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by DIAC



Australian Government

Department of Immigration and Citizenship

**Opening statement to Joint Select Committee on
Australia's Immigration Detention Network**

Parliament House, Canberra

16 August 2011

Andrew Metcalfe

Secretary, Department of Immigration and Citizenship

Chair and Committee members. Thank you for the opportunity to deliver an opening statement.

Can I firstly say that we are committed to working with you productively, in an open and transparent way. I note that the committee's terms of reference comprise 18 parts. Our analysis is that these fall into four themes, including:

- Immigration detention policy
- The framework and administration of the immigration detention network
- What people within the immigration detention environment experience
- The processing of asylum claims

Immigration detention has, for many years, been a very sensitive area of public policy and administration. The legislation enacted by this parliament, which underpins immigration detention, has been managed by my department for a number of years through successive governments.

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In managing this issue, the department does not engage in any philosophical debate – we are professional public servants who are working hard to serve the government of the day – doing the best we can in, at times, very challenging environments. We welcome assistance, and reviews that will improve or enhance our public administration.

There have been numerous inquiries by a range of parliamentary committees and other scrutiny bodies on the matter of immigration detention over a number of years, through various iterations of policy and legislation, and the department has played an active part in contributing to these.

Of course, as I am sure the committee is well aware, immigration detention occurs within a much broader framework of Australia immigration policy and administration.

It is my view, shared by many, that we have been extremely well-served by our migration programs, both permanent and temporary. Today, nearly one in four Australians is a migrant. Our orderly and well-managed programs, week after week, bring migrants who make a substantial economic, social and cultural contribution to Australia. But we are also a compassionate country, one that has a long tradition of accepting and resettling refugees, and since 1945 we have taken more than 700 000 refugees.

Our staff and systems, our partners and our service providers will this year support the movement of more than 28 million people across our border, the granting of around four million visas, the migration of almost 185 000 settlers, and the welcome of 14 750 refugees and humanitarian entrants.

Within this figure, the total number of irregular migrants in Australia at any one point in time constitutes around 0.2 per cent of the population, a rate that is at the low end for developed nations. Further, around 120 000 people who have migrated here will take the final step in their journey and join us as Australian citizens in the coming year.

This continuity of programs that deliver positive outcomes day after day, year after year, is something that we are very proud of, and rightly so. Of course, I'm sure that Committee Members are well aware of this excellent work, and on a personal level, witnesses this commonly through interaction with my department's Parliamentary Liaison Officer network.

The complexities we face both in our visa and citizenship programs, and in our administration of the government's border policy that includes immigration detention, are not unique or confined to Australia. As I have said a number of times elsewhere, the movement of people is an increasing global phenomenon – it is an issue that will continue to impact on Australia and we will need to increasingly work cooperatively within our region to mitigate risks.

The driving factors of people movement are often positive – such as through economic and skill relocation factors, or family reunion programs. Sadly though, people movement is also driven by other factors such as war, conflict, and crisis. There are tens of millions of such displaced people globally. It is these often vulnerable people who sometimes are preyed upon by people smugglers and traffickers. But many people who travel in an irregular way to Australia are very determined. They have, or acquire, the thousands of dollars charged by people smugglers. They want to live in a developed country. They want a better life for themselves and for their children. Some of the travellers themselves are unaccompanied children.

They are prepared to, or are forced to, take risks such as relying on shady middlemen and travelling on false documents and sometimes in dangerous vessels. Tragedies sometimes result.

Immigration detention has been, at least in the mandatory detention sense, part of public policy or discussion since the late 1970s. As outlined in the issues papers submitted to the committee, during that time the policy has had various incarnations, and been applied in different ways including various service delivery models. Tens of thousands of people have moved through the system over these 30 years.

We have of course learnt a lot, including some painful lessons. Sadly, mistakes have sometimes occurred. Some have had a profound impact on people's lives such as the tragic cases several years ago involving Cornelia Rau, Vivian Alvarez Solon and others. Our administration of this very complex area of public policy involves millions of decisions each and every year. We are human, and sometimes the department has got things wrong.

However, unlike the public scrutiny accorded to cases that go wrong, which is of course proper, what is not commonly recognised are the thousands of positive interventions made by officers in my department every year in assisting people. Immigration officers doing extraordinary things that often go beyond what is ordinarily required of public servants. My expectation is that my staff will bring professionalism and commitment to each of the millions of visa applications processed every year. It is one of my privileges as Secretary of the department that I get to see first hand how positively our officers operate, often in difficult or testing circumstances.

It may be of use to the committee, and broader public discourse, if I at this stage briefly discuss some of the issues managed by the department for these cases.

Our experience is that many of the people who arrive as irregular maritime arrivals are commonly relieved at surviving a perilous journey. Each case is different, and without generalising, it can be fairly said that new arrivals expect to spend time in immigration detention. They are told that by people smugglers.

Most irregular maritime arrivals enter Australia without identity documents and it is my department's job to determine who they are. This in itself can be a complex process.

My department considers claims made by arrivals and determines whether, prima facie, the person has raised protection issues. If this is the case they will move into the refugee status determination process and, with the assistance of a publicly funded Immigration Advice and Application Assistance Scheme (IAAAS) agent, are eligible to lodge their statement of asylum claims for assessment. Where no protection claims are raised by an arrival, they are required to be immediately considered for removal from Australia.

Our recent experience is that the majority of irregular maritime arrivals are found to be refugees, and are allowed to apply for protection visas unless there are exceptional circumstances. Others are not, and require a more complex status resolution pathway while they pursue reviews and appeals. They spend longer periods of time within immigration detention. Many access the complaint and legal systems available to them.

We presently see many pressures in the immigration detention network. We are acutely aware of this. Unfortunately we have seen increased instances of unrest and contumacious behaviour, as well as self-harm and sadly, on occasion, suicide. These are extremely difficult issues to manage. We are always looking to improve our administration, and learn from experience. But these issues often defy simple solutions.

All of these complex matters are issues that the department seeks to administer in the most appropriate and effective way.

To do this, we continue to engage closely with our clients to resolve their status and those in immigration detention are largely compliant. Our continued and persistent efforts in relation to addressing these issues are having significant results. Since April this year we have settled out of detention a total of 2454 irregular maritime arrivals – this includes 941 settled since 1 July.

Further, since the expansion of our community detention program in October 2010, as of this morning the Minister has approved 1765 people for community detention placement, including 841 children (268 unaccompanied minors). More than 600 people have been granted visas since moving into community detention.

To assist in managing the immigration detention network, we continue our close and very productive engagement with key advisory groups and stakeholders such as Council for Immigration Services and Status Resolution (CISSR), the Detention Health Advisory Group (DeHAG), and non-government organisation forums, for which I again thank them. We remain strongly committed to these partnerships.

Mr Chairman, this committee will no doubt seek to address and review many of the issues I have discussed today. In doing so, I would like to respectfully suggest some areas you may wish to explore within your broad terms of reference.

For example, the issue you will be exploring goes to the very sovereignty of Australia and the role of government. It poses questions about how we determine if a person is able to live in Australia, whether they should be removed, or whether they should be detained while they have any applications they make assessed if they do not otherwise hold a visa. Here, of course, there is a key interplay between Australian constitutional and domestic law, and international law.

There are a range of policy conundrums. How should we manage the issue of asylum? What is the balance between our international obligations to protect refugees and our need for strong border controls? We need to discuss asylum needs and focus on trends, and the relative success rates for various cohorts. Can we manage different cohorts, with different success rates or security and risk features, in different ways?

How do we manage reception? By this I refer not only to the policy of mandatory detention, but refer to the broader issue of how we manage unauthorised arrivals at our border, and indeed how we manage our detention network? Is immigration detention a deterrent? Does immigration detention facilitate case resolution? What range of facilities should be utilised? For how long is an immigration arrival and status determination process in a detention centre environment required? There are many questions for you, as parliamentarians, to consider.

Chair, in closing, I would like to place on the record my thanks and support for the many officers of my and other departments, and personnel of our service providers, who around the clock, day after day, provide services to the government and people in immigration detention. It is at times a very tough job. The dedication, resilience and commitment of our staff, and their adherence to strong core ethics and values, is something that I am very proud of.

Indeed I hope that is something that our nation recognises and appreciates.

Thank you.