

**To the Senate Legal and Constitutional Committee:**

**Attachment A**

**SUPPLEMENTARY INFORMATION FOR THE SUBMISSION  
TO THE SENATE INQUIRY INTO THE MIGRATION ACT 1958 RE:**

**'THE DETENTION OF INTERNATIONAL STUDENTS'**

**1. Numbers of international students detained by DIMIA**

Attempts to obtain accurate data regarding the numbers of detained students were referred to on page 11 of this submission. Senators Bartlett and Carr had asked questions on notice regarding student detention at the Senate Budget Estimates, May 2005.

DIMIA has replied to Senate Estimates Qon 28 by Senator Carr.

Question 7:

"(a) How many persons holding student visa holders had been detained since 1 January 2001?"

(b) Please provide details of -

- Number and sex of students each year;
- In which facilities they have been detained;
- Reasons for detention;
- Providers for which they held student visas;
- Nationality;
- Outcome in each case – eg. release; granting new visa (type); removal.

DIMIA has answered:

- 2,310 former student visa holders have been detained from 1 January 2001 to 22 July 2005.
- 440 females, 1870 males
- Most were housed in immigration detention centres; although some were accommodated in alternative arrangements including correctional facilities, police watch houses and hospitals.
- Reasons for detention included: non-attendance, unsatisfactory performance, failure to commence course, overstaying a visa, withdrawal from study and work breaches.
- 83 nationalities are represented - the top 10 are China, India, Vietnam, Indonesia, Thailand, Korea, Bangladesh, Malaysia, Sri Lanka, Kenya.
- There are a wide range of outcomes in these cases including bridging visa grants, cancellation overturned, criminal justice visa grant, departure from Australia, temporary or permanent substantive visa grant.

## 2. Response to DIMIA's replies to Qon 28

Q1 & 2

Regarding, *"The person had received warnings from his education provider for 18 months regarding both his attendance and performance."*

See Example 1 in the full submission concerning former student Mr. A, who was detained for 2 years. He adamantly maintained that he had not received such warnings from his college.

Regarding, *"The outcome of the last Ministerial request was provided on 21 Jan. 2005"*.

Neither this writer, nor another supporter of the student, was aware that on 21 January 2005 he had received a response from the Minister to his S351 request. We were under the impression that he had not received a reply before removal from Australia in February. However, on Friday 21 January 2005, this writer received an email letter from the Territory Director, ACT and Regions, stating:

"Thank you for your email of 23 December 2004 to the Minister for Immigration and Multicultural and Indigenous Affairs, Senator the Hon Amanda Vanstone, concerning Mr ---'s request that she exercise her public interest power under section 351 of the *Migration Act 1958*. Senator Vanstone Attachment A asked me to respond on her behalf.

"I understand why you have raised your concerns about Mr ---'s request for intervention and assure you that the information you provided has been carefully considered. You would appreciate that privacy considerations prevent me from providing information about individual cases. Please be assured that Mr --- will be directly advised of any developments in his case."

(Further documentation regarding this case can be provided to the Legal and Constitutional Committee if necessary.)

3 & 4

Regarding, *"The person's longer detention was largely irrelevant to the person's previous status as a student."*

The student maintained that his entire detention was a result of initial wrongful visa cancellation and its ensuing negative consequences, and that subsequent refugee appeals during detention were directed entirely for the purpose of finding a way to enable him to resume and complete his studies.

Other students have also been detained for longer periods in attempting to regain permission to complete their expensive studies and help repay their parents' debts for education loans. (See Example 2, 'Indian student detained for 1 year', Submission- page 33)

Harsh and punitive immigration laws, with little or no flexibility and discretion, compel some students with cancelled visas to try the limited legal avenues open to them in the hope of resuming their studies and avoiding the disgrace of deportation.

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Regarding, *"The onus is on students to ensure they comply with conditions of their visas, the conditions of which are clearly explained on the DIMIA website, and which education providers are fully aware of and provide information to students on."*

While the DIMIA website lists student visa conditions, it does not explain what 'detention' means and practically involves, or the conditions and places of detention. There is no indication that 'detained' means incarceration in a prison-like environment; loss of personal freedoms; fingerprinting; x-ray screening; possible strip searches; confiscation of property; restriction on visitors; denial of email access; liability for detention costs, etc.

Education providers do not seem to inform students about detention, its meaning and implications.

It would seem that it is DIMIA's responsibility on behalf of the Australian government, prior to the offshore issuing of a student visa, to ensure that the student is fully informed of all laws affecting students in relation to visa cancellation and possible detention, the seriousness of breaches and a realistic summary of their implications, including details of detention conditions.

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Regarding, *"Data on the cost of detaining students is not readily available and to collate this would involve a manual examination of individual files which is an unreasonable diversion of departmental resources."*

While the department may not have had time to answer this question, democratic requirements for departmental accountability and transparency regarding DIMIA policy and practice warrant an answer in light of the expenditure of taxpayer money. Data on costs of detaining students should already be recorded and documented.

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Regarding, *"DIMIA does not routinely inform DEST about providers associated with students taken into detention."*

It would seem very important for DEST to know this information regarding any trends or patterns to assist in monitoring providers, especially in regard to potential unscrupulous practices, and to protect student interests.

Yours faithfully,

Michaela Rost

*Melbourne, 24 August 2005*