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# RACS

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**BY FAX**

<b>TO:</b> Louise Gell, Secretary, Legal and Constitutional Cttee	<b>FAX NUMBER:</b> (02) 6277 5794
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<b>TITLE OF MESSAGE:</b> Inquiry into Legal Aid and Access to Justice	
<b>NUMBER OF PAGES (INCLUDING COVER SHEET):</b> 3	<b>DATE:</b> 18 December 2003

Dear Ms Gell

Please find two pages following addressing the question taken on notice to RACS arising from the Committee's public hearings of the Inquiry into Legal Aid and Access to Justice.

REFUGEE ADVICE AND CASEWORK SERVICE, INC  
Per:



Louise Boon-Kuo  
Coordinator

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Committee Secretary  
House of Representatives References Committee  
Parliament House  
CANBERRA ACT 2600

18 December 2003

Dear Committee Members,

**Inquiry into Current Legal Aid and Justice Arrangements**

Further to our submission dated 24 September 2003, and our attendance at the public hearing of the Committee of 13 November, we now provide further information in relation to the question taken on notice at the hearing.

The question on notice was -

**CHAIR - Putting aside the TPV people, do you keep statistics in the rest of your caseload? Do you keep statistics on what proportion you advise do not have a legitimate claim?**

Our response is:

**1. RACS clients in the community**

RACS community casework guidelines require that an Applicant meet a merits test that the "claim must come within the UN Convention definition". After an initial interview with the Applicant at an evening advice session, a casework meeting is held by the staff to determine whether there is sufficient merit in the case to warrant the applicant to be taken on as a client, or to be offered only limited assistance.

If it is unclear or where the case law is not settled, for example, where protection from the state is ambiguous, or the social group is undefined, or where applicants from that country have not been successful, RACS may take on the case if there are extenuating circumstances and/or for test case purposes. Note, unmeritorious or frivolous claims are not to be lodged according to the MARA Code of Conduct.

Thus all RACS client in the community seeking a protection visa have claims with merit within the Convention definition, and so have legitimate claims.

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## 2. RACS clients in detention

For clients in detention who are not referred to RACS under the Department of Immigration, Multicultural and Indigenous Affairs ('DIMIA') Immigration Application Assistance Scheme ('IAAAS'), RACS casework guidelines require that the Applicant's claims have merit that the "claim must come within the UN Convention definition", and so all such clients have legitimate claims.

For clients in detention who are referred under the IAAAS scheme, the Commonwealth requires the provision of certain services to the Department, being the provision of Application Assistance by IAAAS service providers. DIMIA assesses whether detainees seeking legal advice are eligible for this service, and then refer the matter on to IAAAS providers, including RACS. RACS has a contractual obligation to accept all such referrals under this scheme. RACS does not maintain statistics on the proportion of detention clients referred under IAAAS whom we advise do not have meritorious claims.

In conclusion, we further advise the Committee that while we do maintain statistics on the decision outcomes of Protection Visa Applications for both clients in the community and detention, we do not maintain statistics on our advice to clients on the merit of their claims. However, from RACS casework guidelines in accepting new clients, it is clear that all RACS clients in the community and those in detention not referred under IAAAS do have legitimate claims.

Please contact Louise Boon-Kuo on 02 9211 4001 if we can further assist the Committee.

Yours sincerely,

REFUGEE ADVICE AND CASEWORK SERVICE (Aust) Inc.

Per:



Louise Boon-Kuo  
Coordinator