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JOINT STANDING COMMITTEE ON MIGRATION

**Reference: Villawood Immigration Detention Centre**

(Private Briefing)

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BY AUTHORITY OF THE PARLIAMENT

**JOINT STANDING  
COMMITTEE ON MIGRATION**

**Wednesday, 7 May 2008**

**Members:** Mr Danby (*Chair*), Mrs Vale (*Deputy Chair*), Senators Bartlett, Eggleston, McEwen and Polley and Mrs D'Ath, Mr Georgiou, Mr Randall and Mr Zappia

**Members in attendance:** Senators Bartlett and McEwen and Mr Danby, Mrs Vale and Mr Zappia

**WITNESSES**

<b>CARTY, Father James Patrick, Coordinator, House of Welcome.....</b>	<b>1</b>
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<b>DOMICELJ, Ms Tamara, Director, Asylum Seekers Centre of New South Wales.....</b>	<b>1</b>
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**Committee met at 10.05 am**

**CARTY, Father James Patrick, Coordinator, House of Welcome**

**CLEMENT, Mr Noel, General Manager, Domestic Operations, Australian Red Cross**

**DOMICELJ, Ms Tamara, Director, Asylum Seekers Centre of New South Wales**

**GAUTHIER, Ms Kate, National Coordinator, A Just Australia**

**HARVEY, Ms Annie, Manager, International Tracing, Refugee and Asylum Seeker Services, Australian Red Cross**

**JAIVIN, Ms Linda, Private capacity**

**NICHOLLS, Mrs Deborah Ruth (Debby), Balmain for Refugees**

**PHELAN, Sister Lorraine, Onshore Programs Manager, Mercy Works Inc., Mercy Refugee Service**

**POORVADI, Mr Morteza, Private capacity**

**THOM, Dr Graham Stephen, Refugee Coordinator, Amnesty International Australia; and Chair, Asylum Seekers Interagency, New South Wales**

**CHAIR (Mr Danby)**—I declare open this private meeting of the Joint Standing Committee on Migration. I would like to thank you all very much for making this effort, given the fact that you were not given much notice and we have asked you to make your way to Sydney Airport—getting in here is a problem. I remind you that these are formal proceedings of the parliament. No media or members of the public have been admitted, but the transcript of what is said today may be published in the committee's inspection report on the Villawood Immigration Detention Centre. If you would like further details about the report or the transcript, please ask any of the committee staff here at the hearing.

The committee visited Villawood on Tuesday, 22 April as part of its work. It was a useful visit, but the committee wanted to seek additional information from those who have an ongoing role with Villawood not from the point of view of operating it, and including people who have been part of the detention system not just there but elsewhere. We are going to have a talk about detention policy in general, but I would like to keep the discussion particularly focused on Villawood, which is the subject of our report. We are going to try and issue that report fairly quickly, before the winter break.

I would like to begin by calling on participants to make an opening statement about what they do, the role of their organisation, if they are representing one, and their experience with the Villawood Immigration Detention Centre in particular. If you would keep your comments to five minutes I would really appreciate it, as we have a lot of people here and there are some really interesting points of view. Sister Lorraine, would you mind kicking off the proceedings?

**Sister Phelan**—I have been working with refugees and asylum seekers for the last 11 years. For the last seven years I have been visiting inside the various stages in the Villawood detention centre. We also have a program of settling refugees who come into the country through UNHCR and who do not settle within the first year and still need quite a bit of support. We have a volunteer training program which assists refugees in the community. So our role is working with asylum seekers and with refugees.

**CHAIR**—Thank you very much. That was a wonderfully brief introduction.

**Sister Phelan**—There is a lot more; I could go further.

**Father Carty**—You set a very high standard there. I am the coordinator of the House of Welcome and I have been there for five years. I want to mention at the beginning that I have had six years in charge of a refugee camp in Japan and two years in Hong Kong. I come with that experience plus the experience of the past five years. The House of Welcome is a New South Wales Ecumenical Council project. It was established to fill in the shortfall of those unauthorised onshore asylum seekers who were released from detention—the boat people, as we call them—back in 2001. Since then we have expanded our capacity to respond to the changing needs and changing policies of the government, particularly in regard to habeas corpus cases and the bridging visa E category. I go into Villawood frequently as a priest for services in both stages 2 and 3 and also stage 1.

**Ms Domicelj**—I would like to start by thanking you all for the opportunity to appear before you today. The Asylum Seekers Centre of New South Wales is a very small, not-for-profit, independent organisation operating out of a house in modest premises in Surrey Hills. We receive no government funding at all and we have got a caseload at the moment of about 300 community based asylum seekers with whom we are working actively. The vast majority of those hold bridging visas which render them ineligible to seek paid or voluntary employment and also to access Medicare or mainstream welfare entitlements. While some are periodically eligible for government assistance administered by the Red Cross, specifically the Asylum Seeker Assistance Scheme or the community care pilot provisions, the vast majority of our clients are destitute and utterly dependent on charity for their basic subsistence needs.

As a centre we have four full-time equivalent staff and two case workers. In the last financial year we welcomed 253 new clients to our centre. We have assisted over 3,000 adult and child community based asylum seekers since we opened in 1993. Our clients are all residing lawfully in the community, so they all hold a visa to be here. Some of them may have been detained at some point in time, but we work outside the detention environment, and that includes community detention. The reason for that is that we consider community based asylum seekers to be a largely invisible cohort of desperately vulnerable and needy individuals.

We run a casework program and a healthcare program and, increasingly, we have been driven to making emergency interventions. Essentially we do triage. We try to get people into other forms of support, which includes trying to get people emergency medical interventions when they are required—for instance, life-saving surgery. We recently negotiated the performance of a quadruple bypass operation free of charge. We are often working with pregnant asylum seekers who have had no prior screening or care when they come to us and have no capacity to pay for their labour or other care. Our healthcare program is run by a part-time healthcare coordinator

and we rely on the services of a volunteer GP, who happens to be the Professor of General Practice at UNSW. Professor Mark Harris has run a clinic out of our premises half a day per week over the last seven years.

In addition to all of that, we have a network of volunteers consisting of about 80 individuals who provide lunches—often that is the only meal our clients eat in a day—four days a week. We also run English classes, yoga classes, excursions and the rest of it.

Our overwhelming concern is obviously the debilitating impact of the bridging visa restrictions on the people with whom we work. I would also identify the lack of follow-through when people are released from detention into the community environment as a source of serious concern. We often see people released from detention who have had suicide attempts within the detention setting and may be released without medication and without any capacity to pay for their emergency healthcare needs.

**Ms Gauthier**—A Just Australia is a national policy lobby group, with about 100 organisational members and over 12,000 individual members and supporters. We take more of a policy overview approach to detention centres, in particular to Villawood. I have been visiting immigration detention centres for a number of years. I have visited almost every mainland centre, and some of them have had absolutely appalling conditions. I would have to put Villawood on that list. So we welcome this inquiry into the Villawood detention centre and the minister's comments earlier this year that the facility was unacceptable.

When talking about reforming the conditions of detention, we also have to discuss the appropriateness of the use of detention itself. Yes, we need to improve the physical conditions and the delivery of services within the centres, but many of the people who are in them and on whom detention is being inflicted should not be in there in the first place. There is no question that we need detention centres for certain compliance and deportation cases, but the one-stop-shop approach to immigration detention is a failed policy. Currently, detention centres have mixed populations of vulnerable asylum seekers, individuals or families who have differing levels of visa compliance issues as well as criminal deportees, sometimes with histories of serious violent offences. It is completely inappropriate to attempt to solve these vastly differing accommodation, service provision and security needs within the one facility. For asylum seeker and some compliance cases, detention is acceptable for a short period for security, identity and health checks, but the current detention framework calls for prolonged detention even when there is no need for that detention of people who pose no health, security or compliance risks.

A Just Australia notes some stated ALP positions that detention should never be indefinite, but for this to be enacted within government there needs to be a codified time limit on detention, with some mechanism to review any ongoing need for detention past this time limit. In conjunction with this, there needs to be a greater effort to reduce the need for ongoing detention, using the currently available alternatives of residence determination, alternative places of detention and bridging visas. But we have to note with the use of bridging visas that there need to be some changes to the rules for bridging visas, particularly bridging visa E, so that people can have work rights and access to Medicare.

I remember visiting Curtin detention centre in 2002. I was absolutely appalled by the conditions of that detention centre, but I was more appalled by the mental condition of people

who were left in indefinite detention, with no idea of when that detention was going to end. I talked to one family about their imminent move to the soon-to-be-opened Baxter detention centre. I was trying to cheer them up by talking about the fact that they were going to have better conditions. It was going to be a better facility, with better rooms. They would receive better treatment and have more access to visits. There would be more ability for lawyers to come and visit them. But the mother said to me, 'We do not want your golden cage.' That is what this is all about. It is not just the actual conditions inside the fence that is the problem; it is the actual fence that is the problem. We need to improve the mechanisms to get people out from behind the fences while we are also talking about improving the conditions inside the fences, particularly when there is no benefit to the Australian public to have those people in there in the first place. Thank you.

**Dr Thom**—I am wearing two hats today—Refugee Coordinator for Amnesty International Australia and Chair of the Asylum Seeker Interagency. Hopefully people are aware that Amnesty International is a global human rights organisation. It has two million members around the world, with sections and structures in about 150 countries.

One of the roles that Amnesty plays is looking at the human rights of refugees and asylum seekers and how that is affected when people exercise their fundamental right to seek asylum under article 14 of the Universal Declaration of Human Rights. That article and Australia's non-refoulement obligations underpin my work. Part of my role is a mixture of case work and policy work. This enables us to look at anywhere between 100 and 300 cases a year. We look at approximately 250 individuals at any one time. Our role is to provide them with human rights information that will help with their asylum application. On occasions we will, on their behalf, write to the Refugee Review Tribunal or we will write to the minister under section 417 or section 48B, requesting that he exercise his ministerial discretion in their case. This gives us an opportunity to see how the process affects individuals on a day-to-day basis. At the moment, we would have anywhere between 20 and 30 cases on people who are in Villawood. We are looking at their cases in terms of both their asylum applications and the reason they need to be in detention.

As I said, a big part of Amnesty International's role, apart from individual asylum seekers, is involved with broader human rights concerns, so we also endeavour to make sure that Australia is meeting its international obligations to those who are seeking asylum during the process. Since the early nineties, one of our major concerns has been mandatory detention. I think Kate has outlined a good deal of the problems with mandatory detention in terms of its indefinite nature and the psychological impact that that has on individuals. Amnesty International views mandatory detention as a breach of Australia's international obligations, particularly its obligation not to arbitrarily detain people under article 9 of the ICCPR. It is because of that that we have taken an active role in looking at how people are detained in this country.

I have visited a number of the detention centres—probably not as many as Kate—and I have visited Villawood on quite a few occasions. My case workers would probably visit Villawood at least once a month to talk to asylum seekers who are detained there. We have played an active role in terms of issues such as mistreatment, access to medical care and reasons for the detention of asylum seekers. A particular concern of ours has been that of split families—why a father or a mother is being detained while the rest of the family is not. We have concerns around the mixing of the populations. This is an issue that Amnesty has consistently raised. We obviously have



issues around offshore detention—that is of particular concern. We certainly welcome the government's closure of Nauru but we believe that Christmas Island also needs to be looked at.

Through my work with the Asylum Seeker Interagency, I am also chair of the subcommittee of the Detention Working Group. This group has a number of NGOs in New South Wales who deal directly with asylum seekers and others in detention. Through that agency, we have also raised issues such as access to lawyers—we believe this is an ongoing concern—access to meeting rooms and access to independent health care for people in detention. We have consistently raised these concerns with the department of immigration in New South Wales.

I am happy to answer any further questions on the role of Amnesty International. One other thing that I failed to mention is that, in Western Australia, Amnesty International is one of the non-government organisations that is part of the CRC for the Perth detention centre, but we do not have that function in New South Wales for Villawood.

**Mrs Nicholls**—I represent the Balmain for Refugees Group of the Balmain Uniting Church, and I am also involved with the Bridge for Asylum Seekers Foundation. Together with other members of both groups, I have been making weekly visits to Villawood Immigration Detention Centre since early 2002. We also work with individuals in the community on bridging visas and with those who have just received their protection visas. The detainees I visited yesterday stressed that the indefinite nature of detention is the hardest thing to bear. Although there have been many improvements in the management of Villawood since we first started going there, it still operates as a penal institution. Many of the guards are humane and interested in the welfare of detainees, but there are still far too many who treat the detainees as if they were criminals in need of control. Punishment for misconduct is meted out without discussion, and it is almost impossible for detainees to know why they have been rated as high risk. The wire enclosures are just as intimidating as the old razor wire, and only the residents of the housing units are allowed to leave the centre on home visits or privately organised outings.

Stage 1 reflects the worst aspects of the penal mindset. The minister's promise to close it completely should be carried out as soon as possible. There is a lack of trust between detainees and the staff, both DIAC and GSL. Again, many of the case officers are humane and concerned with the welfare of the detainees, but others still treat detainees as illegal immigrants who should return to their home countries immediately. The detainees also have little, if any, faith in the detention health services.

Our greatest concern is the effect which detention has on mental health. Each passing month is detrimental and we have found that, when they finally receive their visas, they are often so damaged that they have difficulty in trying to organise their new lives. There are no adequate facilities for personnel for treating mental health in Villawood. If detainees threaten self-harm, they are placed under 24-hour observation in the appalling surroundings of stage 1. Their mental deterioration also affects their participation in activities at Villawood. While efforts have been made to provide educational programs and recreational facilities, after the first few months in detention, detainees lose the interest or the will to take part.

I look forward to discussing all these and other issues further during this meeting. Frances Milne, who is involved with me, has presented a paper also, which is available. Thank you.

**CHAIR**—I am sorry. I did not mention the fact that the committee had circulated that paper. We received it a little late, but we have done that. Linda, please.

**Ms Jaivin**—I am a naturalised Australian citizen, author, translator and SAS. When the news first broke about *Tampa*, ‘children overboard’ and finally the tragedy of SIEV X, like many other people, I could no longer sit by and do nothing. My initial idea was just to write a play dramatising the situation. To that end, in November 2001, I visited Villawood for research purposes, but I became very involved with the people I met. I ended up visiting Villawood between one and three times a week for 3½ years. I wrote two plays, which were produced, many published essays, a short story and a full-length novel, entitled *The Infernal Optimist*, which is set in Villawood. I became friends with a number of detainees and became involved in advocacy, as I came to understand how the system worked and what I could do to help.

My experiences in detention—which, again, I will be very happy to discuss later—include the fact that I became very close friends with a number of detainees. As a result and because their need to talk and to have contact was so extreme, on many days when I was at home they would call my number for six to eight hours. Often these phone calls involved crying; they involved a bit of raging against the system—things that they might not say to visitors, not wanting to upset them. But they knew that they could scream and yell down the line to me and I would not take it badly. It was really necessary. I had never encountered previously this sort of extreme stress in a group of people.

I completely agree with everything that has been said so far. As Debby has said, there were a number of humane guards and case officers, but it was run and it is run as a penal institution. In addition, there was such politicisation of the issue of asylum seekers and detention during the time of the Howard government that it bled into the treatment of asylum seekers and other detainees at Villawood. The guards and so on were readers of the *Daily Telegraph* and they picked up attitudes from that politicisation. For example, standing in line waiting to go in, I saw somebody ahead of me trying to bring in a small outfit—I think it was pyjamas or a little track suit—for a child in an asylum-seeker family. The guard said, ‘No, you can’t bring that in.’ When the person asked, ‘Why not?’ the guard replied, ‘Those sort of people don’t deserve it.’ The outfit I am speaking of was for a child who was about three years old. There were many children in detention when I visited.

One of the things I did personally or found that I was able to do was, because I am a writer, help people to research their cases. They had no access to the internet. They had very limited access to other materials that they could use. For example, I often acted as a go-between for them with Graham Thom and others at Amnesty and with Kate Gauthier and others who could help. I helped them to write out their complaints on the complaint forms about things that were going wrong, such as with the food and so on. I helped them to write requests to move rooms. Ultimately, I helped a number of people to draft appeals to the minister, under section 417.

Someone I had helped, on getting out of Villawood, came to my house and I took him in, and I would like to speak later about the process of ‘evicting, dismissing or releasing’—all those words come to mind. His leaving was sudden, hectic and completely without any consideration for mental health issues. For the most part, I have maintained my friendships with those I have come to know, Morteza among them. I have seen people who have deteriorated steadily since their release. Some of those people are well known to Tamara and Father Jim.

I also have a secondary role as the convener of a circle of friends under the Australian Refugee Association based in Adelaide. We raise money, in a charitable situation, which we then use to support people who are not able to support themselves. I have also done things like—as Father Jim knows—taking a group of people out on several occasions to help plant a garden at the Canley Vale home, where some refugees have ended up. The impact that I have seen of Villawood on refugees has been huge and long lasting. I completely agree with everyone else's recommendations.

**CHAIR**—Thank you. Morteza, please.

**Mr Poorvadi**—I am 23 years old and I study civil engineering part time at the UTS. I came to Australia with my parents on 4 January 2000; at that time I was 16 years old. We ended up in Woomera. Basically, at that time the Woomera Detention Centre had not been built. We were put in the middle of the desert. Fences started to rise around us and the building of the actual centre was begun. I will not go into the details, but it was one of the worst places I have ever seen in my life. Up until then, I was not sure if I was in Australia at all.

After a year, when the building had been completed, we were transferred to Port Hedland. Port Hedland was a better centre than Woomera was. In Port Hedland, we had a phone which we could use to call our families. That was allowed between 7 am to 9 pm. After 9 pm, there was some kind of curfew and we had to stay in our dorms. It was a total lock-up situation, and we could not understand why.

After Port Hedland, we were transferred to Villawood. Compared with other centres, Villawood is a five-star hotel. It is every detainee's wish to be in Villawood. There, you have a unit and there is no need to share your toilet with hundreds of other people, you have table tennis, you have pool tables and, most importantly, you have access to visitors, which is a source of communication with the outside world, which we were denied in other centres. But Villawood was a prison and we were prisoners there. No matter how good a detention centre is, after a certain amount of time you cannot stand being in there, looking out through the fence. Whether it is a five-star hotel or one of the best hotels in Dubai, it is still a jail and, after a certain amount of time, you cannot enjoy being there.

In detention, I was isolated, handcuffed, abused and mistreated, and I tried to kill myself five times—fortunately, I was not successful. In Villawood, I was put on very heavy medication—Zoloft, Xanax and painkillers. The medical staff would prescribe for me whatever they could get their hands on. I developed a very bad case of depression and, even when I got out of detention, I could not cope with it. I thought I was all right, but the anger and the depression were still inside of me, which led me to have episodes of violent behaviour. I am ashamed of that. I sought psychological advice from one of my friends, Dr Zachary Steele, who used to see me in detention. I went to him twice a week for three months, until I could deal with that anger and learn how to live in this society.

As an ex-detainee, one of the points that I am very concerned about is detention—just detention. Detention is necessary for this country. We understand that. We cannot let anyone in without knowing who they are. I understand that. But for how long? That is the point. If you tell the detainees, 'You'll be here for one year, and after one year we will decide what to do with you,' that is fine. One year is all right. But when I was in detention I spent four years in there. I

saw a detainee who was in there for eight years. So there was no limit on it. That is one of the worst things: there is no limit in detention. You sit there every day thinking, 'Will I be deported tomorrow or the next day?'

Immigration played highly on detainees' psychological welfare. For example, on Iranian New Year's Eve we were handed a package called 'MOU', or memorandum of understanding, in which the Iranian government and the Australian government had signed a deal to send Iranian refugees forcibly back to Iran. We were given two options, basically, by the immigration department: (1) to sign the piece of paper and claim that we were going back to our country of our own free will and receive \$2,000 from Immigration or (2) they would deport us forcibly. We were given 48 hours to decide whether to take the money or go back forcibly. I chose the second one. I did not want to go to my death or persecution by my feet. At least I could have said, 'I've fought it and I've fought it until the end.'

I sent an enormous number of letters, with more than 500 support letters, to the Hon. Philip Ruddock. I received a response from him in which he explained how he could have given me a visa but chose not to because it was not in the public interest. After that my case officer contacted me and said, on new information, 'I have found you are eligible to make a new application for a protection visa.' This new information was the very same letter that I had sent to the Hon. Philip Ruddock.

These are the sorts of games that they play with refugees. Refugees in detention are confused. They do not know what is going on. They do not know if they should stay or if they should go to another country. There is no choice. They cannot make any decisions for themselves. That is one of the hardest things in detention. You do not know how long you will be there, you cannot make a choice and you cannot go back—there is no returning—to your country. That is why detainees become violent in there, that is why they protest, that is why I sewed my lips. That was the only choice I could make at the time: to sew my lips, to go on a hunger strike, to try to overdose with tablets. They were the choices and decisions that I could make for my life, and I was making them. Why let Immigration take my life slowly from me? I will take it myself. That is one of my biggest concerns about children in detention. There should not be any children in detention in the first place. But, if there are any children in detention, please let them out as soon as possible. Give people a time limit. Tell them they have to be there for six months, a year. That is fine. That is reasonable. But more than that is not reasonable.

Since I was released from detention, I have studied at TAFE, got my diploma and opened up my own business as a building renovator. I have studied at UTS to get my civil engineering degree. I am a cofounder and senior leader of the Persian Anglican Church in Guildford. We work with many detainees who have been released and we work with a lot of people with bridging visas who cannot work. We have to support them and give them money to live on a daily basis. I can go into more details if required. I know a lot of detainees who got out of detention. They have been out in Australian society for seven years and they still claim their pensions—they are not 60 years old; they are 24, 25 or 26 years old—and that is only because of the depression and psychological damage that they have endured inside the detention centres. Thank you.

**CHAIR**—Thank you very much, Morteza. We appreciate that.

**Ms Harvey**—I will introduce myself very briefly before I defer to my colleague. I am basically here because I directly manage our detention visiting program and I am here to offer our experiences in detention. But I will defer to Noel to talk more broadly about the issues.

**Mr Clement**—I am from the national office of the Red Cross and I am responsible for all our refugee and asylum seeker programs, which includes our immigration visiting programs. We have actually been visiting immigration detention centres for close to 15 years now. Our initial role in visiting centres was reconnecting families and providing family tracing services. For a long time that was our primary purpose for visiting. It has really been just in recent years that we have shifted to more of a humanitarian observer role. We now meet with detainees on a regular basis. We have access to all immigration facilities onshore and offshore. We try to address issues locally as much as possible with GSL or with DIAC. We then escalate issues up to Canberra and beyond if we need to. One of the things I would note is that at the moment we are in a process of shifting our focus in this program to increasing the rigour of what we do in immigration detention centres. We will be centralising our staffing structure so that we can have a more rigorous process around how some of that escalation happens. The other thing that Red Cross does, as a couple of other people have mentioned, is provide the community care pilot which is running in the community at the moment. I am sure that will come up at some stage in the discussion. We also provide the community detention or residence determination program for the families that were released from detention three years ago—I thought it was only two but it was three years ago—into our care and are still in our care.

We have seen some significant improvements in recent years. There have been some physical improvements to facilities, and getting access to basic things like the internet and a computer was a significant gain for a lot of detainees. Community detention is now an option to get families, children and other vulnerable people out of immigration detention centres. More recently, there is also the community care pilot and the introduction of case management. But from our perspective there are still significant issues to be addressed. I will cover these briefly. The first is some physical improvements to Villawood—that is our primary purpose today. It is urgently needed, particularly stage 1. Stage 1 is of serious concern to us. All of Villawood needs an upgrade but I am sure that anyone who has visited the centre would know that stage 1 really does need to be rebuilt. Interview rooms, recreation spaces and the observation area are particular concerns for us.

Some of the other issues include extending voluntary return options. One of the things that we have been able to demonstrate through the community care pilot and working with IOM is that there are some people who are actually ready to return, who want to return and who it is safe to return. But their only option previously has been removal by government. So people have avoided removal because when they are removed their government is notified that they are coming. It impacts on their travel arrangements in the future. There are a whole range of impacts of removal by government. We have found through the community care pilot that by offering people in the community the alternative of working with IOM if they want to consider return, talking about what that might mean and actually letting them leave with dignity, a fair number of people have taken that course of action and have decided to do that. That option is not currently available to a lot of people in detention. The only choice for people is removal by government. There are other governments working with the IOM as well, including the United Kingdom, that have introduced a scheme where people are given the opportunity to voluntarily depart. That means that people need to be given some sort of visa to be able to then depart voluntarily.

There are another couple of issues. The first is extending assistance for people leaving Villawood. There has been some assistance for people leaving Villawood through the community care pilot, only in the last 18 months to two years. That has seen a big improvement, but there are a lot of people who are not getting that assistance and still get just that basic settlement support when they are leaving Villawood. Another issue is fully utilising options for the care of vulnerable people outside of detention facilities. Community detention is a vast improvement on immigration detention facilities, but releasing people into the community and providing support through something like the community care pilot or other supported opportunities, or having provision of work rights and health care, is vastly superior to anything we are going to be able to provide in a detention environment.

The final two things are these. The first is the emerging issue that a couple of people have already raised—that is, the 501 criminal deportees as a growing population within immigration detention centres, particularly as other population groups have decreased and they have become a larger presence. We are concerned about the impact on culture in the centres as well as the impact on some very vulnerable people in the immigration detention centres. Finally, the issue of split families that I think Graham raised is of serious concern to us as well. It seems to be particularly challenging in Villawood, where you have one parent—often the father—left in the immigration detention centre and other family members, often a mother with children, released into community detention or put on a bridging visa of some sort and released into the community. It is just not a sustainable solution long term and we are really concerned about the impact on the child and on the family as a whole.

**CHAIR**—Thanks very much, Noel. We plan to have a fairly free-ranging discussion. Obviously we would like it to be focused to some extent on Villawood but we are happy to canvass the wider ideas that a lot of you have raised. Can I throw it over to all of you, from people who have experienced it from the inside, like Morteza, to people who have been visiting for a long time, like Lorraine, and ask: has Villawood improved over the last five years? Is it now a place that, if stage 1 were substantially changed, as the minister has said, would be tolerable? Everyone can speak on this.

**Sister Phelan**—In terms of visits: before there were queues miles long, we had a smaller reception area and the guards were really aggressive. That has changed considerably.

**CHAIR**—How long?

**Sister Phelan**—It has been a gradual process, but over the last 18 months that has certainly improved. Generally now they try to keep the same officers on reception so that they are used to the process. That was one problem: they had so many changing officers, they did not know the process and that would take time. Visitors who were really distressed came in, because their husband or their partner was in there, and they did not know the process. There were lots of problems like that. That area has improved. We have worked really hard—I think all of us have—trying to get through to DIAC and GSL that it is not a prison. One problem was that the officers there were trained to work in prisons as well as detention centres and did not know the difference.

**CHAIR**—Do you know what percentage of them are former prison officers?

**Sister Phelan**—I do not know the percentage, but from talking to them I would say probably 75 per cent. With some of Villawood they have tried to keep on rotation officers who actually know what the process is and have some sort of rapport with a number of the detainees. I think that has improved but there are still times when it has not. You might have an aggro officer who does not understand and will say to me, ‘You need a guard to go with you.’ I will say: ‘No, I don’t. I have authority to just go through the different stages and talk to whoever wants to talk to me and I’ll see what their needs are.’ That has improved.

I think one of the downsides is that, although they have consultative meetings, the detainees are not allowed to complain in any of those meetings. They have to fill in a piece of paper. Yet one of the big issues at the moment is that there are a lot of non-English speaking detainees there. They are now the majority. We did not have that so much when Morteza was there. And we have lots of different nationalities. Language now is a huge problem in terms of getting them to understand what is available for them. For example, we have had to frequently request to get signs up in relation to activities in different languages so that they can go.

When they arrive they are told that they can be deported at any time. That might happen three years down the track. We had another removal—and this is something else we have tried to fight about—at five o’clock in the morning. They get someone out of bed, with all the officers there. The person is distressed. They have been asleep; they do not know what is going on. They are told they have got 10 minutes and then they are being deported. That is distressing for that person but it is also distressing for the other detainees. And we have had that again this week in stage 2.

In terms of the physical things: they have painted and they have tried to fix a bit of the plumbing. Stage 1 is still the worst. As to the visiting area in stage 2, they have tried to beautify it a bit but it is still a terrible place for visitors to come. It is freezing cold. It is in a wind tunnel. There is no protection for visitors. Jim will probably talk about the sound system going when church services are going on. As for the detainees’ rooms: although you have your own place, it is a very sparse place to be in—there is a bed and that is it.

Another issue is that of problems with different cultures. We have two Americans there—and this is something else we have talked about—who overstayed their visas. They are terrified at the moment of being in that centre and are in hiding. They came out yesterday, and I said, ‘How long have you been here? Why haven’t I seen you?’ because I go inside each week. They were terrified because they had had their rooms robbed and they had been abused. We have asked: why are people like that in the Villawood Detention Centre? Why aren’t they in a holding place short-term, instead of being in with everybody else?

**CHAIR**—Did you say that they are in hiding in the centre?

**Sister Phelan**—They are afraid of the other groups of detainees who are there. They do not understand the system. They do not understand why they are in this place. We have had Scots, Irish and Americans there. They have overstayed their visas. They are not going to be in detention for very long but, because they are a minority group, they are fearful of what they see and they are fearful because of the experiences which they are having at the moment.

**Mr Poorvadi**—In terms of improvements, there have been lots of improvements—depending on which view you are looking at it from. From the visitor’s point of view, yes, there have been lots of improvements. But if you have been in detention, there have not been any improvements. Yes, there is less of a queue for visitors to get in and there are better interview rooms for lawyers and DIMIA officials. But the most important thing is the people who live inside there—there are no improvements for them. In stage 1 there are still the three dorms, with hundreds of people packed in together to sleep.

I remember being in stage 1 when the two biggest minority groups were Chinese and Vietnamese, and they fought all the time. We were in the middle. We were in a minority group and we were in the middle, and no-one could protect us. I am a Muslim convert to Christianity—there were lots of extremist Muslims in there. We did not have much of a problem because we were from the Middle East, but there were other people who had problems.

Why would you bring people who had overstayed their visas inside the detention centre and mix them with refugees? They are two different parties. And that is where problems start—that difference between illegal entrants and those who came here to seek asylum.

For families I believe that there has been a an extreme improvement in Villawood as they have put in housing. But, still, as I said, it is a prison. They still hold them in there. Why can’t you just leave it as open housing? Why can’t you just let them go out and come back in at six o’clock in the evening? Just let them lead a normal life, to adjust to what the outside world looks like.

For a teenager who has been in detention for four years, you cannot just leave them in the outside world and expect them to do well, not to get into trouble and not to become alcoholic and other things, because they have been locked up. For example, I was locked up from 16 to 20. When I got out I was 20 years old. I did not know how to walk in the street, to be honest with you. I nearly got run over by a car twice because I did not know to look to the right or left. That is a problem. The most important thing that struck me when I got out of detention was that, when I got my visa, the immigration official came there with a piece of paper and my protection visa on it, and he gave it to me with \$300 cash and asked if I had anywhere to stay. I said yes, and that was it. That was it. He said, ‘Go.’ I did not receive any phone calls from Immigration whatsoever to ask me: ‘How are you doing? Are you still alive out there?’ I had to take care of my own Medicare. I had to take care of my own bank accounts. It was a struggle, when you did not know things. It took me two weeks to get the Medicare, just to fill out a simple form and put it there and get my Medicare.

So, in terms of being helped outside, people who have been locked up still need help. Even prisoners who have committed a crime and have been locked up in jails for four years need a psychiatrist to talk to them when they come out. I believe that Australia has offered them that, but for detainees we have nothing. When you come out and go to a psychologist—if it was not for these groups and organisations that help the refugees to do something, I would not be here today. I would have been alcoholic. I would have been in jail now. I believe that. It was not because I did it; it was because of a friend’s psychologist, Dr Zachary, who sat with me voluntarily for three months and taught me how to live and manage my anger. I think it is good to have those sorts of governments to put those sorts of facilities out there for refugees, not just ask them, ‘Do you need it?’ but tell them, ‘It’s mandatory; you have to do it,’ because refugees or people who have been in detention think they are normal, but they are not.



**CHAIR**—Before I turn it over for questions or comments to my parliamentary colleagues, Graham, did you want to say something?

**Dr Thom**—Just one of the things in terms of improvements which I think does need to be looked at is the issue around activities for those who are inside the centres. I think previously the ability to work kept a lot of people sane in many respects, but of course there were serious issues around the recompense for those people who were working, and that is why I think it is now before the courts, and that is obviously why the department stopped the initiatives that they had. I think \$1 an hour was the going rate you got paid, or 80c, so understandably the people who did the work are somewhat annoyed about how they were paid for the work they did, but those activities were meaningful at least, and I think—

**Mrs VALE**—Would you mind explaining to a complete novice exactly what you mean by the work program and what was stopped?

**Dr Thom**—They used to be able to work in the kitchens. There was cleaning work.

**Mrs VALE**—I see. Within the centre.

**Dr Thom**—Yes, within the centres—they were not allowed out of the centres.

**Mrs VALE**—And they were paid 80c an hour.

**Dr Thom**—Yes, or \$1, for doing that.

**CHAIR**—This was from when to when, Dr Thom, do you know?

**Dr Thom**—It certainly was there when I started going, around 2000, but it stopped—

**Sister Phelan**—It stopped about two years ago.

**Dr Thom**—around two years ago, yes.

**Sister Phelan**—But now they have converted that to a points system. There were problems with that, because GSL said lawfully now they cannot employ detainees, but what that program did was motivate detainees to get work within the centre for themselves. The income was a secondary issue really. Now they have a points system where, if you watch television or go to gym or whatever, you get so many points, and they have a shop there now. If you have 50 points, you can buy a bottle of Coke or a packet of cigarettes or whatever it is. But our problem with it is, as with the detainees, that what they talk about is meaningful activities. What do you call meaningful activities? For somebody who has mental issues, health problems, watching television all day does nothing for your state of mind. Sitting around does nothing for your state of mind. So that is a huge problem.

**CHAIR**—Did GSL say it was a legislative problem?

**Sister Phelan**—Yes, they did. Sorry, I will stop in a minute. If someone is in prison, they have to go to some sort of activities to give them skill, so that is a motivator. You have to go, and you

do get some recompense for it. Why can't the same system be operating in our detention centres, because that then gives people motivation to go? It was the same when the gym started there. Everybody was gung ho, and I was asked to bring in gym suits and gym shoes and everything else, but for most the novelty wore off very quickly. They no longer had the motivation to go because, as has been said, the longer you are in Villawood or any detention centre, the more you lose motivation for everything except focusing on your case, what is going to happen to you and, 'How long am I going to be here?'

**CHAIR**—When Graham raised activities, I thought he meant sporting activities, like there were soccer teams in there—

**Sister Phelan**—There used to be, and now they are looking at employing a sports person or some sort of person to do that, but they stopped too. They put in a new netball court in stage 3, a volleyball court, but they have no-one organising those activities.

**CHAIR**—So the Vietnamese and the Chinese do not play each other in netball, but they fight?

**Mr Poorvadi**—Well, yes. The problem with the stage 1 is that most of them are criminals. They come from jail. They are related to deportations. They are criminals, and they bring them and mix them with people who are asylum seekers. There are sort of two gangs. I remember once they were fighting and throwing all these pool balls at each other—and that was it for our pool table. We did not have a pool table anymore, because the balls were a hazard and dangerous. Detainees did not do it. Asylum seekers did not do it. It was criminals.

**Ms Jaivin**—Speaking of the issue of improvements and so on, I visited twice recently, in the last couple of months. I had not been since 2005. One of the things that struck me was the use of mobiles within the centre. This is a great improvement, because in the past the phone system was so hideous, it was so limited, and it did not work a lot of the time. When you were trying to call in, you could not get through. You could call for two hours and not get through for various reasons. People trying to call out had to queue up, and then all the people in the queue behind them were just screaming at them to get off the phone, so that was very difficult. They were not allowed mobile phones. We were not allowed to bring mobile phones into the visiting yard. Of course, there was a lot of smuggling going on, and a lot of the detainees did have mobile phones, and a lot of the guards kindly turned a blind eye to it. In the past, in the visiting yard you would see all these people with their heads on their arms. In their sleeve they would have the mobile phone, and they would be talking like this. They would be going like this, and they would be patting their pockets, because there would always be something buzzing in there. Now it is really much more humane, because people can call their lawyers. They can call their friends. They can call their support people. That is an improvement.

In terms of the guards and what Sister Lorraine was saying about the guards being from the prison systems, I do not know the percentage, but I do know that a guard who is still there—and I do not know whether the word 'boasted' is appropriate—did tell me recently about his experience in Pentridge—and now I am getting a little bit nervous—and various things that were very common in Pentridge that were highly illegal, which involved abuse. He was just saying, 'Things have really changed, and this is very different from that,' but you have people who have come from that background dealing with traumatised asylum seekers. They are on a par with the 501s, in the way that anybody who reads crime novels or watches cop shows knows that there is

a thin line between the policeman and the criminal. In that line between the guard and the 501, there is a certain symbiotic relationship which exists and is encouraged by the fact that you have the 501s in there and you have a lot of people who have come from the prison system. I believe, but I do not know, that a previous centre manager actually came from the prison system. I was told this. Is that right?

**Mr Poorvadi**—Yes.

**Ms Jaivin**—Richard Battersby, I believe, came from the prison system but was technically DIAC, DIMIA.

**Ms Harvey**—I am picking up a lot from what Morteza is saying. The sense of safety does not really exist for a lot of detainees. They feel really unsafe in Villawood. We hear that every visit, especially stage 1, where they are downright terrified, quite often.

**CHAIR**—Is that worse than in the past because of there being more criminals there?

**Ms Harvey**—I think so.

**Sister Phelan**—That is the bulk of ‘severe’ 501s. There are other 501s in stage 3 and stage 2 but their crimes are more down the scale, say petty crimes, whereas the murderers and attackers and all that sort of thing are held in stage 1.

**Mrs Nicholls**—And when they go to stage 2 and stage 3 they still take the mentality with them—

**Sister Phelan**—Some do.

**Mrs Nicholls**—Some of them take with them the experience of being in prison and the standover tactics which prisoners can use for other prisoners. Detainees in stage 2 and stage 3 have complained about the standover tactics of 501s who have been transferred to stage 2 and stage 3.

**Ms Jaivin**—And the drugs. There was a huge amount of heroin in stage 1 when I used to visit. The asylum seekers would constantly complain. Some of them told me that some of the guards were complicit in smuggling drugs in. I do not know whether there is hard evidence of that, but somehow these drugs did get in. Stage 1 was housing the asylum seekers who went there simply because for one reason or another they had been judged high risk, because they tried to escape or, in one case I know intimately, had given lip to a guard and just been punished by being taken there, and in stage 1 had been threatened with knives and so on.

**CHAIR**—Before I come back to Annie, Kate, did you want to say something?

**Ms Gauthier**—In defence of some of the 501 people, there are many people who are 501 cases who are not engaged in any these behaviours and who are not criminal risks. When the section 501 was brought in, it was used retroactively for a lot of people. There are people who all of us know who had completely reformed themselves and were living very productive lives in the Australian community and then were picked up by the 501 case. In particular I know one

person who was a single father of two Australian citizen children and he was picked up and put in Villawood and he has been there for a number of years and his children have had to be handed over to other family members. They are Australian citizen children, so I do not think it is in their best interest to have their father in there. He is someone whose offences had been many years before.

**Ms Harvey**—Continuing education comes up a lot. People want to do TAFE courses. They want to continue their university courses. They want to be able to work towards their future even if they are not sure what that future is going to be. They can always take the skills back home with them if they choose to go home or if removal is the outcome. But the desire to continue their education is something we hear about again and again.

**Mr Poorvadi**—To add to what Annie just mentioned, back to 2002, right after my family was deported to Iran, I put in a request to do a TAFE course by correspondence. I have had someone from the Teachers Federation come in and she even arranged a teacher from TAFE to come in and teach me, but it was denied by the immigration department because basically the attitude was: ‘You have not got any sort of identification,’ or whatever the reasons. Education does not need identification. You need to educate yourself and it does not matter if you get to Australia or go anywhere else, you can use it. It would not cost the Australian government a cent; it was paid for by volunteers. But still it was denied. To run programs like that would be great for detainees. At least they would have something to focus on and to have their eyes on it, that certificate they want to get. That is going to be a good improvement.

**CHAIR**—Noel, did you want to say something?

**Mr Clement**—I want to underscore the point that Kate just made about the 501s. I think we have to careful not to present the 501s as the bad guys. There are separate issues with the 501s. These are often people who have finished their sentences, who have had their visas cancelled and who are very angry about that. I think there needs to be a good, hard look at that process. I think the culture and what happens are the unfortunate consequences of a lot of things that are happening, but I would not want to leave us thinking that, somehow or other, the 501s are criminals when in fact the majority of them have served their sentences and are being deported because of a policy decision.

**Father Carty**—I have two points in support of the activities. I think the points system is a bankrupt concept, because they get five points for going to the gym and five points for going to the library. I thought they were coming to church to hear me preach, but I discovered they also get five points for coming to church. That was a real downer!

**CHAIR**—So you were lobbying for them to increase it to 10, were you?

**Father Carty**—I think so. But, in lieu of nothing else at the moment, I suppose it is worth while keeping because it at least gives them some incentive, even if it is not the best motivation for them to do it. I would support what Annie said in terms of trying to provide programs that really give them something that will help them in the future, help Australia, if they stay, or help the country they go back to. But we have to acknowledge that not all will be psychologically capable of doing it. Thank you very much, Morteza: I think what you have said today exactly sums up in a very good way the problem of detention and the impact that it has on people. I just

want to make this point: as Morteza said, the deprivation of freedom is clearly the major factor for somebody who has committed no crime but who is locked up in such conditions. I also want to say that detention is not limited to behind those wires; it is also outside. Whenever a person is sitting around waiting on a BVE, they are still in detention because of the uncertainty, the anger and the frustration. I will not go into it now, but I believe in the red dot theory and I will explain that to you later.

**Sister Phelan**—Just so that you have the right information on Villawood: as of last week, local telephone calls are now free and they have changed the provider—and it is not Telstra; they have gone to Optus—because they have had huge problems. That is seen to be a plus. We will just see how it pans out. The second thing, picking up on your point on study, GSL have employed a person, whom I think is going to be God, to assist anybody who wants to do any educational program, from a school certification through to a PhD—a person.

**Mr Clement**—I want to pick up on a point that was mentioned earlier about people being released into the community. There are two issues around mental health for people. One is the environment and being locked in a detention facility. But, having cared for people in the community for a few years now, I think the uncertainty is just as significant a factor for people. Those two things together really are compounded in the detention facility. But just removing the facility without addressing the fact that people do not have any certainty or control over their future is not going to completely address the mental health issues.

**Mrs VALE**—Thank you all very much for coming. All your stories are highly confronting, probably things that we read about in the newspapers but that you deal with face to face on a regular basis. I have not had the benefit yet of seeing Villawood, which I will correct very shortly. I have just not been able to get there with the committee. I have a couple of questions. If the policy is that it is sufficiently safe or appropriate for people to be released into the community, can anybody tell me the policy reason why they cannot work and support themselves? My point of view is that that is just like putting a person out on a raft on an ocean and saying, ‘Go for it.’

**Ms Jaivin**—My understanding is that it was always part of the general punitive nature of the treatment of asylum seekers as a deterrent so that people do not think they are going to come here for a great and easy free ride, a better life and so on. Part of the problem is the notion that the way to treat asylum seekers is with suspicion, with punitive policies as deterrence, as if somebody who is suddenly under persecution in some country—in Africa or the Middle East or wherever—is going to say, ‘Oh, dear; they don’t let you work and get benefits. I won’t go to Australia to seek asylum,’ as if they have an alternative.

**Mr Clement**—The 45-day rule is the key issue, which is: if you lodge a protection visa application within 45 days, you can get work rights and Medicare. If it is post the 45 days, no—

**Ms Jaivin**—That is for people who come by plane—

**Mr Clement**—If you come by plane.

**Ms Jaivin**—If you come by boat—

**Ms Domicelj**—The 45-day rule is a very significant bar to people having access to work rights, but there are other impediments as well. Generally, if people seek a ministerial intervention, they lose their work rights unless the matter is being personally considered by the minister. So, for many people whose matters fall outside the scope of the refugee convention—for instance, they are stateless, they have a matter under the convention against torture, the Convention on the Rights of the Child et cetera—the only mechanism they have to have those matters considered is going through the process of being refused as a refugee and then writing to the minister to seek ministerial intervention in their matter. That ministerial power, as you would be aware, is discretionary. It is non-compellable and non-reviewable, and no reasons are provided for a decision that is made. Often people will wait two or more years before their matter actually gets to the minister's office, even if the matter is deemed to be compelling by the ministerial intervention unit. During that time, no-one will be permitted to work. The thing with work rights is that it also carries a ban on access to Medicare, so it is not only that you are not able to work; you are also not able to access any form of subsidised health care. Obviously people can be in those situations for many, many years at a time, so we see protracted destitution.

If people have previously had a period of time where they have not had work rights and they seek judicial review of the matter, they may also lose their work rights at that point, and obviously it will often take two years for people to get a hearing; that is a matter they have no personal control over whatsoever. I would underscore the punitive dimension raised by Linda. Regulations were introduced some time ago in relation to the 45 days and the ministerial discretion, and the distinct impression at the time was that it was a purely deterrent measure. I guess one has to assume that that is a deterrent not only to people coming to Australia and then deciding to lodge a protection visa after they have arrived but also to people seeking to exercise their right to receive humanitarian protection under any of the other international human rights conventions to which we are a signatory, not just the refugee convention.

**Mr Clement**—This is something we have been trying to test through the community care pilot. The whole purpose of the community care pilot was to demonstrate a different way of caring for vulnerable people in the immigration system. Rather than assuming that if you support people they will stay around and continue to challenge decisions, the community care pilot is trying to demonstrate that if you provide welfare and financial support to people while they are going through the process, you maintain people's health or improve their mental health where it has deteriorated and people are in a much better position to be able to make some informed decisions for themselves. The alternative was people becoming very unwell and destitute in the community and in the end not being in a position to make any rational decision about what was or was not good for their future.

**CHAIR**—Who runs this? Who pays for it?

**Mr Clement**—It is a department of immigration funded scheme that Red Cross provides the welfare support for. IOM provides routine counselling. This is where the voluntary return comes in. For people who decide—

**CHAIR**—How many people are involved?

**Mr Clement**—We have cared for, I think, about 300 people so far in the 18 months of the pilot.

**CHAIR**—How did you select the number?

**Mr Clement**—It is selected through the department of immigration.

**Mrs VALE**—Who pays for it?

**Mr Clement**—Case management. Unfortunately at the moment we are dealing with what is often called the legacy case load—that is, people who have been here for a significant period of time so they are already quite unwell, so it is often on the basis of mental health or other ill health. The idea of the pilot is that as you move forward you intervene early. You support people from the beginning so that you do not have to improve their health. The outcomes of the pilot are being evaluated and, so far, they are very positive. A lot of people are choosing to voluntarily leave. Other people's cases are much clearer for the department or for the minister to make decisions about, because they are in a better state of health to be able to put their case forward.

**Mrs VALE**—Is this being run over Australia or is it—

**Mr Clement**—No, it is Sydney and we extended it to Brisbane late last year.

**Mrs VALE**—And when could we expect some—

**Mr Clement**—It is in the budget cycle at the moment to continue the program. I am expecting to hear next week whether it will continue from a pilot to a program.

**Mrs VALE**—It seems to be a very positive way forward.

**Mr Clement**—It absolutely has been.

**Ms Domicelj**—Could I add one thing in relation to work rights. Another extraordinary bar to work rights is people being released from detention because they are deemed to have psychological or physical health issues that are sufficiently severe to not be able to be managed within a detention environment. The extraordinary thing about that is that those very people are being released out into the community on a bridging visa without any access to Medicare, without access to Centrelink and without any capacity to self-support.

**Mrs VALE**—They have a health issue anyway.

**Mr Clement**—Yes. We amongst our current case load see people who have made suicide attempts within detention, have had time in Bankstown Hospital and have then been released out into the community destitute and without access to Medicare. There is a distinct lack of logic to the application of work rights.

**Mrs VALE**—I can understand why we need an immigration system, but it seems that there is an issue about how it has been implemented. I am looking forward to this.

**Dr Thom**—Just to take a step back. I think if you talked to the department of immigration or perhaps to previous ministers, you would hear that the reason why people do not get work rights is that they are fearful people will come over here on tourist visas or student visas and say: ‘Wow, isn’t it lovely here? How do I get to stay for a little bit longer? I know. I’ll seek asylum.’ So they are not genuine. They are just rorting the system knowing that they will then be able to get work rights, they will be able to work through the system and ultimately they will have to leave. It is because of that abuse of the system that they introduced the 45-day rule and others. I think things like the community care pilot and a number of other significant changes that have been introduced help undermine that argument. We have seen instead people who have been stuck without work rights for years and years and have basically been starved out. As Amnesty International we really have a problem with that, because we see that as constructive refolement. Basically, you are giving somebody no choice but to go home, where they may face danger; otherwise they are going to starve to death here. This includes people who are diabetic and people who are pregnant. I think the worst example—no; there are a number of bad examples—was of somebody with a serious health problem who needed an operation being taken out of Villawood to a hospital to have the operation and then being granted a bridging visa while they were still in hospital so the department did not have to pay the medical bill. They are now responsible for their own medical bill.

**Ms Jaivin**—There are actually a number of cases that are similar to that.

**Dr Thom**—I think it is happening less, and I hope it is happening less, but it has happened in the past. That is really a misuse of the whole bridging visa process.

**Ms Gauthier**—The bridging visa regime is something that a lot of organisations have been lobbying on for quite some time, and they have been talking directly to the minister about different models and ways that it could work—that is, by removing the 45-day rule and instead taking a case-by-case approach to determining whether or not someone gets work rights and access to Medicare. I did provide to Anna a copy of a briefing paper that NASA Vic, the Network of Asylum Seeker Agencies of Victoria, put together for the minister. It outlines a lot of these issues. I will be emailing her a copy as well.

**Sister Phelan**—There are also bridging visa E releases from Villawood, which have a bond attached. They can be up to \$50,000 or more, depending on whether or not DIAC considers the person a flight risk. If they are successful in applying for this they can be released into the community. Usually they have some relatives or family or someone who can house and feed them, for a start. When we are talking about not having work rights, that means also not having voluntary work rights as well; it means nothing. This is one of the big problems. This is where it started ages back. The guys would love to be outside but once they got outside there was nothing they could do. It was bad enough for them mentally inside but outside was even worse. They thought they were getting freedom but in fact they were not getting any freedom at all because they could not work, they could not do voluntary work and they could not study. There was nothing for them. Some of them actually said time and over again, ‘We’d be better back in Villawood detention centre.’

**CHAIR**—In those cases are bonds a good idea or a bad idea?



**Sister Phelan**—It depends on the individual. Some individuals who are approved for a BVE cannot raise that sort of money. Immigration puts the bond on them so that they do not escape or go underground; that is the idea of having the bond. But the biggest thing in relation to that is that they cannot even do any voluntary work. It would be better if you could have the bond and they could at least do some voluntary work, that would at least help the person's self-esteem and their mental capacity.

**CHAIR**—We can have a pretty free-ranging discussion on this but I am anxious that Anne have a chance to speak. We can come back to this.

**Senator McEWEN**—I would acknowledge that the best preventative medicine for mental health issues is to not hold people in detention. But of the mental health services that are provided inside: I was curious when I was there as to how people actually get to go to see the psychiatrist, the psychologist or the nurses. Is it self-directed? Or do people encourage them to go? And, when they get there, what is the adequacy of the service provided? Is it just to prescribe Zoloft and Valium and stuff like that? Or is counselling provided?

**Mr Poorvadi**—There is no counselling at all.

**Sister Phelan**—There is now.

**Mr Poorvadi**—There is now but, at the time I was there, there was no counselling. We used to go to a medical certificate GP and she used to prescribe whatever you told her to—for instance, I could say, 'I want five milligrams of Zoloft a day,' and she used to write the script. And the policy was just to keep people quiet and asleep. Once I slept for 48 hours in a row because I overdosed on my pills. I used to take 10 different kinds of tablets a day, and I was only 17 at the time. It was really easy to get tablets. I used to get Zoloft; Xanax, which was a popular one in there; Tramal, for pain; Panadeine Forte and all sorts of other things. Now that I am outside, when I go and ask my GP, they say, 'We are not allowed to write those sorts of prescriptions', and yet one single GP in Villawood prescribed these things for 300 people.

**Mr Clement**—As I understand it, things have changed and responsibility for medical services will be handed to organisations with expertise rather than the department making decisions, which is a very good change.

**Senator McEWEN**—In terms of the counselling services that are provided, are they adequate now? Are they provided in languages that people need? Are there special services for women? I noticed when I was there that, although there is not a big cohort of women inmates in Villawood, it is a very blokey kind of atmosphere.

**Sister Phelan**—There are only 19 women in what is called Lima, which is for single women, those not attached to men, and there are three in stage 2 at the moment. It has improved from when you were there, definitely, because there was one psychologist for 600 people in the past. And we had huge issues. Now they have two psychiatrists and they have psychologists as well. Previously, the nurses did most of the diagnosing, and it was Panadol or, as you say, antidepressants being given out all the time. Now it is more regimented and tracked. The person actually has to go to the medical centre each morning to get their medication. One of the problems, though, is that they are not watched taking it. And I know of some instances where a

person has been given medication but, for various reasons, has not taken it, and that is a problem for the individual, because it is not helping them in terms of the medical issue. There are those who are on severe suicide watch, and we have one of those at the moment in stage 2, where the officers watch them 24/7—or sit outside their room 24/7.

**Mr Poorvadi**—That is one of the issues I wanted to bring up. It does not help. I was on it for six months. There is an officer with you, reporting every two minutes whatever you do and it doesn't help. It is just motivating you to do something, if you know what I mean, because you are being watched. I think it is one of the worst things that the department is doing. You could watch people from afar. You could put one officer there but not to sit with you. I used to go to sleep at night with an officer sitting next to me reading a newspaper. It tells you to do something; it motivates you to do something. You should have a suicide watch, but keep it a bit further away; let people have their own privacy as well.

**Mrs Nicholls**—There are a couple of issues. If you are known to threaten self-harm, you will be put under observation and watched for 24 hours a day, with lights on all the time. That does nothing for your mental health at all. But the other thing is that most of their mental health problems stem from being in detention, and so no psychologist or psychiatrist in the world can help a person without solving the basic problem that they are in detention and therefore suffering mental stress which, as each month goes by, gets worse. The other thing that I have heard detainees say is that the psychologists are nice but they do not always see the same one. They say that they do not get any continuity because, if one goes on leave, somebody else comes in. I heard one man say, 'I am just so sick of telling my story over and over again. Why should I have to say it to somebody else because they are new or a replacement?' So, as I say, you are not getting to the root of the problem.

**Father Carty**—STTARS recognise this and do not go into the detention centres. STTARS wait until they come out before they will even begin to work with them.

**CHAIR**—Who is this?

**Father Carty**—The Survivors of Torture and Trauma Assistance and Rehabilitation Service. Up until recently, at least, they have not been going in.

**Mrs Nicholls**—They will go in and do a report.

**Ms Harvey**—If you are on suicide watch, they are either sitting outside your room or next to your bed. But the only actual observation rooms are in stage 1. So if you are in stage 2 residential housing anywhere else, you are moved into stage 1. The medical unit is back in stage 2. So there are the practicalities of getting medical care to somebody in stage 1 who may really need it. If you visited stage 1, you would know the state of the observation rooms. I do not need to say anything—it is just not very nice, to put it mildly.

**Ms Jaivin**—I totally agree with Debby: you cannot solve the problem unless you solve the problem of indefinite detention. But there is another issue which connects back to the whole idea of the guards and where they come from and how they are trained. There are some really wonderful, fine people among the guards at Villawood whom I have met and I respect greatly, but I would say that none of them are really properly trained to be dealing with people who are

under stress, who are having mental health breakdowns and who have come here under traumatic situations. I feel very strongly that the culture of the guards—where they come from and how they are trained—is something that needs to be addressed.

**CHAIR**—Do you know for sure that GSL does not give them any training packages along these lines?

**Ms Jaivin**—I do not know for sure.

**Dr Thom**—They do have training. We have had GSL come and talk to the Asylum Seeker Interagency, but the problem is of a complex nature. The level of training required is again something that we have seen come unstuck on a number of occasions, particularly when there is heightened tension—if somebody has just been removed or there has just been a hunger strike or something like that. That is when vicarious trauma just flows to the guards.

**Ms Gauthier**—Particularly when they are trying to train people to deal with so many different, mixed populations. It is very difficult for guards, particularly for those who are being moved around different stages all the time.

**Dr Thom**—One of the things I wanted to pick up on regarding mental health is to do with the housing centre next to Villawood. It is an issue that I have taken up with the department, because that has also been used in the past for people whom they see as having mental health problems—depression or whatever. They are being moved into that centre as a better environment, thinking that the better environment will somehow improve their mental health. The problem is that they are still stuck in that centre long term, they are no longer able to mix with their friends, they do not have the same level of activity as people inside the centre and they are also in a place where they see people who are coming through quickly. If it is a family that is picked up at the airport, they may spend only two weeks there. So they are seeing this cohort going through very fast while they are still stuck there with nothing to do. I have asked the department if a study can be done. I have said to the department, ‘If you are making a conscious decision to move somebody with mental health problems here because it is going to be better, what evidence do you have that that is actually better?’ It is those sorts of decisions that are being made without actual evidence backing them up that are problematic. It might in fact be better and, if it is, that is great, but if you are not addressing the long-term nature of the detention then the problem is still going to be there.

**Senator BARTLETT**—Leaving aside the bricks-and-mortar stuff and focusing on how you deal with the people, the experience that people have in their first contact with the detention environment seems critical. Regardless of the circumstances leading up to it, finding yourself in that environment potentially would be traumatising in itself. How do you feel about the adequacy of support and information that people receive when they first get into that environment nowadays? I think of importance for this committee, in considering some of these issues, is that the nature of the present detention ‘cohort’—I hate that term; the caseload, the people or whatever—is quite different from when, say, you arrived and there were many others who arrived by boat. Now the vast majority are people who are picked up in the community.

**Sister Phelan**—And a number come by plane.

**Senator BARTLETT**—Yes, some come by plane, and even that is different. I guess the majority are people who have been in the community already—overstayers, people who have breached the conditions of 501s or whatever—but they still need information about what the situation is. I ask that partly because—just to get it all out at the start—I have come to understand, even from the example you gave of support through the Red Cross and IOM, that in the past people had the full range of options laid out to them at the start and were often willing to leave, whereas people who have been here for a couple of years and become traumatised and ground down are less able to be persuaded that going somewhere else might still be an option.

**Mr Clement**—Let us not discount some people, unfortunately, maintaining false hope for people. This is where it is important to give people decent legal advice about their cases and not false hope. Most of the decent legal advice organisations will not prolong someone's case, if they do not believe it has merit.

**Senator BARTLETT**—There should be early intervention before that sort of—even sometimes well-meaning—misinformation or misunderstanding can be looked at by people. How are we doing with that task these days?

**Ms Gauthier**—Certainly, with the legal advice, people who are in immigration detention have access to the IAAAS migration agents scheme, which gives them a certain level of legal advice. The issue that Noel raises about legal advice is very important, because asylum seekers, say, in the community may not necessarily get access to this advice. If those kinds of schemes, with at least some discussion initially from an outside body and not just DIMIA, were provided to everybody in immigration detention, people's expectations of their outcome will be managed realistically. Perhaps you have DIAC saying, 'Well, this is what is going to happen to you and we're going to deport you,' and a person replying, 'Well, I don't have what I would consider to be an independent piece of legal advice to give me a real idea of what my options are.' Providing that to people right at the beginning means that they have a good idea about what is going to happen to them. If you also take that greater case-management approach, people are in a much better mental state to be able to make healthy decisions about their future.

One of the things that has come up in meetings with the state DIAC about Villawood is that, with the provision of legal advice, the centre has said, 'Well, we provide people with telephones and a phone book so that they are able to access legal advice, if they choose.' But, if you do not speak English or you do not know who to call, a phone book and a telephone is really not adequate; you need to be able to access a list of pro bono legal service providers.

**CHAIR**—Can I just drill down into this a bit more? People, when admitted to an immigration centre, are not given systematically by any of the agencies, NGOs et cetera any independent legal advice. Is it that you cannot provide that to them, it is not done at the moment, it is impossible to organise or DIAC prevents it? Did you say that immigration agents are giving them advice?

**Ms Gauthier**—Yes, to asylum seekers. Someone putting in a protection visa application has access to a system where they will be provided advice. But that is not provided as a matter of course to the other population flows within the immigration detention environment.

**Sister Phelan**—When they arrive, GSL gives them a handbook. This handbook says various things, one of which is that, if they want legal advice, they can apply for it. One of the issues was that, for a long time, this was only in English. Now it has just been translated into Mandarin, because that is the biggest Chinese group. They are supposed to get an induction period within five days of arriving at the centre. What is covered in the induction depends on who you speak to. It is done by different officers, so it depends on who is doing the inducting. That is what happens. A number of people come up to visitors in the detention centre and say, ‘I haven’t got a legal; can you help me?’ because they do not know what to do in relation to where their case is.

The other issue around all of this is that each person in the detention centre is given a DIAC case manager for their case. But they never see or hear from their case manager after their initial interview, unless it is about being deported. The detainee might request that they see or speak to that person, but often the connection does not happen. That creates more distress for the person, because they do not know what is happening in relation to their having applied for this or that. One of the things we have tried to do and raise at meetings is: why isn’t there more regular contact between the detainee and their DIAC case manager, regardless of whether the case is progressing or not? If someone says, ‘It’s still held up,’ or, ‘I have no news for you at the moment,’ the person can deal with it. It is the silence and the non-interaction that creates lots of problems.

**Mr Clement**—This is the challenge with early intervention. From our perspective, case management has been a significant improvement. Having somebody in the department who is trying to pull the different pieces of someone’s case together in one place is a massive improvement; it is fairly new.

Coming back to early intervention, the challenge is that there is, again, what is referred to as the ‘legacy case load’. There are people who have been in the system for a long time who are already very unwell and whose cases are very complicated. So all the resources at the moment are focused on that. We are not yet intervening early enough. We will keep ending up with people at that end of the system until we start resourcing early intervention, getting information and support to people very early. I think everyone would recognise that this is a very difficult case load. These people have been in the system for a long time and they need many resources and a lot of support, but that should not be at the expense of trying to get some of the early intervention happening as well.

**CHAIR**—Noel, I understand from you that sometimes case managers of particular persons are in contact with them but in other cases they are not. It happens erratically.

**Ms Gauthier**—Yes, that is certainly our experience.

**Dr Thom**—And you have case managers and case officers, so who you speak to when you are in detention is confusing for the individual as well. It is confusing enough for us in trying to work it out. A case officer deals mainly—this is my understanding and I could be corrected here—with issues in the detention centre. If you are picked up by someone or seen as needing a case manager, it is about your whole case; it is more holistic, trying to get you through the process.

**Mr Poorvadi**—Basically, a case officer just deals with all the letters that case managers send and they bring to you things like rejections. All the bad news comes from your case officer.

**Mrs Nicholls**—It is a great job!

**Mr Poorvadi**—Yes. I think that happens because the case manager does not want to deal with all the bad news.

**Mrs Nicholls**—Perhaps I could say one thing. If they come in after being picked up for working illegally, having already failed their RRT, they are immediately subjected to the bush lawyers in Villawood, who say, 'Oh, no, this is what you have to do.' We have found that they give that sort of advice to the Chinese especially. To others they say, 'You've got to write a letter to the minister right now,' and they say, 'I'll write it for you.' Sometimes the person is not even sure of what is being written. That complicates the issue no end, because they are not getting legal advice; they are not talking to anyone who knows anything. If we are not migration agents, we are really forbidden by law from giving immigration advice. As visitors, we are not supposed to help them. But, as I say, we have had a lot of serious difficulties.

**CHAIR**—There are a lot of migration agents I would try to prevent by law from giving advice!

**Mrs Nicholls**—That is right. A lot of them who have had migration agents pick up the phone and ring somebody. But the assistance from other detainees, 'I'll tell you what to do,' is not always accurate.

**Ms Harvey**—Sister Lorraine is right; within five days there is the induction period. For someone entering detention and in the first five days to be handed a booklet in English, and now in Mandarin, in an erratic induction process, it is not the most receptive time. They need to be asking questions, to be working out how to write requests and to be working out how to complain. They are not receiving the information in any space where they can process it. We have been recommending that you have your induction process. It is like settlement orientation. It is like anything: you have your initial process and then you go back and check that the person actually knows and has received the information. Two to four weeks after the induction you make sure they know how to put in requests and you make sure they know how to make a complaint. There is actually a check-back process. At the moment all we get and all most visitors would get is: 'I don't know how to make a request. I can't do it because I don't speak English.'

Language is an enormous difficulty. It is a very Anglo environment. Everything is in English. All of the signs are in English. They are just starting to bring in Mandarin, which is brilliant. A lot of informal notices are starting to go up but it is still not reasonable. There is no on-site interpreter detainees know they can access. They need to know when they are going to be on site, and then they can put in a request and ask for them. It is still not prioritised, so communication and actually knowing what is going on is a major problem.

**CHAIR**—We will have a break now.

**Proceedings suspended from 11.47 am to 12.13 pm**

**CHAIR**—Before we resume, I just want to thank Pauline and our new senior researcher, Anna, for bringing all of this together in the last few days. It has been very valuable so far, and we have an hour more to go. Tony Zappia has not had a chance so far: over to you.

**Mr ZAPPIA**—I have listened intently and I have very much appreciated the submissions made to us today. They have certainly opened my eyes to a lot of things. I have three questions, and I think two of them might be directed to Graham, because I picked up a couple of things in his submission. The first is this: is there an association of all the non-government organisations that comes together from time to time to look at the issues that we are discussing today? You said you were on a subcommittee.

**Dr Thom**—Yes. There are a number of associations, I gather. In New South Wales we have the Asylum Seekers Interagency. There is NASA Vic, which has been mentioned, in Victoria. Obviously there is the Refugee Council. They hold national hook-ups every two months, and that is really where NGOs come together nationally to talk about detention issues. But generally it is more state by state.

**Sister Phelan**—State-wise, we have the detention working group bimonthly, where people who are actually working in Villawood or who have an interest come together.

**Mr Clement**—There is also a DIAC NGO consultation about twice a year. Some key NGOs meet with DIAC right across the whole portfolio, and I know Graham attends that.

**Dr Thom**—Yes, that is the national one. But there is a bit of a gap, obviously, between the NGOs who are dealing with people in detention at Villawood compared to those who are going into Maribyrnong, compared to those who are going into Perth. While a lot of that is picked up through the Refugee Council, there is not a lot of crossover really between some of the important individuals who are going into those centres and being able to make comparisons, which is why we thought it would be useful to have somebody actually in the CCG in Perth. I have my team going into Villawood quite often, but I have never been into Perth myself, so to have Amnesty people going in is important.

**Mr Clement**—We are one of the few agencies that visit every centre across the network.

**Ms Gauthier**—There is really a lack of systematic consultation from the NGO and community groups and within the department. The mentioned DIAC NGO consultations happen twice a year, and the ministerial consultations. It is a very small, select group of people who are actually brought to the table, just as today it is a small group of people. There is a wealth of experience and expertise out there in the community that did not make it to the table today or indeed have enough time to be able to do that. We need to increase the resources that are given to current advisory bodies such as the Immigration Detention Advisory Group and the community consultative groups. They need to be mandated to be able to consult more widely within the group, because those panels need to be able to be relatively small. They need to be mandated and resourced to increase their consultation within the group and also to improve the reporting relationships between those advisory groups and the government. They need to be able to make those reports more publicly available and have a requirement that government respond when

they do not take the advice of those advisory groups. That would really improve the amount of information that is being put forward through those groups into the government and also better resource NGOs, which are providing a lot of free advice on policy.

**Ms Jaivin**—Can I just add that the Australian Refugee Association, which is based in Adelaide, runs the Circle of Friends groups, which are very useful. As an individual, you find out about a lot of these things ad hoc. I would suggest that the department or parliament could, just on a website, have a place where all the NGOs and all of the different charities and everybody else working with refugees could have a link to their own websites, and people would have a sort of one-stop shop: ‘How do you help? Where do you go for information?’ That could be useful for parliamentarians. It could be useful for DIAC. It could be useful for individuals. It could be useful for refugees.

**Mr ZAPPIA**—Graham, the other issue you raised was the question of human rights. Is your concern that we may need perhaps different or additional human rights laws in Australia, or is it a case that we have the laws but the laws are not in fact being adhered to?

**Dr Thom**—I think it is a bit of both actually. An issue that Kate brought up before—or it might have been Tamara—was around how we meet our obligations under the convention against torture. With cases who are not necessarily refugees under the five groups that you have to fall into to be recognised as a refugee, if you are not in one of those five groups but you still faced torture you are supposed to be picked up by the convention against torture, but at the moment you have to go through the whole process to the minister for ministerial discretion. So, with regard to detention, somebody who is stateless or fits somewhere else in our human rights obligations spends that entire time in detention before they get to the minister and then, hopefully, get ministerial discretion. We saw that with a number of stateless people, like the Al Masri case, which eventually went to the High Court. So there does need to be some change to the laws.

In other situations, there are laws there to protect the way people should be treated in detention centres. Amnesty, for instance, has made a number of submissions to HREOC about mistreatment of people. People being transferred to prison in the past—out of detention centres directly into the prisons without ever being charged—was certainly an issue when I started doing this work in 1999 or 2000. There were supposed to be regulations that needed to be followed. Through our investigation, it was quite clear that they were not being followed, and HREOC backed us up on that. The fact that Australian citizens were being taken into detention, again, clearly shows that the law is not always being followed.

When it comes to detention, our real issue is that people cannot challenge the reasons for their detentions in the courts. We think that is a major failing, that somebody can be born into detention and be kept there for the rest of their life. It puts Australia in breach of its international obligations, and that needs to be changed. Improvements inside the centres are something else that Amnesty looks at, and that is where the laws are there; they are just really not being adhered to all the time.

**Ms Gauthier**—One of the real issues as well, over so many migration issues, is that it is really outside all of the Australian mainstream legal systems. For example, within the Migration Act, for extraditions the convention against torture non-refoulement obligations apply because



they have been enacted into domestic legislation with regard to extraditions of someone to another country, but, for the removal of people under the Migration Act, those non-refoulement obligations have never been enacted into domestic legislation and do not apply. There are so many other areas, particularly around the legal system for review of migration decisions, that are just completely outside the normal framework of what we would consider to be a mainstream legal system in Australia, and that is something that really needs to be looked at when we are looking in a broad picture at the whole detention and legal framework.

**Ms Jaivin**—In that context, I think it is important to look at the role of the South African based group that handles forced deportations—I cannot remember what it is called. Anyway, it is three initials. Is it IOM? Anyway, whatever it is, they go in. We have heard reports. Morteza has told me many things about those early-morning deportations, when they come in. There was one fellow who slashed himself with a razor to avoid deportation, and they sprayed him with coagulant rather than treat him so that they could take him and drag him off to the plane. There was another fellow, a Sudanese. They tried to keep forcing tranquillisers into him and a needle broke off in his knee. With this sort of thing you would think, under Australian law, there would be some limits—they tend to operate in some special place that should not be there really.

**Ms Gauthier**—For example, the minimum conditions of immigration detention—there are no codified conditions of detention, but there are codified minimum conditions of detention for prison environments.

**Mr ZAPPIA**—My last question is: do any of your organisations track the people who are actually deported or keep in touch with them?

**Mr Poorvadi**—I know of a group. They are human rights, four cases. They have been executed back in there. One of them was a 17-year-old guy who used to stay next to my room. He was sent back to Afghanistan and was shot in the airport. It was shown on *Four Corners*. It caused a great deal of psychological damage to a guy who was next to him, like me or other guys, to sit and watch that scene on the TV. The guy was alive four days ago next to you, and he is dead.

**CHAIR**—He was shot in Afghanistan airport? Who by?

**Mr Poorvadi**—I am not sure—the Taliban or somebody. It was on *Four Corners*, I think.

**CHAIR**—What, he was killed in the fighting by the Taliban? But it was not done by the Afghan government—or executed?

**Mr Poorvadi**—No, it was not the Afghan government's fault. It was a gang who he sought asylum from. Because of that legislation—one of those five—he was not recognised as a refugee and was sent back forcibly.

**Mr Clement**—It is a concern not just in terms of safety but in terms of people's health conditions as well. One of our concerns is, with people who are removed with serious health conditions, that there is not the capacity for proper treatment wherever they are going, and the trip itself could exacerbate that. That is of concern, and at the moment I do not think anyone adequately follows that up.

**Father Carty**—I would recommend *Deported to danger*. Actually, there are two versions of that document now. It has been done very thoroughly by members of a human rights centre who went to Afghanistan at great risk to their own lives. Two asylum seekers were deported. They were not from South Africa but they were sent to South Africa. So there is an element whereby people are being sent to a country to which they do not belong. Somehow or other a deal is done to get them through. *Deported to danger* is a very important document. I do not want to cast aspersions on past ministers, but this document was set aside by Amanda Vanstone with the claim: ‘Unless you can give me names and addresses, I can’t follow it up.’ Obviously, if you do, you are further exacerbating the danger that you have deported these people into. The document is worth looking at, and it is very thoroughly done.

**Ms Jaivin**—There is one other book, called *Following Them Home: The Fate of the Returned Asylum Seekers*, by David Corlett. He also goes to Iran, Afghanistan and, I think, Syria.

**CHAIR**—Is there a problem particularly with deporting people back to the Middle East?

**Mr Poorvadi**—There is Africa as well; it is in general. People who are seeking asylum away from the worst part of the world are escaping something. For my dad to put the lives of his three kids in danger and come here on a boat means that, for sure, he had something back there that was bothering him. He would not just say, ‘I want to go and live in Australia because they have great beaches or there is sunshine or whatever.’ They are escaping from a great danger. So I suggest that, before sending them back, you look into their situations in their countries and see if it is safe for them to go back. Immigration asked us to sign a piece of paper and offered us \$2,000 to basically take away their responsibility. If there were any persecutions back there, they would not be responsible for it.

**CHAIR**—I am sorry to be provocative, but you are probably the best person to ask this: do you have the same sympathy for Chinese detainees who are coming from an economically booming China and who could go back and watch the Olympic torch?

**Mr Poorvadi**—Economic-wise, I do not have the same sympathy, because there are other poor people. My wife is a refugee from Burma. We met in detention. Burma is a poor country. How do you let in every person who has a financial problem? We can only take two million people who are hungry or in poverty under the United Nations human rights system. So, no. But I have a great deal of sympathy for people who have been persecuted in their country because of their belief.

**Sister Phelan**—Some of the Chinese have been seeking asylum because of some problem with the government. So they are not all about economics. They will be deported back to their country of origin—that is the deal. That country is notified that Joe Blow is coming on this plane, at such and such a time. We have known cases where the government has then picked them up at the airport and they have just vanished.

**Mrs Nicholls**—We follow up as much as we can, provided they are able to keep in touch with us—but that is difficult if they go into hiding. In one case, we know that, when this man got to his home country, they took his mobile phone, they took his money, they took his ID, and they took the 10 days worth of medication that he had been given for his psychotic condition. They also changed his escort in South Africa—the Australian escort went back to Australia—and

handed him to locally employed guards who had no interest in him whatsoever. The Australians who have known the detainees in detention develop quite a fellow feeling for them and they will at least make an effort to make sure that they are all right when they get to their home country. But it is another matter once the detainees are taken away from the Australian escorts. It is also the effort involved. We know that some of them are in danger but we have not been able to keep in touch. The frustrating thing for us is to know that people are being deported to danger and we are helpless about it.

**Father Carty**—Can I endorse No. 152 of chapter 13 of the Australian Labor Party's 44th national conference. It says:

Labor will ensure that Australia's non-refoulement obligations under international law are met.

So hear, hear.

**Ms Gauthier**—That got a big run at Senate estimates—

**CHAIR**—When did it get a run at Senate estimates?

**Ms Gauthier**—In the legal and constitutional, there was a bit of back and forth between the minister and the shadow minister about the national policy conference document.

**CHAIR**—So this was recently, was it?

**Ms Gauthier**—Yes. It is quite amusing reading, actually. I did want to flag that, in Canada, they have a program called the pre-removal risk assessment. It is a very good system which should be introduced into Australia. It looks at a range of options for why a person's removal should be halted. Did they have any protection needs that were not caught by the refugee or the complementary protection assessments that they went under, and, additionally, are there any physical or mental health issues that need to be resolved before that person can be removed? What are the safety conditions of the country they are being removed to? What is the health system they are being moved to in relation to their specific health requirements? So it is taking both a protection and a welfare holistic approach to the ability to remove someone from Canada. I would encourage the committee to have a look at that program.

**Mr Clement**—If you couple that with the IOM return counselling, that is a good mix because what the return counselling then does is work with somebody to give them information about their return options and what is happening in their country of return and allow them to leave with dignity. That means, as I understand it, that their country is not notified that they are on their way. You do not expose them to risk that may or may not be there. People's greatest concern around removal is often that their country is notified of their removal.

**Mrs Nicholls**—I think mostly it is them getting a travel document from the home country. They are waiting for them. We have Burmese where they have rung up the Burmese embassy and said, 'We need a travel document for this man which will expire on a particular date,' so they could be sitting there in the airport, waiting for these people to come back.

The issue of medical health, you see, is that, if they go into hiding and you manage to be in contact with them and try to get them medication, after they have been out of the country for six months their prescriptions expire. We cannot send them any more medication because their treating doctors are not allowed to prescribe for them after six months. They are forbidden by law to prescribe antipsychotic medication to someone they have not treated for six months. The people are terrified; they do not dare go to a doctor for the treatment, so here they are, exposed, and then they are getting no medication for the mental health problems they were deported with.

**CHAIR**—Do you want to give some more detail about recent deportations from Villawood, any details of five o'clock in the morning episodes, how recent, et cetera?

**Sister Phelan**—There was, yesterday, an Indian who had been here nearly three years and, at five o'clock, was told, 'You're being deported in 10 minutes.'

One of the other things I wanted to bring up was about decisions on long-term detainees being made by 30 April. That gave a lot of hope to long-term detainees, let me tell you, and every time I have been there, every week, it has been, 'Well, it'll come, it'll come.' What they thought was going to happen was that they would be given visas. I kept saying, 'No, you won't all be given visas; it is re-looking at your cases.' With those who applied to the previous minister, their cases were not re-looked at—which is what we heard.

Within the last two weeks, there have been four deportations of people who have been in Villawood, from stage 1 and stages 2 and 3, as a result of the 30 April decision. Because that date has expired, yesterday when anybody was called they thought they were going to be deported. So that has put another scenario into the detention centre at the moment for long-term detainees. They are reluctant to go to medicals because someone was picked up from a medical, and they are reluctant to go to any interview rooms for the same reason. That is what happens.

We had 4.30 removals. It was quite often the pattern. We asked that it not be 4.30 in the morning because psychologically the person is in a state of stupor. That is part of the reason why, because they do not have their wits about them to do anything, but they always scream out to others, 'I'm being deported,' so then it impacts on the other people around in the stages and they think the same thing is going to happen. Maybe it will happen to them; we do not know. So there are removals of long-term detainees happening at Villawood at the moment. But it is in relation to 30 April. So the others are still waiting to see what happens. When we have challenged that before, GSL come back to us and say, 'Those are the only flights we could get for them.'

**CHAIR**—Can I ask all of you a provocative question about stage 1? Should it be closed down or rebuilt? How would you deal with the problem of the increasing number of section 501 criminal detainees, all of whom I understand are not in the same category as each other but basically a new element? Would you separate them completely in stage 1 from people who have got applications for refugee status?

**Mr Clement**—One of the questions that I do not know the answer to is: is there capacity, if there is talk about cancelling a visa, to start that process before someone leaves the correction facility? That is one of the questions that we have asked ourselves. It appears that the process starts as soon as they leave the correction facility, then they have to go to immigration detention so that process can be seen through. I am not sure if there is capacity, if there is a decision to

commence the process before they are actually released from the correction facility, so they are not then sitting in an immigration detention facility.

**CHAIR**—You are actually suggesting that it might be a possibility to do it before they finish their sentence in prison rather than bringing them to Villawood?

**Mr Clement**—I do not know. I have no idea whether or not it is possible. But, having said that, we are concerned about the principle of someone having completed their sentence, particularly for people who have been in the country and for whom Australia is really the only country they have known, then being removed. That is a whole separate set of concerns that we have.

**CHAIR**—Is it a double jeopardy sort of legal situation?

**Sister Phelan**—The country has to be prepared to take that person back. We had quite a number of Vietnamese, for example, in stage 1 because Vietnam would not accept them back, and they could not get them to another country. That was the only place they could put them because their time in jail had finished, so the detention centre was the only other option that the government had to house these people. That is the reality.

**CHAIR**—Are any of them still there?

**Sister Phelan**—Not a lot of Vietnamese, no.

**Mrs VALE**—Where have they gone?

**Sister Phelan**—I do not know.

**CHAIR**—Have they got back into Australia, or have they been deported or removed?

**Sister Phelan**—They were removed. They eventually found somewhere that would take them.

**CHAIR**—It was not Vietnam?

**Sister Phelan**—No.

**Dr Thom**—Some of them to Vietnam—

**Sister Phelan**—Well, the ones that Vietnam would not take back—they were elsewhere.

**Senator BARTLETT**—They eventually reached an agreement with Vietnam government, but it took a long time, so they were mostly returned.

**Ms Jaivin**—For my research for my book *The Infernal Optimist*, because the lead character is a 501, I did a lot of research into how this policy developed. What I discovered was that over the Howard government years section 501 removals went from being an extremely rare occurrence, something which was put into effect only for really major crimes—war criminals and really

serious questions of character—to something which became increasingly applied to people who had served 12 months in prison but, as Noel was saying, have since had normal lives, have children here and so on. It became in a sense trivialised and just broadened and broadened, and that partly accounts for the number of people. If we go back a step and look at the implementation of section 501, a reconsideration of that could go far in solving the problem of what you do with 501s in detention, because you simply might not have as many.

**CHAIR**—You are saying that someone who did a break and enter 12 years ago but has been picked up—

**Ms Jaivin**—It is a discretionary thing, but there are certain indications which might move the minister or the department to decide somebody should be deported under section 501. One of the things is if they have been in prison for 12 months or longer. So you might have somebody who 10 years ago did 12 months, and the department somehow cycles around in its own wisdom and finds this person later. People have been released from prison, they have been more or less rehabilitated, they have been out for, say, four or five months—

**Mr Clement**—Or even more—a year.

**Ms Jaivin**—or more—years, 20 years; this sort of thing—and then suddenly they get picked up. Is this necessary? Is this something that we need to be doing? That is—

**CHAIR**—They are not picked up the door of the prison by Immigration?

**Ms Jaivin**—Because 10 years ago—

**CHAIR**—There is no coordination?

**Ms Jaivin**—they had section 501.

**CHAIR**—But they would not have applied it then?

**Ms Jaivin**—Exactly. It used to be applied very, very stringently and rarely. Then, over the years of the Howard government, it became applied more and more. That is what I discovered in my research.

**Ms Gauthier**—Then they started using it retrospectively.

**Ms Jaivin**—Yes, and then they started using it retrospectively.

**Mrs Nicholls**—I think there is also a moral issue here if they have been here since their very early formative years, they have gone to school here and they have been brought up here. Their country of origin did not give them the criminal record. It was here. Something happened to them in Australia that caused them to become criminals. They should be treated the same as any other resident who is released from prison and given some sort of rehabilitation. It seems to me morally wrong for us to send them back to a country where they have never lived just because they have committed a crime here and, for some reason, their parents neglected to get them

Australian citizenship. They are permanent residents, but for some reason they were never given Australian citizenship.

**CHAIR**—There was a Serb who was very much like that. He was involved for decades in criminal activity and was deported to Serbia.

**Mrs Nicholls**—Exactly. That is right.

**Ms Jaivin**—There was a Turkish man as well. In these cases, people—like the Serb and a couple of others—do not have fluency in the language of the country they are being sent back to. They do not have support networks. They have, at most, distant relatives, so they are not really being deported home in any meaningful sense.

**Mrs Nicholls**—Exactly.

**CHAIR**—The problem with those two cases is that of course—and I understand that is a moral position, and it is fair enough if you take that moral position—if you meld them in with all of the other more deserving refugees or asylum seekers then you confuse in the public mind who we are appealing on behalf of.

**Mrs Nicholls**—They should not be in Villawood for this process. They should be released from prison into a rehabilitation system. It should not even come into their minds to deport them to the country where they have not lived since they were two or three, where they do not have the language, where they do not have any family and where they have no ability to adjust.

**Ms Gauthier**—Of course, some of the section 501 people are not necessarily people who have been here from birth, and it may be removing somebody who is here on a temporary visa or has been here since they were 18. So, in some cases, there is the need for that, and I would agree that there need to be separate facilities for those people, again taking into account that some people within the criminal deportee class have differing levels of security needs. But, as to going any further than that, I feel uncomfortable having this discussion without any prisoners' rights groups at the table who have much greater expertise in this area.

**Dr Thom**—But there are some clear human rights guidelines about detaining people and detaining noncriminals with people of a criminal background. Taking your first question about what should happen with stage 1, then quite clearly these groups should not be mixed. You should not be mixing somebody who is an asylum seeker with serious mental health concerns into a situation that is probably the harshest environment of the whole centre and probably the place where they will feel least safe in the whole environment. If your reason for moving someone is that you believe that they are going to self-harm or commit suicide, then moving them into an area such as stage 1 is just completely inappropriate. So, not going broader than mixing criminal deportees with asylum seekers, mixing people with acute mental health problems with criminal deportees is even worse. I think that needs to be seriously and urgently addressed in any reform of the process. There needs to be some way to ensure that asylum seekers, visa overstayers and criminal deportees are not being mixed in an environment, particularly one like stage 1, where it is going to be damaging for all of them.

**Father Carty**—I would like to see it demolished, for the reasons given, and a separate facility to cater for the 501s. I have been pleading for a couple of years now for there to be, in stage 1 and stage 2, some quiet place where we could gather. On Thursday afternoons at 1.30 we have to contend with the dining room, which usually smells. They have just introduced the prison type tables and chairs, which are made from pressed metal and are riveted to the floor—we have no mobility—so you are just stuck with that format, plus there are the residual leftovers from lunch hanging around, and they are playing ping-pong outside. They also introduced two computers into the same room, so we have guys playing games here. GSL prides itself on caring for the human person: body, mind and soul. Do you remember that? We were at a meeting; they told us that.

*Chair interjecting—*

**Father Carty**—I am all for that and I am all for the soul. There is nothing more soul destroying than having some place where you cannot sit quietly and worship. It is the same in stages 1 and 2. It does not happen as often as it used to. Every time I would start, the ride-on mower would come and go around and around and around for an hour and then leave just as we finished.

**Mrs VALE**—They did not want to hear you preaching.

**Father Carty**—I know! I found that out recently.

**Ms Jaivin**—Just one thing about stage 1 and mental health and the way it is now: there was an Algerian asylum seeker who was in stage 1 for two years. He became so desperate just to see a tree that he begged one of the guards, who was friends with him, after one year in detention. He was in stage 1 for the entire time. The guard took him out in the middle of the night for 15 minutes, secretly, to an area where, he told me, he touched a tree and felt the grass under his shoes. It was for 15 minutes and that was the thing that kept his sanity, such as it was, and then he was back in stage 1 for another year. That is obviously not for any human being, whatever they have done.

**CHAIR**—Are there further questions? I would like to get concluding statements from people if they want to make them.

**Mrs VALE**—I ask a question just for the record. Noel spoke about the uncertainty—you have all raised it at different times. Why is there a delay? Is the case manager making it faster? Is it just the administrative process? Is it the bureaucratic mind? Why does it take so long to actually decide whether a person should stay or not?

**Mr Poorvadi**—We would like to find out. We could not.

**Sister Phelan**—Regarding the appeal process, if someone gets a refusal they will appeal. Now there is a time frame put in. Once they appeal, it is supposed to be a 90-day process. They might appeal to the RRT and lose that and so they will go back to try again, and if that fails they will put in a 417 to the minister. All of that does not happen quickly.

**Mrs VALE**—I understand that.



**Sister Phelan**—That is why some of them are still there after three or four years. Their appeal process is ongoing.

**Mr Clement**—It was the idea of case management, though. I have to say that there have been some significant improvements, particularly at the primary stage for asylum seeker protection visa applications. They are a lot quicker than they used to be. Even review is a lot quicker. Often it gets caught up at the post-review stage but, again, if you have people working with them and giving them appropriate advice, plus legal advice, and also talking to them about their options, you will hopefully prevent people just continually going back to the minister or back to the courts. That is what happens at the moment: people end up in an entrenched, locked-in position and continue to fight because no-one is really working with them or has worked with them early enough to talk to them about what their options are.

**Sister Phelan**—There is another side to that. Some of those who keep going back have a wife or a wife and a child who have residency outside, so of course they want to be with that wife or that child and they will keep pursuing every avenue to try to get that outcome.

**Ms Domicelj**—There is also the matter that a ministerial decision does not actually carry any reasons, so no explanation is given to a person. The inclination to try again, if you have no idea of what has been taken into consideration, is very great where people feel that they have compelling humanitarian concerns.

**Mrs Nicholls**—Then we apply through FOI to find out. They will not tell us why the decision has been made, so we have to apply under FOI and then we get the file which explains why the decision was made. If it is given priority status, it takes about three to four months while in detention. So that is another three months that they are waiting in detention while you are waiting for the FOI file to come in. Then you can see if it is feasible to apply again.

**Mrs VALE**—What is the reason generally for not giving the reasons?

**Mrs Nicholls**—There is no reason.

**Mrs VALE**—Does it matter whether they give a reason?

**Ms Jaivin**—Section 417 means the minister does not have to state it. The fact that they do not give the reasons, one always thinks maybe they have not considered the whole case and maybe there is something wrong. With the FOIs, they often turn up something wrong. The FOIs should be done according to the department's own regulations of 30 days, but the resources have not been put into FOI in Immigration in the past so that that could happen. So they would stretch out to several months. There was an FOI that I was recently dealing with that took almost two years. This sort of thing really drags things out. When you get the FOIs, you often find—this is my experience and I am sure everybody else has had a similar experience—serious mistakes in the reporting up to the minister or something in the department's own information. You find the thing that might have caused the minister to say no. So, therefore, one tries again.

**CHAIR**—Andrew and Tony, do you have any last-minute questions?

**Senator BARTLETT**—Back to that issue of the case management and individual assistance, the stats we got for this today from the committee through the department showed the Villawood composition one month ago was 249 people. The thing that stuck out to me was that 102 of those people were from China, which is much more than from anywhere else. At the other end are 91 other countries, which means there are a whole lot of individuals who are, in some cases, completely alone in terms of their ethnic background and language. I am not suggesting that all of the Chinese are all monolithic by any means, either, but how well are we going in dealing with that massive diversity of cultures, experiences and language, particularly with that shift now to a lot of people from China and some issues there compared to a few years ago when there were so many from Iran or the Middle East.

**Ms Jaivin**—A number of years ago this would have applied to a young Somali man who was taken into detention. There was no interpreter and there were no other Somalis. He spoke no other language but Somali, and it was days before anybody could communicate with him. It was only because they found somebody in the community outside, brought them in and then found out anything about him at all. I do not know how you would create systems that would take care of every nationality and every language.

**Senator BARTLETT**—It is always going to be a challenge, but it is how well are we going with that challenge?

**Sister Phelan**—The issue in relation to food comes up every day, because the food is catered for the major groups not for the minor groups and that is an ongoing issue. It comes up in relation to representatives on consultative groups because the representatives are from the major groups, not from the minor groups. When I have raised it before, I have been told by DIAC and GSL, ‘That individual can raise it with an officer.’ But individuals are not going to raise issues of concern because they feel that impacts back on them, the way they will be treated in relation to their case—all that sort of thing.

**Senator BARTLETT**—There needs to be more resources for case workers or managers, or whichever one it was.

**CHAIR**—But Andrew, do not all of these people have access to the Department of Immigration and Citizenship’s telephone translator service where you can ring people and get them to translate and have them on speaker phone? My office deals with a huge number of immigration cases and if we cannot understand the person—we are not experts like the people in Villawood—we get on the phone and find someone who speaks the language.

**Mrs Nicholls**—But for some languages, like Swahili, it is almost impossible to find a Swahili interpreter. Or else you get an Arabic interpreter, but there are so many different versions of Arabic and trying to find one which applies to Sudan or Somalia or Lebanon—they cannot interpret properly.

**Sister Phelan**—It is having the confidence to be able to do that and to know that that is your right as well.

**Ms Harvey**—It is not a part of the culture of Villawood yet. I am living for a day where a GSL guard who wants to talk to a detainee who does not speak English will automatically pick

up their mobile and they will get a telephone interpreter on the line. That would be ideal. It does not happen.

**CHAIR**—But you have educated us now, that it does not happen. Until you actually told me, I did not know why they do not do what I do.

**Ms Harvey**—They do not do it. It is primarily in English. I think that if it is for a case conference or if a DIAC person comes down to speak to a detainee then, yes, they use an interpreter. But in terms of the day-to-day running of and the day-to-day functioning within the centre, interpreters are not used as a general rule.

**Mr Poorvadi**—Having the interpreter and bringing in a Persian interpreter for an Iranian guy and an Afghan interpreter for an Afghani is very essential. Lots of people have been rejected by Immigration because of this misunderstanding. An Afghan interpreter was presented for an Iranian guy. They speak the same language, but with different accents and different meanings. Maybe a phrase means something in Farsi that means something different in Afghan. Arabic is the same. We have Lebanese Arabic and Iraqi Arabic; they have totally different words, even. To bring an interpreter from that part of the world or that local language and accent for the guy is very essential in these cases. We often see that people have been rejected because of this sort of misunderstanding.

**Ms Harvey**—Detainees can pick up and use a phone and call the telephone interpreting service, but it is not something that they have the confidence to do or that they are encouraged to do. If they want to request something, it is all in English. You can nowadays write it in your own language, but it is going to take twice as long for you to get your request fulfilled because somebody has to interpret it. It is just not part of the culture across the board.

**CHAIR**—Thank you very much for that. Would anybody like to give a brief concluding statement? I have found this extremely valuable. I think other members of the committee have too, but we want to try and run it in a businesslike way and get this finished so that people can get onto their planes. Tamara, why don't we start with you? You have not said something recently.

**Ms Domicelj**—Thank you. It has been an invaluable experience for me as well to hear so much from colleagues who have a great deal more expertise than we do in relation to the actual detention environment. I would really love to underscore a couple of things to do with issues that have emerged. The first is timeframes. I think that is incredibly important. The 90-day timeframes at the primary and merits review stage for determinations have been incredibly useful. I would really support what Noel has said in relation to that.

**Mrs VALE**—And the length of times of ministerial responses.

**Ms Domicelj**—Providing access to appropriate and free migration advice to people who have had a refusal at the RRT stage and who may then consider putting in an intervention request to the minister would be invaluable. It would bring down the number of repeat intervention requests, because people will be making a decision based on credible advice. They now have access to voluntary return options, which they did not have previously, through the community care pilot and IOM. If you combine access to appropriate migration advice with voluntary return

options and greater clarity around ministerial processes—I know that the ministerial intervention unit in New South Wales certainly is considering putting out a fact sheet for all asylum seekers so that they understand what happens with a ministerial intervention and the things that they should be considering if they are proceeding to the minister—would be immensely useful.

The other aspect, obviously, of having a fair and reasonable system goes to the issue of people's welfare and healthcare requirements. What we see in the community at the moment is something that is entirely unmanageable. We see people in desperate circumstances, utterly debilitated by years and years of protracted destitution, often having been released from a detention environment into that ongoing limbo. They also do not know how long that is going to last. We often have people say to us: 'Arrange for us to go back inside. We can't bear it outside. We can't clothe our kids. We can't get medical attention. We're not allowed to work. We can't engage with the community. We can't study.' We hear that as well. That is not to in any sense diminish all of the issues in relation to the detention centre environment, but releasing people on a BVE without work rights and without access to Medicare is no solution whatsoever.

One of the things that often comes up in relation to that is the issue of people paying a bond. If people have been able to come up with \$40,000, they must have access to some sort of funds. What we hear a lot from the people we work with is that that is something that has been incredibly difficult for them to organise. They have done it because they are desperate and, in some cases, when they come out they are then beholden to the people who have contributed to that and they are immediately in debt. They are immediately trying to find a way to repay those debts.

We had a couple come to us who had been a split family. The mother was heavily pregnant; she already had one child. The father had been detained in Villawood for three months for a breach of visa conditions. He had severe health problems that had not been effectively attended to in there. When the mother got to us, she was contending with huge psychological traumas. She presented to us at the point where she was about to go into labour and had not been able to pay for any antenatal care. We went to the department of immigration to say, 'Take this woman into the community care pilot.' We worked closely with other lead agencies in relation to this issue, but their response was: 'There's a bond there. They should access that bond money. They should seek to have that bond money released and that will be enough to see them through.' It was a lengthy process and, when they finally did it, that money was money that they owed to other people. They had to repay it straightaway, and so they were soon back in the same situation. They have since been taken into the community care pilot. In situations like that, there is every opportunity to foresee what is going to happen.

If we have an appropriate case management framework where people's circumstances are being actively tracked, we can foresee those kinds of situations. Bonds are not a solution in terms of people being able to survive on the outside. Migration advice is indispensable for people who have had a refusal at the RRT. In general, the rationale for refusing work rights to asylum seekers who are lawfully residing in the community eludes many of us who work with people who have been in that situation for years at a time.

**Father Carty**—This follows on from what Tamara said—housing. That is mentioned on the second page of the questions that we were given: 'What is available in emergency or temporary housing?' Sydney is dire in terms of available housing. Currently, the House of Welcome is a

very small operation. We have four houses and five units in which we accommodate about 28 people during the transitional period, which is when they are released from detention or they are on BVEs without access to work.

The Bridge for Asylum Seekers Foundation provides \$90 a week for living expenses and also some housing. Every day we get a phone call from a little family or a single person asking for accommodation, and we have to say no. I do not know what can be done. At one stage, the government did have transitional housing, but they got rid of that and so it is not available. It would have been worth while keeping that on because of this problem. This links in with working. If they cannot work, they cannot earn any money and they cannot pay rent. Where do you they live?

Finally, I want to say publicly: thank you, Andrew, for your many years of constant support and for visiting Nauru. You are a great support. Thank you, very much.

**CHAIR**—I am sure people appreciate those who have been concerned about this issue, who have been on this committee for a long time and who have been consistent about these kinds of issues.

**Mr Poorvadi**—I want to enforce something: mandatory one-on-one psychological or counselling sessions for detainees when they are released. This is essential for them. It should be mandatory, because the detainees think they are all right but they are not. They cannot cope with the hardship that the outside world brings them. When you are in detention, you focus only on getting released. That is all you focus on. When you are released, you are in bigger trouble. You need a house, you need food, you need money from work and all these sorts of things. I think that is essential. I also think that the immigration department should follow up at least after three months to see how they are doing. They can just give them a call after every fortnight and ask them how they are doing. Do not leave them in a world where they do not know the language or where they do not have any information. Do not just say, 'There you go,' and leave them.

**Dr Thom**—On improvements, I think it is important to highlight the role of both HREOC and the Ombudsman. The changes to legislation so the Ombudsman's office can look at people after two years are really significant, and the Ombudsman has been doing a very important role more recently with detention. The fact that the community reference committee initially was a group appointed by the minister at his discretion and was then put into the contract for the service provider and is now being chaired by an independent body, IDAG, I think is really important. I think that should be maintained.

**CHAIR**—This is IDAG, is it?

**Dr Thom**—Yes, IDAG is now chairing that in all the detention centres. The one thing that I think has not been covered—and I know it is not specific to Villawood—is the fact that people who are put in detention are accruing a debt to the Commonwealth, and I think this is just a huge injustice. I think we are the only country in the world that does it. It does impact significantly on individuals. For the majority who get protection visas it is waived but, for others given some sort of other discretionary visa, debts of hundreds of thousands is outrageous. So if this committee could at a later date look at that issue, I would certainly recommend that.

**CHAIR**—If you want to say something, do it very briefly because you will have to be the last one.

**Ms Gauthier**—We did not raise the issue of detention centres being moved back into Commonwealth control, which is a policy that has been suggested. I would actively encourage that process to continue.

**CHAIR**—Rather than the department or agency, they choose someone.

**Ms Gauthier**—Yes, which creates so many commercial-in-confidence difficulties. You also have the situation that has happened where someone is saying, ‘It’s their responsibility,’ ‘No it’s not, it’s theirs; it’s in the contract.’ If that cannot happen because the contract is due for renewal very quickly, we would say that we need to change the key performance indicators that are written into the detention service provision contracts so that welfare indicators are one of the major issues, not just a compliance focus.

I just want to talk briefly about how there has been a very good culture change that has come out of DIAC from the Palmer report but, because we have had so many years of essentially policy trench warfare, there is a degree of culture that has not changed yet but really needs to happen—that is, to change the approach to policy development and implementation. I will state again today: it has been incredibly useful for us, and I hope for you as well, to have this discussion, but we have barely scratched the surface about what the problems are just in Villawood. We certainly have not been able to have enough time to provide you with all the ways of solving those problems, which every single person at this table can do. We need to set up systems where we are able to provide you with all of the solutions to the problems, because we have them. It is just a case of having enough time and resources to sit down in a really positive, constructive way and solve all these problems, which can be done quite simply and quickly.

**Sister Phelan**—In relation to DIAC, in the last 18 months at Villawood, there has been more working together in terms of being more approachable in individual cases. Before, you were seen as the enemy, but I certainly do not feel like that any longer. We can talk about things, action is taken and they will get back to you. In relation to individual cases, I think that is really important.

The last thing I want to talk about—for the women in Lima, which is the women’s compound—is how the wool has been pulled over our eyes a bit, too, because they keep saying there is nothing for them to do, but GSL is saying, ‘We’ve got all these activities; for example, cooking, which they can have numerous times,’ when in fact they can only have cooking once a week if the Chinese-speaking officer is on duty. So we really have to look at the activities which we are being told are going on in terms of reality and in terms of meaningfulness for those that are there at Villawood.

**CHAIR**—I want to thank you all for an incredibly valuable session today. Now I know what a working group means. You will be sent copies of our inspection report and we will incorporate today’s session. The secretariat might contact you to clarify some points that they are not 100 per cent sure of.

Resolved (on motion by **Mrs Vale**, seconded by **Senator Bartlett**):

That this committee authorises publication of the transcript of the evidence given before it at public hearing this day.

**Committee adjourned at 1.09 pm**