



Public Version of 6th August 2006 Report

**Investigation of Allegations of
Availability of Illicit drugs &
Sexual Assault of Female
Detainees at Villawood Immigration
Detention Facility**

Sections B and C of the Terms of Reference

3rd October 2006

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1. Introduction and Background

During April 2006 senior officers of the Department of Immigration and Multicultural Affairs (DIMA) became aware of allegations by detainees and former detainees of Villawood Immigration Detention Facility (VIDF) relating to the availability of illicit drugs within VIDF and the sexual assault of a female detainee within VIDF.

A decision was taken to arrange for an independent investigation of the allegations. During late April and May further information was gathered, Terms of Reference were developed for the investigation and Mr Keith Hamburger AM, Director, Knowledge Consulting Pty Ltd was appointed as the independent investigator. Mr Hamburger commenced his investigation on 1st June 2006.

Over the long weekend of Saturday 10th, Sunday 11th and Monday 12th June 2006 there was intense media reporting of allegations relating to VIDF including:

"Chief among the abuse claims is the story of a mother who was allegedly raped time and again by a guard while her young child looked on.

The same guard allegedly also tried, unsuccessfully, to assault another detainee.

Another guard has been accused of raping a former detainee when she came to visit a friend in the centre last month"

Source: <http://www.theage.com.au/articles/2006/06/10/1149815352612.html>

The investigator can state categorically that no allegations have been made to him or evidence provided of a guard allegedly *raping a mother or of raping a former detainee when she came to visit a friend*. In the absence of any evidence these reports are a totally unjustified slur on the reputation of officers at VIDF and GSL (Australia) Pty Ltd who work diligently to deliver an important public service under difficult conditions.

In view of the media interest that was generated in this matter the investigator was requested to report on Section A of the Terms of Reference as a matter of urgency, paying particular regard to allegations relating to the availability of illicit drugs and of sexual assault of female detainees.

Section A of the Terms of Reference for this investigation contained in Section 2 below require the investigator to *"Interview the complainant and establish the basis for the allegations and obtain any evidence in support of the allegations that the complainant is prepared to provide"*;

A report on Section A of the Terms of Reference was provided to DIMA on Tuesday 13th June 2006. The investigator was requested to provide a follow up report on Sections B and C of the Terms of Reference as soon as possible.

2. Terms of Reference for the Investigation

"The department has tasked Knowledge Consulting to undertake an investigation at Villawood Immigration Detention Facility (VIDF).

The scope of this investigation is to inquire into, make findings and recommendations on allegations made concerning the treatment of people held in immigration detention at VIDF, on a range of issues including the availability of illicit drugs within VIDF and sexual assault of female detainees.

The scope of this investigation relates to a review of management and operational systems and procedures that should be in place to prevent incidents of the type contained in the allegations occurring. The scope of the investigation includes, but is not necessarily limited to the following:

A. Interview the complainant and establish the basis for the allegations and obtain any evidence in support of the allegations that the complainant is prepared to provide;

B. Concerning the allegation relating to the availability of illicit drugs:

- *Review the Detention Services Providers Drug Strategy in terms of its efficiency and effectiveness in the:*
 - *prevention of entry of illicit drugs into VIDF;*
 - *prevention of dealing of illicit drugs at VIDF;*
 - *detection of illicit drugs and illicit drug use within VIDF;*
 - *treatment of detainees with substance abuse problems; and*
 - *education of detainees generally in relation to the problems associated with substance abuse.*

C. Concerning the allegation of sexual assault of female detainees:

- *In the light of the particular circumstances of the allegations, establish whether:*
 - *the complainants were placed at risk due to inadequate facilities, operating procedures and or incompetence or worse by staff;*
 - *the security arrangements for the protection of female detainees at VIDF from sexual assault are adequate;*
 - *the systems and procedures for reporting of sexual assault to all relevant authorities, including those to be followed by health professionals at VIDF, are adequate;*
 - *staff have been adequately trained in procedures for dealing with complaints of sexual assault;*
 - *the procedures for medical investigation and treatment, including screening and counseling of victims of sexual assault are adequate;*
 - *the health care professional should have reported the allegations under relevant state or Commonwealth law, and possible breaches of Privacy legislation in the event that he/she had reported the claims given in confidence; and*
 - *the complaints which are the subject of the allegations were appropriately dealt with at the time they became known to staff at VIDF.*

3. Methodology

The methodology for the investigation encompassed:

- A meeting with people who had raised complaints on behalf of detainees and former detainees to establish the basis of the allegations made to them concerning the availability of illicit drugs within VIDF and sexual assault of a female detainee within that facility;
- A meeting with a senior officer of GSL Australia, the detention services provider responsible for detention services at VIDF;
- Consideration of the outcomes of both of the above meetings;
- Development of a strategy to address the matters raised and documentation of this strategy into a draft report for discussion with DIMA officers;
- Preparation of a Report covering *Terms of Reference A* which related to information obtained from the interview with people who had raised complaints on behalf of detainees and former detainees;
- Participation by the investigator in a joint audit of VIDF by DIMA and GSL officers;
- Preparation of this report having regard to information obtained from complainants, GSL and the joint audit of VIDF;

4. Summary of Findings

Findings in Relation to Illicit Drugs

Efficiency and effectiveness of the Detention Services Providers Drug Strategy in terms of its prevention of entry of illicit drugs into VIDF:

Finding 1

That the joint DIMA/ GSL audit of VIDF has found that *"the various strategies to combat illicit drugs need to be coordinated under the umbrella of a formal drug strategy that has its basis in policy formulated as a consequence of a strategic analysis of the VIDF external and internal environments. The local VIDF strategy requires guidance from agreed national policy parameters, ideally in the form of a national drug strategy, set by GSL and DIMA central offices"*.

Finding 2

That notwithstanding the need for a formal drug strategy, GSL has:

- A range of strategies and operational procedures in place at VIDF designed to deter and prevent the entry of illicit drugs into VIDF;
- Staff trained in relevant operational procedures; and
- Management systems in place to ensure effective supervision of staff in the performance of their duties in relation to the deterrence and prevention of entry of illicit drugs into VIDF;

Finding 3

That GSL's strategies and procedures for the prevention of entry of illicit drugs into VIDF are necessarily less than what would be expected in a secure prison environment. This is in order to achieve a desired *critical balance* between freedom of movement/ association and security, good order and safety within the non-punitive environment of an administrative detention facility.

Finding 4

That on the available evidence relating to finds of prohibited articles involving illicit drugs and on medical evidence relating to detainees suffering from substance abuse, it can be concluded that illicit drugs are not readily available in VIDF. On this basis it is reasonable to assume that at present GSL's strategies and procedures are achieving the desired *critical balance*, as covered in Finding 3, above for the prevention of entry of illicit drugs into VIDF.

Finding 5

That the detainee mix at any point in time can alter the dynamics of a detention facility in terms of the demand for illicit drugs. Therefore, from time to time additional effort and or strategies may be required to combat emerging threats in relation to illicit drugs.

Efficiency and effectiveness of the Detention Services Providers Drug Strategy in terms of its prevention of dealing of illicit drugs at VIDF;

Finding 6

That as covered in Table 2, to preserve the amenity of administrative detention, VIDF does not have access to the range of intrusive security measures available to correctional authorities to combat those who would attempt to deal in drugs at detention centres through a variety of possible options.

Finding 7

That, as observed by the investigator during the recent joint DIMA/ GSL operational audit of VIDF, GSL does have in place staff work practices that involve a high degree of interaction with and observation of detainees. Staff selected at random demonstrated a sound knowledge of signs of evidence of behaviour of detainees that could indicate involvement with illicit substances.

Finding 8

That during the recent joint DIMA/ GSL operational audit of VIDF it was confirmed that GSL has in place an Active Management Monitoring Program (AMMP) which requires a member of the Senior Management Team to visit a key operational area each week to sight evidence of supervisors and staff performing their prescribed duties, including security duties that would limit the capacity of people to engage in illicit drug dealing.

Finding 9

That on the available evidence relating to finds of prohibited articles involving illicit drugs and on medical evidence relating to detainees suffering from substance abuse, it can be concluded that illicit drugs are not readily available in VIDF. On this basis it is reasonable to assume that at present drug dealing at VIDF is not prevalent and that GSL's current strategies to deter illicit drug dealing are effective. The recommendation contained in the recent joint DIMA/GSL operational audit report of VIDF relating to (a particular security practice) may provide a greater level of deterrence.

Finding 10

That during the July 2006 joint DIMA/ GSL operational audit of VIDF, concern was expressed by GSL VIDF management that it is difficult to achieve a police response to illicit drug matters. The audit report has made a recommendation in relation to this matter.

Efficiency and effectiveness of the Detention Services Providers Drug Strategy in terms of its detection of illicit drugs and illicit drug use within VIDF:

Finding 11

That as covered in this report and on the evidence from the July 2006 joint DIMA/ GSL operational audit of VIDF, GSL has in place good practice detection procedures relating to illicit drugs and staff are carrying out these procedures effectively under regular management supervision.

Efficiency and effectiveness of the Detention Services Providers Drug Strategy in terms of its treatment of detainees with substance abuse problems:

Finding 12

That during the July 2006 joint DIMA/ GSL operational audit of VIDF, clinical services for people with substance abuse problems were described to the auditors. It may be of benefit for these services to be assessed/ audited by appropriately qualified clinicians. The audit report has made a recommendation in relation to this matter.

Safety of Women Detainees in LIMA Compound, VIDF

Finding 13

That in relation to the allegation that male detention officers are sexually harassing female detainees accommodated in the all female LIMA compound at VIDF, current operational procedures and staff practices, if effectively and efficiently followed, preclude this from happening.

Finding 14

That on the evidence available to the auditor from his inspection of LIMA compound, including observation of officers performing their duties, discussion with officers and with GSL VIDF management, there is a high level of awareness of the need to ensure the safety of women detainees and to ensure that procedures are followed to the letter such that allegations of impropriety can not be sustained.

Finding 15

That the relevant manager and the officers on duty during the audit all evidenced a high degree of professionalism and inspired confidence in the investigator that they can be relied upon to discharge their duties diligently in the best interests of the security and safety of the women detainees.

Finding 16

That the women detainees currently accommodated within LIMA compound communicate openly with officers and mutual respect was evident. It is reasonable to assume in these circumstances that if the women detainees felt in danger of sexual harassment or assault they would communicate such concern to the officers.

Finding 17

That the sample of five (5) women detainees spoken to in LIMA compound by the investigator and the female DIMA operational auditor held no concerns in relation to sexual assault or harassment.

Safety of Women Detainees in Family Accommodation, Stage 2 VIDF

Finding 18

That subject to the issues of door locks and post orders covered by recommendations arising from the audit report, the investigator is satisfied that the procedures in place for the safety of women detainees in the Family Accommodation are appropriate, save for some exceptional circumstance which to guard against would defeat the desired amenity within administrative detention.

Finding 19

That none of the women or their partners living in the Family Accommodation who were interviewed held any fears for their safety.

Finding 20

That given the high level of interaction between women officers and women detainees, the communication and access between women detainees and male partners and with male and female detainee friends and the close proximity of officer's posts to the Family Accommodation, the investigator concludes that it is highly unlikely that the circumstances as described in the allegations relating to the sexual assault and attempted sexual assault could occur under the current operating environment.

Concerning the specific questions posed under Terms of Reference C, the following Findings are made:

Whether the complainants were placed at risk due to inadequate facilities, operating procedures and or incompetence or worse by staff;

Finding 21

It is not possible to make a finding relating to circumstances that existed at the time of the alleged incidents. However, at the time of this investigation, subject to the issues of door locks and post orders in the family accommodation in Stage 2 being addressed (as covered by recommendations arising from the audit report), the safety of women detainees is not at risk due to the nature of the facilities, the operating procedures or by the lack of competence of staff.

Whether the security arrangements for the protection of female detainees at VIDF from sexual assault are adequate;

Finding 22

That the security arrangements for the protection of female detainees at VIDF from sexual assault are adequate, save for some exceptional circumstance which to guard against would defeat the desired amenity within administrative detention.

Whether the systems and procedures for reporting of sexual assault to all relevant authorities, including those to be followed by health professionals at VIDF, are adequate;

Whether staff have been adequately trained in procedures for dealing with complaints of sexual assault; and

Whether the procedures for medical investigation and treatment, including screening and counseling of victims of sexual assault are adequate;

Finding 23

That in relation to allegations of sexual assault, the questions relating to systems and procedures concerning reporting, staff training and medical procedures for treatment, screening and counseling should be addressed on the next occasion that there is an audit of health and medical services at VIDF.

Note: During the recent audit of VIDF it was ascertained that GSL has given consideration to the possibility of women who have been sexually harassed/ assaulted not disclosing the incident due to shame/ fear etc. GSL is considering two initiatives to address this – appointment of a woman officer with the role of liaising on a daily basis with all women in detention at VIDF for coffee chats etc concerning their well being and establishing a woman's forum for women detainees where woman's issues can be discussed and empowerment education can be conducted.

Whether the health care professional should have reported the allegations under relevant state or Commonwealth law, and possible breaches of Privacy legislation in the event that he/she had reported the claims given in confidence; and

Whether the complaints which are the subject of the allegations were appropriately dealt with at the time they became known to staff at VIDF.

Finding 24

That as there is no evidence that the allegations/ complaints were ever made to staff at VIDF the above questions have not been reported upon.

Finding 25

That evidence can not be located to support a claim by a former woman detainee that she disclosed an alleged sexual assault upon her to a DIMIA psychologist some time after the alleged assault.

Alleged Sexual Harassment of a Female Visitor to VIDF by a Male Detention Officer

Finding 26

That on the evidence available to date, GSL's communication with the detainee complainant has been less than adequate concerning the outcome of the investigation of his complaint that his female visitor was sexually harassed by a Detention Services Officer. In view of the concerns expressed by the detainee complainant DIMA has commissioned an independent review of this matter, including interview of the detainee complainant and investigation of a further complaint that he was told by a GSL officer that " *he would suffer consequences if he continued pursuing this matter*".

5. Summary of Recommendations

Recommendation 1

That the VIDF Senior Management Team monitor monthly statistics on finds of prohibited articles involving illicit drugs and medical evidence relating to detainees suffering from substance abuse and take decisions on a month by month basis as to whether there is a need for additional effort and or strategies to combat threats that may be emerging in relation to illicit drugs;

Recommendation 2

That as recommended by the July 2006 joint DIMA/ GSL audit team, a useful addition to the drug deterrence/ prevention armoury may be (a particular security practice);

Recommendation 3

That on the next occasion there is an audit of health and medical services at VIDF, the Terms of Reference should cover a review of the appropriateness of GSL's substance abuse education programs.

Recommendation 4

That DIMA request GSL to provide an action plan, including time line, for implementation of the initiatives to appoint a Women Detainees' Liaison Officer and the establishment of the Women's Forum;

Recommendation 5

That on the next occasion that there is an audit of health and medical services at VIDF, the Terms of Reference should cover a review of systems and procedures relating to reporting of allegations of sexual assault and staff training and medical procedures for treatment, screening and counseling of victims of sexual assault;

6. Response to Terms of Reference

6.1 Terms of reference A

Interview the complainant and establish the basis for the allegations and obtain any evidence in support of the allegations that the complainant is prepared to provide;

As covered in the introduction to this report, Terms of Reference A was reported upon to DIMA on Tuesday 13th June 2006.

6.2 Terms of reference B

Review the Detention Services Providers Drug Strategy in terms of its efficiency and effectiveness in the:

- *prevention of entry of illicit drugs into VIDF;*
- *prevention of dealing of illicit drugs at VIDF;*
- *detection of illicit drugs and illicit drug use within VIDF;*
- *treatment of detainees with substance abuse problems; and*
- *education of detainees generally in relation to the problems associated with substance abuse.*

6.2.1 The Allegations

The investigator met with people who raised complaints on behalf of detainees and former detainees concerning the availability of illicit drugs within VIDF. The sources of the complaints were not provided to the investigator.

DIMA has advised that all material in its possession relating to allegations/ complaints concerning the availability of illicit drugs within VIDF has been forwarded to the Australian Federal Police for investigation. Accordingly, this investigation and report does not deal with individual allegations.

The investigation has covered the policies, strategies, operating procedures and staff and management practices currently in place aimed at limiting the availability of illicit drugs within VIDF. This report makes findings and recommendations arising from this investigation.

6.2.2 The Concept of Administrative Detention and the Detention Services Providers Responsibilities under the Contract

Policies and practices to prevent the availability of illicit drugs in immigration detention facilities need to be viewed in the light of the concept of *“administrative detention”*. The Detention Services Contract entered into between the Commonwealth of Australia and Group 4 Falck on 27th August 2003 in Schedule 2, Paragraph 1.13 under the heading *“The Detention Environment”* says, *“Immigration detention is for administrative not correctional purposes. It is expected that consistent with the legislative requirement to keep people in detention, detainees are able to go about their daily life with as few restrictions as possible”*.

Schedule 2, Part 3, Administrative detention, paragraph 3.1.8 says:

“Because immigration detention is administrative in nature, flowing as it does from Executive rather than judicial power, immigration detainees are not detained in the same legal context as those held in a correctional setting. Because detainees are in administrative detention, the Department has deliberately sought to create an environment in the facilities which achieves, to the greatest extent possible, normal social interactions within the detention community of a particular facility. The Department strives to keep family groups together, including extended family members, to encourage detainees to participate in the daily routine of the facilities and in activities and programs driven by the interests and needs of detainees”.

Schedule 2, Part 3, Administrative detention, paragraph 3.1.11 says:

“While people’s detention for immigration purposes is lawful, non-punitive and for particular purposes, this does not alter the fundamental requirement that once detained they are to be prevented from entering the Australian community until and unless they are issued with a visa. At the same time, however, detainees are not prevented from going about their daily lives with as much freedom of movement, association and individual expression as practicable and reasonable within the detention context and to the extent possible without compromising the good order and security of the facility. Freedom of individual expression includes freedom of opinion, thought, conscience and belief and freedom of movement and association includes freedom of assembly”.

Schedule 2, Part 3, Administrative detention, paragraph 3.1.12 says:

“The key objective of the Contract, therefore, is to achieve security in a manner commensurate with the administrative detention context. On the other hand, the fact that it is administrative rather than punitive detention, does not preclude proper attention to security requirements nor does it mean that detainees who commit a criminal act or infringe reasonable centre rules should not face the consequences”.

Schedule 2, Part 3, Administrative detention, paragraph 3.1.13 says:

“Successfully managing administrative detention while at the same time ensuring a secure environment is a critical balance the Services Provider must achieve. For example, detainees are to be able to move about the centre, mix with other detainees and, as far as practicable, manage their daily lives and participate as members of the detainee community. At the same time however the Services Provider must ensure security, good order and safety within the detention facilities”.

through, for example, establishing and implementing curfews, centre rules, Operational Procedures or other security related matters. The balance between these elements does not remain static but may change from time to time according to such factors as the numbers and profile of detainees at any given time, their migration outcomes, their hopes and expectations, incidents overseas, or developments in the legal framework applying to unauthorised arrivals, visa processes and detention”.

The foregoing contractual requirements contain three critical elements:

- (1) Immigration detention facilities are secure environments such that people, *“once detained they are to be prevented from entering the Australian community until and unless they are issued with a visa”;*
- (2) Within the secure perimeter *“detainees are not prevented from going about their daily lives with as much freedom of movement, association and individual expression as practicable and reasonable within the detention context and to the extent possible without compromising the good order and security of the facility”;* and
- (3) The detention services provider must, *“achieve security in a manner commensurate with the administrative detention context. On the other hand, the fact that it is administrative rather than punitive detention, does not preclude proper attention to security requirements”* and *“....the Services Provider must ensure security, good order and safety within the detention facilities through, for example, establishing and implementing curfews, centre rules, Operational Procedures or other security related matters”.*

Inherent in the foregoing critical elements is a major challenge for the detention services provider in the context of preventing or at least limiting the availability of illicit drugs in detention facilities. This major challenge is highlighted by reference to the following statement in Schedule 2, Part 3, Administrative detention, paragraph 3.1.13: - *“Successfully managing administrative detention while at the same time ensuring a secure environment is a critical balance the Services Provider must achieve”.* That is, allowing detainees as much freedom of movement and association as practicable within the detention context without compromising security, good order and safety.

In achieving the desired *critical balance* between freedom of movement/ association in a non-punitive environment and security, good order and safety within the facility as covered above, requires a judgement call to be made as to how much DIMA is prepared to allow the individual freedom of detainees to be reduced to mitigate the risk of availability of illicit drugs.

6.2.3 Assessment of the Detention Services Providers Performance in Preventing the Availability of Illicit Drugs

In terms of measurement of the detention services provider's performance in achieving the *critical balance* described above, the Detention Services Contract, Schedule 3, Immigration Detention Standards, Performance Measures and the Performance Linked fee Matrix, Section 6.6.1 says:

Table 1

<p>Contraband: Items that pose a direct and immediate threat to the security and good order in and of the facility, are unlawful, or have the potential to create dangerous or unsanitary conditions are not permitted.</p>	<p>Performance Measure:</p> <p>(a) The Department is provided with evidence that strategies are in place and implemented in each facility to prevent entry, acquisition or manufacture of such items, and to seize and, as appropriate, retain or destroy them;</p> <p>(b) No substantiated instance of unlawful items not being handled according to the law;</p>
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The above performance measure does not provide guidance in relation to the issue of *critical balance* and, taken literally, in relation to illicit drugs could imply a similar standard of *prevention of entry and acquisition* as required at a correctional centre. However, GSL has provided the investigator with twenty (20) operational procedures the company has in place at VIDF and other detention facilities which encompass work practices to mitigate the possibility of illicit drugs being available in detention facilities. The investigator has been advised that these operational procedures have been approved by DIMA which means that DIMA at the time of approval was satisfied that the procedures provided an acceptable balance between security and freedom of movement/ association for detainees within VIDF.

GSL's procedures have to be considered in the context of the operational environment of administrative detention which has the following constraints relating to security as compared to a correctional environment:

- The power to strip search detainees is far more limited than the powers that exist within a correctional environment;
- Detention facilities do not utilise "drug sniffer dogs";
- There is no provision within administrative detention for random and targeted urine testing of detainees; and
- Detention facilities do not have "non-contact visit" facilities;

With the assistance of GSL, the investigator has constructed the following table to provide a comparison of the measures adopted at VIDF in relation to that usually applied in secure correctional centres under a good practice illicit drug prevention strategy:

Table 2

Note: This table has not been included in this public version of the report as it contains specific details of the security practices in place such that if publicly released could compromise security of correctional and detention facilities.

From the above table it is clear that there is a significantly lesser level of security at VIDF than at secure correctional centres. However, in spite of the above measures taken within secure correctional centres, illicit drugs can still be found in these centres.

At various times detainees will be accommodated at VIDF who have substance abuse problems and some will be former convicted criminals awaiting deportation. Therefore, having regard to the

nature of the detainee population and the level of security at VIDF, it would not be surprising for illicit drugs to be found from time to time in VIDF, despite the best efforts of GSL and its officers.

However, when considering the availability of illicit drugs in detention facilities, the issue must be viewed in the light of the philosophy guiding the operation of administrative detention facilities which places high priority on:

- The fact that *administrative detention* is not *correctional detention* and therefore detainees are to be afforded reasonable freedom within the facility, including access to visitors which respects the privacy of all concerned, within the overall constraint that detainees do not escape from detention; and
- The living amenity, for detainees, within the confines of the secure perimeter, is to be as *natural as possible* as evidenced by partners living together, a mix of genders, extensive interaction between detainees, a lack of regimentation and or compulsion in daily activities and far more respect for the privacy of detainees in their day to day living arrangements than is afforded to prisoners in correctional facilities;

Further, when drawing comparisons with prisoner populations in correctional centres it is reasonable to assume for the following reasons that administrative detainees will pose a lesser risk than prisoners' in so far as illicit drugs are concerned:

Table 3

Prisoners	Administrative Detainees
Every prisoner has been convicted of a criminal offence and therefore has demonstrated anti social tendencies;	Only a small proportion of administrative detainees have been convicted of a criminal offence.
Research in correctional jurisdictions indicates that in the order of 75% of prisoners has some level of substance abuse problem. Therefore, a significant proportion of prisoners are continually searching for ways to gain access to illicit substances.	Research is not available on this issue for administrative detainees. However, given the social demographic of administrative detainees, it is reasonable to assume that levels of substance abuse problems would be well below that found in prisoners. Therefore, the demand side of the equation for illicit drugs can be assumed to be well below that of prisoners.
A significant proportion of the families, friends and associates of prisoners who visit them in prison come from anti social and or socially dysfunctional backgrounds and in many cases have substance abuse problems themselves. Therefore, they are highly likely to attempt to meet prisoner's demands for them to traffic illicit drugs through visits and other arrangements.	It can be reasonably assumed that the majority of detainees, by virtue of their backgrounds, do not have links to the illicit drug culture in the wider community to the level of prisoners. Therefore, it is less likely that their families, friends and associates will be attempting to traffic illicit drugs into administrative detention facilities.
While the great majority of prisoners are economically impoverished, significant cohort groups do have the capacity on release to meet drug debts entered into while in prison through further criminal activity including armed robbery and <i>standover</i> . On this basis, certain suppliers of illicit drugs are prepared to supply drugs on credit to prisoners, subject to inflated repayment from the proceeds of future crime.	Given the potential future circumstances of administrative detainees, this scenario is unlikely for detainees. Therefore, the capacity for administrative detainees to finance the purchase of illicit drugs, on the assumption that the majority have limited financial means, is perhaps more limited than that of prisoners.

Following an enquiry by the investigator of GSL as to evidence the company may have in relation to the availability of illicit drugs within VIDF, GSL have advised as follows:

"The facility is regularly searched according to a search matrix and this ensures all common and living areas are searched regularly and on a cyclical basis. A review of Incident Reports since 1 July 2005 reveals that there have been 218 separate incidents of prohibited articles found at Villawood. 66 of these "finds" were articles or substances that could be categorised as relating to illicit drugs. (Particulars of these "finds" were made available to the investigator). The number of such "finds" demonstrates the frequency of searching.

It is noted that with many of the finds of medication/tablets, the substance is probably no more than over the counter medication, vitamins etc".

Note: During the week commencing Monday 17th July 2006, a joint DIMA / GSL operational audit was conducted at VIDF. This audit was supported by independent auditors from Knowledge Consulting, including the author of this report. Concerning the efficiency of searches, the auditors reported as follows:

"An appropriately constructed Search Matrix exists for all Stages of VIDF. Contraband found as a consequence of searches is recorded in ISIS from incident reports. Examples of this were sighted. Two searches by officers were observed and found to be conducted effectively.

Evidence of Training Programs for officers was sighted that confirmed a high emphasis on maintaining officers skills including "challenge testing" of all officers at least once per year on SASH which covers "indicators of unusual behaviour". Four officers selected at random were asked questions to ascertain their knowledge of "indicators of unusual behaviour" that could mean that a detainee was under the influence of an illicit substance. All four officers provided adequate responses to the questions posed.

Evidence was sighted of an Active Management Monitoring Program (AMMP) which requires a member of the Senior Management Team to visit a key operational area each week to sight evidence of Supervisors and staff performing their prescribed duties. This evidence included being in attendance at a Senior Management Team meeting where Managers presented their written AMMP reports and spoke to areas of concern identified during their inspections".

Concerning evidence relating to detainee substance abuse, GSL have advised as follows:

"Detainees who are identified as requiring support and/or intervention because of substance use/abuse may participate in a range of programs. Over the past twelve months there have been four detainees undertaking pharmacotherapy (methodone/ bupronorphine maintenance). Two drug and alcohol therapy group programs have been conducted, both running for five sessions. Up to six detainees attended each session. It is noted that in the past year there have been no occurrences of drug overdose noted nor were there any episodes of acute drug intoxication. Currently one detainee is attending over a six week period a community based Alcoholics Anonymous program while another detainee is undertaking assessment for an intensive alcohol rehabilitation program".

Given that the number of people detained at VIDF on each day at present is in the order of 280, with an annual throughput of detainees considerably in excess of this figure, the above evidence relating to *sixty six (66) finds of substances / articles* over an eleven (11) month period (an average of six per month) is not indicative of ready availability of illicit drugs at VIDF. This conclusion is further supported by advice from GSL that *"in the past year there have been no occurrences of drug overdose noted nor were there any episodes of acute drug intoxication"*.

Most correctional jurisdictions employ random and targeted urine testing of detainees as an aid to test the effectiveness of their overall illicit drug strategies and the efficiency of their operational practices in this area. Random and targeted urine testing allows correctional authorities to correlate figures relating to the number of prisoners that test positive to illicit drugs to the evidence of illicit drugs and implements found as a result of searching.

That is, if the result of urine testing is a relatively high level of positive tests yet searching is revealing only limited evidence of illicit drugs, then this raises issues in relation to searching practices and other control strategies. On the other hand if searching is revealing only limited evidence of illicit drugs, combined with a low level of reported health problems due to illicit drugs and the result of urine testing is a relatively low level of positive tests then there can be a high level of confidence that illicit drug mitigation strategies are effective.

Note: *It is noteworthy at this point to mention that there has been an unintended consequence of urine testing regimes in correctional centres. This was that due to the very much shorter "half life" of hard drugs in the human body making them less likely to be detected by urine testing as compared to marijuana, some prisoner substance abusers moved from marijuana to hard drugs.*

However, the introduction of a regime of urine testing of detainees would raise a major philosophical concern in relation to the desired culture within administrative detention. It would appear that urine testing could only be justified on the basis of evidence that illicit drug use within detention facilities was becoming a threat to the wellbeing of detainees and or the good order and security of the facilities. On the information available at VIDF such evidence does not exist at present.

GSL has provided the investigator with the following comments relating to current initiatives to combat the introduction of contraband, including illicit drugs, into VIDF:

- a) There is a current focus on training more staff in the use of the x-ray equipment used to screen all items brought to visits sessions. The aim is to have all staff compliant in the use of this equipment.*
- b) The facility compliance program, which requires weekly reporting against specific operational functions, has a strong emphasis on adherence to security provisions including searching, fabric checking and access specifications. The compliance process also monitors incident reports with particular regard to things like the detection of contraband.*
- c) There is a designated position of Intelligence Officer and this position collates information from a variety of sources about the possible introduction of contraband into the facility.*

- d) *GSL over the past two years has discussed with the department the application of (certain security procedures mentioned in the detailed report).*

GSL appreciates the importance of minimising the risks that are presented by the presence of drugs in the detention environment. However there are restrictions in regard to controls that might apply given that search powers are limited and there are no provisions for specific drug testing”.

The report of the outcome of the joint DIMA / GSL operational audit of VIDF during July 2006, supported by independent auditors from Knowledge Consulting, made five (5) recommendations relating to the issue of illicit drugs, as follows:

That the various strategies to combat illicit drugs be coordinated under the umbrella of a formal drug strategy that has its basis in policy formulated as a consequence of a strategic analysis of the VIDF external and internal environments. The local VIDF strategy requires guidance from agreed national policy parameters, ideally in the form of a national drug strategy, set by GSL and DIMA central offices.

That in the context of the strategic analysis and policy development covered by recommendation 20 above, the following matters are considered:

- *The security arrangements for GSL and DIMA staff entering VIDF to ensure that they are consistent and appropriate. In the audit team’s view, (a particular policy in place which has been mentioned in the detailed report) does not enhance security outcomes ; and*
- *Whether deterrent initiatives to discourage people from attempting to smuggle illicit drugs into VIDF should be increased by (a particular security practice);*

That following formalization of the Drug Strategy, Generic Operational Procedure No 6.3 – Control of Drugs (Including Alcohol) and relevant Post Orders are revised.

That on the next occasion there is an audit of health and medical services at VIDF, the clinical services for people with substance abuse problems are included in the Terms of Reference for the audit;

That consideration is given to strategies to achieve reasonable police response times to matters involving illicit drugs at VIDF. A police liaison officer may be of assistance.

6.2.4 Findings and Recommendations in Relation to Illicit Drugs

Efficiency and effectiveness of the Detention Services Providers Drug Strategy in terms of its prevention of entry of illicit drugs into VIDF:

Finding 1

That the joint DIMA/ GSL audit of VIDF has found that *“the various strategies to combat illicit drugs need to be coordinated under the umbrella of a formal drug strategy that has its basis in policy formulated as a consequence of a strategic analysis of the VIDF external and internal environments. The local VIDF strategy requires guidance from agreed national policy parameters, ideally in the form of a national drug strategy, set by GSL and DIMA central offices”.*

Finding 2

That notwithstanding the need for a formal drug strategy, GSL has:

- A range of strategies and operational procedures in place at VIDF designed to deter and prevent the entry of illicit drugs into VIDF;
- Staff trained in relevant operational procedures; and
- Management systems in place to ensure effective supervision of staff in the performance of their duties in relation to the deterrence and prevention of entry of illicit drugs into VIDF;

Finding 3

That GSL's strategies and procedures for the prevention of entry of illicit drugs into VIDF are necessarily less than what would be expected in a secure prison environment. This is in order to achieve a desired *critical balance* between freedom of movement/ association and security, good order and safety within the non-punitive environment of an administrative detention facility.

Finding 4

That on the available evidence relating to finds of prohibited articles involving illicit drugs and on medical evidence relating to detainees suffering from substance abuse, it can be concluded that illicit drugs are not readily available in VIDF. On this basis it is reasonable to assume that at present GSL's strategies and procedures are achieving the desired *critical balance*, as covered in Finding 3, above for the prevention of entry of illicit drugs into VIDF.

Finding 5

That the detainee mix at any point in time can alter the dynamics of a detention facility in terms of the demand for illicit drugs. Therefore, from time to time additional effort and or strategies may be required to combat emerging threats in relation to illicit drugs.

Recommendation 1

That the VIDF Senior Management Team monitor monthly statistics on finds of prohibited articles involving illicit drugs and medical evidence relating to detainees suffering from substance abuse and take decisions on a month by month basis as to whether there is a need for additional effort and or strategies to combat threats that may be emerging in relation to illicit drugs;

Recommendation 2

That as recommended by the July 2006 joint DIMA/ GSL audit team, a useful addition to the drug deterrence/ prevention armoury may be (a particular security practice);

Efficiency and effectiveness of the Detention Services Providers Drug Strategy in terms of its prevention of dealing of illicit drugs at VIDF;

Finding 6

That as covered in Table 2, to preserve the amenity of administrative detention, VIDF does not have access to the range of intrusive security measures available to correctional authorities to combat those who would attempt to deal in drugs at detention centres through a variety of possible options.

Finding 7

That, as observed by the investigator during the recent joint DIMA/ GSL operational audit of VIDF, GSL does have in place staff work practices that involve a high degree of interaction with and observation of detainees. Staff selected at random demonstrated a sound knowledge of signs of evidence of behaviour of detainees that could indicate involvement with illicit substances.

Finding 8

That during the recent joint DIMA/ GSL operational audit of VIDF it was confirmed that GSL has in place an Active Management Monitoring Program (AMMP) which requires a member of the Senior Management Team to visit a key operational area each week to sight evidence of supervisors and staff performing their prescribed duties, including security duties that would limit the capacity of people to engage in illicit drug dealing.

Finding 9

That on the available evidence relating to finds of prohibited articles involving illicit drugs and on medical evidence relating to detainees suffering from substance abuse, it can be concluded that illicit drugs are not readily available in VIDF. On this basis it is reasonable to assume that at present drug dealing at VIDF is not prevalent and that GSL's current strategies to deter illicit drug dealing are effective. The recommendation contained in the recent joint DIMA/GSL operational audit report of VIDF relating to (a particular security practice) may provide a greater level of deterrence.

Finding 10

That during the July 2006 joint DIMA/ GSL operational audit of VIDF, concern was expressed by GSL VIDF management that it is difficult to achieve a police response to illicit drug matters. The audit report has made a recommendation in relation to this matter.

Efficiency and effectiveness of the Detention Services Providers Drug Strategy in terms of its detection of illicit drugs and illicit drug use within VIDF:

Finding 11

That as covered in this report and on the evidence from the July 2006 joint DIMA/ GSL operational audit of VIDF, GSL has in place good practice detection procedures relating to illicit drugs and staff are carrying out these procedures effectively under regular management supervision.

Efficiency and effectiveness of the Detention Services Providers Drug Strategy in terms of its treatment of detainees with substance abuse problems:

Finding 12

That during the July 2006 joint DIMA/ GSL operational audit of VIDF, clinical services for people with substance abuse problems were described to the auditors. It may be of benefit for these services to be assessed/ audited by appropriately qualified clinicians. The audit report has made a recommendation in relation to this matter.

Efficiency and effectiveness of the Detention Services Providers Drug Strategy in terms of its education of detainees generally in relation to the problems associated with substance abuse.

Recommendation 3

That on the next occasion there is an audit of health and medical services at VIDF, the Terms of Reference should cover a review of the appropriateness of GSL's substance abuse education programs.

6.3 Terms of reference C

Concerning the allegation of sexual assault of female detainees:

- *In the light of the particular circumstances of the allegations, establish whether:*
 - *the complainants were placed at risk due to inadequate facilities, operating procedures and or incompetence or worse by staff;*
 - *the security arrangements for the protection of female detainees at VIDF from sexual assault are adequate;*
 - *the systems and procedures for reporting of sexual assault to all relevant authorities, including those to be followed by health professionals at VIDF, are adequate;*
 - *staff have been adequately trained in procedures for dealing with complaints of sexual assault;*
 - *the procedures for medical investigation and treatment, including screening and counseling of victims of sexual assault are adequate;*
 - *the health care professional should have reported the allegations under relevant state or Commonwealth law, and possible breaches of Privacy legislation in the event that he/she had reported the claims given in confidence; and*
 - *the complaints which are the subject of the allegations were appropriately dealt with at the time they became known to staff at VIDF.*

6.3.1 The Allegations

The allegations related to:

- Sexual assault of a female detainee by a male detainee in the family accommodation in Stage 2 of VIDF. It is claimed that the assaults took place on a number of occasions over a six (6) month period during the first half of 2004;
- Attempted sexual assault of another female detainee by the same alleged perpetrator of the above assault;
- Male detention officers sexually harassing female detainees accommodated in all female LIMA dormitory, VIDF; and
- Sexual harassment of a female visitor to VIDF by a male detention officer;

As mentioned in the introduction to this report, the allegations that led to this investigation are covered in a report on Section A of the Terms of Reference which was provided to DIMA on Tuesday 13th June 2006. DIMA has advised that all material in its possession relating to the allegations pertaining to sexual assault has been forwarded to the Australian Federal Police for investigation.

Accordingly, this investigation and report does not deal with individual allegations. The investigation has covered the policies, strategies, operating procedures and staff and management practices currently in place aimed at ensuring the safety of women detainees within VIDF. This report makes findings and recommendations arising from this investigation.

It is not possible to make any meaningful assessment of practices that may have been in place in times prior to this investigation.

6.3.2 The Practice of Accommodating Women and Men Detainees in the same Detention Facility and Allowing Women and Men to Interact within the Facility

At the time of this investigation there were nineteen (19) women detainees accommodated in LIMA compound VIDF which has an optimum capacity for thirty six (36) women. LIMA compound is a discrete compound within Stage 2 VIDF with arrangements in place that allows unfettered day time access by women detainees into the Stage 2 male compound. A further thirteen (13) women detainees were accommodated in Stage 2 Family Accommodation with their partners.

In the order of one hundred and sixty (160) male detainees were accommodated in Stage 2, VIDF at the time of this investigation.

The practice of accommodating women and men detainees in the same detention facility and allowing interaction between the sexes has its basis in the Detention Services Contract Schedule 2, Part 3, Administrative detention, paragraph 3.1.8 says:

"Because immigration detention is administrative in nature, flowing as it does from Executive rather than judicial power, immigration detainees are not detained in the same legal context as those held in a correctional setting. Because detainees are in administrative detention, the Department has deliberately sought to create an environment in the facilities which achieves, to the greatest extent possible, normal social interactions within the detention community of a particular facility. The Department strives to keep family groups together, including extended family members, to encourage detainees to participate in the daily routine of the facilities and in activities and programs driven by the interests and needs of detainees".

It may be argued from a duty of care perspective that the single women accommodated in LIMA compound could be housed in a separate facility away from any interaction with male detainees. However, the investigator established from interviews of women detainees in LIMA compound that:

- A number of them have male friends accommodated in Stage 2 with whom they wish to maintain regular social interaction; and
- They do not wish to be detained in an all women environment, particularly if the period of time in detention escalates and they would strongly protest any action in this regard;

Women detainees residing with their partners in Stage 2 Family Accommodation who were interviewed expressed no desire to be separated from their male partners and or from the other male detainees accommodated in Stage 2.

The wishes of the women, as outlined above, to maintain social and family contact with their male friends and partners should only be overridden on the basis of duty of care considerations where it has been established that the safety of the women is at risk and it is not possible to adequately mitigate this risk within the predominately male detainee environment.

Accordingly, this investigation and report has focussed on the strategies and operational practices in place to ensure the safety of women accommodated in a detention facility with a predominately male population.

6.3.3 Assessment of the Detention Services Providers Performance in Ensuring the Safety of Women Detainees at VIDF

This assessment must be viewed in the context of an environment where the detainees, men and women, are predominately not from a criminal background and are not in detention for criminal offences. Therefore, in considering the potential for sexual predators among the male detainee population, it is reasonable to take the view that this potential would be far less than within a typical male prison population but somewhat higher than within the general community due to sexual tension created by the circumstances of their detention.

6.3.4 LIMA Compound

LIMA compound is a discrete rectangular compound within Stage 2. LIMA compound is separated from the predominately male Stage 2 compound by a single chain wire fence with an access gate at each end of the compound. Recently a decision was taken to leave both gates open between 0730 and 2300 hours to allow women unrestrained access to other areas within Stage 2.

LIMA compound is supervised by an all woman staff roster. Two women officers are on duty on the compound 24/7. Male detainees are not permitted access to the compound. Male staff and other authorised males can only enter the compound under the escort/ supervision of a woman staff member. During the recent joint DIMA/ GSL operational audit of VIDF it was confirmed by the investigator on a number of occasions that GSL staff rigorously enforced this requirement.

Following is an extract from the audit report compiled by the investigator and a female DIMA operational auditor during the recent joint DIMA/ GSL operational audit of VIDF that dealt with the safety of women detainees within LIMA compound:

"The auditors tested the two officers on duty on the afternoon of 19th July 2006 with questions relating to the responsibilities attaching to their post. Their knowledge was all encompassing and a review showed that the daily occurrence log was well compiled. Both officers presented enthusiastically concerning their role. In their interaction with the women detainees observed by the auditors, they did so with good humour and were obviously well respected by the detainees.

The officers on duty competently answered questions relating to indicators of possible substance abuse. The officers said that it was very rare to have instances of substance abuse. They could recall one case over the past 18 months.

The issue of women's safety was extensively canvassed with the officers and with five (5) women detainees. The auditor's questions were based around the potential for women to be sexually harassed/ assaulted, particularly given the open gate policy, either in LIMA compound or in Stage 2 where women frequently move about to attend the dining rooms, program areas and to socialize with male friends.

All women detainees spoken to were adamant that they felt safe and were strongly opposed to any suggestion that the gates to the compound should be closed in the interests of their safety even if

the gates could be opened electronically on request to officers. The women greatly value the freedom of exiting and entering LIMA compound as and when they desire. All of the women spoken to confirmed that they held no fears of harm from male detainees. They pointed out the ready availability of officers throughout Stage 2 as well as male detainee friends.

The officers on duty asserted strongly that they held no fears for the women's safety. The auditors reviewed the post orders for LIMA compound with the officers and formed the view that the orders, if efficiently performed are sufficient to ensure the safety of the women in LIMA compound, save of course for some exceptional circumstance that could occur in an institutional environment where males and females are confined against their will. However, to guard against such exceptional circumstances would involve extreme restrictions on the freedom of women adversely affecting their amenity which they would strongly resist.

An inspection of the women detainees' accommodation confirmed that the women can lock their bedroom doors from the inside. Women officers can unlock the doors from the outside".

Notes:

- (1) The comments by the women detainees above that they held no concerns for their safety support the evidence provided by GSL in the form of notes of a meeting held on 25th May 2006 with female detainees accommodated in the LIMA compound VIDF. The female detainees were asked in the presence of DIMA and GSL officers whether they had been the subject of sexual harassment from any male while in detention. The notes record the outcome of what appears to be a free and frank discussion where the women were adamant that this had not occurred.
- (2) The allegation referred to female detainees *"in LIMA dormitory sitting up during the night because of a fear that male officers may come to sexually harass them"*. There is no dormitory in LIMA compound. At present the women detainees each have their own bedroom which they can lock from the inside. The key to override the bedroom door lock is in the possession of the female officers on duty. There is capacity to accommodate two women in each bedroom if required.

LIMA compound is a relatively small compound and the officers work station provides for reasonable levels of observation for both access points to the compound and the compound generally. The capacity for static observation is supported by the operational procedures and practice which require a high degree of interaction between officers and detainees.

The officers on duty in LIMA compound during the audit period were observed on the occasions of three separate unannounced visits to the compound to be engaged in individual and group interaction with the women detainees. At various stages in the observed interactions the investigator noted mutual respect, good humour and on one occasion compassion demonstrated by the officers in dealing with a distressed woman detainee.

Evidence was noted in the LIMA Compound daily log of regular attendance at the compound by a GSL VIDF management representative as part of the Active Management Monitoring Program (AMMP) which requires a member of the Senior Management Team to visit a key operational area

each week to sight evidence of supervisors and staff performing their prescribed duties, including security duties.

Finding 13

That in relation to the allegation that male detention officers are sexually harassing female detainees accommodated in the all female LIMA compound at VIDF, current operational procedures and staff practices, if effectively and efficiently followed, preclude this from happening;

Finding 14

That on the evidence available to the auditor from his inspection of LIMA compound, including observation of officers performing their duties, discussion with officers and with GSL VIDF management, there is a high level of awareness of the need to ensure the safety of women detainees and to ensure that procedures are followed to the letter such that allegations of impropriety can not be sustained.

Finding 15

That the relevant manager and the officers on duty during the audit all evidenced a high degree of professionalism and inspired confidence in the investigator that they can be relied upon to discharge their duties diligently in the best interests of the security and safety of the women detainees.

Finding 16

That the women detainees currently accommodated within LIMA compound communicate openly with officers and mutual respect was evident. It is reasonable to assume in these circumstances that if the women detainees felt in danger of sexual harassment or assault they would communicate such concern to the officers.

Finding 17

That the sample of five (5) women detainees spoken to in LIMA compound by the investigator and the female DIMA operational auditor held no concerns in relation to sexual assault or harassment.

6.3.5 Family Accommodation Stage 2

Following is an extract from the audit report compiled by the investigator and a female DIMA operational auditor during the recent joint DIMA/ GSL operational audit of VIDF that dealt with the safety of women detainees within the Family Accommodation Stage 2:

"At the time of the audit 13 women were living in Stage 2 accommodation with partners in a family situation. The auditors interviewed two families with 3 women. None of the women or their partners held any fears for their safety. An inspection of their accommodation revealed immaculate housekeeping. The bedroom doors can not be locked from the inside.

Officer's posts are in close proximity to the family accommodation and the auditors observed positive ongoing interaction between detainees and officers.

The auditors noted that the post orders for Stage 2 while covering the issue of safety for all detainees did not make specific mention of duties relating to the special needs pertaining to women's safety".

It is noteworthy to observe that one of the female officers from LIMA compound, which is situated in relatively close proximity to the Stage 2 Family Accommodation, speaks Chinese and was able to assist the investigator in communicating with two Chinese women detainees living in the Family accommodation. Once again the investigator noted the good rapport and obvious respect between this officer and these particular women detainees, such that the investigator has a high level of confidence that if any of the women in the Family Accommodation had concerns for their safety they would bring this to attention.

The investigator noted officer's posts in close proximity to the Family Accommodation and officers regularly moving along the walkway adjacent to the Family Accommodation which is one of the thoroughfares to the detainees dining facility.

Finding 18

That subject to the issues of door locks and post orders covered by recommendations arising from the audit report, the investigator is satisfied that the procedures in place for the safety of women detainees in the Family Accommodation are appropriate, save for some exceptional circumstance which to guard against would defeat the desired amenity within administrative detention.

Finding 19

That none of the women or their partners living in the Family Accommodation who were interviewed held any fears for their safety.

Finding 20

That given the high level of interaction between women officers and women detainees, the communication and access between women detainees and male partners and with male and female detainee friends and the close proximity of officer's posts to the Family Accommodation, the investigator concludes that it is highly unlikely that the circumstances as described in the allegations relating to the sexual assault and attempted sexual assault could occur under the current operating environment.

Concerning the specific questions posed under Terms of Reference C, the following Findings are made:

Whether the complainants were placed at risk due to inadequate facilities, operating procedures and or incompetence or worse by staff;

Finding 21

It is not possible to make a finding relating to circumstances that existed at the time of the alleged incidents. However, at the time of this investigation, subject to the issues of door locks and post orders in the family accommodation in Stage 2 being addressed (as covered by recommendations arising from the audit report), the safety of women detainees is not at risk due to the nature of the facilities, the operating procedures or by the lack of competence of staff.

Whether the security arrangements for the protection of female detainees at VIDF from sexual assault are adequate;

Finding 22

That the security arrangements for the protection of female detainees at VIDF from sexual assault are adequate, save for some exceptional circumstance which to guard against would defeat the desired amenity within administrative detention.

Whether the systems and procedures for reporting of sexual assault to all relevant authorities, including those to be followed by health professionals at VIDF, are adequate;

Whether staff have been adequately trained in procedures for dealing with complaints of sexual assault; and

Whether the procedures for medical investigation and treatment, including screening and counseling of victims of sexual assault are adequate;

Finding 23

That in relation to allegations of sexual assault, the questions relating to systems and procedures concerning reporting, staff training and medical procedures for treatment, screening and counseling should be addressed on the next occasion that there is an audit of health and medical services at VIDF.

Note: During the recent audit of VIDF it was ascertained that GSL has given consideration to the possibility of women who have been sexually harassed/ assaulted not disclosing the incident due to shame/ fear etc. GSL is considering two initiatives to address this – appointment of a woman officer with the role of liaising on a daily basis with all women in detention at VIDF for coffee chats etc concerning their well being and establishing a woman's forum for women detainees where woman's issues can be discussed and empowerment education can be conducted.

Recommendation 4

That DIMA request GSL to provide an action plan, including time line, for implementation of the initiatives to appoint a Women Detainees' Liaison Officer and the establishment of the Women's Forum;

Recommendation 5

That on the next occasion that there is an audit of health and medical services at VIDF, the Terms of Reference should cover a review of systems and procedures relating to reporting of allegations of sexual assault and staff training and medical procedures for treatment, screening and counseling of victims of sexual assault;

Whether the health care professional should have reported the allegations under relevant state or Commonwealth law, and possible breaches of Privacy legislation in the event that he/she had reported the claims given in confidence; and

Whether the complaints which are the subject of the allegations were appropriately dealt with at the time they became known to staff at VIDF.

Finding 24

That as there is no evidence that the allegations/ complaints were ever made to staff at VIDF the above questions have not been reported upon.

DIMA have advised the investigator that a person (name provided) acting on the complainant's behalf in relation to an immigration matter included the allegation of sexual assault in documentation provided to the department in December 2005. At that time DIMA officers attempted to verify the veracity of the claim that the complainant had raised the allegation with a DIMA psychologist at another detention facility around July 2004.

DIMA advise that at that time no evidence could be located that the alleged assault was ever reported to the department as stated by the complainant.

Following this matter again being raised by the investigator during the past week with DIMA, the department has caused further enquiries to be made and have advised once again that no evidence of this matter being reported by the complainant to the department around July 2004 can be found".

Finding 25

That evidence can not be located to support a claim by a former woman detainee that she disclosed an alleged sexual assault upon her to a DIMIA psychologist some time after the alleged assault.

6.3.6 Alleged Sexual Harassment of a Female Visitor to VIDF by a Male Detention Officer

A detainee has alleged that on 17th May 2006 a male detention officer sexually harassed his female visitor by *"repeatedly hitting her on the bottom and placing her in an extremely uncomfortable position"*. This complaint was investigated by GSL.

Following GSL's investigation DIMA concluded, on the evidence available to date, that GSL's communication with the detainee complainant has been less than adequate concerning the outcome of the investigation of his complaint that his female visitor was sexually harassed by a Detention Services Officer.

In view of the concerns expressed by the detainee complainant DIMA has commissioned an independent review of this matter, including interview of the detainee complainant and investigation of a further complaint that he was told by a GSL officer that *"he would suffer consequences if he continued pursuing this matter"*.

Finding 26

That on the evidence available to date, GSL's communication with the detainee complainant has been less than adequate concerning the outcome of the investigation of his complaint that his female visitor was sexually harassed by a Detention Services Officer. In view of the concerns expressed by the detainee complainant DIMA has commissioned an independent review of this matter, including interview of the detainee complainant and investigation of a further complaint that he was told by a GSL officer that *"he would suffer consequences if he continued pursuing this matter"*.

Note: Since preparation of the report of this investigation DIMA and GSL, working in consultation with this investigator, has engaged in consultation with the complainant over the action taken in relation to his complaint. This investigator has been advised by DIMA that the complainant is now satisfied with the actions taken by GSL in this matter.
