

**Senate Enquiry into the Administration and Operation of the
Migration Act 1958**

Submission by

Paul Ignatius Boylan

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Port Pirie SA

I am a South Australian lawyer and have worked with refugees and detainees at immigration detention centres for nearly 5 years. I have limited my submission to one based on particular incidents to highlight the treatment of detainees and independent lawyers by the Department and its contractor, Australian Correctional Services. I seek leave to appear before the Committee and address it on all aspects of my knowledge of the Migration Act, its administration and operation.

I first went to a detention centre, Woomera Detention Centre on 1 December 2000. Dr A [REDACTED], an Iraqi National holding a PHD in microbiology had requested to see me. His written request to see me had been given to DIMIA sometime beforehand. I spoke with Dr A [REDACTED] in a transportable room at the back of the administration area at Woomera Detention Centre. Amongst other things Dr A [REDACTED] told me that four other men wished to speak with me as well. He wrote their Woomera Detention Numbers on a piece of paper. I asked the guard at the door of the interview room to bring the men to me and I gave him the slip of paper with their numbers on it. A short while later the four other men, all Iraqi Nationals came into the interview room. We spoke for about forty five minutes. I learnt that three of the four held PHDs obtained at British universities and the fourth a Master's Degree obtained from a Paris university. Our conversation was ended when, without warning, the door of the interview room flew open and the DIMIA manager of the day at the Woomera entered the room. She told me that the four men were not meant to be with me and they didn't want to talk to me. I challenged her on that, telling her that we had been conversing for about forty five minutes. She repeated that they did not want to talk to me because they had not signed a written request to do so. I asked

the men if they wished to stay. They bowed their heads and did not answer. The four men were then removed from my presence.

My visit to the Woomera Detention Centre in December 2000 marked the commencement of the Woomera Lawyer's Group. This group of lawyers and paralegals visited Woomera taking instructions from and advising all detainees who wished to speak with us. Initially DIMIA told those detainees who had requested to see us as they were moving from their compound to the interview rooms that, if they saw us they would no longer have their immigration lawyer to advise them. They were told they had to make the choice to see one of our lawyers or their immigration lawyer. We were told of these statements time and time again by detainees. The requirement to make the choice was of course, false.

In about mid 2001 changes to procedures for our group to visit were made. We no longer saw detainees at the Detention Centre. They were brought into the township of Woomera in mini vans and in handcuffs. We spoke with them in a building in the township. The handcuffing of the detainees was to them emotionally painful and therefore a deterrent to speaking to our lawyers.

On one occasion in the township of Woomera a lady. H█████ came with her three children. She told us that she had come to the Detention Centre some three months previously. She told us she knew her husband was in Australia and had a visa. I asked her what her husband thought of her and his children being detained at Woomera. She told me she did not know as she had been unable to contact him. She said she had his mobile phone number but DIMIA had not let her telephone him from

the Detention Centre. There was a phone in the interview room. I dialled Halima's husband's mobile phone number and spoke with him very briefly. I handed the phone to Halima and she spoke with her husband tearfully for about ten minutes. She was overjoyed with the experience. On my next visit to the Woomera Detention Centre from my home in Port Pirie, some 260 kilometres away I was refused admission to the Detention Centre on the basis that I had improperly used a DIMIA phone on my previous visit. I had not been informed of this decision prior to leaving Port Pirie, notwithstanding that DIMIA had all of my contact details. After a heated discussion with the DIMIA manager of the day I was allowed to enter the Detention Centre.

On the 17 April 2002 I entered the Woomera Detention Centre with, amongst other things in my bag, two large unsealed manila envelopes each containing a letter, a bag of chocolate Easter eggs and a framed picture of my fourteen year old daughter. The items were a present from my daughter. My bag was x-rayed. At the time there were no published rules on what could be brought in to the Detention Centre. A short while after entering the Detention Centre I gave one envelope to a seventeen year old Iraqi girl. About twenty minutes later an ACM guard approached me and told me I should not have given the contents of the envelope to the girl directly, but should have lodged it with the property office for her. I apologised for not doing so. I stated that I did not realise that that was the procedure. I gave the guard the second envelope which was still in my bag. Approximately an hour and a half later the ACM manager of the Detention Centre told me my authority to enter the Centre had been revoked because I had brought contraband into the Centre. I asked if he was referring to the manila envelopes. He said he was. I asked why the contents of the envelope were contraband. He told me they were contraband because I hadn't declared them! I told

the ACM manager I did not intend to 'bring contraband into the Centre and if I had done so I had done it inadvertently'. The manager refused to speak with me any further and I was escorted to the gate of the Detention Centre. I still had many more clients scheduled to see me that day.

Once the new interview rooms had been built behind the administration centre at Woomera, we became accustomed to walking from the main gate to the interview rooms along the driveway next to the November and Mike compounds. Each morning on the way in we would be cheerfully greeted by detainees in those compounds and quite often stop and have conversations with them. That occurred for many months. Suddenly, we were no longer permitted to take that route. We were directed to move from the gate to the interview rooms via a circuitous route around the far side of the administration centre.

On Friday, 30 August 2002 I visited the Woomera Detention Centre to speak with five clients. I had with me as my interpreter for the day, S [REDACTED]. S [REDACTED]'s nephew, A [REDACTED] also travelled with us to Woomera. At the time A [REDACTED] had been released from the Woomera Detention Centre on the Order of Justice Merkel of the Federal Court of Australia. It was a provision of the Order that if DIMIA became able to physically deport A [REDACTED], it must give A [REDACTED]'s lawyer twenty four hours notice, requiring A [REDACTED] to present himself to DIMIA officials for deportation. While S [REDACTED] and I were at the Detention Centre A [REDACTED] visited detainees in the hospital in the Woomera township. While in the Detention Centre I received an invitation from the DIMIA manager of the Centre, [REDACTED] [REDACTED] to meet with her when I was finished seeing my clients. I did so at 5pm. I

spoke with ██████████ for approximately one half an hour. I left Woomera with S██████ and A██████ at about 5.40pm. Approximately twelve kilometres before reaching Port Augusta I was directed to stop my vehicle by a South Australian Police patrol officer. After identifying myself, the officer required to know the names of my passengers. Once I informed him of their names he detained A██████ and required him to get in to the Police vehicle. I informed the officer of the terms of Justice Merkel's Order, however he took no notice of it, nor sought instructions in respect of it. I followed the Police vehicle to the Port Augusta Police Station where I requested an interview with A██████. While with A██████ we were informed by Sergeant Nancarrow that ██████████, an Immigration Officer, would be arriving shortly to escort A██████ to Adelaide. When ██████████ arrived I informed him of the contents of Mr Justice Merkel's Federal Court Order. Notwithstanding that Order, ██████████ took custody of A██████ and escorted him to Adelaide. ██████████ would have had to leave Adelaide before I had left Woomera. No attempt was made to inform me that my vehicle would be stopped by South Australia Police and my passenger A██████ removed. Mr Justice Merkel ordered the re-release of A██████ at approximately midday the following day.

In 2003 my firm instituted proceedings in the District Court of South Australia seeking damages for personal injuries on behalf of R████████████████████, an Iranian national then held at Woomera. He had suffered loss of sight after being hit in the eye by a rock thrown during a melee in the main compound at Woomera. The proceedings were against the Commonwealth of Australia and Australian Correctional Services Pty Ltd., the parent company of Australian Correctional Management Pty Ltd. The proceedings were vigorously defended by both defendants. In June 2004 after my client had been deported to Iran, the defendants put an offer of settlement

which was accepted by my client. The offer was that the defendant's would jointly pay my client the sum of \$40,000.00. The procedure for the settlement was that the offer be put in writing by the defendants, I endorsed my client's acceptance of the offer on the letter of offer and then judgement be entered against my client in favour of the defendants!

In mid 2003 I travelled to Woomera Detention Centre on a Saturday. When I sought to enter the Centre I was told that no visitors would be accepted as there had been an incident at the Centre. By phone from the Woomera township, I spoke with the ACM manager of the Centre. He confirmed that I would not be permitted to enter because of the incident. After some badgering of the manager I ascertained that the incident was the return by bus of some 15 or so detainees who were returning to the Centre from the Adelaide Remand Centre, where they had been held in respect of criminal charges. After further badgering by way of asking the manager what I should tell the press was the reason for my exclusion I was allowed to enter the Centre and see my clients.

On one occasion when I approached the Centre I was stopped from doing so by a guard on the roadway leading to the Centre. The guard was an Australian Protective Services Officer. I asked the reason for being prevented to enter the Centre and he could not give me one. I requested that he contact his superior to ascertain why I could not enter the Centre. He said he could not do so. I asked if he could contact whoever was the manager of the Centre that day. He said he was unable to do so; he did not know the number. This was all notwithstanding the two way radio he was using to communicate with other people or persons.

During breaks in interviews with clients at the interview area at Woomera Detention Centre, other lawyers, paralegals and I would stand in the open area of the interview centre. Detainees would pass by going from compound to compound or to and from the compounds to the kitchen. We grew accustomed to talking to the detainees as they passed by. Many would stop and have a conversation with us. After that had occurred for some months we were suddenly told we were no longer able to speak to the detainees and the detainees also told us that they had been advised that they were not to communicate with us in that manner.

Over the years I have acted for many clients incarcerated in Port Augusta Prison. The Prison is located on the eastern side of the township of Port Augusta. Baxter Detention Centre is located on the western side. If I wished to see a client being held at Port Augusta Prison I phone the Prison, advise the management that I wished to see a client and that I will be in Port Augusta in an hour or so. I then travel to Port Augusta and see the client. If I wish to see a detainee who is a client of mine at Baxter, I am required to give written notice seventy two hours prior to my intended visit and await confirmation that I will be permitted to enter the Detention Centre.

Paul Boylan
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