

The Secretary of the Committee  
Inquiry into Immigration Detention in Australia  
House of Representatives  
PO Box 6021  
Parliament House  
Canberra, ACT, 2600

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### **Inquiry into Immigration Detention in Australia**

Thank you for the opportunity to make a submission to this inquiry. I make two points that apply across the terms of reference.

#### 1. Detention as a deterrent

I would first like to highlight one criterion that should *not* be used in determining any matter connected with immigration detention. In recent years, it has been suggested that the system of indefinite mandatory detention has a deterrent value to would-be asylum seekers, and should be maintained for this reason. The following table<sup>1</sup> illustrates that mandatory detention was never an effective deterrent. The numbers of unauthorised boat arrivals increased after mandatory detention was introduced in the early 1990s.

Year	Number of boats	Number of boat passengers
1987	0	0
1988	0	0
1989	1	26
1990	2	198
1991	6	213
1992	6	215
1993	3	81
1994	18	953
1995	7	237
1996	19	611
1997	11	338
1998	17	200
1999	86	3936
2000	51	2946
2001 <sup>2</sup>	46	6341
<b>TOTAL</b>	<b>273</b>	<b>16295</b>

Therefore in determining any matter related to immigration detention, I would argue strongly that 'deterrence to others' should not be given any consideration. It fails the practical test as well as being morally indefensible – taking away the liberty of one person to deter another.

## 2. Rationale underpinning detention practices

Having been a visitor to detention centres over many years and seen first hand the damage done to men, women and children, I would recommend that if mandatory detention is to continue, it should operate on the basis of persons being detained for the shortest possible time such as one month maximum to conduct medical and security checks, and systems put in place to support the timeframe.

This will most likely require not only a review of current practices, but also a consideration of the rationalities that underpin current practices. To clarify this point, I compare the processes of security checks for detained refugee applicants with visa applications by foreign seafarers who are permitted to enter Australia for short periods.

There are a number of stages that comprise the processing of a refugee application. Security checking commences only after a person is found to have a genuine need for protection; that is, meets the legal definition of a refugee. The person continues to be detained sometimes for months while stringent security checks are undertaken by ASIO/AFP even though the evidence from the thousands of security checks already done over many years shows that asylum seekers/refugees are a low-risk group<sup>3</sup>.

Arrivals on other visas are not necessarily required to undergo the same level of security checking despite being regarded as posing a risk. For example, foreign seafarers have been identified as one such group, based on countries of origin, access to dangerous materials being shipped and a pattern of fraudulent documentation in that industry<sup>4</sup>. Since July 2007 Maritime Crew Visas can be applied for via DIAC's website. No signature is required and online applications are normally processed in 3 days<sup>5</sup>. Applicants are checked against a Movement Alert List<sup>6</sup>, which is a database of people of concern. Yet;

*International shipping is arguably the weakest link in our national security system. Foreign vessels from all over the world enter Australian waters daily. On board are both people and cargoes that represent a potential risk to Australians... the increased use of low cost/low quality foreign shipping with foreign crews...has the potential to weaken Australia's border protection measures.*<sup>7</sup>

In light of this, the practice of detaining refugees while extensive security checking takes place is questionable. It would appear to stem from a view that asylum seekers are undesirable (and the practice is therefore discriminatory and punitive) rather than being based upon rational assessment of the security risks compared with other groups.

In other words, and in relation to the broader issues canvassed under the inquiry's terms of reference, I am suggesting that practices that are assumed to be necessary with regard to immigration detainees in general may not in fact be necessary but have been put in place as a result of general antipathy towards them. This is neither fair nor just.

Regards

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## Sources

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<sup>1</sup> Based on data from Fact Sheet 74A retrieved from Department of Immigration website; it is no longer accessible online.

<sup>2</sup> These figures include SIEVs (suspected illegal entry vessels) which did not reach the mainland.

<sup>3</sup> See report of Joint Standing Committee on Foreign Affairs, Defence and Trade, Human Rights Subcommittee, August 22 2002, pages 36-37.

<http://parlinfoweb.aph.gov.au/piweb/Repository/Committee/Commjnt/Linked/1895-2.PDF>

Dennis Richardson, then Director-General of ASIO, told the committee that DIAC requested ASIO to make 3,704 security assessments in 2000/01 and 1,574 in 2001/2 in relation to unauthorised arrivals. Of these, there were no adverse assessments ie none were found to pose a direct or indirect threat to Australia's security.

In 2005 two unauthorized arrivals detained on Nauru received adverse assessments from ASIO. Mr Faisal's case was later reviewed by ASIO and the adverse assessment was dropped. Mr Sagar was resettled in Sweden. Due to the secrecy that surrounds these assessments, the grounds for the Mr Sagar's adverse assessment are not known to him or his lawyers although legal avenues are being pursued to try and find out.

<sup>4</sup> Australian Strategic Policy Unit 2005 *Future unknown: The terrorist threat to Australian maritime security* Page 11

[http://www.aspi.org.au/publications/publications\\_all.aspx](http://www.aspi.org.au/publications/publications_all.aspx)

<sup>5</sup> Immigration Department website [http://www.immi.gov.au/sea/\\_pdf/information-on-mcv-application.pdf](http://www.immi.gov.au/sea/_pdf/information-on-mcv-application.pdf)

<sup>6</sup> Government Library 2007 *Bills Digest - Migration Amendment (Maritime Crew) Bill 2007* page 4 <http://www.aph.gov.au/library/pubs/bd/2006-07/07bd109.pdf>

<sup>7</sup> *Independent Review of Australian Shipping* 2003 pages 28 and 29

<http://asa.com.au/upload/news/IRAS%20Blueprint%20Final.pdf>