

# CONTENTS

## Information relating to Budget Estimates 2003-2004

May 2003

### Examination of expenditure for the Department of Immigration and Multicultural and Indigenous Affairs Portfolio

#### Letters of correction/clarification

DIMIA	Letter of correction of evidence given in response to three questions asked by Senator Bartlett at L&C 271 concerning the number of partner visas applied for in the 2001-02 year; numbers of applications for permanent residence under the Domestic Violence Provision of the Migration Regulations; the number of unsuccessful applications made under the Domestic Violence Provision.	1
DIMIA	Letter of correction of evidence given in response to a question from Senator Sherry at L&C 446 concerning a price increase for AMEP tenders.	3
DIMIA	Letter of correction of evidence given in response to a question from Senator Kirk at L&C 414 concerning IOM payments.	4

#### Tabled documents

DIMIA	Document concerning to State and Territory offences relating to Sexual Servitude.	5
DIMIA	Document concerning month by month totals of detainee population from commissioning to closure (Woomera).	8
DIMIA	Document concerning alternative detention arrangements for unaccompanied minors and children.	9
DIMIA	Document concerning Port Augusta Residential Housing Project; Resident Survey.	14
ATSIC	Shared responsibility agreement between the Commonwealth of Australia, The Northern Territory Government and the Thamarrurr Regional Council.	19
IBA	List of Indigenous Business Australia investments	30

**Note:** Due to size restrictions, not all tabled documents are included in this volume.



**DEPARTMENT OF IMMIGRATION AND MULTICULTURAL  
AND INDIGENOUS AFFAIRS**

Ms Louise Gell  
Acting Secretary  
Legal and Constitutional Legislation Committee Secretariat  
Department of the Senate  
Parliament House  
CANBERRA ACT 2600

Dear Ms Gell

I am writing to you regarding my evidence to the Estimates Committee on Wednesday 28 May 2003.

At L&C271, my answer to a question from Senator Bartlett about statistics in a discussion paper referred to by Senator Bartlett needs clarification to the extent that the figure of 33,000 represented the number of people who applied for partner visas in the 2001-02 program year.

Also at L&C271, my answer to a question by Senator Bartlett on how many of the 473 applications for permanent residence under the Domestic Violence Provision of the Migration Regulations were approved needs clarification. There were 473 applications in the 2001-02 program year. At the time I did not have the figures on the number of approvals that were made in that year. I have, however researched this question and can now advise the Committee that there were 226 approved in 2001-02 under the domestic violence provision.

Finally at L&C271 Senator Bartlett requested data on the number of unsuccessful applications. Departmental records show that for the 2001-02 program year 13 applications made under the Domestic Violence Provision were refused. However, it appears that most of these were refused on grounds other than the domestic violence claim.

Applications that were approved or refused in 2001-02 are not necessarily those that were lodged in that year, and may have been lodged in a previous year.



I would be grateful if you could bring these clarifications and response to the attention of the Committee, and arrange for this letter to be tabled on the record together with my evidence given at the Estimates hearing.

Should you require further assistance, please do not hesitate to contact me on (02) 6264 4633.

Yours sincerely

Jacki Hickman  
A/g Assistant Secretary  
Migration Branch  
6 June 2003



**DEPARTMENT OF IMMIGRATION AND MULTICULTURAL  
AND INDIGENOUS AFFAIRS**

Ms Louise Gell  
Acting Secretary  
Legal and Constitutional Legislation Committee Secretariat  
Department of the Senate  
Parliament House  
CANBERRA ACT 2600

Dear Ms Gell

I am writing to you regarding my evidence to the Estimates Committee on 29 May 2003.

At L&C446, my answer to a question from Senator Sherry about the price increase for AMEP tenders needs clarification, to the extent that the tender price in Year 1 is maintained in Years 2 to 5 inclusive by applying the Consumer Price index.

I would be appreciative if you could bring this clarification to the attention of the Committee, and arrange for this letter to be tabled on the record together with my evidence given at the Estimates hearing.

Should further assistance be required, please do not hesitate to contact me on telephone number (02) 6264 2993.

Yours sincerely

David Doherty  
Assistant Secretary  
Citizenship & Language Services Branch

04 June 2003





**DEPARTMENT OF IMMIGRATION AND  
MULTICULTURAL  
AND INDIGENOUS AFFAIRS**

Ms Louise Gell  
A/g Secretary  
Senate Legal and Constitutional Legislation Committee  
Parliament House  
Canberra ACT 2600

Dear Ms Gell

On the 29 May 2003 officers of this Department gave evidence to the Senate Legal and Constitutional Legislation Committee. During the hearing Senator Kirk asked for information about payments made to the International Organization for Immigration (IOM) for the operation of the processing centres in Nauru and Manus Island. I responded that "at the last Senate Estimates I provided the information (about payments to the IOM) for the last financial year. We can update that information. I would be happy to do that" (L&C 414).

The information for the financial year 2001-02 was provided in answer to a question asked by Senator Sherry at the Additional Estimates hearing on 11 February 2003 and included advice that \$4.1m was paid to IOM in respect of Regional Cooperation.

I am writing to clarify and correct this response. The amount of \$4.1m was for payments relating to IOM services actually delivered in 2001-02 in Indonesia only. It has since been established that the expenditure for Regional Cooperation in 2001-02 was \$5.4 million. This latter amount includes payment for services delivered in Indonesia in 2000-01 but not paid until 2001-02 (\$0.6m), plus payments to IOM for services provided in Cambodia (\$0.7m) during 2001-02.

It would be appreciated if you could arrange for the correction to be appropriately incorporated in the records.

Yours sincerely

Vincent McMahon  
A/g Deputy Secretary



## State and Territory offences relating to Sexual Servitude

- Four of the eight States and Territories (NSW, SA, NT, ACT) already have offences criminalising sexual servitude, including conducting a business involving sexual servitude.
- A fifth jurisdiction (WA) has recently introduced similar offences into its Parliament. These State and Territory offences cover purely domestic activity.
- The penalties for the State and Territory sexual servitude offences are comparable to the Commonwealth offence penalties.
- The remaining three jurisdictions have other criminal offences that could be used to prosecute incidents of trafficking in persons – for example, unlawful confinement and compelling a person to engage in sexual behaviour.
- Attached is a list of the State and Territory offences that are most directly relevant to sexual servitude. All States and Territories also have a range of ordinary criminal offences (including assault, unlawful confinement and sexual assault) that which could be expected to cover domestic trafficking related activity, both sexual and non-sexual.

Senate Legal & Constitutional Affairs  
Legislation Committee  
Consideration of Budget Estimates 2003-04

By: *DIMIA (SEN ELLISON)* Tabled Document

Date: *5:24 28/05/03*

State	Legislation	Section	Content
NSW	Crimes Act 1900	80B	meaning of 'sexual servitude'
NSW	Crimes Act 1900	80C	meaning of 'circumstances of aggravation' – including where alleged victim is under 18yrs
NSW	Crimes Act 1900	80D	offence of causing sexual servitude
NSW	Crimes Act 1900	80E	offence of conduct of business involving sexual servitude
NSW	Crimes Act 1900	80F	alternative verdicts
SA	Criminal Law Consolidation Act (CLCA) 1935	66(1)	offence of compelling a person to provide/continue to provide commercial sexual services guilty of offence of inflicting sexual servitude (higher penalties where victim is a child)
SA	CLCA 1935	66(2)	offence of using undue influence to get another person to provide/continue to provide commercial sexual services (higher penalties where victim is a child)
SA	CLCA 1935	67	offence of deceptive recruiting for commercial sexual services (higher penalties where victim is a child)
NT	Criminal Code Act	202A	meaning of 'sexual servitude' etc
NT	Criminal Code Act	202B	offence of causing sexual servitude (higher penalties where victim is a child)
NT	Criminal Code Act	202C	offence of conducting business involving sexual servitude (higher penalties where victim is a child)
NT	Criminal Code Act	202D	offence of deceptive recruiting for sexual services (higher penalties where victim is a child)
ACT	Crimes Act 1900	78	meaning of and 'sexual servitude' etc
ACT	Crimes Act 1900	79(1)	offence of causing sexual servitude
ACT	Crimes Act 1900	79(2)	offence of conducting business involving sexual servitude
ACT	Crimes Act 1900	80	offence of deceptive recruiting for sexual services
ACT	Crimes Act 1900	81	increased penalty for aggravated offences ie where offence committed against person under 18 yrs
Qld	Criminal Code Act	217	offence of procuring young person for carnal knowledge (including by enticing/recruiting)
Qld	Criminal Code Act 1899	218	offence of procuring sexual acts by coercion (including by false pretence)
Vic	Crimes Act 1958	55	offence of detention of person with the intention that they should take part in act of sexual penetration
WA	Criminal Code	327	offence of compelling a person to engage in sexual behaviour
WA	Criminal Code	333	offence of unlawful detention of another

			person (for any reason)
WA	Criminal Code Amendment Bill 2003	331B	offence of compelling a person to provide/continue to provide a commercial sexual service (higher penalties where victim is a child)
WA	Criminal Code Amendment Bill 2003	331C	offence of conducting a business involving sexual servitude (higher penalties where victim is a child)
WA	Criminal Code Amendment Bill 2003	331D	offence of deceptive recruiting for commercial sexual services (higher penalties where victim is a child)
Tas	Criminal Code Act 1924	129	offence of procuring a person by threats, intimidation or false pretences to have unlawful sexual intercourse.

The WA Criminal Code Amendment Bill 2003 was introduced into the WA Parliament on 3 April 2003, but has not yet been passed.



**month by month totals of detainee population since commissioning to closure.**

\* Please note the figures from August 2001 onwards, in this table include those people who are residents of the Woomera Residential Housing Project.

**Count of People in Detention at End of Month - Woomera  
November 1999 to May 2003  
As at: 02/05/2003**

Month	Persons
1999-11	358
1999-12	711
2000-01	933
2000-02	1289
2000-03	1359
2000-04	1426
2000-05	1422
2000-06	1341
2000-07	1133
2000-08	708

Senate Legal & Constitutional Affairs  
Legislation Committee  
Consideration of Budget Estimates 2003-04

Tabled Document

By: *STEVE DAVIS (DUMIA)*

Date: *7:57 AM 28/05/03*

2000-09	469
2000-10	297
2000-11	249
2000-12	172
2001-01	539
2001-02	479
2001-03	347
2001-04	860
2001-05	937
2001-06	1107
2001-07	1046
2001-08	1459
2001-09	1317
2001-10	1100
2001-11	1002
2001-12	919
2002-01	762
2002-02	543
2002-03	305
2002-04	230
2002-05	240
2002-06	186
2002-07	194
2002-08	177
2002-09	146
2002-10	145
2002-11	137
2002-12	133
2003-01	106
2003-02	92
2003-03	65
2003-04	7
2003-05	7

## **ALTERNATIVE DETENTION ARRANGEMENTS FOR UNACCOMPANIED MINORS AND WOMEN AND CHILDREN**

THE GOVERNMENT TAKES ITS RESPONSIBILITIES WITH RESPECT TO THE WELFARE OF WOMEN AND CHILDREN, INCLUDING UNACCOMPANIED MINORS, IN IMMIGRATION DETENTION VERY SERIOUSLY.

FLEXIBLE AND WORKABLE ALTERNATIVE DETENTION MODELS FOR WOMEN AND CHILDREN, AND UNACCOMPANIED MINORS, IN DETENTION HAVE ALREADY BEEN DEVELOPED.

IN AUGUST 2001, THE DEPARTMENT INSTITUTED THE TRIAL OF A RESIDENTIAL HOUSING PROJECT FOR WOMEN AND CHILDREN.

THIS TRIAL ALLOWED WOMEN AND CHILDREN TO LIVE IN FAMILY STYLE ACCOMMODATION AWAY FROM THE MAIN DETENTION FACILITY.

ALTERNATIVE DETENTION ARRANGEMENTS FOR UNACCOMPANIED MINORS IN COMMUNITY FOSTER CARE HAVE ALSO BEEN EXTENSIVELY USED.

THE CONTINUED FOCUS ON WOMEN AND CHILDREN HAS LED TO REVISED INSTRUCTIONS FOR ALTERNATIVE DETENTION OF UNACCOMPANIED MINORS FOR WHOM THE MINISTER IS THE GUARDIAN AND NEW INSTRUCTIONS FOR WOMEN AND CHILDREN.

THEY WERE TABLED IN PARLIAMENT ON 3 DECEMBER 2002.

THE MINISTER HAS MADE IT CLEAR TO ME THAT EVERY EFFORT MUST BE MADE TO GET ALL WOMEN AND CHILDREN WHO COME WITHIN THE AMBIT OF THESE INSTRUCTIONS OUT INTO ALTERNATIVE DETENTION.

IT MIGHT BE HELPFUL TO TAKE YOU THROUGHWHAT THAT MEANS.

THE INSTRUCTIONS FOR UNACCOMPANIED MINORS REQUIRE THAT EXCEPT EXCEPTIONAL CIRCUMSTANCES, UAMS FOR WHOM THE MINISTER IS THE GUARDIAN UNDER THE IMMIGRATION (GUARDIANSHIP OF CHILDREN) ACT (IGOC ACT) WILL BE MOVED QUICKLY TO ALTERNATIVE DETENTION OR RELEASED ON A BRIDGING VISA IF ELIGIBLE.

SINCE 3 DECEMBER 2002, 25 UNACCOMPANIED MINORS HAVE BEEN HELD IN DETENTION. OF THESE, THE MINISTER HAS BEEN RECOGNISED AS THE GUARDIAN UNDER THE IGOC ACT FOR 9. OF THE 25 WHO HAVE BEEN IN DETENTION BETWEEN 3 DECEMBER AND 7 MAY:

Speaking Notes for Senate Estimates – 26 May 2003

- 8 HAVE BEEN IN ALTERNATIVE DETENTION ARRANGEMENTS IN THE COMMUNITY FOR THE ENTIRE PERIOD;
- 8 HAVE TURNED 18, OR HAVE HAD THEIR AGE REASSESSED TO BE OVER 18 AFTER INITIAL ACCEPTANCE AS A MINOR;
- 1 HAS BEEN GRANTED A BRIDGING VISA;
- 3 HAVE BEEN REMOVED FROM AUSTRALIA; AND
- 5 REMAIN IN DETENTION FACILITIES, ALTHOUGH A FURTHER 1 OF THESE HAS TURNED 18 SINCE 7 MAY.

ONLY 1 OF THE 4 REMAINING IN DETENTION FACILITIES HAS THE MINISTER AS A GUARDIAN UNDER THE IGOA ACT AND THEREFORE DIRECTLY WITH THE AMBIT OF THE INSTRUCTION.

HOWEVER ALL HAVE BEEN ASSESSED ~~IN ANY EVENT~~ AND HAVE BEEN FOUND TO NOT MEETING THE INSTRUCTIONS DUE TO THE HIGH RISK OF THEM ABSCONDING AND/OR THEIR IMMINENT REMOVAL.

ALL BUT 1 OF THESE DETAINEES ARE 17 AND HAVE BEEN IN DETENTION FOR LESS THAN 6 MONTHS.

THE NEW INSTRUCTION INTRODUCED IN EARLY DECEMBER ALSO PROVIDED FOR ALTERNATIVE DETENTION ARRANGEMENTS FOR WOMEN AND CHILDREN WHO ARE LIKELY TO SPEND "NOT SHORT PERIODS OF TIME IN DETENTION".

I WOULD NOTE THAT AT THE PRESENT TIME NEW ARRIVALS AT DETENTION CENTRES ARE OVERWHELMINGLY UNLAWFUL NON-CITIZENS LOCATED IN THE COMMUNITY IE OVERSTAYERS AND THOSE WHO BREACH THEIR VISA CONDITIONS.

BEFORE ANY WOMEN OR CHILDREN LOCATED IN THE COMMUNITY ENTER A PLACE OF DETENTION, THEIR ELIGIBILITY FOR A BRIDGING VISA IS ASSESSED.

DETENTION IS ONLY USED AS A LAST RESORT IN THESE CIRCUMSTANCES.

IN PARTICULAR SPECIAL AUTHORISATION PROCESSES ARE IN PLACE WHERE IT IS PROPOSED TO DETAIN A FAMILY; SUCH THAT A SENIOR COMPLIANCE MANAGER MUST AGREE THAT DETENTION CANNOT BE AVOIDED.

TO ILLUSTRATE THIS POINT, BETWEEN 1 JANUARY AND 30 APRIL 2003 A TOTAL 3075 UNLAWFUL WOMEN AND CHILDREN LOCATED IN THE COMMUNITY.

THE PROPORTION OF LOCATED UNLAWFUL NON-CITIZEN WOMEN TAKEN INTO

DETENTION IS ONLY 13.2%.

THE PROPORTION OF LOCATED UNLAWFUL NON-CITIZEN CHILDREN TAKEN INTO DETENTION IS 6.6%.

OF THE WOMEN AND CHILDREN DETAINED, 80% ARE DETAINED FOR 1 MONTH OR LESS, WITH THE AVERAGE BEING 19.8 DAYS.

UNDER THE INSTRUCTIONS WHICH THE MINISTER ANNOUNCED IN DECEMBER, FOR THOSE WOMEN AND CHILDREN WHO ARE ALREADY IN, OR ARE TAKEN INTO DETENTION, AN ASSESSMENT IS MADE OF WHETHER THEY ARE ELIGIBLE TO MOVE TO A RESIDENTIAL HOUSING PROJECT ON A VOLUNTARY BASIS.

IN ADDITION TO THE CORE REQUIREMENT THAT PARTICIPATION IS VOLUNTARY, THE INSTRUCTIONS SET OUT A NUMBER OF OTHER FACTORS WHICH UNDERPIN ELIGIBILITY OF PEOPLE TO PARTICIPATE IN ALTERNATIVE DETENTION ARRANGEMENTS. IN PARTICULAR:

- RESIDENTIAL HOUSING PLACES BEING AVAILABLE;
- HEALTH AND CHARACTER CHECKS BEING COMPLETED AND CLEAR;
- THERE BEING NO HIGH RISK OF THE DETAINEE ABSCONDING; AND
- ANY OPERATIONAL ISSUES PARTICULAR TO THE DETAINEE AND/OR SMOOTH OPERATION OF THE RESIDENTIAL HOUSING PROJECT.

ALL FAMILY GROUPS AND SINGLE FEMALES HAVE BEEN ASSESSED AGAINST THE INSTRUCTIONS FOR ELIGIBILITY TO MOVE TO A RESIDENTIAL HOUSING PROJECT.

OF THE 31 FAMILY GROUPS WHO HAVE RESIDED IN BAXTER IDC SINCE 3 DECEMBER, 26 HAVE BEEN ASSESSED AS ELIGIBLE AND OFFERED PLACEMENT IN THE WOOMERA RESIDENTIAL HOUSING PROJECT.

3 FAMILIES HAVE ACCEPTED THE OFFER – 1 FAMILY HAS MOVED, 1 IS BEING PREPARED FOR MOVEMENT NEXT WEEK AND THE THIRD IS AWAITING A COURT DECISION BEFORE THE MOVE IS UNDERTAKEN.

THE OTHER 23 FAMILIES HAVE DECLINED THE OFFER AT THIS POINT.

THE EIGHT FAMILIES IN PORT HEDLAND IRPC HAVE ALL BEEN ASSESSED AS ELIGIBLE FOR PLACEMENT IN A RESIDENTIAL HOUSING PROJECT – ALL HAVE DECLINED TO MOVE TO WOOMERA.

FAMILIES AND SINGLE WOMEN AT MARIBYRNONG IDC HAVE BEEN ASSESSED

AND AN OFFER WAS MADE TO THE ONE ELIGIBLE FAMILY – THEY DECLINED THE OFFER.

SINGLE WOMEN IN PERTH IDC HAVE BEEN ASSESSED AND AN OFFER WAS MADE TO ONE SINGLE FEMALE ADULT – SHE DECLINED.

FAMILIES AND SINGLE WOMEN AT VILLAWOOD IDC HAVE ALSO BEEN ASSESSED AND NONE WERE FOUND TO BE ELIGIBLE.

THIS INCLUDES THREE FAMILIES LOCATED AT VILLAWOOD TO ACCESS METROPOLITAN MEDICAL SERVICES, WHICH COULD NOT BE SUPPORTED AT WOOMERA.

FACTORS WHICH APPEAR TO BE CONSTRAINING THE PARTICIPATION IN THE RESIDENTIAL HOUSING PROJECT AT WOOMERA BY WOMEN AND CHILDREN INCLUDE ACCESS TO EXTERNAL EDUCATION AND LOCATION.

THE DEPARTMENT HAS BEEN SEEKING ACCESS FROM THE SOUTH AUSTRALIAN GOVERNMENT TO EXTERNAL EDUCATION AT WOOMERA FOR SOME TIME.

FOLLOWING THE RECENT SUCCESS IN EXTERNAL EDUCATION BEING MADE AVAILABLE TO CHILDREN AT THE BAXTER IDF, ACCESS TO EXTERNAL EDUCATION FOR CHILDREN IN THE WOOMERA RHP HAS ALSO BEEN MADE AVAILABLE IN THE LOCAL SOUTH AUSTRALIAN GOVERNMENT SCHOOL.

THE AVAILABILITY OF RESIDENTIAL HOUSING PLACES HAS ALSO BEEN VERY ACTIVELY PROGRESSED BY MY DEPARTMENT.

AN EXPANSION OF THE WOOMERA PROJECT HAS DOUBLED THE NUMBER OF AVAILABLE PLACES TO AROUND 40 ON A MEDIUM TERM BASIS.

THIS IS INTERIM STEP, WHILE CONSULTATIONS PROCEED ON THE ESTABLISHMENT OF A NEW RESIDENTIAL HOUSING PROJECT IN PORT AUGUSTA.

AT PRESENT WE ARE AWAITING RESPONSES FROM A SURVEY OF RESIDENTS IN THE VICINITY OF THE THREE SITES IDENTIFIED BY THE COMMONWEALTH AND STATE GOVERNMENTS AND THE LOCAL COUNCIL.

FOLLOWING THAT FEEDBACK, MEETINGS WILL BE ARRANGED AS SOON AS POSSIBLE WITH THESE RESIDENTS IF REQUIRED.

THE MINISTER WILL THEN BE IN A POSITION TO DECIDE THE PREFERRED SITE FOR PROGRESSION OF A RESIDENTIAL HOUSING PROJECT IN PORT AUGUSTA IN LIGHT OF COMMENTS RECEIVED.

PENDING THE DECISION ON THE PREFERRED SITE, THE DEPARTMENT IS DEVELOPING LAYOUT OPTIONS ON EACH SITE, IDENTIFYING TRANSPORTABLE HOUSES FROM WOOMERA THAT CAN BE ACQUIRED AND USED, AND ENGAGING CONTRACTORS WHO CAN MOVE QUICKLY TO ESTABLISH THE RESIDENTIAL HOUSING PROJECT ONCE THE FINAL SITE IS SELECTED.

THE MINISTER HAS ALSO REQUESTED MY DEPARTMENT TO UNDERTAKE CONSULTATIONS ON A POSSIBLE RESIDENTIAL HOUSING PROJECT IN THE COMMONWEALTH OWNED "LODGE" AROUND 700 METRES FROM THE PORT HEDLAND IRPC.

ONCE THESE NEW RESIDENTIAL HOUSING PROJECTS ARE ESTABLISHED, FURTHER OFFERS TO ELIGIBLE WOMEN AND CHILDREN IN DETENTION CENTRES WILL BE UNDERTAKEN.

IN THE MEANTIME FURTHER PLACES AT WOOMERA ARE NOW AVAILABLE AND INTEREST IN THOSE PLACES WILL CONTINUE TO BE CANVASSED.

LET ME REPEAT THAT THE MINISTER HAS MADE IT CLEAR TO ME THAT EVERY EFFORT MUST BE MADE TO GET ALL WOMEN AND CHILDREN WHO COME WITHIN THE AMBIT OF THESE INSTRUCTIONS OUT INTO ALTERNATIVE DETENTION.

FOR WOMEN AND CHILDREN NOT INTERESTED IN MOVING TO RESIDENTIAL HOUSING PROJECTS, ACCESS TO EXTERNAL SCHOOLS, RECREATION AND GENERAL AMENITY OF THE DETENTION CENTRE ENVIRONMENTS WILL CONTINUE TO BE A PRIORITY.

WE ARE IN THE PROCESS OF UPDATING THE AMENITIES TABLE THAT HAS PREVIOUSLY BEEN PUBLISHED ON ACTIVITIES UNDERTAKEN IN DETENTION FACILITIES – WHEN THAT UPDATE IS COMPLETE, WE WILL PROVIDE A COPY OF THAT TABLE TO THE COMMITTEE.