

CHAPTER 7

Alternatives

Background

7.1 Previous chapters of this report explored the key features of immigration detention, as well as the reasons for and effects of prolonged detention. The Committee considered a sizeable volume of evidence on the consequences of the current system on mental health outcomes among the detention population, and concluded that a different policy framework was needed to reduce the amount of time people spend in detention facilities.

7.2 This chapter will look at ways of transitioning asylum seekers and refugees from detention centres. Specifically, the chapter will look at the ways people are being managed by the immigration system while they are in community detention or on bridging visas, the two main options available to the Department of Immigration and Citizenship (DIAC) as alternatives to held detention.

7.3 The Committee believes that, with appropriate exceptions, processing asylum claims while people are in community detention or on bridging visas offers a workable alternative to held detention in facilities, and in turn better implementation of the government's *New Directions* policy.

Recent expansion of the immigration detention network

7.4 There has been a significant increase in the number of irregular maritime arrivals (IMAs) in recent years, leading to a growth in the number of detention facilities on the Australian mainland. These were outlined in Chapter 2.

7.5 The past year has also seen a significant increase in the use of alternatives to held detention such as bridging visas and community detention. This is the result of a shift in the fundamental conceptual underpinning of immigration detention policy. As put by DIAC Secretary Andrew Metcalfe, the focus has shifted to whether people *need* to be detained from an immigration processing point of view, or whether they can be conditionally released but available for the immigration process:

Based upon the experience we have had over the years, we believe that we can continue a proper process of immigration assessment about status without the need for everyone to be in held detention facilities. That obviously has benefits for cost and benefits for the individuals themselves in relation to their circumstances.⁶¹¹

611 Mr Andrew Metcalfe, Secretary, Department of Immigration and Citizenship, Legal and Constitutional Affairs Legislation Committee, *Senate Estimates Hansard*, 13 February 2012, p. 93.

Bridging visas

7.6 Bridging visas (BVs) are temporary, non-substantive visas.⁶¹² They allow non-citizens to reside lawfully in Australia, and thereby 'avoid being subject to mandatory detention.'⁶¹³

7.7 Asylum seekers are generally issued with Bridging Visa E (BVE). This is a temporary visa open to a number of groups of people other than asylum seekers, but it is the one most commonly used for asylum seekers. Under the conditions of a BVE, asylum seekers have the right to seek work, and may have limited access to some basic assistance from the government. This assistance is means tested and only extended where it is necessary to allow someone to continue to live in the community.⁶¹⁴

7.8 A holder of a bridging visa becomes a lawful non-citizen not subject to mandatory detention. Circumstances in which bridging visas may be granted include those in which a non-citizen:

- has made an application for a substantive visa which has not been decided;
- has applied for revocation of an automatic student visa cancellation;
- has applied for merits review of a decision to refuse an application for a substantive visa, of a decision to cancel a visa, or of a decision not to revoke a cancellation;
- has applied for judicial review of a decision in relation to a substantive visa;
- is awaiting the outcome of a request for the exercise of the Minister's intervention powers;
- is in criminal detention; and
- is making, or is the subject of, arrangements to depart Australia.⁶¹⁵

7.9 There have been a number of important policy shifts during the course of this inquiry following a 2011 High Court ruling which curbed plans for asylum seekers to be processed in third countries. The Prime Minister and Minister for Immigration

612 Under the *Migration Act 1958*, a substantive visa is a visa other than a bridging, criminal justice or enforcement visa. See *Migration Act 1958*, s. 5.

613 DIAC, *Submission 32, Evolution of the Australian Legislative Framework and Policy for Immigration Detention*, p. 4.

614 The Hon. Julia Gillard, MP, Prime Minister, and the Hon. Chris Bowen, MP, Minister for Immigration and Citizenship, *press conference*, 13 October 2011, available at <http://www.pm.gov.au/press-office/transcript-joint-press-conference-canberra-17> (accessed 22 February 2012).

615 See DIAC, *Bridging Visas*, <http://www.immi.gov.au/allforms/pdf/1024i.pdf> (accessed 3 November 2011).

announced that the government would be placing more IMAs on bridging visas, where appropriate and once they have passed identity, security and character checks.⁶¹⁶

7.10 As a consequence, the government has had to prepare contingency plans in the event of increased offshore arrivals, and has decided to make more use of existing mechanisms previously used predominantly for onshore arrivals.

7.11 In November 2011 it was announced that a number of asylum seekers would be released on bridging visas under the new framework of expanded bridging visa use. The announcement made clear that asylum seekers on a positive pathway, that is, those who have been found to be refugees, or those who had not yet commenced the independent review process, would now be considered for placement in the community through bridging visas. The Committee was informed that people who had spent the longest time in detention would be considered first.⁶¹⁷

7.12 Since then and as at 13 February 2012, 257 asylum seekers had been granted BVEs, with around another 100 scheduled to be issued the following day.⁶¹⁸ By 28 February 2012, 495 people who were in detention had been granted BVEs and were due for release. These were all people who had passed initial health, identity and character checks.⁶¹⁹ The Department advised plans for further releases under the BVE program, with the potential to for hundreds more to be released each month:

The rate at which we are currently processing people would see us releasing about 400 people per month on bridging visas.⁶²⁰

7.13 Whereas previously bridging visas had been available but not generally used for asylum seekers arriving by boat, under the new framework the following criteria were to be applied to determine priority in issuing BVEs to asylum seekers:

- the length of time spent in detention;
- any vulnerabilities, such as identified torture or trauma experiences;
- behavioural record during time spent in detention; and
- the ability of family and friends living in the community to provide accommodation and support.⁶²¹

616 The Hon. Julia Gillard, MP, Prime Minister, and the Hon. Chris Bowen, MP, Minister for Immigration and Citizenship, *press conference*, 13 October 2011, available at <http://www.pm.gov.au/press-office/transcript-joint-press-conference-canberra-17> (accessed 22 February 2012).

617 Mr Andrew Metcalfe, Secretary, DIAC, *Proof Committee Hansard*, 29 February 2012, p. 25.

618 Mr Greg Kelly, First Assistant Secretary, DIAC, Legal and Constitutional Affairs Legislation Committee, *Senate Estimates Hansard*, 13 February 2012, p. 92.

619 Mr Andrew Metcalfe, Secretary, DIAC, *Proof Committee Hansard*, 29 February 2012, p. 22.

620 Mr John Moorhouse, Deputy Secretary, DIAC, *Proof Committee Hansard*, 29 February 2012, p. 25.

7.14 At present, all refugees and asylum seekers (except refugees with adverse security assessments and refugees/asylum seekers with problematic behavioural management histories) are eligible for BVEs. DIAC representatives explained how new groups of detainees were now being considered for BVEs:

In addition to being 1A met or at merits review, we also took into account whether people had adverse security or not, obviously, or people who may have had behavioural issues while they were in the detention facilities as well. With that in mind, we are now starting to work on other groups as well and also starting to consider people who are at JR [judicial review]. My team has been working closely with Ms Pope's [DIAC] team, particularly for some people who might be assessed as vulnerable and who are at the JR stage, to have those people in community detention if bridging visas cannot work at this stage.⁶²²

Committee view

7.15 The Committee commends DIAC for its considerable efforts to prioritise the release on BVEs of asylum seekers who have spent the longest time in detention. The Committee understands that a number of criteria are applied when deciding whether to release an individual into the community on a BVE or place them in community detention. Although these criteria have been publicly stated a number of times by both DIAC and the Minister, the Committee is aware that no clear, published guidelines exist. The Committee believes that publication of the criteria for deciding whether an individual is placed in community detention, or released into the community on a bridging visa, would be beneficial.

Recommendation 29

7.16 The Committee recommends that the Department of Immigration and Citizenship consider publishing criteria for determining whether asylum seekers are placed in community detention or on bridging visas.

7.17 Once issued, BVEs allow the holder to work, but not receive Centrelink payments. Asylum seekers retain access to modest government-funded support whilst in the community.⁶²³

7.18 The Committee heard arguments questioning the requirement for asylum seekers or refugees on BVEs to work. The Asylum Seeker Resource Centre (ASRC) raised specific concerns around language impediments compromising safety:

With people coming out on the bridging visa, my understanding is that the government would like them to get jobs. We have said it is dangerous for

621 The Hon. Chris Bowen, MP, Minister for Immigration and Citizenship, *media release*, 25 February 2011.

622 Mr Greg Kelly, First Assistant Secretary, DIAC, Legal and Constitutional Affairs Legislation Committee, *Senate Estimates Hansard*, 13 February 2012, pp 92–93.

623 The Hon. Chris Bowen MP, Minister for Immigration and Citizenship, *media release*, 25 February 2011.

people to work if they do not speak English. Particularly working in factories and those sorts of low-paid work, which is where they will find their jobs, they need to speak English in order to be safe, and so we have asked that they consider some sort of English classes to assist them.⁶²⁴

7.19 ASRC added:

We would not in any way stand in the way of people coming out of detention, because we know that that is a life and death situation, but we run an employment program and we know that people need support to find work. They come from cultures where the idea of a resume does not exist; jobs are found through family networks et cetera. So what we do is train people up in how to go to an interview, how to find work and all those things.⁶²⁵

7.20 Gilbert and Tobin Centre of Public Law expressed serious concerns with BVEs. While those on BVEs have entitlements to work in theory, in practice they are often unable to find work due to obstacles such as a lack of photo identification and the short duration of the visa. The requirement for them to work and support themselves means that many 'face poverty and homelessness as a result of these conditions.'⁶²⁶ Gilbert and Tobin added:

Placing asylum seekers in situations where they are unable to work and are not receiving sufficient social assistance may place Australia in breach of its obligations under article 7 of the ICCPR. In the UK, the courts have found that the removal of subsistence support from asylum seekers resulting in their destitution was a breach of these rights. While the House of Lords acknowledged that there is no general public duty to house the homeless or provide for the destitute, it said that the State does have such a duty if an asylum seeker 'with no means and no alternative sources of support, unable to support himself, is, by the deliberate action of the state, denied shelter, food or the most basic necessities of life'.⁶²⁷

7.21 On 29 February 2012 the Department informed the Committee that approximately 13 out of 495 people who had been released on bridging visas since November 2011 had been able to find employment to date, noting that 140 of the 495 had only received their visa on the previous day. Of the 107-strong cohort released by the end of December 2011, 13 had found employment by 7 January 2012.⁶²⁸

7.22 Seeking to better understand how people released from detention on bridging visas were supported through the transition to finding employment, the Committee asked DIAC about the support services available. The Department explained that

624 Ms Pamela Curr, Campaign Coordinator, Asylum Seeker Resource Centre, *Proof Committee Hansard*, 18 November 2011, p. 21.

625 Ms Pamela Curr, Campaign Coordinator, Asylum Seeker Resource Centre, *Proof Committee Hansard*, 18 November 2011, p. 21.

626 Gilbert and Tobin Centre of Public Law, UNSW, *Submission 21*, p. 9.

627 Gilbert and Tobin Centre of Public Law, UNSW, *Submission 21*, p. 10.

628 DIAC, *Question on Notice 291* (received 15 March 2012), p. 1.

people were indeed assisted, not merely released from detention centres and expected to be self-sufficient from the start. This is done by first assessing them for support under the Community Assistance Support (CAS) scheme, which can provide them with accommodation for up to six weeks if necessary.⁶²⁹

7.23 The CAS program was established in 2006 as the 'Community Care Pilot' and renamed in 2009. The program provides immigration information and advice, as well as counselling, health and welfare support to vulnerable individuals and families within the immigration system residing lawfully in the community while their cases are being processed. The CAS program differs from the community detention program in that people may have entitlements to work, access to Medicare and study. They are also responsible for sourcing their own accommodation, which has led to some problems and criticism:

Significant numbers of individuals within the CAS program remain at risk of becoming destitute or homeless, despite receiving assistance, due to their extreme vulnerability. This places Australia at risk of breaching its obligations under international human rights law not to subject individuals to cruel, inhuman or degrading treatment.⁶³⁰

7.24 DIAC Deputy Secretary John Moorhouse explained that newly released BVE holders also have access to a case worker provided by the Red Cross, if required. After the initial, transitional period:

...the people then move on either to be independent by working or through their own resources, or, if necessary, they have access to the Asylum Seeker Support Scheme, whichprovides 89 per cent of Special Benefit.⁶³¹

7.25 Assessment of income support includes several factors, such as whether individuals have existing family links within the community which they can rely on for accommodation. Those who have family support bypass some of the available network support. Those who receive income support are expected to use it to cover rent for accommodation sourced by the Red Cross while they transition towards employment and self-sufficiency.⁶³²

Community detention

7.26 Community detention, or residence determination as it is otherwise known, was introduced in June 2005. The term 'residence determination' refers to the process by which the Minister for Immigration and Citizenship specifies that a person may

629 Mr John Moorhouse, Deputy Secretary, DIAC, *Proof Committee Hansard*, 29 February 2012, pp 27–28.

630 Gilbert and Tobin Centre of Public Law, UNSW, *Submission 21*, p. 9.

631 Mr John Moorhouse, Deputy Secretary, DIAC, *Proof Committee Hansard*, 29 February 2012, pp 27–28.

632 See DIAC, *Proof Committee Hansard*, 29 February 2012, pp 28–29.

live in community detention.⁶³³ It enables certain asylum seekers to reside in the community without needing to be accompanied by an officer while their applications for refugee status are being processed. Residence determination does not give a person lawful status or the right to work or study in Australia.⁶³⁴

Numbers in community detention

7.27 In August 2011 DIAC provided the Committee with the following figures on people transferred into community detention:

Between 18 October 2010 and 27 July 2011 1601 individuals (823 adults, 514 accompanied children and 264 unaccompanied minors) have been approved for community detention:

- 1504 individuals (769 adults, 486 accompanied children and 249 unaccompanied minors) have been moved into community detention
- 69 individuals (30 adults and 25 children and 14 unaccompanied minors) were approved for community detention but granted protection visas before they moved into community detention
- 28 individuals (24 adults and 4 accompanied minors) have been approved by the Minister and are in the process of moving into community detention⁶³⁵

7.28 Since then, however, and during the course of this inquiry, the community detention program has continued to expand at a rapid rate. DIAC estimated that, as at 13 February 2012, there were 1576 people in community detention. Included in this figure were 1047 adults and 529 children. Of the 529 children, 133 were unaccompanied minors.⁶³⁶

7.29 Many more people had been approved by February 2012, but not yet moved out of detention facilities and into community detention. DIAC advised that as at 15 February 2012, over 3200 people had been approved for community detention. Of these, 1582 had already been moved.⁶³⁷

7.30 There were approximately 700 children in 'held detention' on October 2010. As at 17 February 2012, there were more than 660 children already in or transitioning into community detention. This figure represents 64 per cent of asylum seeker

633 This power was established by the insertion of section 197AB into the *Migration Act 1958* in 2005.

634 DIAC, *Submission 32, Evolution of the Australian Legislative Framework and Policy for Immigration Detention*, p. 7.

635 DIAC, *Question on Notice 42* (received 10 August 2011), p. 1.

636 See Legal and Constitutional Affairs Legislation Committee, *Senate Estimates Hansard*, 13 February 2012, p. 79.

637 The Hon. Chris Bowen, MP, Minister for Immigration and Citizenship, *media release*, 17 February 2012.

children. Of the 660 children, 212 were unaccompanied minors. This figure represents 57 per cent of unaccompanied asylum seeker minors.⁶³⁸

7.31 By 14 March 2012, the number of children in held detention stood at 479, while 544 were in community detention. Children in the community detention program have access to schooling, which includes English language classes.⁶³⁹

7.32 These shifting numbers make establishing a firm grasp on the number of people going through the system difficult. The Committee is aware that these numbers do not reflect the totality of the work DIAC does to process people out of the immigration detention system and onto either permanent visas, or departure from the country. Numbers cited for the community detention population do not include people already on the other side of the immigration process, and, as pointed out by Mr Andrew Metcalfe, targets are by definition difficult to reach:

[F]igures will show that a large number of people have been and are still in community detention...We were getting close to the target or the commitment of the majority being in community detention by the end of June only to find that some had been granted visas, and so the target was coming back again. We were very strongly committed to moving children and families into community detention but our own visa processes were continuing to make that a moving objective.⁶⁴⁰

How community detention works

7.33 Where the Minister considers it appropriate and in the public interest, he or she has the power to determine that detainees are to reside in a specific location rather than in a detention facility under held detention arrangements. This power is non-delegable and non-compellable.⁶⁴¹ In practice, residence determinations allow people to be moved into community detention, where they reside and move about freely in the community without needing to be accompanied or restrained by an officer.⁶⁴²

7.34 When they are identified as appropriate for community detention, asylum seekers must be informed of, and agree to, the conditions of their residence determination.⁶⁴³ Once placed, they must only reside at the address specified by the Minister, and must satisfy a number of conditions, including reporting regularly to DIAC and/or their service provider.⁶⁴⁴

638 The Hon. Chris Bowen, MP, Minister for Immigration and Citizenship, *media release*, 17 February 2012.

639 DIAC, *Submission 32, Immigration Detention Network Facilities in Australia*, p. 3.

640 Mr Andrew Metcalfe, Secretary, DIAC, *Proof Committee Hansard*, 16 August 2011, p. 21.

641 DIAC, *Submission 32, Evolution of the Australian Legislative Framework and Policy for Immigration Detention*, p. 7.

642 DIAC, *Submission 32, Evolution of the Australian Legislative Framework and Policy for Immigration Detention*, p. 7.

643 DIAC, *Submission 32, Immigration Detention Network Facilities in Australia*, p. 3.

644 DIAC, *Submission 32, Immigration Detention Facilities in Australia*, p. 3.

7.35 Like others in immigration detention, people in community detention are allocated a departmental case manager. This officer is the detainee's primary contact point with DIAC and works to resolve the client's immigration status.⁶⁴⁵

Work rights

7.36 People held in community detention currently do not have the right to work. Their basic financial needs are met by government funding, and they are financially supported by DIAC during their stay in community detention:

Clients in community detention are supported by the department through a financial allowance which is set at 89% of the Centrelink income support payments (excluding rent assistance and family benefits payment). Clients are expected to cover their food, other groceries, public transport and other costs such as clothing from this allowance. Educational expenses and travel to and from school for minors in community detention are covered by the department.⁶⁴⁶

7.37 It is important to note that unaccompanied minors can access extra funds:

In addition unaccompanied minors are able to access a \$200 seasonal clothing allowance in the first year. The cost of organised activities for unaccompanied minors of up to \$2000 per year is also covered by the department, for example to cover the cost of a soccer club membership, art or music classes, or excursions during school holidays.⁶⁴⁷

7.38 The Committee explored the question of work rights for people in community detention. Ms Tanya Jackson-Vaughan, Executive Director of the Refugee Advice and Casework Service (RACS), felt that people on bridging visas benefited from more self-sufficiency than those in community detention because of their ability to earn their own money:

If they are given work rights they are less of a burden on Australia, because they are actually supporting themselves. If they are not given work rights the Australian taxpayer has to pay for their food and board. People on bridging visas in the community, who are often given work rights, are more self-sufficient. It is a better way of integrating into society if you are involved working in the community.⁶⁴⁸

7.39 RACS did not explicitly propose extending work rights to people in community detention, but did not see why doing so would pose a problem, either.⁶⁴⁹

645 DIAC, *Question on Notice 42* (received 10 August 2011), p. 1.

646 DIAC, *Question on Notice 44* (received 10 August 2011), p. 1.

647 DIAC, *Question on Notice 44* (received 10 August 2011), p. 1.

648 Ms Tanya Jackson-Vaughan, Executive Director, Refugee Advice and Casework Service, *Proof Committee Hansard*, 5 October 2011, p. 5.

649 Ms Tanya Jackson-Vaughan, Executive Director, Refugee Advice and Casework Service, *Proof Committee Hansard*, 5 October 2011, p. 5.

Gilbert and Tobin Centre of Public Law expressly advocated extending the right to work to people in community detention.⁶⁵⁰

7.40 The Chair of the Council for Immigration Services and Status Resolution (CISSR) was of the view that more people should be placed on bridging visas instead of in community detention:

...[A]t the moment in community detention you do not have work rights, so a father or a mother with a young family in community detention is not necessarily going to be able to work and take responsibility for feeding the family and for its welfare in an independent way. I think that is counterproductive. I also think it is more expensive to the community, whereas if some people were able to work on bridging visas, as well as have appropriate amounts of assistance—I am not talking about enormous amounts of assistance every day and so forth—to help facilitate that then it would be more effective and cost-effective for us. It would mean people would have to function more independently, like anyone else in the community. Also, I think it would help sustain their mental health.⁶⁵¹

7.41 While the Committee is aware of the virtues of bridging visas, it is clear that not everybody in community detention is a good candidate for such a visa. Living on a bridging visa requires a far higher degree of self-reliance. DIAC is looking at moving people from community detention onto bridging visas where appropriate:

[W]e will be looking at who in community detention could be considered for the grant of a bridging visa where that might work for them and for us. The main issue is not putting someone who is vulnerable at risk by granting work rights then the person has to be self-sufficient, particularly in relation to accommodation. So it is balancing those risks. That is the reason we are not intending to grant bridging visas to unaccompanied minors. But to the single adult men, if they are recovering and feeling up to it and have the opportunity, then it might be a good.⁶⁵²

7.42 As more people—including adult men—are moved from held detention into community detention, anecdotal evidence suggests moving those that are ready onto bridging visas instead produces positive outcomes:

We now have a growing bank of experience with vulnerable adult men, and the level of incidents and issues with them is surprisingly low, to date. They appear to get on with their lives and take the opportunities that community detention offers. When they are assessed as being in a state where that

650 Gilbert and Tobin Centre of Public Law, UNSW, *Submission 21*, p. 8.

651 Mr Paris Aristotle, Chair, Council for Immigration Services and Status Resolution, *Proof Committee Hansard*, 18 November 2011, p. 39.

652 Ms Kate Pope, First Assistant Secretary, Community Programs and Children Division, DIAC, Legal and Constitutional Affairs Legislation Committee, *Senate Estimates Hansard*, 13 February 2012, p. 104.

might be beneficial to them they also have the opportunity to move onto bridging visas and therefore to work.⁶⁵³

7.43 Additionally, the Committee notes that refugees who have passed through both held and community detention report that the latter system prepares them for life in the wider Australian community, indicating that community detention represents a positive stepping stone from held detention to bridging visas and/or permanent release:

As part of consultation with clients who now have permanent status and who were previously in detention centres, we asked their opinion of community detention compared to being detained in a detention centre. There was an overwhelming opinion that community detention was a very significantly better alternative to detention centres, better prepares people for life in Australia (within the boundaries of visa determination), has considerably less negative impact on mental health and that the government should aim to use this form of detention for as many people as possible.⁶⁵⁴

7.44 The Committee notes concerns outlined earlier that bridging visas do not, in practice, always allow people to fulfil their obligations to work and support themselves.

Committee view

7.45 The Committee is firmly of the view that use of the community detention program must continue to grow in order to take pressure off detention facilities across the country and curb spiralling mental health problems among the detainee population.

7.46 The Committee is also of the view that bridging visas represent a positive alternative for people who are ready to take responsibility for themselves and their families in order to become self-sufficient within the community. However, the Committee believes that many people are not ready and cannot cope with moving straight from held detention and onto bridging visas, particularly victims of torture and trauma and those who have spent a long time in detention and whose mental health has deteriorated as a consequence. For this reason the Committee believes DIAC is doing the right thing by placing most people in community detention rather than on bridging visas. The Committee urges DIAC to continue regularly assessing people held in community detention for BVE suitability.

Contracts with Non-Government Organisations

7.47 DIAC informed the Committee that it had signed a contract with two non-government organisations (NGOs) to deliver services for people in community detention, the Australian Red Cross and Life Without Barriers.

653 Ms Kate Pope, First Assistant Secretary, Community Programs and Children Division, DIAC, Legal and Constitutional Affairs Legislation Committee, *Senate Estimates Hansard*, 13 February 2012, p. 104.

654 AMES, *Submission 86*, pp 13–14.

7.48 Life Without Barriers is contracted to assist the Australian Red Cross in providing support to unaccompanied minors. The Red Cross provides care and welfare for those in community detention under contract with DIAC. The key features of this contract are:

- accommodation is sourced which is suitable to client's needs;
- accommodation is furnished according to the standard household formation package;
- client is provided with a financial allowance;
- client has access to health services facilitated, including mental health as required;
- client is supported to enrol children at schools, use public transport and amenities, and linked with community groups and other providers as required;
- a client care plan is prepared for every client outlining their needs and support;
- monthly reports prepared for each client/family group; and
- all incidents that occur while in community detention are reported to the department.⁶⁵⁵

7.49 The Red Cross is also required to provide 24-hour, live-in care and support for unaccompanied minors.⁶⁵⁶ The Red Cross has in turn entered into a number of sub-contracted arrangements in order to deliver care and services to people in community detention. Organisations providing services include AMES, Anglicare, the Multicultural Development Association, Hotham Mission Asylum Seeker Project, Uniting Care, Jesuit Refugee Services, Life Without Barriers, Wesley Mission, Berry St, Catholic Care, Marist Youth Care and Mackillop Family Services.⁶⁵⁷

7.50 The Committee heard that DIAC's community detention partnerships with NGOs were highly effective:

I would have to say the way in which the department has gone about implementing that in partnership with a very wide range of NGOs—the principal one being the Red Cross, but there are over 20 other non-government organisations doing the work—has been outstanding. The success in putting that program together in the time frame that it was put together and the outcomes from it to date, I think, speak for themselves and would bear any scrutiny, really, in regards to the program's viability but also the program as a means of effectively managing processing

655 DIAC, *Question on Notice 43* (received 10 August 2011), p. 1.

656 DIAC, *Question on Notice 42* (received 10 August 2011), p. 2.

657 DIAC, *Question on Notice 43* (received 10 August 2011), p. 1.

arrangements for people in circumstances where their wellbeing can be maintained at the most optimal level possible.⁶⁵⁸

Housing for community detention

7.51 DIAC works with NGOs to rent a range of properties in which to house people in community detention:

For the most part, they are houses rented on the open market. They range anywhere from two-bedroom to four- or five-bedroom houses. The five-bedroom houses are suitable for a group of unaccompanied minors with a carer, for example. We also have properties that have been made available to use by faith-based organisations.⁶⁵⁹

7.52 Properties are identified and rented with the assistance of the Australian Red Cross, which registers its interest with real estate agents across the country and distributes staff across the states according to the number of properties available:⁶⁶⁰

The Red Cross is going to real estate agents basically saying, 'We need properties of this broad description,' and the real estate agents are responding to that, and so, naturally enough, the ability to respond will vary city by city. I have visited one family in community detention in Melbourne to see personally the sorts of circumstances that people are in and I would describe it as a very modest bungalow in the far outer suburbs, quite appropriate but certainly not anything grand—far from it.⁶⁶¹

7.53 Care is taken to ensure sensitivity to specific community circumstances when necessary:

For example, we did not seek property in Brisbane for a time after the floods, recognising that there might be other people who needed those properties, so we stayed out of the Brisbane market for a while.⁶⁶²

7.54 Properties are required to meet state and territory-specific building code regulations, and key performance indicators outlining the expected standard are set out in DIAC's contract with the Red Cross.⁶⁶³

658 Mr Paris Aristotle AM, Chair, Council for Immigration Services and Status Resolution, *Proof Committee Hansard*, 18 November 2011, p. 36.

659 Ms Kate Pope, First Assistant Secretary, Community Programs and Children Division, DIAC, Legal and Constitutional Affairs Legislation Committee, *Senate Estimates Hansard*, 13 February 2012, p. 80.

660 Ms Kate Pope, first Assistant Secretary, DIAC, *Proof Committee Hansard*, 9 December 2011, pp 39–40.

661 Mr Andrew Metcalfe, Secretary, DIAC, *Proof Committee Hansard*, 9 December 2011, p. 40.

662 Ms Kate Pope, First Assistant Secretary, DIAC, *Proof Committee Hansard*, 9 December 2011, p. 40.

663 Ms Kate Pope, first Assistant Secretary, DIAC, *Proof Committee Hansard*, 9 December 2011, p. 39.

7.55 Mr Andrew Metcalfe, Secretary of DIAC, stressed that the department is very careful to avoid competing with low income earners for the bottom end of the rental market:

We are very conscious of that. Part of the consultations in moving to the expansion of the community detention scheme, about a year ago, was consulting with FaHCSIA, the department of housing, who made that very point as to the competition for rental properties, particularly for people with low income in certain cities. That, I think, has seen the natural placement of people vary by city, depending upon the availability of accommodation. But we are conscious, as Ms Pope has said, of the fact that others are looking in the same market as well...The only other comment I would make is that we are also mindful that the services required for people are not just physical accommodation, but some people may have other needs as well—whether it is torture or trauma or other needs—that Red Cross would take into account in relation to their placement in particular cities. The result of that, a year down the track, as Ms Pope says, is that we tend to be bigger in some cities than others, and that probably reflects the reality of the market.⁶⁶⁴

7.56 Properties are rented in every state and territory except the Northern Territory:

...because detention makes a reasonably high call on the community and property in the Northern Territory already. Also, rental rates are quite high, occupancy is pretty low and there are a limited number of services for people in the community. For those reasons, we do not place anyone in the Northern Territory. This is at this stage, because in the future it might be viable.⁶⁶⁵

7.57 AMES, which provides support services to people in community detention through a contract with the Red Cross, suggested that DIAC would do well to discuss with asylum seekers their expectations of the standard of housing before they are placed in community detention. Providing housing of a standard which people would not be able to afford once released on a visa could be counterproductive to helping them cope with future life transitions:

AMES is very familiar with what is realistic housing for HSS clients and is very aware that where clients must move into poorer quality housing or housing that is an area with less services when they are granted permanent visas that this can cause problems.⁶⁶⁶

Committee view

7.58 The Committee believes DIAC has established highly effective relationships with NGOs, which help deliver what is shaping up to be a very successful community detention program. The fact that the program is succeeding whilst undergoing rapid

664 Mr Andrew Metcalfe, Secretary, DIAC, *Proof Committee Hansard*, 9 December 2011, p. 40.

665 Ms Kate Pope, First Assistant Secretary, Community Programs and Children Division, DIAC, Legal and Constitutional Affairs Legislation Committee, *Senate Estimates Hansard*, 13 February 2012, p. 80.

666 AMES, *Submission 86*, p. 15.

expansion is testimony to the considerable efforts of the agencies—government and non-government—and individuals involved.

The cost of community detention

7.59 In August 2011 DIAC estimated the cost of community detention for financial year 2010–11 to be \$15.734 million.⁶⁶⁷ Funding for the program covers the costs of housing, care for unaccompanied minors, case workers, an allowance to meet daily living costs and activities such as recreational excursions. Healthcare is provided by DIAC's contracted detention health provider, International Health and Medical Services (IHMS).⁶⁶⁸ This gives people access to contracted health providers including GPs, medical specialists and mental health counsellors; however, they are not eligible for Medicare.⁶⁶⁹ Non-government organisations (NGOs) are employed by DIAC to ensure that asylum seekers placed in community detention receive appropriate support. The Department also provides funding for the work NGOs do to source housing and cover living expenses.⁶⁷⁰

7.60 The Department added that this cost could be attributed to a large expansion over a short period of time, and could not be extrapolated to calculate the cost per person:

The costs incurred to date reflect the high initial costs for the program (such as securing leases, connection fees for utilities and provision of household goods in each property). These initial costs are higher than can be expected for future financial years due to the expansion of the program from around 50 clients in January 2011 to over 1500 in June 2011.

As such, a cost per person per day equation would not accurately reflect the costs for community detention at this point in time.⁶⁷¹

7.61 This figure was later updated to \$17.3 million.⁶⁷² In February 2012, DIAC estimated the cost of community detention for FY2011–12 would run to \$150 million in total. The cost for FY2011–12 as at 31 December 2011 was \$50.8 million, however this was due to grow in the second half of the financial year due to a rapid expansion of the community detention program. These figures, however, are not an exact projection:

...[I]t is an approximate figure...we need to look at how people stream to community detention as opposed to bridging visas as well...[B]ridging visas started taking effect in December, so some of the cohort that were going to

667 DIAC, *Question on Notice 42* (received 10 August 2011), p. 1.

668 DIAC, *Submission 32, Immigration Detention Facilities in Australia*, p. 3.

669 DIAC, *Question on Notice 44* (received 10 August 2011), p. 1.

670 DIAC, *Submission 32, Evolution of the Australian Legislative Framework and Policy for Immigration Detention*, p. 7.

671 DIAC, *Question on Notice 42* (received 10 August 2011), p. 1.

672 DIAC, *Question on Notice 51* (received 8 November 2011), p. 1.

community detention might as well go to bridging visas, and we will need to look at how those clients stream into those different programs.⁶⁷³

7.62 It is clear that these calculations will be more accurate once economies of scale are realised and there is a more seamless flow of arrivals into community detention.⁶⁷⁴

The cost of operating detention facilities

7.63 The Committee considered the cost of the community detention program against the cost of holding people in detention facilities, bearing in mind that as people are transitioned into community detention the number of people needing to be managed in detention facilities will reduce.⁶⁷⁵ The department provided the following table indicating estimated costs of running each detention facility in 2011–12:

673 Legal and Constitutional Affairs Legislation Committee, *Senate Estimates Hansard*, 13 February 2012, p. 79.

674 Mr Andrew Metcalfe, Secretary, DIAC, Legal and Constitutional Affairs Legislation Committee, *Senate Estimates Hansard*, 13 February 2012, p. 86.

675 For a detailed discussion, see also Harriet Spinks, Elibritt Karlsen and Nigel Brew, 'Australian Government spending on irregular maritime arrivals and counter-people smuggling activity', *Background Note*, Parliamentary Library, 6 December 2011.

Facility Name	2011-12			
	Administered	Departmental	Total	Estimated Months Operational
	\$ m	\$ m	\$ m	
Adelaide Immigration Transit Accommodation	3.30	0.20	3.50	12
Brisbane Immigration Transit Accommodation	2.60	0.40	3.00	12
Christmas Island – all sites	179.00	21.00	200.00	12
Curtin Immigration Detention Centre	78.70	9.25	87.95	12
Darwin Alternative Places of Detention	42.50	5.00	47.50	12
Northern Immigration Detention Centre	24.00	4.00	28.00	12
Inverbrackie Alternative Place of Detention	27.00	3.00	30.00	12
Leonora Alternative Place of Detention	6.00	0.30	6.30	12
Maribyrnong Immigration Detention Centre	14.50	1.50	16.00	12
Melbourne Immigration Transit Accommodation	2.00	0.50	2.50	12
Pontville Immigration Detention Centre	13.50	1.50	15.00	10
Port Augusta Immigration Residential Housing	7.50	0.50	8.00	12
Perth Immigration Detention Centre	5.50	1.00	6.50	12
Perth Immigration Residential Housing	1.50	0.50	2.00	12
Scherger Immigration Detention Centre	26.00	4.00	30.00	6
Villawood Immigration Detention Centre	26.00	2.50	28.50	12
Sydney Immigration Residential Housing	3.00	0.50	3.50	12
Yongah Hill Immigration Detention Centre	17.50	2.50	20.00	7
Wickham Point Immigration Detention Centre	65.00	7.50	72.50	8
Across Network*	8.00	10.00	18.00	12
TOTAL	553.10	75.65	628.75	

Source: DIAC

7.64 Costs are not always attributable to a particular detention centre.⁶⁷⁶ The costs outlined include:

- services provided by Serco;
- services provided by IHMS;
- services provided by the Australian Red Cross;
- services provided by Life Without Barriers;
- interpreting services;
- air charters and other travel;
- utilities, repairs and maintenance;

⁶⁷⁶ DIAC states that 'some expenses apply across the network and cannot be attributed to a specific centre. Some costs, which in previous years could not be directly attributed to a specific centre, have been allocated for budget purposes.' See DIAC, *Question on Notice 19* (received 10 August 2011, updated 21 November 2011), p. 1.

- communication and IT costs;
- education services for IMAs; and
- DIAC staff directly involved in the management of detention centres.⁶⁷⁷

7.65 The Department stressed that estimated costs are not fixed:

It is important to note that...estimates could vary depending on dynamic factors such as the number of clients at a facility during the year, the mix of the client caseload in a facility, specific client needs, processing times and any change to operational requirements that may be necessary.⁶⁷⁸

7.66 To this end, costs are not captured on a *per capita* per day basis due to fluctuating cost drivers such as the number of people within a facility and the services required.⁶⁷⁹

7.67 The confirmed costs of running detention facilities across the network in previous financial years were as follows:

- FY2008-09: \$147.57 million;
- FY2009-10: \$295.55 million;
- FY2010-11: \$772.17 million.⁶⁸⁰

7.68 The cost of community detention, both realised and projected, must therefore be assessed against the cost of holding refugees and asylum seekers in detention facilities. The costs involved in community detention represent an alternative application of available resources.

7.69 The expenditure on community detention eases financial pressure by reducing reliance on detention facilities which require far more resources to operate than the community detention system. Moving asylum seekers and refugees out of detention facilities and into community detention brings about a very significant reduction in costs.

How well does community detention work?

7.70 The Committee asked DIAC whether there was ongoing monitoring of the community detention program to gauge how well the extent to which people are still able to be processed *without* being in held detention. The Secretary of DIAC assured the Committee that placing people in community detention still facilitated the necessary processing and assessments:

677 DIAC, *Question on Notice 19* (received 10 August 2011, updated 21 November 2011), p. 1.

678 DIAC, *Question on Notice 19* (received 10 August 2011, updated 21 November 2011), p. 1.

679 See DIAC, *Question on Notice 16* (received 10 August 2011), p. 1.

680 For a detailed breakdown see DIAC, *Question on Notice 13* (received 10 August 2011), p. 2.

Yes, it has not been entirely without incident, as you would expect—you would not expect anything involving hundreds of people to be entirely without incident—but we believe it does provide the department with the necessary access to our clients in terms of status determination without them being required to be held in detention facilities, often in fairly remote locations.

7.71 The Committee notes that placing people in community detention while their claims for asylum are being processed has neither impeded the processing nor resulted in significant additional problems requiring intervention. It has, however, produced markedly better mental health outcomes for detainees, which is critical to minimising the harm caused by prolonged detention in confined facilities. The Committee notes that DIAC is aware of these important benefits:

[P]eople tend to improve in their mental health almost immediately [upon being moved from facilities and into community detention]. That does not mean that they do not necessarily have adverse reactions to things associated with their immigration pathway as they go along, but in general they deal with those things better than they had before.⁶⁸¹

7.72 The Committee is aware that expansion of the community detention program received support from many submitters to this inquiry, and that none argued against further expansion.⁶⁸² Examples are numerous, but include Mr Paris Aristotle, Chair of the Council for Immigration Services and Status Resolution (CISSR), who lent his support in this way:

Personally, I believe that, given the success of community detention, it actually would be beneficial to anybody. As for the need to have very stringent classifications—to date, the priority has been families and unattached minors, and other vulnerable groups have been incorporated into it now. It is also being looked at for both single young men and unattached adult men, and by 'unattached' I mean that they are here without their families and that is a major concern for them.⁶⁸³

7.73 The Hon. Catherine Branson QC, President of the Australian Human Rights Commission:

The commission also urges the Australian government to make greater use of community based alternatives to detention, which can be cheaper and more effective in facilitating immigration processes and are more humane

681 Ms Kate Pope, First Assistant Secretary, Community Programs and Children Division, DIAC, Legal and Constitutional Affairs Legislation Committee, *Senate Estimates Hansard*, 13 February 2012, p. 104.

682 See for example Australian Human Rights Commission, *Submission 112*; Labor for Refugees (Victoria), *Submission 24*; The Forum of Australian Services for Survivors of Torture and Trauma, *Submission 45*; AMES, *Submission 86*; Gilbert and Tobin Centre of Public Law, UNSW, *Submission 21*. (Gilbert and Tobin recommended abolishing mandatory detention, but expanding community detention as an alternative.)

683 Mr Paris Aristotle, Chair, Council for Immigration Services and Status Resolution, *Proof Committee Hansard*, 18 November 2011, p. 36.

than holding people in detention facilities for prolonged periods. Australia's system of mandatory, prolonged and indefinite detention is in urgent need of reform...

...The commission urges a continued expansion of the community detention program so that all families and unaccompanied minors as well as other vulnerable individuals are placed into community detention.⁶⁸⁴

7.74 The Refugee Advice and Casework Service (RACS):

The government's use of community detention for families and children could be considered a success and demonstrates that there is a viable alternative to IDCs. RACS recommends that community detention programs be significantly expanded to encompass all detainees who do not pose security threats, with priority given to vulnerable persons.⁶⁸⁵

7.75 AMES added to the consensus:

We propose that placing people in the community rather than expanding the network through the establishment of new facilities is a much preferred option. In addition to representing a more humane option for clients, it is likely to be more cost effective and afford much greater flexibility to manage varying numbers. Management of clients in community detention is also an area that is more likely to be taken up by not for profit and community agencies. A number of these agencies, including Red Cross as the lead agency and others such as AMES, have existing expertise with this client group to contribute to the program.⁶⁸⁶

7.76 Support for the community detention alternative also came from refugees and former detainees. One such example was the not-for-profit organisation Refugees, Survivors and Ex-detainees (RISE). Their submission expressed concern at the number of people still in detention, while still commending positive moves toward increased use of community detention:

The current community detention system is administered by Red Cross, which unlike SERCO is an experienced and established humanitarian organisation. R.I.S.E welcomes the release of more asylum seekers and refugees in the community in the last few months.⁶⁸⁷

7.77 Noting the many positive views on community detention and its capacity to enable the immigration process to run smoothly without holding people in detention facilities any longer than necessary, the Committee also considered the question of whether such minimal detention is likely to encourage people to abscond. The

684 Ms Catherine Branson, President, Australian Human Rights Commission, *Proof Committee Hansard*, 5 October 2011, p. 51.

685 Ms Tanya Jackson-Vaughan, Executive Director, Refugee Advice and Casework Service, *Proof Committee Hansard*, 5 October 2011, p. 2.

686 AMES, *Submission 86*, p. 13.

687 Refugees, Survivors and Ex-detainees, *Submission 119*, p. 22.

Committee heard that this was not the case, and that in fact high compliance rates were an added benefit of community-based as opposed to held detention:

Community based arrangements are not only far more humane in immigration detention but have also been shown to be extremely effective. International research has revealed that few asylum applicants abscond when released into community arrangements with appropriate supervision or reporting requirements. In fact, the use of alternatives to detention encourages compliance with immigration authorities and systems, including voluntary return if applications are unsuccessful. Treating asylum seekers with dignity, humanity and respect encourages compliance, whereas individuals who believe they have been treated very poorly and have suffered depression and deep anxiety as a result of long-term detention are less likely to cooperate—trends certainly reflected in Australia's experience.⁶⁸⁸

7.78 This view was echoed in a submission from the International Detention Coalition, which pointed to research indicating that:

...asylum seekers and irregular migrants were found to be a low risk to abscond if they are in a lawful process awaiting a decision on their case in their destination country.⁶⁸⁹

7.79 Similar findings were cited by the Australian Human Rights Commission, informing the Committee that more than 90 per cent of asylum seekers comply with their conditions of release when they are released with proper supervision and access to facilities.⁶⁹⁰

7.80 The United Nations High Commissioner for Refugees (UNHCR) conducted a detailed analysis of compliance patterns. This analysis conclusively indicates that people are less likely to abscond if they feel they are being treated fairly.⁶⁹¹

Committee view

7.81 The Committee acknowledges considerable support for the community detention program, and notes the praise of Chair of the Council for Immigration Services and Status Resolution (CISSR):

I think the community detention program has been incredibly successful. There have been very few incidents with community detention. There are always challenges, sometimes relating to minors—in fact, there was an incident last week in Melbourne. But I think in any program that involves dealing with minors, whether they are young people seeking asylum or they are young people from the Australian community, there are inevitable

688 Ms Lucy Morgan, Information and Policy Officer, Refugee Council of Australia, *Proof Committee Hansard*, 5 October 2011, p. 7.

689 International Detention Coalition, *Submission 69*, p. 9.

690 Australian Human Rights Commission, *Submission 112*, p. 74.

691 For in-depth analysis of this issue see UNHCR, *Back to Basics*, available at: <http://www.unhcr.org/refworld/docid/4dc935fd2.html> (accessed 22 February 2012).

challenges. I think the scope for community detention to be expanded is great. There is no reason why it could not be extended beyond where it is being extended at the moment. Certainly, my understanding is that that is where things have been heading. There are challenges in locating appropriate accommodation and housing, and there are sometimes challenges in being able to wrap the level of services that is required around people. But, having said that, they are just challenges; and, between the department and the non-government agencies involved, they have been able to overcome those challenges to date. I think has been an incredible success.⁶⁹²

7.82 The Committee particularly notes support for the program from organisations such as the Australian Human Rights Commission, and UNHCR.⁶⁹³ The Committee strongly encourages the government to continue expanding the community detention program.

Community detention or BVs for intractable cases?

7.83 In previous chapters of this report the Committee referred to refugees and asylum seekers in detention who are at present not able to be released into the community or sent back to their country of origin. The reasons for this are varied, but there are two broad categories of people in question:

- Refugees unable to be released into the community due to adverse ASIO assessments; and
- Asylum seekers found *not* to be refugees who are stateless or non-returnable.

7.84 The Committee is aware that people in these situations represent perhaps the most intractable problem faced by asylum policymakers and those charged with its implementation. These groups find themselves in prolonged or indefinite detention, and often suffer the overwhelming adverse effect of this on mental health.

7.85 The Committee is aware that some people in the second category would be able to return to their country of origin were they to formally apply for a passport from the government in question. This is something many of them choose not to do, for various reasons. However, the Committee is aware that these people have a way out of prolonged detention in Australia. The people in the first category, and many from the second category who *do not* have the option to return anywhere because they are stateless and cannot obtain citizenship elsewhere, represent some of the toughest problems within our immigration system today.

7.86 This being the case, the Committee considered whether community detention or bridging visas could be used in these circumstances in order to alleviate some of the

692 Mr Paris Aristotle AM, Chair, Council for Immigration Services and Status Resolution, *Proof Committee Hansard*, 18 November 2011, p. 36.

693 See Australian Human Rights Commission, *Submission 112*; UNHCR, *Submission 110*.

harm being caused by prolonged detention while outcomes are being determined. To this end, the Committee explored whether the current system could accommodate intractable cases by employing monitoring systems similar to those found in the criminal justice system. Mr Paris Aristotle once again provided the Committee with a valuable insight:

You could attach conditions to bridging visas similar to bail conditions, for example, if you wanted to; you could have frequent and regular reporting requirements; you could incorporate concepts like electronic bracelets so that you could know where people were. We have available in our legal system the control orders that have been applied to other people—for example, those who were transferred to Australia from Guantanamo Bay in the past, or others that there have been concerns about. So there are mechanisms available for dealing with people in these circumstances that, in my view, would be infinitely better than leaving them locked up in detention centres for long periods of time, especially where there has been a level of involvement in the activities of an organisation like, for example, the LTTE, which controlled all of the north of Sri Lanka, where it is very difficult to escape having some sort of relationship with them. Being able to make a clear judgment about how serious the risk is is quite difficult. So I am certainly in favour of examining the utilisation of things like electronic bracelets or the use of systems, similar to those applied using control orders, or bail conditions as currently exist in the criminal justice system. And I think we could manage that.⁶⁹⁴

7.87 A useful overview of conditional release approaches internationally was provided by Gilbert and Tobin Centre for Public Law. Included in this overview is a look at approaches to electronic monitoring employed in the United States. Gilbert and Tobin raised a number of concerns around electronic monitoring, including questions of legality under international law and the stigmatisation of detainees. While these points are concerning and necessitate further contemplation, the Committee notes that electronic monitoring in combination with community detention is likely in principle to be feasible.⁶⁹⁵

7.88 The Committee also heard that removing people from high-stress detention environments, where they are caught up in a cycle of despair and frustration, quite often assists them to make more rational choices about their lives and the options available to them:

The benefits of people being processed in community based arrangements are clearly evident in comparison to people being detained for very long periods of time. It is more desirable but also has the potential to yield better outcomes both in terms of processing arrangements and in people's ability to deal with and contemplate what the next decision should be that they have to make about their futures. This is very difficult when you are in a

694 Mr Paris Aristotle AM, Chair, Council for Immigration Services and Status Resolution, *Proof Committee Hansard*, 18 November 2011, p. 37.

695 Gilbert and Tobin Centre of Public Law, UNSW, *Submission 21, Attachment 2*, pp 6–7.

superheated detention centre environment where tempers are flaring and where group-think seems to dominate the way in which people make decisions. In community based arrangements there is more potential to protect people's psychological wellbeing, which assists them to make more rational decisions about where they are in the process, and that in my view includes whether or not they should continue to pursue a claim or whether or not they should make a decision about returning if they have indeed been found not to need protection. It is very difficult to see those decisions being made effectively in detention centres, and history tells us you get better outcomes in the community.⁶⁹⁶

Committee view

7.89 The Committee understands why, at present, people with adverse security assessments and non-refugees are not being released into the community. At the same time, the Committee remains deeply concerned about spiralling mental health problems among the detainee population, and believes all reforms aimed at harm minimisation must be explored for everyone concerned, including those with adverse assessments. While it is extremely encouraging to see the government endeavouring to move increasing numbers of people through the system as quickly as possible, those in the most intractable situations must not be overlooked. In full acknowledgement of the complex issues involved, the Committee believes no case should be left unaddressed if this results in prolonged detention without charge.

7.90 The Committee is cognisant of the issues and potential risks involved with releasing refugees with adverse security assessments or non-refugees into the community, but believes these must be carefully weighed against the proven human cost of holding people in detention with little or no prospect for release. For this reason the Committee believes the bridging visa and/or community detention programs present an avenue worth exploring.

Recommendation 30

7.91 The Committee recommends that the Australian Government and the Department of Immigration and Citizenship seek briefing on control orders in use by the criminal justice system and explore the practicalities of employing similar measures for refugees and asylum seekers who are in indefinite detention or cannot be repatriated.

696 Mr Paris Aristotle AM, Chair, Council for Immigration Services and Status Resolution, *Proof Committee Hansard*, 18 November 2011, p. 37.