001-2002

Management Framework for Preventing Unlawful Entry into Australian Territory

Introduction

Background

- 4.1 Current government policy is to facilitate the lawful international movement of people while regulating the entry and presence of non-citizens in Australia. Under Australia's *Migration Act 1958*, which is administered by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), people who are not Australian citizens are required to hold a current visa to enter and stay in Australia.
- 4.2 A non-citizen who is in Australia without a valid visa is defined as an unlawful non-citizen. DIMIA classifies unlawful non-citizens into the following categories:
- Unauthorised arrivals – persons who arrive without the correct documentation;
 - Overstayers – persons who enter the country legally and later become unlawful by overstaying their visas; and

- Persons who are breaching visa condition – persons whose visas have been cancelled for reasons such as working without permission.¹
- 4.3 In response to a significant increase in the number of unauthorised arrivals and illegal immigration activity in early 1999, the Government developed a whole of government strategy, which involved a number of measures to prevent unlawful entry into Australia.²
- 4.4 The Australian National Audit Office (ANAO) categorised these measures as offshore, border and onshore measures. The basis of the ANAO classification relates to where the primary activity for individual measures takes place.³
- 4.5 Offshore measures can be viewed as the first line of defence in protecting the integrity of the Australian border. These measures mainly seek to detect, disrupt and deter potential unauthorised arrivals from travelling to and entering Australia. These measures include:
- the placement of additional Principal Migration Officers (Compliance) (PMO(C)s) in source and transit countries to detect people attempting to travel to Australia illegally, strengthen information gathering, and combat document and identity fraud and people smuggling;
 - the placement of additional Airline Liaison Officer (ALOs) to work with airlines in key transit countries to intercept potential unauthorised arrivals en-route to Australia;
 - the establishment of a joint Australian Federal Police (AFP)-DIMIA People Smuggling Strike Team to investigate, detect and disrupt organised people smuggling;
 - the imposition of penalties on commercial carriers who bring unauthorised or inadequately documented passengers to Australia;
 - the implementation of an overseas information campaign to deter people smugglers and potential unauthorised arrivals from travelling to Australia;

1 ANAO, Audit Report No. 57, *Management Framework for Preventing Unlawful Entry into Australian Territory, 2001–2002*, Commonwealth of Australia, p. 10.

2 Agencies other than DIMIA involved in the strategy include the Australian Customs Service (ACS), the Australian Federal Police (AFP), the Australian Quarantine and Inspection Service (AQIS), the Department of Foreign Affairs and Trade (DFAT), the Department of Defence (Defence), Coastwatch, the Department of the Prime Minister and Cabinet (PM&C) and the Attorney-General's Department (A-GD).

3 ANAO, Audit Report No. 57, 2001–2002, p. 11.

- the provision of offshore humanitarian processing, technical training and support, economic assistance, and negotiation of bilateral return and readmission agreements with key source and transit countries; and
 - the international engagement with other countries, United Nations High Commission for Refugees (UNHCR), International Organisation for Migration (IOM) and in multicultural fora which enables Australia to participate in the development of a global approach and to influence international policy.⁴
- 4.6 These measures are designed to have a positive impact on the level of unlawful entry and, as a result, the downstream border processing, detention costs, and onshore compliance costs incurred by the Commonwealth.⁵

The ANAO audit

- 4.7 The objective of the audit was to assess DIMIA's management of offshore measures to prevent and detect unlawful entry to Australia, and to identify any opportunities for improvement.
- 4.8 The audit did not cover the processing arrangements referred to as the Pacific Strategy, introduced as part of legislative changes in September 2001. Nor did it cover the range of measures used to prevent unlawful entry at the border and to detect unlawful non-citizens onshore.⁶

Audit findings

- 4.9 Audit Report No. 57, 2001-2002, *Management Framework for Preventing Unlawful Entry into Australian Territory*, found that:
- DIMIA did not have a formal risk identification, monitoring and management process in place at the corporate or operational levels. In addition there had been no systematic or pro-active approach to identify, manage and monitor the various risks associated with administering measures to prevent, detect and disrupt unlawful entry;
 - there were no formal guidance documents available at the operational level;
 - objectives and expected outcomes were not always clear, impacting on DIMIA's ability to account for its performance;

4 ANAO, Audit Report No. 57, 2001-2002, p. 11.

5 ANAO, Audit Report No. 57, 2001-2002, p. 11.

6 ANAO, Audit Report No. 57, 2001-2002, p. 36.

- the Intelligence Analysis Section did not have a database to store, manage and analyse information, leading to reliance on the corporate memory of staff and an inability to access or retrieve information easily;
- DIMIA had still to develop a comprehensive performance information framework to support its internal monitoring and external reporting requirements.⁷

The JCPAA's review

- 4.10 On 23 August 2002, the Joint Committee of Public Accounts and Audit held a public hearing to review the progress made by DIMIA in relation to the implementation of the ANAO's recommendations.
- 4.11 The Committee took evidence on the following issues:
- planning and administration; and
 - DIMIA's intelligence function.

Planning and administration

- 4.12 Planning is an essential element of an effective corporate governance framework and efficient and effective administration. The audit report stated that sound planning arrangements in DIMIA were particularly important given the dynamic environment in which the department operates and the number of external agencies involved.⁸
- 4.13 The ANAO found that DIMIA did not have a formal risk identification, monitoring and management process in place at corporate or operational levels. Nor was there a systematic or pro-active approach to identify, manage and monitor the various risks associated with administering measures to prevent, detect and disrupt unlawful entry. The ANAO noted that DIMIA was in the process of developing a risk management strategy which was intended to be fully operational in 2003.⁹
- 4.14 The audit report also found that, while DIMIA had reflected details of government policy on unlawful entry in a variety of public documents, there would be benefit in its articulating in detail to staff how individual

7 ANAO, Audit Report No. 57, 2001–2002, pp. 15-17.

8 ANAO, Audit Report No. 57, 2001–2002, p. 38.

9 ANAO, Audit Report No. 57, 2001–2002, p. 48.

measures fitted into DIMIA's approach to prevention of unlawful entry. No formal guidance documents were available at the operational level.¹⁰

4.15 It was not evident to the ANAO that there had been any attempt at integrating the planning approaches of the two branches with primary responsibility for managing and monitoring the majority of measures to prevent unlawful entry.¹¹

4.16 The Committee invited DIMIA to detail any issues it wished to raise in relation to the audit recommendations.¹²

4.17 DIMIA responded by giving an overview of its reaction to the audit report:

The recommendations of the report relate to the processes of internal governance. We accept those recommendations and we are putting considerable resources into addressing them. I would observe that we were already putting some resources into them at the time of the audit and had made considerable investments in this area before the audit report was tabled.

... it is our view that as an organisation DIMIA had made considerable positive steps towards more effective corporate governance.¹³

4.18 It was DIMIA's view that within the areas covered by the audit there had been substantial increases in the level of unauthorised arrivals which, at the time, impacted upon its ability to make improvements in corporate governance:

... if an organisation is going through a particularly challenging and difficult period, it is difficult to focus to the extent that might otherwise be desirable upon formal strategic planning and documentation processes.¹⁴

4.19 DIMIA stated that its priority during the period of increased levels of unauthorised arrivals was dealing with the significant challenge to the border integrity of Australia and not developing strategic plans and documenting relationships:

We do not question the significance of undertaking those actions for good corporate governance and, indeed, that is why we are

10 ANAO, Audit Report No. 57, 2001–2002, p. 48.

11 ANAO, Audit Report No. 57, 2001–2002, pp. 48-9.

12 *Transcript*, 23 August 2002, p. 29.

13 D. Moorhouse, DIMIA, *Transcript*, 23 August 2002, p. 29.

14 Moorhouse, *Transcript*, 23 August 2002, p. 29.

investing significant resources in that area. We would have felt more fairly treated if there had been a more substantial acknowledgment of the strategy that we were undertaking and the achievements that we have made.¹⁵

4.20 The Committee sought comment from the ANAO.¹⁶

4.21 The ANAO acknowledged that DIMIA had had an enormous workload and had worked under a lot of pressure and would have been pleased with its results in preventing unauthorised entry. The ANAO considered that DIMIA probably would have liked to have seen some greater acknowledgment of those achievements in the [audit] report.¹⁷

4.22 The ANAO continued:

Our audit had a particular focus. We did make the point that we felt that [DIMIA] did place too much emphasis on the ability of individuals to respond effectively to particular situations based on their skills and experience rather than to rely on accepted government practices. The very clear message in the report from our point of view was that you cannot continue to rely on individuals responding to situations or it is risky doing that; you need to put in place sound and accepted governance arrangements as well.¹⁸

4.23 The ANAO considered that it and DIMIA were not too far apart in terms of the governance issues raised by the audit report.¹⁹

4.24 The Committee drew attention to audit recommendation no. 1, which concerned the development of an integrated approach to the implementation and management of measures to prevent unlawful entry into Australia. The Committee asked DIMIA how implementation of the recommendation would improve its performance.²⁰

4.25 DIMIA replied that its agreement with the recommendation acknowledged the sophistication of the challenge being faced:

We have people involved in the people-smuggling business who are ... smart people who are well resourced and involved in a very profitable business. Therefore, there is a high level of organisation

15 Moorhouse, *Transcript*, 23 August 2002, p. 30.

16 *Transcript*, 23 August 2002, p. 31.

17 I. McPhee, ANAO, *Transcript*, 23 August 2002, pp. 30-1.

18 McPhee, *Transcript*, 23 August 2002, p. 31.

19 McPhee, *Transcript*, 23 August 2002, p. 31.

20 *Transcript*, 23 August 2002, p. 38.

behind attempts to bring unlawful or unauthorised people to Australia.²¹

- 4.26 DIMIA told the Committee that it recognised the value of the ANAO's recommendation and acknowledged that in facing such well organised and well resourced opponents there was no room for complacency:

We have to adopt the best practice in relation to strategic planning and I believe the recommendations by the ANAO will give us some guidance in that regard.²²

- 4.27 DIMIA drew attention to its level of achievement in relation to establishing an outcome and output framework and in implementing accrual accounting and output based budgeting:

As an organisation, we have been at the front of the pack in relation to those sorts of measures. I acknowledge that in the area that we are discussing today some of the next steps have been delayed.

Frankly, our resources were very much directed towards dealing with the particular challenge that we were facing as a country. as soon as we have had a chance to turn to it, that is where we have been putting our resources.²³

- 4.28 The ANAO commented that it did not disagree with DIMIA's evidence in terms of what it was doing and where it might be going in the future. It acknowledged the good initiatives that DIMIA had put in place. The ANAO emphasised that the audit report provided DIMIA with a stimulus to focus on the governance issues and asked for more discipline in the management framework going forward.²⁴

People Smuggling Strike Team

- 4.29 In 1999 the Australian Federal Police (AFP) and DIMIA established a People Smuggling Strike Team (PST) to investigate, detect and disrupt organised people smuggling.²⁵

- 4.30 The audit report stated that while the PST had had some successes, at the time of the audit the AFP and DIMIA had not developed a strategy or framework for investigating organised people smuggling:

21 D. Moorhouse, DIMIA, *Transcript*, 23 August 2002, p. 38.

22 Moorhouse, *Transcript*, 23 August 2002, p. 38.

23 Moorhouse, *Transcript*, 23 August 2002, pp. 39-40.

24 McPhee, *Transcript*, 23 August 2002, pp. 38-9.

25 ANAO, Audit Report No. 57, 2001-2002, p. 11.

This contributed to a lack of clarity across both organisations concerning the objective, scope and focus of the PST; limited ability to provide assurance of PST performance; insufficient development of processes and procedures to support investigations and whole of government interactions; and limited intelligence to drive and support investigations.²⁶

- 4.31 The AFP advised the ANAO that it had initiated and drafted a PST Memorandum of Understanding (MOU) between itself and DIMIA which outlined procedures on such things as: prioritisation of investigations; liaison intelligence management; and financial issues. It also provided measurement for outputs, and onshore and offshore performance measures.²⁷
- 4.32 The Committee asked DIMIA why the MOU had not yet been signed.²⁸
- 4.33 DIMIA replied that it had made considerable amendments and suggestions to the AFP who had taken on the task of drafting and finalising the MOU.²⁹
- 4.34 In response to the Committee's querying the delay, DIMIA said:
- It is an issue of getting two operational agencies to come to terms with having a joint agency strike team, which is a relatively unique structure in a lot of ways. Both agencies have wanted to be very clear in the MOU about what the roles are of both agencies but, in the same context, how the agencies are brought together to manage that joint task force.
- The MOU is specifically to do with the operations of the joint agency strike team, whose focus is on the prosecution of the criminal elements within people smuggling.³⁰
- 4.35 DIMIA noted that for some time it had had a broad-based client service agreement with the AFP that covered how the two agencies as a whole dealt with each other.³¹
- 4.36 The Committee sought comment from DIMIA on whether it thought that its overall management practices had had some impact on its capacity to complete the MOU with the AFP.³²

26 ANAO, Audit Report No. 57, 2001–2002, p. 46.

27 ANAO, Audit Report No. 57, 2001–2002, p. 46.

28 *Transcript*, 23 August 2002, p. 31.

29 N. Siegmund, DIMIA, *Transcript*, 23 August 2002, p. 31.

30 Siegmund, *Transcript*, 23 August 2002, pp. 31-2.

31 Siegmund, *Transcript*, 23 August 2002, p. 32.

4.37 DIMIA conceded that it may have done:

... the two financial years 2000-01 and 1999-2000 saw record numbers ... of unauthorised arrivals entering Australia so we were very focused on trying to deal with that, more so than we were on finalising the MOU. So, yes, it would have had an impact in that sense.³³

Committee comments

4.38 The Committee notes that DIMIA has relied heavily on individuals in its agency and their intuitive risk management, but is now developing a risk management strategy which is expected to be completed in mid 2003.

4.39 The Committee's impression is that DIMIA has been somewhat slower than other agencies to adopt some of the new approaches to management in terms of risk management, governance, planning and linking operational plans to strategic plans.

4.40 To achieve organisational objectives and better outcomes, the Committee considers that DIMIA needs to pay far greater attention to framework issues, and not focus only on implementation of policy and its response to business pressures.

4.41 At the same time, the Committee is aware that DIMIA was subjected to a great deal of pressure due to the recent increase in the level of unauthorised arrivals and acknowledges its effective response.

DIMIA's intelligence function

4.42 The intelligence function is the key departmental mechanism for identifying current and emerging trends and risks, and supporting the department's executive and operational areas in the development of risk management strategies and measures. The National Crime Authority's (NCA's) definition of intelligence is 'insight or understanding on the nature and/or extent of a current or future threat, developed through the careful analysis of available information that provides direction for effective action'.³⁴

32 *Transcript*, 23 August 2002, p. 40.

33 Siegmund, *Transcript*, 23 August 2002, p. 40.

34 ANAO, Audit Report No. 57, 2001-2002, p. 50.

- 4.43 DIMIA's intelligence function forms part of a wider whole of government intelligence collection and coordination effort to detect and deter unauthorised arrivals, particularly by boat.³⁵
- 4.44 The audit report found that although the Intelligence Analysis Section provided tactical and operational intelligence support for the department, there would be benefit in the department's developing a strategic intelligence capability to provide insight and understanding, including advice on current and emerging trends relating to unlawful entry.³⁶
- 4.45 The audit noted that much of the information required to facilitate an understanding of the nature and extent of the wider unauthorised migration problem, including the identification of current and emerging trends and threats, already existed, but had not been utilised to inform management of emerging strategic issues.³⁷
- 4.46 The Committee asked whether it would have been possible to have implemented some of the management practices recommended in the audit report prior to the upsurge in activity levels that eventuated.³⁸
- 4.47 DIMIA replied that it would have been possible to have undertaken the implementation of its intelligence function faster, but that it was important to build that capacity in a structured way:
- ... it is important to acknowledge that you have got to make some first steps. If we are talking about a strategic intelligence capacity within the organisation, the first thing one needs is an intelligence collection network. You have got to have some information to deal with first. We started putting in place our immigration compliance officer network in the early nineties. We have gradually built on that network and now have ... 24 staff offshore.³⁹
- 4.48 DIMIA stated that in recent years it had established a better structured, resourced and more focused intelligence analysis capacity:
- ... it is important that you have the collection network, the analysis capacity and then move on to using that intelligence available to you in a strategic way and become an intelligence driven organisation.⁴⁰

35 ANAO, Audit Report No. 57, 2001–2002, p. 50.

36 ANAO, Audit Report No. 57, 2001–2002, p. 55.

37 ANAO, Audit Report No. 57, 2001–2002, p. 55.

38 *Transcript*, 23 August 2002, p. 39.

39 Moorhouse, *Transcript*, 23 August 2002, p. 39.

40 Moorhouse, *Transcript*, 23 August 2002, p. 39.

4.49 In response to the Committee's question on whether there was any scope for modelling in DIMIA's relationships with other agencies, DIMIA replied that it considered modelling of value. It said that it was looking to other organisations such as the Australian Customs Service (ACS), which had a developed intelligence capacity, to provide models in terms of how to proceed with the development of its strategic intelligence capacity:

We will certainly be focusing on learning what we can, both from the audit report and other organisations.⁴¹

4.50 The Committee noted the audit comment that there was a reliance on current personnel and asked DIMIA if there was a time frame for putting the necessary information technology (IT) resources in place to support the intelligence function.⁴²

4.51 DIMIA stated that it was in the process of introducing an intelligence database IT system:

... that has been a very important resource for us and we have pressed forward with respect to obtaining it. It is a complicated [issue] as well, because there are obvious issues of security on the IT side with all the complexities of having a database brought in to an agency that already has quite a substantial IT system in place.⁴³

4.52 In reference to the issue of relying on individuals, DIMIA acknowledged that in setting up the intelligence analysis section it had deliberately recruited intelligence professionals in order to develop a tactical and operational intelligence response as quickly and effectively as possible. DIMIA considered that it was now able to move to a strategic level, namely, how to utilise intelligence to best arm the agency for whatever lay ahead.⁴⁴

Committee comments

4.53 The Committee notes that the Director of DIMIA's Intelligence Analysis Section has been given the task of developing a strategic intelligence function as part of the development and expansion of the departmental intelligence capability.

41 Moorhouse, *Transcript*, 23 August 2002, pp. 40-1.

42 *Transcript*, 23 August 2002, p. 43.

43 Siegmund, *Transcript*, 23 August 2002, p. 43.

44 Siegmund, *Transcript*, 23 August 2002, pp. 43-4.

- 4.54 It also notes that the Intelligence Analysis Section has developed a framework for the information collection process which will inform a revised collection priorities plan.⁴⁵

Recommendation 6

- 4.55 **The Committee recommends that the Department of Immigration and Multicultural and Indigenous Affairs make better use of its information sources, evaluate the effectiveness of its current operations, and coordinate the sharing of information with other agencies.**

45 DIMIA, Submission no. 4 p. 3.