

ACM's treatment of detainees

- 6.1 Time constraints, imposed by the Committee's program, meant that it was not always able to discuss the issues raised by detainees with ACM's centre management staff at the end of each of our visits.¹
- 6.2 At a subsequent meeting in Canberra, the Committee was able to discuss a range of topics with senior ACM representatives. Both ACM and DIMA subsequently provided additional material on the matters discussed at those meetings.
- 6.3 Some related issues, such as the detention of asylum seekers in the jails of the States and Territories, are also covered in this Chapter.

Overview

- 6.4 The most constant complaint from detainees was about the length of their detention. They felt that they were being held in a jail-like environment and treated as criminals. A comparison with prisoners was often made, with claims that prisoners were better off because they knew why they were in jail, were provided with better facilities and knew how long their sentence would be.
- 6.5 Because DIMA is responsible for the issue of visas, ACM cannot control the length of time detainees spend in centres. However, because ACM operates the centres for DIMA, and is involved in decisions about the location or treatment of detainees, it has a direct role in the treatment of and conditions for those detainees.
- 6.6 As a result of this arrangement, detainees have more contact with ACM staff on a daily basis than they do with DIMA representatives.

1 Details of DIMA's contract with ACM are in Chapter 3.

The detainees' views

Curtin IRPC

- 6.7 There was an allegation that, as the result of Afghani-Iranian conflict, there had been a collective punishment of all the inhabitants of the Curtin Centre.²

Port Hedland IRPC

- 6.8 Just prior to the Committee's visit, there had been two disturbances at Port Hedland. Since that visit, there have been further, serious disturbances at this Centre.
- 6.9 According to ACM, on 12 January 2001, there had been 'quite a large disturbance' and the WA police riot squad and an ACM squad had been involved to disperse the detainees 'in a safe manner'. A policeman had been concussed, and a detainee had been charged. ACM staff had also been assaulted.
- 6.10 Later that month, on 21 January 2001 a second disturbance occurred as a result of actions taken by ACM to remove three people from the Centre in order that police action could be taken against them. One detainee had assaulted a staff member, while the other two had damaged property while attempting to pull down a gate. A group of approximately 180 detainees had then used the removal of the three as an excuse to break other compatriots out from another block.³
- 6.11 During meetings with the Committee, detainees alleged that they were bashed and handcuffed during these disturbances. It was alleged that large numbers were bashed, and that there was collective punishment of detainees at the Centre.⁴
- 6.12 There were also criticisms of the conditions in Juliet Block. The treatment there was claimed to be so harsh 'that people do not have any rights'. Between 22 and 44 people could be located in Juliet block, and it was claimed that detainees were not allowed outside and did not have access to television or radio.
- 6.13 When the Committee visited the Centre on 30 January, there were 24 people upstairs and nine downstairs in Juliet. These detainees had been
-

2 See paragraph 4.11.

3 The Committee visited Port Hedland on Tuesday, 30 January 2001.

4 See paragraphs 6.55-6.57 for ACM's policy on the use of handcuffs.

there since the incident on 21 January. During the visit, some Committee members toured this block. They found shower assemblies incomplete or not working, toilet seats missing and, overall, conditions were totally unacceptable. ACM advised that detainees were released from their rooms for one hour in every 24 hours, and that only one detainee at a time was allowed in the ablution block.⁵

- 6.14 **Committee members were disturbed that information relating to Juliet Block was not volunteered by ACM or DIMA and was only discovered upon a request from members, in response to complaints from detainees. The Committee considers this to be most unsatisfactory.**
- 6.15 At a later meeting, DIMA emphasised that Juliet was not normally in use because it had not been refurbished, and was not up to appropriate standards. During the disturbances in 2000, I (or India) block had been damaged by fire and was still unused. Juliet therefore had to be used on occasions 'as an absolute last resort'. As part of a long-term plan, and since its visit, the Committee has been advised that refurbishment of Juliet has begun.
- 6.16 Rooms in Juliet block were not always locked but, depending on the individuals detained there, operational decisions could be taken to do so. During a later meeting with the Committee, ACM advised that if detainees were locked in rooms during the Committee's visit, this would have been as a result of the disturbance that had occurred on 21 January.
- 6.17 DIMA advised the Committee that all those in Juliet at the time of the visit were there because they had participated actively in the disturbance by breaking down a fence, smashing windows and doors or breaking into a maintenance shed and stealing rakes and other implements that had been dispersed around the Centre. The detainees who were identified as suspects by a joint WA Police/ACM operation were isolated in this block while evidence was gathered and decisions made about charging individuals with offences.
- 6.18 DIMA noted that as other facilities became available, and by Wednesday 31 January or Friday 2 February, people had been moved from Juliet back to their original accommodation or to the refurbished I block.
- 6.19 A guarantee was given that Juliet would not be used until it was refurbished. It was made clear however that, if there was another disturbance at Port Hedland and other blocks were destroyed, people might have to be accommodated in Juliet on a short-term basis until they could be relocated.

5 DIMA said that there were 21 people upstairs and eight downstairs.

An individual allegation

- 6.20 A detainee who had been in detention for 20 months accused ACM and DIMA of using violence to prevent a hunger strike. He claimed that, in July 2000, he was isolated for two weeks in Juliet with his three-year old son.
- 6.21 He said that he arrived with a group at Port Hedland at 2.30am, 'handcuffed with violence', from Villawood. He said that he and his child were put into an isolation cell on the second floor, and that it was not possible to see the outside world. There were no toilet facilities in the room, and it took an hour to attract attention so that they could be allowed to visit the toilet in the block. This detainee said that although he, not his son, was on a hunger strike, his child was not given anything to eat until the day after they arrived and the child 'was crying and screaming'.⁶
- 6.22 He also claimed that for the first 13 days, they were not allowed from the 'cell'. After that time, he said his child was allowed outside for 45 minutes. The room was checked two or three times per night, sometimes with lights or torches. Because the showers could only be used by one person at a time, he said that he could not wash his child.

ACM/DIMA response

- 6.23 ACM stated that this detainee was transferred to Port Hedland because he had been identified as one of the ringleaders of the disturbance at Villawood. During this so-called 'hunger strike', 60 detainees had barricaded themselves inside the recreation hall with women and children and refused to come out. Every time ACM had tried to evaluate their condition, razor blades were held to the throats of the women and children.
- 6.24 DIMA said that a number of other detainees were moved to Port Hedland at this time because of that incident. Not all of them went to Juliet.
- 6.25 This matter was raised in a later press report. This included the statement that DIMA had investigated these claims and that they had been 'found to have no basis in fact'.⁷

6 This detainee was back in Villawood at the time of the Committee's visit. He had been in detention centres for 20 months.

7 See AAP story on 3 April 2001: **Asylum seeker's 3yo son deprived of food-claim.**

Perth IDC

- 6.26 Views at this Centre were divided between detainees who believed that the treatment from most of the staff was good, and detainees who felt that some staff were rude to them.
- 6.27 A detainee told of a clash with a staff member, in which he was allegedly told that he would not be treated fairly because of his status as a detainee. He contrasted his treatment at Perth with that at Port Hedland, where he said that he had been treated 'fairly or better'.

Woomera IRPC

- 6.28 The Committee heard that detainees were afraid to complain about their treatment because the staff had said they would be reported to DIMA, and that this would have an impact on their claims. A detainee reported that a sick person could not get a meal sent to an accommodation block.⁸
- 6.29 Another detainee reported that a family that had complained about the number of other families in a demountable and had been sent back to Sierra 'with all the single guys'.
- 6.30 A third detainee thanked ACM for its 'very good treatment', but noted some problems with communications from the Centre, and another referred to a lack of privacy during phone calls.⁹
- 6.31 In a reference to the relocation of hunger strikers from Villawood to Woomera, it was alleged that people were rounded up and moved without shoes. Mention was also made of an occasion when an ACM staff member had allegedly removed a TV set from the women's centre to watch a program of his choice, when the women had wanted to watch a particular program on SBS television.
- 6.32 A detainee referred to the fact that ACM was a private company whose main concern was to make a profit. He drew attention to the similarity of the Centre to a prison, and alleged that mail was opened and checked. A second accused ACM of ensuring that, during the fire at the Centre in 2000, the fire engines did nothing for 'about 25 minutes' until the TV cameras arrived. This detainee concluded that:

A lot of the traumas that have taken place here could have been avoided if ACM had been effective in helping things to take place.

8 See paragraph 4.116.

9 See paragraphs 4.111 and 4.113.

Villawood IDC

- 6.33 While one detainee stated that ‘the main problem for all detainees here is ACM and their general attitudes’, another alleged that he had seen ACM bash ‘many people’.
- 6.34 A third detainee accused ACM staff of provoking detainees and playing games with them until they ‘lose it.’ Yet another said that ACM, and DIMA, ‘talk human rights’, but at the centre: ‘there are no human rights.’
- 6.35 It was claimed that it was difficult to get ACM to do things for detainees. For example, a request for toilet paper had to be put in writing and detainees had to wait, sometimes for an hour at a time for that request to be actioned.
- 6.36 A detainee referred to intimidation and reprisals by both ACM and DIMA as ‘quite common’. Another told of actions taken by ACM to stop him participating in a hunger strike, alleging that his wife was starved and his children were ‘kidnapped’.
- 6.37 Finally, a detainee alleged that although there were 56 people in Sierra none of them had come to the meeting with the Committee because they were ‘afraid of DIMA and ACM’.

Maribyrnong IDC

- 6.38 From this Centre, there were non-specific claims that ACM treated detainees ‘like animals’ and that it did not know ‘how to treat us properly’. There were also minor complaints such as that, although staff were sitting on chairs outside with nothing to do, they refused to climb on to the roof to rescue a volleyball so that a game could continue.
- 6.39 There were two claims that drugs were available in the Centre.¹⁰

ACM’s responses

Background

- 6.40 In 1997, with the Commonwealth Ombudsman, DIMA developed Immigration Detention Standards (IDS). For the first time, there was a framework for the standards required in detaining unauthorised arrivals and migration detainees. The IDS were developed as part of the
-

¹⁰ See paragraph 4.189.

Government's decision to open to competitive tender the provision of services for detainees.¹¹

- 6.41 ACM won that tender, and the IDS are the benchmarks that are required to be met in the provision of services. Its provision of these services is accompanied by a detailed process of reporting incidents of all kinds to DIMA, and within ACM itself.

Standards

- 6.42 The Managing Director stated that ACM was dedicated to delivering the standards in the contract with DIMA. He made it clear that, while there had been suggestions that detainees were treated with 'less than respect', the Company:

will not and does not tolerate any of our staff who do not (a) deliver the standards and (b) portray or deliver unacceptable behaviour.

- 6.43 Adherence to the contract is monitored by DIMA and an element of the fees paid to ACM is withheld, subject to satisfactory performance against its standards.

ACM's procedures

- 6.44 The Managing Director said that he believed that all staff were well trained and well prepared. ACM has a staff handbook and a code of conduct, so that staff are in no doubt about management's expectations and standards. To detect inappropriate behaviour, every incident report is monitored and inquiries are made if the name of a staff member appears regularly.
- 6.45 Inappropriate behaviour is not tolerated and, when management is made aware of it, action is taken. Two examples were given of cases where staff members were suspended, the police called in and ACM's own investigating officers appointed.
- 6.46 There is also a grievance and complaints procedure for the use of detainees. If a complaint is in a detainee's own language, it will be translated and acted upon by the centre manager. There have been cases where the police have been brought in and cases where ACM has undertaken its own investigations. On other occasions, matters have been

11 The IDS are at Appendix H.

examined through interpreters and found not to be as serious as first thought.

- 6.47 This complaints process is additional to those of the Ombudsman and the Human Rights and Equal Opportunity Commission (HREOC). Detainees can also complain about the operation of centres to DIMA, to their legal representatives or the local church. In every case, complaints will come back to the centre for investigation.

Training

- 6.48 The Committee was told that all applicants for positions with ACM are psychologically tested, and all staff are trained to look after detainees, to treat them with respect and to provide a humane environment.

- 6.49 ACM provided a range of specific information, including the following general statement:

All detention officers undergo an extended period of study and training which leads to the grant of a 'Certificate III Correctional Practice', which is endorsed by the National Training Authority.

Staff who are employed in ACM's Correctional arm and who work in a detention centre are provided with bridging training to assist with the transition.¹²

- 6.50 ACM also provided details of the structured selection interviews, and the psychometric assessment of potential applicants for positions. The latter includes the 16PFv5 Aust questionnaire. All correctional and detention staff recruits 'are to receive 240 hours of orientation and pre-service training'. In addition, all ACM staff receive mandatory refresher training in each year of their employment: 40 hours per employment category for the first year, and a further 40 hours per category in each year thereafter.

- 6.51 ACM provided details of its induction program and Special Needs Training. Training in the mandatory reporting of child abuse is provided by the South Australian Department of Family and Youth Services. At the time this material was supplied, ACM's High Risk Assessment Team (HRAT) procedures were under review, to ensure consistency throughout the organisation.

- 6.52 ACM noted that, in November 2000, its training programs were independently evaluated. The recommendations from this process 'have given ACM direction in areas that (it) can further develop.' It concluded

12 A Bridging Training course of 24 hours face-to-face instruction is provided.

that: 'Steps have been taken in an ongoing continuous improvement process for training.'¹³

Observation and musters

- 6.53 DIMA noted that ACM had a contractual obligation to prevent escapes from centres, and to maintain good order and security at the centres.
- 6.54 In outlining its practices, ACM noted that the practice of head counts during the night had been instituted following escapes when beds had been made up to appear as though they were occupied. Managers then made staff members for blocks responsible for checking that people were in their beds. There was no requirement to wake detainees.

Handcuffs

- 6.55 ACM stated that handcuffs were used 'very rarely'. If physical restraint is used, it is with the Centre manager's authority. Plastic handcuffs are 'generally' used and, once they are removed, the person must be inspected by 'a medical authority' and a report submitted on that person's condition.
- 6.56 ACM stated that it does not use handcuffs lightly. It said that detainees can only be restrained if there is a need to maintain control, such as a riot. In this instance detainees can be handcuffed as they are removed from the scene. In addition, if a detainee has 'proven to be dangerous' as they are being taken elsewhere, they can be handcuffed.
- 6.57 In each case, an assessment is made to establish whether there is reasonable need or justification to handcuff a detainee.

Supply of clothing

- 6.58 During its visits, on several occasions, the Committee was told about the shortage of clothes and footwear.¹⁴
- 6.59 ACM denied that there was a shortage of clothing at the centres: there were stocks of Western clothes at each centre, available and given freely as part of the contract requirement. When detainees arrive, property is catalogued.
- 6.60 Claims were made that clothing was not issued, but subsequent checks had shown that more than one set had been issued to the complainants.

13 In his response to the Flood Committee Report, the Minister noted that ACM's staff training was being reviewed: see paragraph 2.72.

14 See paragraphs 4.23, 4.44-4.45 and 4.110.

Lost property

- 6.61 At Villawood, a detainee stated that his passport had been lost at the Centre. ACM noted that some money and valuables, such as a camera, had disappeared there. When this happened, the police were called in, and procedures had been reviewed a number of times. If possible, when things disappeared while held by ACM, they were replaced.¹⁵
- 6.62 On occasion, when detainees are moved from one centre to another, bags do get lost. If they contained clothing, ACM stated that it is replaced.

Movements of detainees

- 6.63 Decisions to move detainees are made by ACM and DIMA jointly. Where ACM had operational, health or security reasons to move a person, a request would be made and details would be provided. For example, detainees may be located in Villawood and Maribyrnong because they can receive better treatment there than in other centres. While advice was taken seriously, in some cases, DIMA had declined to approve transfers.¹⁶
- 6.64 DIMA noted that there were no specific criteria for movements of detainees between centres. The Ombudsman has stated that it is the Department's responsibility, as part of its duty of care, that difficult cases should as far as possible be managed in a centre or within the network of centres.
- 6.65 Transfers of detainees to State/Territory jails were therefore used as 'an absolute last resort'.

ACM's commitment

- 6.66 A senior ACM representative said that he was 'overwhelmed' and impressed by the attitudes he found within the organisation and the way the staff work. He told of receiving 98 requests to fill 50 jobs in Woomera, and 60 requests to fill 'a couple of jobs' at Curtin. He said that staff get job satisfaction from working constructively with the detainees.
- 6.67 ACM staff work in stressful and demanding jobs, especially during disturbances, often in isolated locations. ACM should advise DIMA regularly of measures taken to support staff, particularly the counselling given to those who have been on duty during disturbances.

15 See paragraph 4.165.

16 See paragraphs 4.141 and 4.188.

Changes made by ACM

- 6.68 When he tabled the Flood Report in the Parliament on 27 February 2001, the Minister drew attention to measures already taken by ACM:
- a revision of policy instructions for managing child protection issues, and
 - a review of cross-cultural training modules for staff.
- 6.69 In addition, ACM has increased the accountability of its administrative procedures.
- 6.70 The Minister also noted that DIMA was also addressing performance management aspects of the contract with ACM.¹⁷

Conclusions

- 6.71 There were varying numbers and levels of seriousness of complaints about the behaviour of ACM staff at the different centres. Many of the matters raised were petty and not always based on all the facts. Many detainees are not aware of all of the constraints within which both DIMA and ACM must operate.
- 6.72 In addition, some of the matters raised and the general frustration felt were clearly not directly the result of treatment by ACM but were unavoidable consequences of aspects of DIMA's processes.
- 6.73 Concerns were expressed by some detainees about possible retribution by ACM staff following meetings with the Committee. It was for that reason that both DIMA and ACM personnel were asked to absent themselves during those meetings.
- 6.74 ACM's senior staff appeared to be genuine in their desire to provide efficient and effective services at the detention centres. They were able to point to a complete and documented approach, one which specified standards of service and behaviour. They were clearly determined not to tolerate accusations of unacceptable behaviour. Staff members had been suspended, charged and sacked as a result of that behaviour.

17 See the Minister's statement, House of Representatives *Hansard*, 27 February 2001, p. 24484. See paragraph 4.119 for the introduction of 'supper packs' for families at Woomera.

- 6.75 The words of ACM's Managing Director left us in no doubt of his views, but this does not necessarily mean that all ACM's processes are effective in all circumstances.¹⁸
- 6.76 There is no doubt that aspects of the jobs done by ACM staff are dangerous. During the visit to Curtin, Committee members were shown the weapons that had used during a disturbance at the centre.
- 6.77 This Report devotes much attention to the claims, valid or unreasonable, of the detainees about their treatment by ACM staff and tries to provide some balance by stating ACM's policies or in giving ACM staff the right of reply.
- 6.78 Even allowing for distortions and exaggerations from the detainees, the Committee was frequently unable to reconcile ACM's statements with the accounts of the behaviour of ACM staff.
- 6.79 On the basis of what we saw during and heard following our visits, we believe that this organisation needs to improve communication with its operational staff.
- 6.80 There have been recent changes to the way centres are run possibly as a result of the Committee's visits or because of other inquiries that have been undertaken since the end of 2000. An example of such a change is the provision of supper packs to families at Woomera.¹⁹
- 6.81 The Committee recognises that ACM has introduced changes, but they do appear to have been very slow in coming.
- 6.82 In addition to formal reporting requirements to DIMA, there is already a number of consultative arrangements between ACM management and detainees at the centres. These arrangements must be made to work more effectively.

Recommendation 17

- 6.83 **The Committee recommends that the Department of Immigration and Multicultural Affairs hold discussions with Australasian Correctional Management Pty Ltd, with a view:**
- **to ensuring an appropriate relationship exists between staff and detainees at migration detention centres;**

18 See paragraph 6.42.

19 See paragraph 4.119.

- **to ensuring appropriate briefings are given on arrival at centres, so that detainees are made aware of the range of assistance and facilities that is available;**
- **to strengthening the role of counsellors and welfare officers at the centres to ensure as far as practicable that all detainees are aware of the role of these staff members and the assistance that they can provide; and**
- **to nominating an appropriate, independent person for each detention centre to whom complaints can be brought by detainees who claim harsh or unfair treatment by officers of Australian Correctional Management Pty Ltd.**

6.84 As set out in Chapter 3, the Immigration Detention Standards (IDS) are included in DIMA's contract with ACM, and are also used to measure ACM's performance. It is vital, for the detainees and for Australia's reputation internationally, that this document be current, effective and revised as necessary. What the Committee saw during its visits suggested that there are standards that are not being met completely by ACM.²⁰

Recommendation 18

- 6.85 **The Committee recommends that the Department of Immigration and Multicultural Affairs undertake, as a matter of urgency, a review of the Immigration Detention Standards and include the revised document in its contractual negotiations with Australian Correctional Management Pty Ltd.**
- 6.86 **In addition, the Committee is of the view that there would be merit in DIMA publicly reporting, in its Annual Report, on its assessment of the extent to which the IDS are being met at each centre.**
- 6.87 During our visits to the detention centres, we received a number of complaints about the waking of detainees during nightly checks of sleeping accommodation. Sleepers were inevitably disturbed and, sometimes, torches were shone on individuals, interrupting their sleep.

²⁰ See paragraphs 3.16-3.22, particularly paragraph 3.19.

While there may be, on occasions, a security requirement for such intrusive checks, this should not be normal practice.

Recommendation 19

- 6.88 The Committee recommends that the visual checks of detainees, including waking them during the night to establish their identity, should cease except where special security concerns exist.**